



## A internação forçada de adultos que fazem uso abusivo de drogas

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**Abstract:** This study is about compulsory commitment to hospital (against one's will or without consent) of abusive drug user adults (drug addicted). The problem under research consists of evaluating, from the legal viewpoint, the legitimacy or not of impose such measure, and further to analyze the requisites and assumptions concerning the exceptional application thereof. The investigation was based on Constitutionalization of Private Law, doctrine, legislation and case law. Discusses the conflict or tension between formal freedom and paternalism to justify or reject interfering on the existential sphere in the situation under analysis. Based on Michel Foucault's lessons, the investigation highlights the inappropriate confusion of concepts such as capacity-personality, disease-interdiction, madness-danger, drug abuse-incapacity, commitment to hospital-interdiction, which leads to distorting the rationale for commitment to hospital. Upon revisiting and disentangling those categories, aims at demonstrating the limits of the traditional dogma of the incapacities' system to face the topic. Thus, points out that committing someone to hospital neither depends on nor results from a process of interdiction. The research sustains that caring for health of a person with abusive drug use is the only constitutionally admissible option for his compulsory commitment to hospital, considering that any other function such as punishment, segregation or isolation are unconstitutional. Drug abuse affects mainly a person's self-determination (self-control), but not necessarily the ability to understand and to express oneself (legal capacity). Furthermore, the classification of "habitual drinkers and drug addicts", as relatively incapable is discussed. The thesis is not in favor of compulsory commitment to hospital; however, it does not completely exclude it either. It should be a subsidiary, temporary action which presupposes that there is not enough non-hospital mechanisms (outpatient) and the need to protect the person to be committed.

**Key words:** Compulsory Commitment to Hospital; Drugs; Mental Health; Legal Capacity; Competence.

