Public Prosecutor's Office, Municipal Health Councils and practices of interinstitutional dialogue

Ministério Público, Conselhos Municipais de Saúde e as práticas do diálogo interinstitucional

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Abstract

This study aims to analyze the relationship between the Public Prosecutor's Office and the Municipal Health Councils (CMS), reflecting on how that institution can contribute to the effectiveness of the social control exercised in the Brazilian Brazilian National Health System (SUS) in the state of Maranhão, Brazil. A qualitative method, divided into documentary research and semi-structured interviews, was used. Prosecutors and health counselors working directly with the CMS of a health region in that state participated in this study. Results showed the SUS institutional control carried out by the Public Prosecutor's Office in Maranhão is marked by fragile and irregular practices, despite the possibilities, capacities, and attributions granted by the 1988 Federal Constitution. The CMS researched showed deficiencies and limitations known to the Public Prosecutor's Office, which has not yet oriented its institutional policy to strengthen social control through interinstitutional dialogue. The democratization and implementation of health policies in the municipalities of the health region researched depend, among other things, on improving the interlocution between the Public Prosecutor's Office and the CMS. Such dialogue has the potential to qualify and strengthen social control in SUS.

Keywords: Public Prosecutors; Social Control; Popular Participation; Municipal Health Councils; Brazilian National Health System.

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Resumo

Este estudo tem como objetivo analisar o relacionamento entre o Ministério Público e os Conselhos Municipais de Saúde (CMS), buscando refletir de que maneira aquela instituição pode contribuir para a efetividade do controle social exercido no Sistema Único de Saúde (SUS) no estado do Maranhão. Foi utilizada metodologia qualitativa, dividida em pesquisa documental e entrevistas semiestruturadas. Da pesquisa participaram promotores de justiça e conselheiros de saúde que atuam nos CMS de uma região de saúde naquele estado. Os resultados evidenciaram que o controle institucional no SUS realizado pelo Ministério Público do Maranhão é marcado por práticas frágeis e não uniformes, apesar das possibilidades, capacidades e atribuições conferidas pela Constituição Federal de 1988. Os CMS pesquisados apresentam deficiências e limitações conhecidas do Ministério Público, que ainda não orientou sua política institucional para o fortalecimento do controle social a partir do diálogo interinstitucional. A democratização e a efetivação da política de saúde nos municípios da região de saúde pesquisada dependem, entre outras coisas, do aprimoramento da interlocução entre o Ministério Público e os CMS, tendo o potencial de qualificar e fortalecer o controle social no SUS.

Palavras-chave: Ministério Público; Controle Social; Participação Popular; Conselhos Municipais de Saúde; Sistema Único de Saúde.

Introduction

The re-democratization of Brazil has created the Brazilian National Health System (SUS); molded and strengthened the Public Prosecutor's office (MP), and provided participatory mechanisms and public policies, establishing public spaces to voice the demands of citizens (Ferreira, 2010). These three democratic structures – MP, SUS and popular participation – were fruit of the same legal and ideological movement, (re)born in the 1988 Federal Constitution, and share a strong interrelation with the discourse of defense and fulfillment of constitutional rights.

One can assume, from constitutional utterance, the Public Prosecutor's office is responsible for controlling and enforcing public policies and social rights under Constitutional provisions and, therefore for implementing the right to health and to popular participation in SUS. For the defense of human dignity and the democratic regime, the MP must ensure the existence and proper functioning of democratic power mechanisms and instruments, including popular participation (Lehmann, 2013).

Within the core of the participatory principle (Rawls, 2008), popular participation was recognized as one of the pillars of SUS, enshrined by article 198, paragraph III, of the Federal Constitution (Brasil, 1988) and subsequently regulated in the infra-constitution legislation through Law No. 8,142/1990, in the form of social control. That means the organized sectors of civil society participate in the formulation of plans, programs and projects; monitor their implementation, and allocate resources based on community interests (Brasil, 1990). Such legal framework established the Health Conferences and Councils, which are qualified public spaces of social participation and control.

The Public Prosecutor's office has sought to act in partnership with other public and private institutions, increasing the chances of better knowing, both technically and socially, the existing realities (Rojas, 2012). The institutional partnership most dedicated to the defense of the right to health is that which occurs between the Public Prosecutor's office and Health Councils, as it ensures popular participation, enforces social control and defends

the public health, which explains the relevance of the structure and interaction between these two instances of control (Pereira et al., 2017).

Municipal Health Councils (CMS) are the broadest initiative of political-administrative decentralization implemented in the country, albeit there are factors that hinder the democratization of the decision-making process in health policies, which is more organized in municipalities with a civil society more mobilized and used to political articulation (Moreira; Escorel, 2009). This shows the realization of the right to health is a task of social mobilization (Machado, 2006), i.e., Health Councils can only exercise their role as a democratic and deliberative instance in environments where democratic values are respected and valued (Bispo Junior; Gerschman, 2013).

However, with the apparent demobilization of social movements today (Santana, 2011), the evaluation of democratic bases and relations in the municipal health policy shows there has been a setback in participatory practices in the sector, with obstacles ranging from the citizens' disbelief regarding popular participation and the misuse of technical knowledge that hampers the faint social participation identified (Batista; Melo, 2011) to the manipulation of CMS composition and the interference of public administrators in its operation (Ribeiro, 2008).

The space for dialogue between Public Prosecutor's office and Health Councils founded a new field of improvement practices of the democratic State, instituting new ways and mechanisms for agreement between the different spheres of public power and their relationship with society (Machado, 2006). In this sense, this study aimed to analyze the performance of the Public Prosecutor's office of Maranhão in strengthening the social control exercised by the CMS from interinstitutional articulation, and to describe the profile of municipal health councils and counselors in a health region in that state.

Method

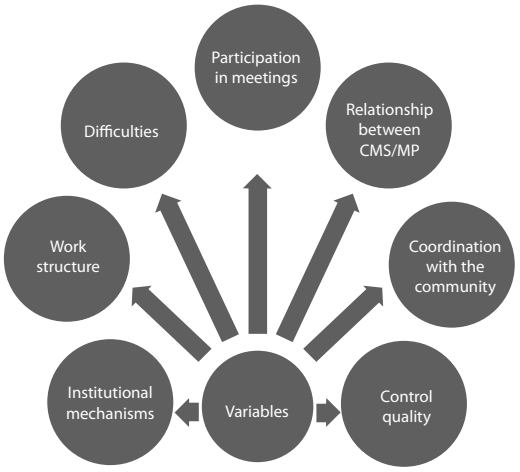
To meet the research objectives, the hermeneutic method (Minayo, 2004) was used with a qualitative approach – allowing one to perceive how the subjects interpret aspects of the world –, and descriptive data were collected to enable one to understand the subjects' representations about certain events (Bogdan; Biklen, 1994).

The choice of research location considered the CIB/MA Resolution No. 44/2011, which organized the state of Maranhão into 19 health regions, in line with the principle of SUS regionalization (Maranhão, 2011). Such principle was consolidated by Decree No. 7,508/2011, which established the health region as a space aimed at integrating the organization, planning and execution of health actions and services (Brasil, 2011). Research was conducted in the municipalities of one of these health regions of Maranhão, selected by its proximity to the state capital and the diversity of municipalities within it. The fieldwork covered the set of experiences of the Courts of Justice and CMS of municipalities within the territory, without taking it in depth on a case by case basis, from October to December 2016.

The territory of the health region selected consists of 17 cities, all with low social indicators, whose main economic activities are vegetable harvesting, subsistence agriculture and fishing. Health conditions of the population are precarious and the control mechanisms were unheard of. Municipalities of the health region studied are organized into nine counties, each with one Prosecutor with specific assignments, and each municipality has a Health Council.

To meet the objectives proposed, documentary research and semi-structured interviews were carried out, according to the classification of Triviños (2007). The first part of the semi-structured interviews with the selected prosecutors and health counselors was aimed at assessing their sociodemographic profile, courses received on SUS and, in the case of health counselors, information about civil representation in the collegiate. Interviews also aimed to propose a script of questions that would allow one to evaluate participation in regular meetings, inter-institutional relationship, work structure, institutional mechanisms, and difficulties faced by the interviewees (Figure 1).

Figure 1 – Research variables



The sample was selected by the method of accessibility, which does not consider the statistical validity of results, assuming they can somehow represent the universe (Gil, 1995). Sample selection criteria determined that the participants were: (1) prosecutors who acted as holders of the Courts of Justice of the municipalities at the time of data collection, or (2) municipal health counselors who were representatives of SUS users at the CMS and who participated, albeit as surrogate, in at least one meeting in 2016. Only one health counselor was interviewed per municipality, in addition to the prosecutors of counties within the health region researched. The research sample consisted of 24 participants.

The content analysis technique was used, seeking to obtain indicators (quantitative or not) that allowed the inference of knowledge related to conditions of message production/reception (Bardin, 2000). Specific objectives guided the analysis, whose instrument was the analytical reading. The search was for capturing the senses and meanings of a given social reality, in which both researchers as participating subjects are inserted, looking for, whenever possible, finding the semantic convergence and quantitative systematization.

During research, the municipalities were identified by the letters M1 to M17, the prosecutors by PJ1 to PJ7, and health counselors were identified by CS1 to CS17, to preserve confidentiality. Some difficulties were faced for conducting interviews with health counselors, mainly regarding the identification and localization of counselors, CMS location, and the provision of documents necessary for research. Interviews were recorded and later transcribed by the researchers.

Data collection was initiated only after consideration and approval of the project by the Research Ethics Committee of Ceuma University, under opinion No. 1768753.

Results

In the profiles of the 17 health counselors, one could observe the predominance of married people (47.1%) and men (64.7%), whereas 52.9% completed high school and 47.1% have higher education. Their professions are considerably heterogeneous (fishermen, farmers, teachers and students), emphasis given to community health agents, with 35.2%. The prevalent age group was from 36 to 40 years old (35.2%). Of the interviewees, 58.8% are CMS members, 35.3% hold the president office, and 5.9% carry out other functions. More than half the interviewees (64.7%) declared they received no courses on the area of SUS (Chart 1).

One could also trace a brief profile of the Public Prosecutor's office members who participated in the research: there is a prevalence of male prosecutors, married, with a mean of 20 to 40 years old, no graduate courses in the area of health law or public health - with only one exception (PJ5) - and five years of career, on average.

The analysis of CMS profiles shows that all were created by municipal law and have an internal regiment, although such documents have not been made available in full for the research in two municipalities (Chart 2). In other three cities, the mandate of health counselors was overdue, so that these CMS were working illegally for several months.

Only in one of the municipalities studied the CMS presidency exists as a position established from the municipal health secretary, expressly provided for in the municipal law and internal regiment; thus, in all others (94.1%), the presidency is chosen by simple election. However, it is clear that health managers still hamper the financial and structural sustainability of the councils, and there is no regular fomentation of technical training to counselors. None of the 17 CMS has its own headquarters, working in makeshift rooms or spaces in the Municipal Health Secretariats; one may note the absence of a minimum work structure, such as computer, printer, telephone and internet access.

Chart 1 – Socio-occupational profile of municipal health counselors, Maranhão, 2017

Municipality	Entity represented	Had courses in the area of SUS?	Marital status	Education level	Occupation	Sex	Age	Function in the CMS
Apicum-açu	Assoc. Fishermen Colony	No	Single	High school	Fisherman	Female	28	Member
Bacuri	STTR	No	Single	High school	Musician	Male	46	Member
Bequimão	STTR	No	Others	High school	Farmer	Male	43	Member
Cedral	Assemblies of God Church	No	Married	Higher education	CHA	Female	38	Member
Central do Maranhão	Assemblies of God Church	Yes	Single	Higher education	CHA	Female	40	President
Cururupu	Assoc. of Quilombos Remnants	No	Married	High school	Retired military police	Male	60	President
Guimarães	The Catholic Church	No	Others	High school	CHA	Female	45	Member
Mirinzal	Baptist Church	Yes	Married	Higher education	State public officer	Male	50	President
Peri Mirim	CHA Association	Yes	Married	Higher education	CHA	Male	39	President
Pedro do Rosário	Assemblies of God Church	Yes	Others	High school	Farmer	Male	35	Member
Pinheiro	Federal Public Servants' Union	Yes	Married	Higher education	Public Health agent	Male	50	Member
Presidente Sarney	Assemblies of God Church	No	Single	Higher education	CHA	Female	40	Secretary
Porto Rico do Maranhão	STTR	No	Married	Higher education	Teacher	Male	37	President
Santa Helena	CHA's Union	Yes	Married	Higher education	CHA	Female	64	Member
Serrano do Maranhão	Quilombola community	No	Others	High school	Teacher	Male	39	Member
Turiaçu	Fishermen's Union	No	Married	High school	Fisherman	Male	56	President
Turilândia	The Seventh-Day Adventist Church	No	Single	High school	Student	Male	19	Member

CHA: Community Health Agent, STTR: Rural Workers' Union.

Chart 2 – Operation profile of Municipal Health Councils, Maranhão, 2017

Municipality	Law/year of CMS creation	Is there an internal regiment?	End of term of the last elected composition	Number of members	Presidency/choice and current mandate
Apicum-açu	Law No. 129/2009	Yes (June 2010)	August 2017	12	Election/civil society
Bacuri	Law No. 116/1997 *Law No. 365/2011	Yes (July 2014)	February 2016 (no date confirmed for new election at the time of the interview)	12	Election/civil society
Bequimão	Law No. 6/2009	Yes (March 2014)	March 2018 (election in March 2016, two-year term)	12	Presidency borne for the Health Secretariat (sec. I, art. II of the internal regiment)
Cedral	Law No. 70/2007	Yes (September 2015)	September 2016 (up to the date of the interview, the election had not happened)	12	Election/health workers

continues...

Chart 2 – Continuation

Municipality	Law/year of CMS creation	Is there an internal regiment?	End of term of the last elected composition	Number of members	Presidency/choice and current mandate
Central do Maranhão	Law No. 6/2007	Yes	March 2018 (election in March 2016, two-year term)	12	Election/civil society
Cururupu	Law No. 247/2008	Yes (April 2012)	September 2017	12	Election/civil society
Guimarães	Law No. 573/1992 *Law No. 829/2013	Yes	November, 2017	16	Election/civil society
Mirinzal	Law No. 19/2007 *Law No. 122/2015	Yes	September 2018 (three-year term)	8	Election/civil society
Peri-Mirim	Law No. 9/2001	Yes	Not informed by the CMS/Manager	12	Election/civil society
Pedro do Rosário	Not available	Not available	Not available	Not available	Not available
Pinheiro	Law No. 1,071/1997 *Law No. 2,378/2006 *Law No. 2,395/2007	Yes	2018 (election in 2016, two-year term)	16	Election
Presidente Sarney	Law No. 19/1998	Not available	July 2018 (four-year term)	8	Election/civil society
Porto Rico do Maranhão	Law No. 5/1997 *Law No. 26/1998 *Law No. 73/2004 *Law No. 103/2008	Yes (May 2013)	2017 (election in September 2015, two-year term)	12	Civil society
Santa Helena	Law n 6/1991 and Law No. 3/1998 (withdrawn) *Law No. 172/2013	Yes	Not informed by the CMS/Manager	12	Election
Serrano do Maranhão	Law No. 136/2009	Yes (June 2016)	February 2018 (two-year term)	8	Election/civil society
Turiaçu	Law No. 585/2009	Yes (August 2009)	February 2015 (three-year term)	12	Election/civil society
Turilândia	Law No. 4/1997 *Law No. 150/2009 *Law No. 159/2009	Not informed	September 2017 (two-year term)	12	Election/representative of public authority

The issue of participation in regular meetings was presented both to prosecutors as to health counselors, aiming to identify the frequency of participation, meeting dynamics, how the interaction happened between members, and which were the gains for the council with the participation of the Public Prosecutor's office. Results indicated that prosecutors do not participate in the regular meetings of health councils.

Health counselors, in turn, were doubly asked about their participation and the importance of including prosecutors at such meetings. There have been recurring accounts of meetings postponed due to the lack of quorum and a declared discourage to the participation of CMS members. Regarding the presence of the Public Prosecutor's office, health counselors interviewed reported unanimously that it would allow for the engagement and qualification of space, elucidate discussions, and strengthen the action of municipal health counselors.

Most prosecutors interviewed (85.7%) stated the relationship with other control bodies has problems or limitations that affect the performance of the Public Prosecutor's Office. Health counselors, in turn, point to little or no interaction with other control bodies, including the Public Prosecutor's

Office, although they have stressed the importance of the prosecutor's participation in the meetings.

Prosecutors affirmed the Public Prosecutor's Office has a good interaction with the local community. To 88.2% of the health counselors interviewed, there is a separation between community and CMS, whether due to vices in representativeness or due to the lack of dissemination of the Councils activities and importance. The other 11.8% believe there is a proper closeness between community and CMS.

Although the members of the Public Prosecutor's Office agree the CMS does not work properly, results show that 71.4% of the prosecutors interviewed had not adopted any specific concrete providence to solve the issue, whereas 28.6% informed the establishment of administrative procedures for the monitoring and supervision of CMS operation. Health counselors, in turn, showed total ignorance on the mechanisms of inter-institutional interaction provided for in legislation or in their respective internal regiments. All interviewees negatively evaluated the performance of institutions exercising the social control in SUS.

Work structure did not emerge from the answers of prosecutors as a factor affecting their relationship with health counselors. However, the reality of the Courts of Justice visited showed the insufficient number of servants, exhausting judicial and extrajudicial demands, and an institutional policy that requires prioritization of court action by the prosecutor. Health counselors, for their time, listed numerous problems related to the lack of structure, which was explained by the lack of own space, telephone, computer, printer, internet, or administrative, financial and operational support.

One may also identify a declared inability to understand the tasks and documents handled in the routine of counselors, in addition to the lack of a sense of power in the discourse. Difficulties singled out by the interviewees are shown in Chart 3, developed from the frequency of convergent words and/or representations among the respondents.

Chart 3 – Items singled out as difficulties by prosecutors and advisers, Maranhão, 2017

Difficulties	
Prosecutors	Health advisers
– Training of members. – Regression and/or stagnation of the process of dialogue with the CMS from career movements (removal/promotion). – Valuation of judicial action to the detriment of extrajudicial intervention. – Lack of institutional planning for the standardization of health strategies. – Republican relationship with the manager of municipal health policy.	– Training of members. – Work Structure. – Low dissemination of the CMS importance and function. – Disregard of the manager for CMS deliberations. – Lack of interaction between the CMS and the MP. – Lack of interest of the directors and population. – Lack of interaction between counselors. – Lack of remuneration to enable the displacement and time availability of members to the CMS. – Lack of financial autonomy of CMS for articulating its independence.

Discussion

This study aimed to analyze the performance of the Public Prosecutor's Office of Maranhão in strengthening the social control exercised by the CMS, having as main result the identification of an interaction marked by fragile, irregular, non-integrative practices of social control and by a scant interinstitutional dialogue.

It is a constitutional premise that the Public Prosecutor's Office can induce qualified popular participation through direct discourse, in the search for consensus around the policies that better represent the needs of the population involved. For this, the functional and effective interinstitutional relationship with Health Councils must be enhanced, considering its strategic importance for SUS and for strengthening the democratic practices.

The approach to the Public Prosecutor's Office, initiated with the institutional implementation of frequency to regular meetings, potentiated the constitutional role of CMS and of MP itself because it qualifies the control and feeds it information that operate the primary ministerial function of defense of public health.

Such interaction should be triggered by the prosecutor's participation in Health Council meetings, being recognized as a fundamental step by the study interviewees. In fact, we defend that it is up to the Public Prosecutor's Office to take the initiative in this dialogue, as a basic and effective action for strengthening the institutional linkages required for the better exercise of social control.

This conclusion confirms that closeness has a potential for actually strengthening social control, as the prosecutors' role at meetings reinforces the authority of councils in relation to public administrators, making them more consistent and efficient. That is because the physical presence of the Public Prosecutor's Office in instances of civil society participation qualifies them both in symbolic as in practical terms (Machado et al., 2006).

According to Bispo Junior and Gerschman (2013) and Farias Filho, Silva and Mathis (2014), the poor participation of the own health counselors and their lack of interaction with the local population, identified in the prospecting process and interviews, confirm the process of weakening the social image of counselors, who reported that a significant portion of the population does not recognize them as representatives of their interests or as responsible for approving the direction of the Government.

The frail or non-existent interaction between Public Prosecutor's Office and the CMS of the region studied prevents that a systematic and strategic relationship is perfected for the strengthening of SUS. The CMS is seen only as an instrument of information transfer or as a legal requirement to approve preset decisions by the Health Secretariat, with people captured ideologically by the public administrators, which makes even harder the transformation of this institutional space into an instrument to ensure the constitutional principle of social participation in SUS (Cotta et al., 2011).

Results also suggest there are gaps in CMS representativeness, with the inclusion of people who are not effectively involved in organized social movements, which partly explains the detachment of society. In addition, there is great difficulty in capturing subjects who are, in fact, engaged in any social movement originating in the territories they live in (Shimizu; Moura, 2015). Flaws in the process of disclosure were also singled out as justification for the ignorance of the population about the CMS members.

The social control exercised in the space of CMS is subject to a number of risks and issues. One of them is the defacement of its plural and deliberative nature, impaired by the technicality that disqualifies popular knowledge, or its reduction to an advisory body (Lehmann, 2013). Operating irregularity may be credited to the lack of support or rejection by State authorities, to the lack of representativeness and to the training of members; with other problems deriving from these (Lehmann, 2013).

We verified that not all Courts of Justice maintained administrative procedures to monitor the CMS operation, influencing the effectiveness of the interinstitutional dialogue in a formal and material perspective. Similarly, it was verified that the lack of knowledge of health counselors about system operation hampers the use of institutional mechanisms and strategies to enable the flow of information and reports between control bodies. In addition, the documentary research carried out in the internal regiments and municipal laws of creation of the 17 CMS studied showed that councils in this region do not have any other drive protocols, or even interinstitutional interaction protocols, from other control bodies.

However, the citizen participating in this plural process of exercising and controlling public functions must have a clear understanding of their role and the limits of their performance, especially regarding the legal instruments they have for correcting any deviations in the exercise of power by the public administrator. In this process of monitoring and controlling, it is important the health counselor (citizen) has legal and political arguments at their disposal and know in which moments in the processes of formulating and

executing public policies the law already provides for their participation (Chai, 2007).

Data collected show the main element limiting social control in the municipalities studied is the need for training, both for prosecutors as for health counselors. One can see the MP must adopt important structural measures, with emphasis on the inclusion of technical knowledge on health in the selection process of prosecutors and in the continuing education of its members.

Such need has already been proposed in the 13th National Health Conference (CNS), held in 2007, setting out the Ministry of Health and National Health Council should forward to schools of the Public Prosecutor's Office and magistrates the request for insertion, in their curricular schedules, of content related to social control in SUS and its legislation, from Laws No. 8,080 and 8,142/1990 (Brasil, 2008).

Training strategies of Public Prosecutor's Office members shall seek to correct the low contact of prosecutors with the legal framework of SUS and the system management, both on the technical as on the principological perspective, as the SUS predominantly uses legal language to present itself to public administrators, counselors and users themselves. Thus, it is essential that the Public Prosecutor's Office fosters the dynamization of this knowledge and model of practice, through continuing education and searching of strategies to standardize the performance of its members in the area of public health, firming the fractality required for more regular and permanent results in all counties of the state of Maranhão.

The notion of training reveals the privilege assigned to the technocratic/specialized discourse, so that the users' segment ends up presenting difficulties in the deliberative exercise, damaging the dialogue between segments and leading to pressure for immediate approval of projects based on financial arguments (Paiva; Stralen; Costa, 2014).

We observed that confronting such issue of training, especially among prosecutors, demands a discretion of the relationship between Law and Medicine. To better achieve right to health, legal practitioners should master basic knowledge on the method of application of the scientific line of collective health, to better supervise and monitor health systems (Bartolomei et al., 2010). Control instances, in turn, must understand the SUS management tool to actually oversee the health system.

To Bispo Junior and Gerschman (2013) and Oliveira, Ianni and Dallari (2013), difficulties faced by the CMS identified in the research and that represent a concrete demand for the performance of the Public Prosecutor's Office are those related to the fragility of associative life and link between counselors and to the need for political and technical training that allows for a more argumentative intervention (Oliveira, 2013). Besides these aspects, we observed the lack of a working structure, shortcomings in the process of social representation and participation, autonomy and organization issues, prevalence of technical knowledge, among others. All these issues show the opposite of the democratic process required in these arenas, considering there are no real chances of participation in the deliberative process nor right to the choice of subjects, and the members have no training or information enough to produce good arguments (Habermas, 2003).

Efficient interaction between the Public Prosecutor's Office and the CMS has a strategic importance in the process of restructuring health care, requiring joint forces to defend and represent the collective interest around a project for protecting the right to health. In this perspective, it is expected that CMS do not work merely as legitimizing instances of public administration but also as spaces of expression of demands and expectations of the several segments that compose it, and that the Public Prosecutor's Office exercises the protagonism required to strengthening social control (Stralen et al., 2006).

The 11th National Health Conference, held in 2000, already proposed the creation of permanent communication mechanisms between Health Councils and the Public Prosecutor's Office, highlighting the need for joint meetings since the coordination channels between CMS and other institutions can prevent backsliding and the degeneration of the deliberative character of councils (Brasil, 2001).

The role of the Public Prosecutor's Office with the CMS will only be effective if it has the effect of giving strength and legitimacy to popular participation in SUS, facing the following issues: (1) conflict between the technical language required and the lay language of counselors; (2) the excessive supervision of government authorities on the CMS, making them mere approvers of its policies and reports; (3) lack of material resources to maintain the council; and (4) lack of interest of the population in participating in the council and/or failures in representativeness.

One can propose to society and the State forms of operation for strengthening the CMS, and for such the Public Prosecutor's Office can: (1) participate in regular meetings at the occasion of presentation of the Municipal Health Plan, the Annual Health Program and the Management Reports (annually and quarterly); (2) oversee the choice of members regarding representativeness, as well as the election for president; (3) inspect the financial, physical and administrative infrastructure; (4) recommend the disclosure of functions and competences, counselors' works and decisions and CMS composition to the community; (5) hold counselors judicially responsible for disregard of resolutions of the Health Councils and CNS Resolution No. 453/2012, on budget allocations for the proper functioning of Health Councils (Brasil, 2012); (6) ensure that resolutions of Health Councils are properly approved, in attention to the proposition of the 13th National Health Conference; and (7) stimulate and require training from health counselors (Brasil, 2001).

All these measures should be seen as external actions to be operated by the Public Prosecutor's Office, being necessary to consider that there are also internal actions to be developed, i.e., important structural measures, highlighting the inclusion of technical knowledge on health in the selection process of prosecutors and in the continuing education of its members, as already exposed.

After the incursion in the cities studied, we concluded the institutional control in the Brazilian National Health System in the State of Maranhão, held by the Public Prosecutor's Office, is faint and superficial, despite the possibilities, capacities and powers conferred by the 1988 Federal Constitution. The CMS, major social control bodies of SUS, have deficiencies and limitations known by the Public Prosecutor's Office, which has not yet geared its institutional politics towards a closer, constant and regular relationship throughout the State of Maranhão, through practices of interinstitutional dialogue.

In face of the difficulties observed, one can suggest actions, especially under the resolutive/extrajudicial matrix, starting from participating in meetings and community and interinstitutional coordination, with integration between MP, CMS and community on the issue of health. That is, the Public Prosecutor's Office can initiate the approach, creating uniform institutional strategies for all counties that ensure the full operation of the CMS and the participation of all in monitoring the management of the health system.

The Public Prosecutor's Office should also use the good channel of communication and legitimacy it has with society to foster the social participation of any and every citizen in the forums for discussion of public policies, including subjects and conducting exchanges with other instances of participatory control, to add democratic values, plurality or discourses and opinions, opportunities of management and decision on the paths to be adopted by the State.

The second suggestion is that the Public Prosecutor's Office demands the commitment of health managers in implementing the CMS, involving financial and structural sustainability and strengthening the democratic culture and participatory management. It should also identify and fix, by procedures and investigations, the deficiencies which prevent or hamper the democratic and transparent management of resources in health, starting with those that compromise the autonomy of counselors in relation to the health policy manager.

The data collected showed the need for developing a training tool for both prosecutors as for health counselors, demanding the integration of important collaborators, such as the General Court and the Higher School of the Public Prosecutor's Office and the Operational Support Center of Health, unveiling the interdisciplinarity required for technical knowledge of the health system.

We must break paradigms and the inertia, preparing the health counselor to access information and understand the SUS, actions essential to implement the right to health advocated in the Constitution. We also need to encourage the continued training of prosecutors and the interaction with other control institutions, with a consistent and permanent institutional policy.

Final considerations

This study sought to encourage reflection on the potential for expansion and strengthening of the relationship between the Public Prosecutor's Office and Municipal Health Councils, aimed at a social control that effect the access to health services. Moreover, on the need for professionalization of health counselors, as occurred with the guardianship counselors, which are elected, remunerated and subjected to a constant process of training and monitoring by the Public Prosecutor's Office, leading to the reassessment of importance of training, instrumentalization and professionalization in the exercise of social control.

However, it does not exhaust the possibility of further studies, especially on the role of health counselors and its impact on the community, the implications of the principle of functional autonomy of the Public Prosecutor's Office for the implementation of institutional practices of interaction with SUS control bodies and, yet, the discussion on the volunteerism of members of the managing boards and their impact on the strengthening of social control.

The democratization and implementation of health policy in municipalities in the health regions researched depend on, among other things, the improvement of the relationship between MP and CMS which, in a virtuous circle, shall yield fruits of qualification and strengthening of the social control exercised by Health Councils in the cities of Maranhão.

Municipalities of Maranhão changed over these years of SUS implementation, and so did the actors involved with public health. Similarly, the importance of strengthening the performance of the Public Prosecutor's Office with other institutions conducting social control in the SUS is confirmed, especially with Health Councils.

The relations between democracy, law, politics and health should value the achievements attained and the mutual support between institutions, to identify and correct errors and issues in the construction of new paths to contemporary challenges. But these relationships cannot be exhausted in this study; there was not even such pretense. We do not aim to propose stagnated and salvific forms. On the contrary, the legislative framework, already quite developed, has created institutional subjects that must be lined up in defense of the right to health, citizenship and democratic ideals, in a new grammar of integration, belonging and emancipation.

References

BARDIN, L. *Análise de conteúdo*. Lisboa: Edições 70, 2000.

BARTOLOMEI, C. E. F. et al. Medicina e direito: atuação na integralidade destes dois saberes. *Diagnóstico e Tratamento*, São Paulo, v. 15, n. 1, p. 39-42, 2010.

BATISTA, E. C.; MELO, E. M. A participação popular em Ipatinga (MG, Brasil): conquistas e desafios do setor saúde. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 16, n. 1, p. 337-347, 2011.

BISPO JUNIOR, J. P.; GERSCHMAN, S. Potencial participativo e função deliberativa: um debate sobre a ampliação da democracia por meio dos conselhos de saúde. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 18, n. 1, p. 7-16, 2013.

BOGDAN, R. E.; BIKLEN, S. *Investigação qualitativa em educação*: uma introdução à teoria e aos métodos. Porto: Porto, 1994.

BRASIL. Constituição da República Federativa do Brasil de 1988. *Diário Oficial da União*, Brasília, DF, 5 out. 1988.

BRASIL. Lei nº 8.142, de 28 de dezembro de 1990. Dispõe sobre a participação da comunidade na gestão do Sistema Único de Saúde (SUS) e sobre as transferências intergovernamentais de recursos financeiros na área da saúde e dá outras

providências. *Diário Oficial da União*, Brasília, DF, 28 dez. 1990.

BRASIL. Ministério da Saúde. Conselho Nacional de Saúde. *11ª Conferência Nacional de Saúde, Brasília 15 a 19 de dezembro de 2000*: o Brasil falando como quer ser tratado: efetivando o SUS: acesso, qualidade e humanização na atenção à saúde com controle social: relatório final. Brasília, DF, 2001. (Série Histórica do CNS; n. 2) (Série D. Reuniões e Conferências; n. 16).

BRASIL. Ministério da Saúde. Conselho Nacional de Saúde. *Relatório Final da 13ª Conferência Nacional de Saúde*: saúde e qualidade de vida: políticas de estado e desenvolvimento. Brasília, DF, 2008. (Série C. Projetos, Programas e Relatórios). Disponível em: <https://bit.ly/1zqwrHe>. Acesso em: 3 mar. 2018.

BRASIL. Decreto nº 7.508, de 28 de junho de 2011. Regulamenta a Lei nº 8.080, de 19 de setembro de 1990, para dispor sobre a organização do Sistema Único de Saúde – SUS, o planejamento da saúde, a assistência à saúde e a articulação interfederativa, e dá outras providências. *Diário Oficial da União*, Brasília, DF, 29 jun. 2011.

BRASIL. Ministério da Saúde. Conselho Nacional de Saúde. Resolução nº 453, de 10 de maio de 2012. Aprova diretrizes para instituição, reformulação, reestruturação e funcionamento dos Conselhos de Saúde. *Diário Oficial da União*, Brasília, DF, n. 109, p. 138, 6 jun. 2012. Seção 1.

CHAI, C. G. Governo local, controle social e ação contra a corrupção: a universalidade da experiência do município de Ribeirão Bonito/SP: administração pública e sociedade: instrumentos de participação da sociedade civil. In: MACEDO, M.; PRAZERES, M. A. B. (Org.). *Democracia, transparência e desenvolvimento sustentável*. Fortaleza: Fundação Konrad Adenauer, 2007. p. 13-32.

COTTA, R. M. M. et al. O controle social em cena: refletindo sobre a participação popular no contexto dos conselhos de saúde. *Physis*, Rio de Janeiro, v. 21, n. 3, p. 1121-1137, 2011.

FARIAS FILHO, M. C.; SILVA, N. A.; MATHIS, A. Os limites da ação coletiva dos conselheiros municipais de saúde. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 19, n. 6, p. 1911-1919, 2014.

FERREIRA, C. S. *Políticas públicas de fomento ao controle social*: estudo da relação entre participação social e falhas na gestão pública em prefeituras municipais da região nordeste. 2010. Dissertação (Mestrado em Saúde Pública) – Escola Nacional de Saúde Pública, Fundação Oswaldo Cruz, Rio de Janeiro, 2010.

GIL, A. C. *Métodos e técnicas de pesquisa social*. São Paulo: Atlas, 1995.

HABERMAS, J. *Direito e democracia*: entre facticidade e validade. 2. ed. Rio de Janeiro: Tempo Brasileiro, 2003. v. 2.

LEHMANN, L. H. M. *Participação popular em saúde e Ministério Público*: contribuições para a efetivação do Sistema Único de Saúde. Florianópolis: UFSC; 2013.

MACHADO, F. R. S. *Direito à saúde, integralidade e participação*: um estudo sobre as relações entre sociedade e Ministério Público na experiência de Porto Alegre. 2006. Dissertação (Mestrado em Saúde Coletiva) – Instituto de Medicina Social, Universidade do Estado do Rio de Janeiro, Rio de Janeiro, 2006.

MACHADO, F. R. S. et al. Novos espaços e estratégias na gestão em saúde pública: notas sobre parcerias entre Conselhos de Saúde e Ministério Público. In: PINHEIRO, R.; FERLA, A. A.; MATTOS, R. A. *Gestão em redes: tecendo os fios da integralidade em saúde. Rio de Janeiro: Educs, 2006. p. 25-36.*

MARANHÃO. Secretaria de Estado da Saúde. Comissão Intergestores Bipartite. Resolução CIB/MA nº 44/2011, de 16 de junho de 2011. Dispõe sobre a conformação das regiões de saúde. *Diário Oficial do Estado do Maranhão*, São Luís, 22 jul. 2011.

MINAYO, M. C. *Pesquisa social*: teoria, método e criatividade. Petrópolis: Vozes, 2004.

MOREIRA, M. R.; ESCOREL, S. Conselhos Municipais de Saúde do Brasil: um debate sobre a democratização da política de saúde nos vinte anos do SUS. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 14, n. 3, p. 795-805, 2009.

OLIVEIRA, A. M. C.; IANNI, A. M. Z.; DALLARI, S. G. Controle social no SUS: discurso, ação e reação. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 18, n. 8, p. 2329-2338, 2013.

OLIVEIRA, F. F. O Ministério Público resolutivo: tensão entre a atuação preventiva e a autonomia institucional. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 15, n. 6, p. 317-339, 2013.

PAIVA, F. S.; STRALEN, C. J.; COSTA, P. H. A. Participação social e saúde no Brasil: revisão sistemática sobre o tema. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 19, n. 2, p. 487-498, 2014. Disponível em: <https://bit.ly/2uclYWe>. Acesso em: 11 fev. 2017.

PEREIRA, I. P. et al. O Ministério Público e o controle social no Sistema Único de Saúde: uma revisão sistemática. *Ciência e Saúde Coletiva*, Rio de Janeiro, n. 435, 2017. Disponível em: <https://bit.ly/2Ju7WK7>. Acesso em: 3 mar. 2018.

RAWLS, J. *Uma teoria da justiça*. 3. ed. São Paulo: Martins Fontes, 2008.

RIBEIRO, C. F. B. *O Ministério Público e o controle social*: possibilidades de interação na construção da defesa e garantia do direito à saúde. 2008. Dissertação (Mestrado em Serviço Social e Política Social) – Universidade Estadual de Londrina, Londrina, 2008.

ROJAS, R. C. A. *Participação popular e Ministério Público no Brasil*: defesa do regime democrático e dos interesses metaindividuais no marco de uma trajetória crítica dos direitos humanos. Belo Horizonte: Arraes, 2012.

SANTANA, P. *Implementação do direito à saúde no município do Rio de Janeiro*: Conselho Municipal de Saúde e Promotoria de Justiça de Tutela Coletiva da Saúde. 2011. Dissertação (Mestrado em Direito) – Pontifícia Universidade Católica do Rio de Janeiro, Rio de Janeiro, 2011.

SHIMIZU, H. E.; MOURA, L. M. As representações sociais do controle social em saúde: os avanços e entraves da participação social institucionalizada. *Saúde e Sociedade*, São Paulo, v. 24, n. 4, p. 1180-1192, 2015. Disponível em: <https://bit.ly/2u6vWIC>. Acesso em: 11 set. 2017.

STRALEN, C. J. et al. Conselhos de Saúde: efetividade do controle social em municípios de Goiás e Mato Grosso do Sul. *Ciência e Saúde Coletiva*, Rio de Janeiro, v. 11, n. 3, p. 621-632, 2006. Disponível em: <https://bit.ly/2W5940N>. Acesso em: 8 dez. 2016.

TRIVIÑOS, A. N. *Introdução à pesquisa em ciências sociais*. São Paulo: Atlas, 2007.

Authors' contribution

Pereira conceived the project and wrote the article and, with Chai and Pacheco, analyzed and interpreted the data. Chai conducted the critical analysis of the manuscript, whereas Dias, Loyola and Pacheco performed the critical review of the intellectual content. Loyola approved the version to be published. All authors are responsible for all aspects of the study and ensure the accuracy and completeness of any part of the work.

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