I – Introduction

This article aims to address the application of the concept of Therapeutic Jurisprudence in the development of Drug Treatment Courts in Brazil.

Data from the World Health Organization and United Nations reveal that, along the past decades, there has been a remarkable increase on production, traffic and consumption of the substances that alter brain function and cause dependence. This scenery has been noticed all over the world and Brazil is no exception. The matter is serious and causes great harm to individuals, families and society as a whole.

Brazil has been developing, along the last few years, a better monitoring over the consumption of addictive drugs among different groups; essential measure which, besides permitting the current diagnosis, points the way to be taken by public policy with an eye to facing the problem.

II – “Therapeutic Justice Program (DTC)”: brief overview

Historically, the judicial system, mainly the Prosecution, has always worked with an emphasis on repression over issues related to drugs in Brazil. Derived from sociological observations, it follows that another power should support this institutional attribution, and with the advent of Children and Adolescent Statute – law # 8.069, from the 90’s, many positive experiences and analyses, more notably in the youth field, have arisen. This document has made possible the use of social-instructing measures when the adolescent is involved in the drug-crime binomial, as well as protective measures such as orientation, support and temporary accompanying; inclusion in community and official programs which aid family, children and adolescents; and, specifically medical, psychological or psychiatric treatment prescription, under hospitalization or ambulatory; inclusion in community or official aiding programs, orientation and treatment for alcoholic and drug addicts. Thus, estimation for a general application of a justice-system-stimulated treatment has arisen, inclusively to adults. The “Integral Attention Principle” enclosed in the Children and Adolescent Statute, was the inspiring source for this same principle’s extension toward adults, in Brazil so called “Therapeutic Justice Program (DTC)”. In other words, the principle of “Integral Attention”, coming from the Children and Adolescent Statute, means, in practice, looking at the offender and seeing, besides conflict to law, the problem on drug use, abuse and/or dependence. Therefore, a multi-disciplinary and multi-dimensional vision and approach are necessary. It is also doing a little bit more than what law itself determines.

III – Drug issue: Brazilian experience concerning youth and childhood

Reports by Childhood-and-Youth Prosecutor Offices from Rio Grande do Sul point that, among 90% of the children and teenagers assisted, the problem concerning drugs exists. It is really significant data since the situation is also present among children (up to twelve years old incomplete), regarding mainly inhalants and alcohol. With this reality, Prosecutors and Judges of Children and Adolescent from Rio Grande do Sul, started changing their way to act, which consisted, basically, in the application of punishment to those who were involved with drugs and conflict to the law, with the adoption of a wider view, now contemplating the health issue involved in this matter.

Children and Adolescent Statute was the legal tool, which allowed the paradigm change, in search for integral protection to children and adolescents. The activity reports by the Childhood-
and-Youth Prosecutor Offices show that the teenagers involved with drugs who are submitted to just one social-instructing-measure solution, that is, internment, return to the system from 3 to 6 months later, when not earlier. They keep using and/or abusing drugs around 85% of the times, as the judicial internment did not solve it. It is known that only the private measure to freedom does not keep them from living with and using drugs. Starting from these data and legally based on the Children and Adolescent Statute itself, Prosecutors as well as Judges began sending teenagers in conflict toward law, to evaluation with professionals from the health field, in order to verify the existence of the component drug in the offender’s behavior and the need of treatment, as well as indication to treatment, if necessary, and the adequate institution to do it.

This change on the judicial focus has shown itself as primordial, however being applied as punctual and experimental ways in the beginning, parting from the implantation of the Children and Adolescent Statute. Several teenagers and their families had access to treatment. Therefore, the experience of sending the person involved with drugs to a treatment system and not an incarceration one, has shown itself really effective in the child and young person’s field, clearly bringing the possibility to change the paradigm: previously, just freedom privation; at the actual moment, comprehensive attention and treatment, if necessary.

Considering the high prevalence of the most varied types of infraction committed by adults who are drug addicts, the question asked is: what should be done to a person who practices minor potential crimes and is involved with drugs? There are three current alternatives by the justice system: 1) prosecution and imprisonment of the offender; 2) filing of the investigation and 3) offering the Therapeutic Justice Program (DTC).

Prosecution and imprisonment of the offender: it solves only the legal process; the defendant goes to prison and keeps criminal records. Consequences of this measure are various. Among them, the high social cost is outstanding. Data by the National Institute of Justice (Brazil) reveal that every prisoner costs an average of 5.5 minimum wages to the State a month; beyond that, prison works as a crime school and 85% percent of them fall back to the crime when they leave the prison system. Usually, the prisoner is released without having overcome it completely, without being socially reintegrated and without being put back to the professional market; such factors occur directly due to the fact that the adequate treatment to their health problem was not applied, which will continue to contribute with the criminal behavior.

Filing the investigation: it solves only the legal process being filed for understanding the justice system; that legal proceeding to the unleashing of a penal act is missing. The consequences of this measure are two undesired messages: one to the offenders that their behavior “came down to nothing”, that is, the offenders feel “kind of authorized” to continue doing what they had been doing; it leads to another fact which, is the return of the offenders to the justice system, from three to six months later for having committed another crime just the same or worse than the previous one. The other message is to the police officers, who performing their duties, arrested according to what the law determines, established the investigation, and the prosecutor and the judge filed the legal proceeding; it leads to a fair feeling of frustration by the police officers.

Therapeutic Justice Program (DTC): it solves the process and its cause, that is, the involvement with drugs (usage/abuse/dependence), using the Principle of Integral Attention; in other words, looking at the offender and seeing a health problem, besides conflict toward law, which is the cause to the criminal behavior. The application of this program makes the prosecutors and judges lift his eyes from the legal proceeding and look at the reality outside. It is the proof, on the part of the justice system, that there is a line in which its effectiveness will be greater if they act along the health system. The Therapeutic Justice Program (DTC) is committed to the treatment, which will give the offender/patient, the abilities and conditions to establish the evolution of his/her illness, thus, acquiring better life quality, and even ceasing committing crimes. Therefore, the main objective of the Therapeutic Justice Program (DTC) is avoiding incarceration to happen, because a person, who presents a particular behavior as drug use or an illness as drug addiction that makes him/her commit crimes, is in need of orientation, advising and treatment.
IV – The denomination “Therapeutic Justice Program” (DTC)

The “Therapeutic Justice” may be comprehended as a group of measures that views a new understanding of the offenders who, use or depend on drugs by the law professionals and society as a whole. They turn to be recognized as people who have mental disorder, as described in the International Statistical Classification, ISC-10, and in the Diagnostic and Statistical Manual of Mental Disorders, DSM-IV, with right to treatment, not turning just into defendants. They are, in fact, people who present two problems: one legal, which is the offense committed and other, concerning health, which is drug addiction.

The expression “Therapeutic Justice” gathers the main aspects that justify the denomination. The concept of Justice approaches the legal and social aspects of the Law, while the term Therapeutic, related to the medical science, defines attention and/or treatment and rehabilitation of a pathologic situation. In such case, the terminology Therapeutic Justice consecrates the highest principles of the Law in the state-citizen inter-relation, in search for the solution, not only of the conflict toward law, but conjugated with the social problems of individuals and the community, in the issues and illnesses related to drug use.

The adoption of the term “Therapeutic Justice” for DTC in Brazil, is also justifiable to avoid stigmas that were created for the ones assisted by the judicial system, in case of consignation of the name of the place for the judicial assistance, under the designation “measure judgeship or jurisdiction for drug users, chemical, narcotic, or toxic-drug dependents or alternative measures jurisdiction” which could, in this last hypothesis, be confused with other existing legal operations. For these causes the own and adequate terminology for the definition of the justice-legal system was sought, after through a sociological observation method without depriving it from the characteristics and, which could dynamize it in convergence with the evolution of the social factor. It is possible through a new work philosophy consisting of social-therapeutical aspects. This new way to make justice, in the legislation cases, is the development of the judicial science interfacing with other sciences.

The Therapeutic Justice Program (DTC) is a new paradigm for focusing on and facing the drug problem in Brazil. With a typically Brazilian denomination and clearly defining its objectives, it has received unconditional support from the National Penitentiary and Criminal Politics Council, Brazilian Association of Alcohol and Other Drug Studies, Department of Legal Psychiatry of the Federal Medicine School Foundation, as well as from other mental health professionals in the country.

V – Legal aspects in applying Therapeutic Justice Program (DTC)

Scrutinizing the Brazilian legislation, tools that allow the adoption of the treatment to the ones involved with crimes, and have drugs as intervening factor are discovered without seizure in the edition of the special legislation on the matter. The first legal reference consubstantiates in the Penal Code, in the chapter concerning the “right restrictive punishments”, more specifically the weekend limitation. In this condition of right restrictive punishment, the punished adult must stay, every Saturday and Sunday, for five hours a day, in a home for sheltered or in another proper place and, during this stay, lectures and courses may be ministered to the convict, as well as educative activities should be given to him.

The right restrictive punishments are independent and replace the freedom restrictive ones, when the incarceration punishment of less than four years is applied, and the offense was not committed using violence or hard threat to the victim. The defendant may not have, in principle, fallen back either, and the guilt, the antecedents, social conduct and the convict personality, as well as the reason and the circumstances indicate that this replacement is enough and adequate to him. Thus, the treatment, in the case of weekend limitation, will occur as specific courses and lectures about drug use and its harm, which the program participant will have to attend.

In summary, the Therapeutic Justice Program (DTC) may be applied in two different age groups and at different moments of the criminal prosecution:
1. In child or youth hood
2. In adults:
   - In the pre-judgment phase in the Special Criminal Judgeships – by the application of the penal transaction or by the conditional cessation of the prosecution.
   - In the judgment phase.
   - In the post-judgment phase, with treatment – by the weekend limitation, the conditional cessation of the punishment and the conditional release.

In the operation of the **Therapeutic Justice Program (DTC)** the sequence follows: the prosecutor proposes the Program to the offender (when applicable); once accepted, the offender is evaluated by a multi-disciplinary team over the existence or non-existence of a health problem, drug use/dependence, that should receive treatment; in case of acceptance, the proposal is ratified by the judge in the hearing.

The advantages of the proposal on taking part in the **Therapeutic Justice Program (DTC)** are, among others: it avoids incarceration, diminishes falling back on the infraction up to 12, 5% 16, decreases the costs of the judicial system for evaluation and control over the prosecution; the defendant keeps no criminal record and, at the end of the treatment to contentment, has his/her legal prosecution filed.

Evaluation and monitoring, which are fundamental parts of the **Therapeutic Justice Program (DTC)**, that is, the actions of monitoring by the justice system, are the following: first of all, verification of whether or not the conditions established by the treatment team are being followed as, for instance, attendance to the scheduled appointments and second, whether or not the offender/patient is having or not benefits from the treatment.

It is important to emphasize that the urine testing to check if the patient is, or not, using drugs, is a decision to be taken by the treatment team and not by judges or prosecutors.

**VI – The new Anti-drug Law # 11.343, August 23, 2006**

Aspects to be considered in the new Anti-drug Law: 17

1. There was no decriminalization and/or consolation for illicit drug possesion; it happened a modification over punishment of the crime that, instead of freedom restriction (imprisonment), the Art. 28 states that the offender is subjected to “1 – warning on drug usage”, “2 – community service contributions” and “3 – educative measure to attend instructing programs or courses.”

2. The new Anti-drug Law gave greater emphasis to the justice system over the health system, once the new law clearly foresees that the judge may determine and send the offender to treatment.

3. Possible consequences to occur due to the new Anti-drug Law:

   The penalty easing regarding to possession will bring lighter legal impact over the drug user offender, which may increase the possibilities of committing other crimes; therefore, the legal fitting will not be regarding to possession, but regarding to other crimes;

   There will be a shorter work demand to the justice system and a greater one to the health system; the appropriate question to ask here is: if Brazil’s public health is already not able to cover other primary demands, will it get organized in order to assist, in addition, this specific population?

**VII – Strategies to the implementation of**

**Therapeutic Justice Program (DTC) in Brazil**

In order to implement and apply the **Therapeutic Justice Program (DTC)** in Brazil, there was, firstly, the invitation of health professionals to work along the judges and prosecutors, bearing
in mind that one of the most relevant principles of the Therapeutic Justice Program (DTC) is “non-adversity”. The agreement led to the creation of the National Association of Therapeutic Justice (www.anjt.org.br) \(^\text{18}\), in November of 2000, which has as its main purpose to touch different classes of Brazilian society, regarding the need to send those who committed a crime under drug effects or to acquire drugs, to a therapeutic-attention system. The National Association of Therapeutic Justice is a non-governmental organization, which joins prosecutors, attorneys, public defenses, lawyers, civil and military police officers, professionals from the health field, drug addiction experts, conciliators and community volunteers, all of them concerned about drug related offenses and offenders, as well drug problem in Brazil.

To spread the proposal of the on-going Therapeutic Justice Program (DTC), the *sine qua non* condition of the system operators and multipliers’ competence on this new paradigm must be observed, that is: no incarceration and yes propitiating biopsychosocial attention to those offenders who, somehow, are involved with drugs. Thus, where there are prosecutors, judges, defensors and skilled health professionals \(^\text{19}\) the Therapeutic Justice Program (DTC) may be working, without the need of formal installation of a specialized jurisdiction on the subject. This is because the Brazilian legislation assures the use of treatment as an alternative punishment in replacement to the traditional restrictive freedom punishment, which does not treat or re-educate drug addict offenders.

After the initial training, the team has to take initiatives in the sense of organizing a biopsychosocial support networking of attention providers concerning chemical dependence, and diffusing the concepts learned. In such case, the treatment for drug addiction may be carried through in a public or private health service, depending on the offender’s social-economic conditions. In the same way, partnerships with public service entities that offer specialized treatment for drug addicts may be established. Professionals to receive, evaluate, and send the offenders selected by the Promoter and Judge must be created, who opt for the Therapeutic Justice Program (DTC).

The Therapeutic Justice Program (DTC) emerges as an effective strategy to break the drug-crime revolving door. Twenty (out of 26) Brazilian States already have the Program in their priority books. For illustrative title, there are different ways to implement the Program, as it has been occurring in different states. In Rio Grande do Sul State, where the Program has been working since 1999, by an initiative of the Prosecutor Office, the Judiciary System, on March of 2001, signed accords structuring a treatment-provider networking to, among other purposes, attend drug addicts who accept treatment instead criminal trial. Another example is the experience of Pernambuco State, which on April of 2001, created the Center of Therapeutic Justice \(^\text{20}\), with identical purpose. The rehabilitation program developed in Rio de Janeiro State, has presented excellent results, in São Gonçalo, addressed to children and adolescents who have committed infraction acts, which were related to drug use. \(^\text{21}\)

It is the evaluation team’s duty to verify the treatment results with the assisted-patient, as well as the institution where it is carried, forwarding this evaluation to the judicial system.

It any moment, the assisted-patient has the possibility to change the treatment provider, the therapist or to suspend the therapeutic attention received since he/she take responsibility for his/her choice. It is finally proposed that each and every federation unit build the necessary structure, consonant its local peculiarities, work with the *sine qua non* condition of the Therapeutic Justice Program (DTC), that is, the professional competence according to a national pattern. Also, it is expected that all professionals involved in the Program have to be committed on structuring and maintaining the system.
Treatment for the drug addiction is characterized for being expensive, of inexact effectiveness and that, most of the times it is not sought after in a spontaneous or voluntary way by the addict. 22

On the other hand, it is known that the demand of totally volunteer treatment is very short, to the extent that the drug user himself decides to look for treatment for being really aware of the need of such measure, and does it without pressure of any kind. Most of them are part of the group in which resistance to looking for treatment is only overcome due to family, friends, school, and employer pressure or coercion; due to the raise of the cost to keep using drug or due to fear of the instauration of a criminal prosecution. 23

Considering these factors and emphasizing the urgent need of breaking the “druguse-crime” binomial, the Therapeutic Justice Program (DTC) is an alternative to such purpose 24. The scientific literature, as well as the experience of professionals of the health field on the treatment of drug addicts, point out that, at most of the times, the only way to motivate them to look for treatment, involves family members, boss and friends’ pressure attitude or some sort of coercion or compulsory treatment in case of offenses 25. Also there is a mistakenly believe that, “treatment for drug addiction only works if it its volunteer”. Data from scientific literature on the issue have pointed out that the coerced and/or forced treatment presents the same, and sometimes greater, effectiveness than the voluntary one. 26, 27

The essence of the proposal made by the Therapeutic Justice Program (DTC) is offering to the drug addict who has committed an offense of minor offensive potential, the opportunity of receiving educative intervention or treatment for his drug use as an alternative for the instauration of criminal prosecution and eventual incarceration punishment. This measure represents remarkable improvement in the possibility of a shortening of the exposed case to a minimum, in that, besides offering the drug user a particular intervention for his health problem, it keeps, to the same proportion, the person from being exposed to the incarceration punishment when the law foresees it. In these cases, the role of treatment is an outstanding contribution for crime reducing. In this way, it is applied the concept of Therapeutic Jurisprudence showing how much law can be therapeutic when well used. 28

Considering the public to whom the Therapeutic Justice Program (DTC) may be applied, that is, drug addicts who have committed a crime of a minor offensive potential, the motivational interview gathers the necessary requirements such as the therapeutic approach to be applied in the treatment expected by the Therapeutic Justice Program (DTC).

Among several studies about the importance of facilitating and keeping drug addicts under treatment, the one carried by Marllat and collaborators is outstanding. 29 Many aspects and components that interfere in the searching of and maintenance of the treatment are analyzed. The authors criticize the model that states that drug addicts will deny or shorten their problems to a minimum and will be groundless to look for help until they “sink”, that is, to the extent that the illness reaches levels of great seriousness causing important losses in several aspects of their lives. They still state, that the model presents a circulating supposition on the role of inner motivation in search of help to change the behavior in a successful manner. In other words, only the individuals intrinsically motivated will go for help and will change. And those who do not do it are not intrinsically motivated for such.

Still in the same study, the authors cite interventions to facilitate sending to and entering the treatment. Among them, motivational strategies which, have increasing the probability of drug users entering and continuing the treatment as main objective are cited, as well as having these users/offenders to actively participate in a change strategy.

The minor offensive potential offenders’ who are drug users come to have, almost in an “automatic way”, through the Therapeutic Justice Program (DTC), a motivation to start treatment, since they are offered, after an assessment by the health team, the possibility to choose between treatment or responding to a criminal prosecution. The Therapeutic Justice Program (DTC) also
foresees that, once the treatment prerequisites are met, and certified by the health provider, the offender will keep no criminal record.

Despite the relevant institutional support it has been receiving and the effective results it has been showing in other countries, Therapeutic Justice Program (DTC) had received some critics in part of a small number of professionals who understand that its proposal does not have its base on a choice. That is not the National Association of Therapeutic Justice understanding. It may be understood, mostly, as an “under-pressure” type of treatment, as most of them are. What changes is that the “pressure” is caused by the justice system and not by family members, friends or work place. As described in the World Health Organization's report, Non-voluntary Treatment of Alcohol and Drug-Dependence: A European Perspective, one of the main characteristics of non-voluntary treatment is the negotiation with the offender and those who are meaningful for him, with the objective on motivating him to participate in an active way in the therapeutic programs. Besides, that report also states that “when the non-voluntary treatment program is adequately organized and implemented, it is effective in crime reducing and the drug user’s life-quality improvement.”

Considering the peculiarities which involve the drug addict offender, considering the social progress represented by the proposal from the Therapeutic Justice Program (DTC) and considering the assumptions on which the motivational strategies are based, it is clearly understood that these ones represent an effective and promising therapeutic approach capable of freeing the individuals from the drug-crime revolving door. In addition: it is frequently able to turn a treatment, non-voluntary in the beginning, to a process where the patient opts for changing his self-destructive behavior to a healthy behavior with remarkable improvement in his life quality.

IX - Results

Since 1999 up to now, 83 training workshops and conferences were conducted, being 40 in Rio Grande do Sul St, 36 in other states of Brazil and 07 international participations. This data is not considering local initiatives.

General results

- The spreading of a new paradigm, a “new solution for an old problem”, the drugs – crime revolving door, which is the drama involving drug users/dependents who committed a minor crime.
- Adoption and implementation of the Therapeutic Justice Program (DTC) in 20 Brazilian states, which currently are in different stages of execution; Rio Grande do Sul, Rio de Janeiro, Pernambuco and Mato Grosso states are examples of success on this issue.
- Enhancement of inter institutional relationship, specially between health and justice systems, as well other instances related with the issue;
- Low social costs (almost zero) to implement the proposal;
- Relevant interest demonstrated by graduate students (mainly Law and Psychology) all over the country, who have written about the Therapeutic Justice Program (DTC) in their final papers.

Specific results

Among children and adolescents

The main study on evaluation done in Brazil was on the pilot conducted by the General Prosecutor Office of Rio Grande do Sul St. between 2001 and 2003 that pointed, among others, the following results:

- Significant reduction in drug use;
- Reduction in crime;
- Enhancement in literacy, family relationships, health e professional skills;
- Enhancement in parenting skills;
- Change in drug use perception.

Some specific results on this study shown:

1. Adolescents and their families’ adherence to monitoring
   - 81.8% of attendance to the appointed hearings during the program

2. Adolescents and their families’ adherence to treatment
   - In public health providers → 83.7%
   - In private health providers → 89,3%

3. Drug use
   - At the program beginning participants were consuming:
     - 100% marijuana
     - 92.6% alcohol
     - 66.7% tobacco
     - 40.7% inhalants
     - 33.3% cocaine
     - 25.9% crack
     - 3.7% hallucinogens
   - After the first drug testing for marijuana (at the middle of the program), 47.8% were positive and 52,2% negative
   - Drug use at the end of the program:
     - 51.8% was engaged towards stop using; among them, 29.6% got abstinence with few relapses and 22.2% got complete abstinence till the program end;
     - 48.1% remained drug user.

Among adults

Some results in Rio Grande do Sul St.:

- Most judges have agreed and have sentenced treatment as the alternative for a criminal trial or incarceration for drug users/dependents who have committed a minor offense;
- Evaluation conducted showed that between 2001 and 2006 among 10 drug offenders, 7 had accepted the treatment program proposed by the prosecutor and the judge;
- During the year of 2007, 589 proposals for the Therapeutic Justice Program (DTC) were made by prosecutors of Rio Grande do Sul St.
- During the year of 2008, 989 proposals for the Therapeutic Justice Program (DTC) were made by prosecutors of Rio Grande do Sul St.

X – Harm reducing policy and the Therapeutic Justice Program (DTC)

The Therapeutic Justice Program (DTC) supports any program that intends to reduce harm to the drug user/dependent’s health, in as much as he does not contemplate the replacement of one illicit drug with another, due to the simple fact that involvement with illicit drugs is illegal.

This attitude includes the harm reducing policy applied to injecting-drug users/dependents.
The definitive paradigm change towards the adult drug addict who has committed an offense happened, in a systematic way in Brazil, in 1999. In that period some Brazilian professionals had the opportunity to know in locu the north American Drug Treatment Courts. This fact further to the well succeeded Brazilian experience with children and adolescents, has started the process of setting up and implementing of Drug Treatment Courts in Brazil, named Therapeutic Justice Program as previously mentioned.

In 2007 acting professionals of the Therapeutic Justice Program (DTC) in Brazil got in touch to the International Network of Therapeutic Jurisprudence and its proposal. It became clear that the Therapeutic Jurisprudence concept developed by David Wexler in 1987 was the missing theoretical piece that arrived to ensure the actions which have been developed in Brazil to enhance the effectiveness of two social essential areas: justice and health. Since then a close relationship between the National Association of Therapeutic Justice from Brazil and the International Network of Therapeutic Jurisprudence has been occurring, leading to a very relevant scientific and professional exchange.

Another important contribution for the Brazilian process was the article wrote by Hon. Peggy Hora and colleagues about the Therapeutic Jurisprudence and the Drug Treatment Court Movement. Her paper clearly points Therapeutic Jurisprudence as the theoretical foundation for the proposal to send to treatment drug users who have committed minor offenses.

It is important to mention that the concept of Therapeutic Jurisprudence is not well known in Brazil also because the term “jurisprudence” has another meaning in the Brazilian legislation which is based on the Civil Law System. But, due to its relevance, the National Association of Therapeutic Justice of Brazil has established as one of its goals to contribute to spread the Therapeutic Jurisprudence proposal in Brazil. Actually, it already happen in the Brazilian judicial system, most times when attorneys ask for judges to send to treatment offenders affected by treatable emotional disorders which could contribute to the offenses. Besides, more recently laws regarding to other issues have passed assuring comprehensive multidisciplinary health and psychological attention for offenders and victims when need. One example is the Law 11340 from August 2006 to restrain domestic violence against women in its articles 29 and 30.

In other words, it can be said that, in practice, Therapeutic Jurisprudence happens in the day by day of the judicial Brazilian system, even though professionals are not aware that there is a theoretical framework in which they are based on. As mentioned by Prof. David Wexler, it is possible that many lawyers, judges, prosecutors and health professionals, all over the world, have been intuitively applying this more sensitive perspective towards rehabilitation. However, the incentive originated by the proposal of the Therapeutic Jurisprudence can enhance the practice of those professionals.
XII– Conclusions

The Therapeutic Justice Program (DTC) may be considered as a type of alternative punishment. Besides, it is a treatment approach, and is also a social-instructing measure, when used in the child and youth hood ambit, as well as to adults.

Considering what is exposed in this article, it turns out to be clear that the easiest solution is prosecuting and incarcerating the drug user offender who has committed a minor crime or file his prosecution. Offering to this offender the possibility to learn about the prejudice caused for drug using and, when applicable, being treated due to his illness, cause of his crimes, is much more “overwhelming”. Nevertheless, it is much more rewarding and effective socially speaking, because it guarantees to law and health professionals happiness and peace resulting from the accomplishment as their social duty, avoiding social harm caused by incarcerating the one in need of treatment.

And, more important, is to have in mind that law can be therapeutic. It is urgent that the concept of Therapeutic Jurisprudence be wide spread in Brazil to help law and mental health professionals to better achieve their goals.

References


15. Código Penal Artigo 43


