

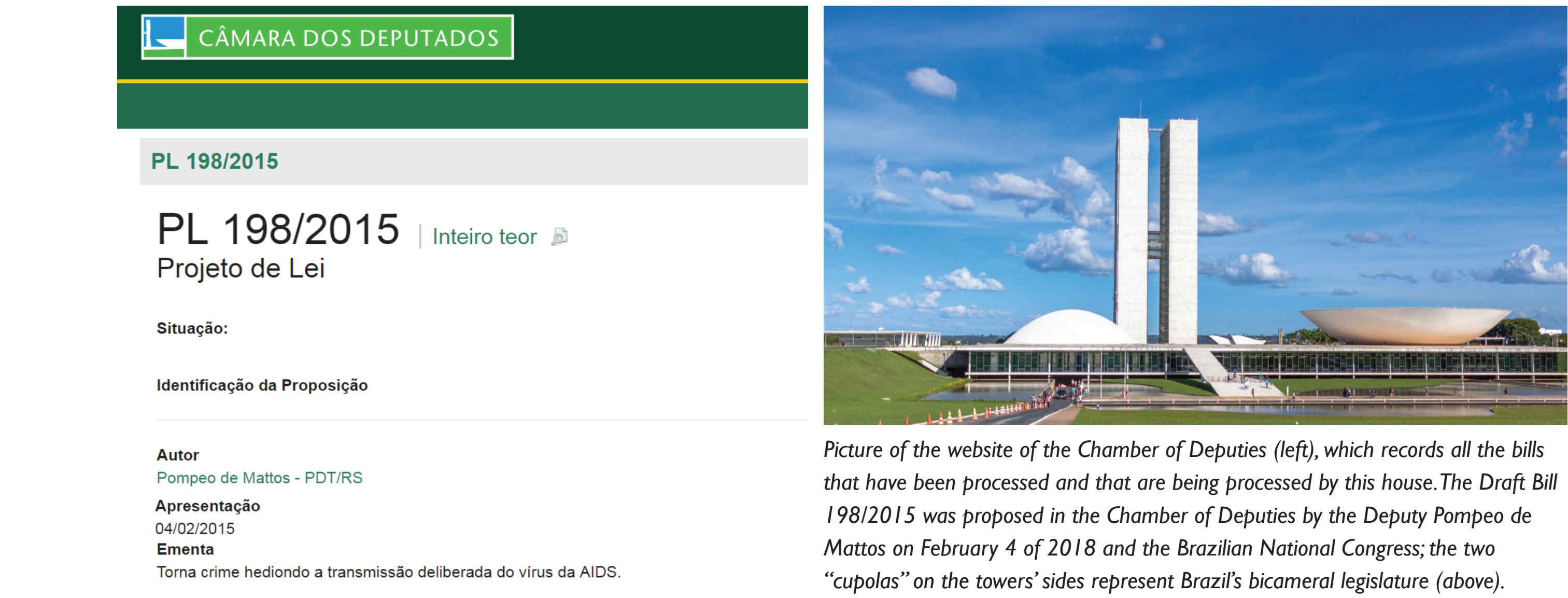
David against Goliath: how concerted action among stakeholders in Brazil overturned a draft bill that aimed to classify HIV transmission as heinous crime

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Background

Amidst political turmoil in the country following the re-election of President Dilma Rousseff, the legislature of 2015 in the Brazilian National Congress initiated its work bringing back to vote in the Brazilian Congress a series of discriminatory bills, including the text of a bill dated 1999, re-packaged into what was named PL198/2015.

The text of PL198/2015 aimed to criminalize HIV transmission and stated that 'the intentional transmission of HIV is a heinous crime'. The Brazilian Constitution defines heinous crimes as the most offensive crime, which include terrorism and torture. Heinous crime, are not open for bail. If the bill became law, all efforts of the country in the response to HIV would have been in vain.



Simultaneously and fueled by an interest to promote public opinion into supporting the bill, news outlets were pouring out fake news of people living with HIV 'gathering in dating clubs to infect others on purpose'. Even the most prestigious news outlets were following this trend.



Therefore, concerted action was key to put pressure on the National Congress to retract the bill. By virtue of an active partnership, the Ministry of Health, civil society and UNAIDS were able to be expedient and quickly react in order to set-up a strategy to target parliamentarians to bring down the PL198/2015.

Methods

The strategy was composed of:

1) production of well-argued documentation against the bill. Two technical notes were produced one by the Ministry of Health and another by UNAIDS (which was based and referenced in the report of the Global Commission on HIV and the Law). The UNAIDS Technical Note presents arguments that call for caution in relation to legislation criminalizing HIV exposure or transmission. In particular, it stresses that such legislation: (a) have no public health benefits; (b) can undermine effective HIV responses in Brazil; (c) can lead to serious miscarriage of justice; and (d) are increasingly being challenged across the globe. The document concludes that since Brazil already has a legal provision allowing for prosecution of cases of intentional HIV transmission, any new legislation on the subject is unnecessary and is likely undermine public health and human rights.

Both technical notes were presented in conjunction with a repudiation note from civil society (ANAIDS) and an open letter signed by over 70 civil society organizations to the President of the Constitution and Justice Committee and widely shared;



Meeting with the president of the Commission of Constitution and Justice to debate the Draft Bill 198/2015, on March 26 of 2018, with the AIDS movement, UNAIDS, Ministry of Health, the cabinet of the deputy Bruno Cavas and the cabinet of the deputy Jean Wyllys to debate the Draft Bill 198/2015.

2) use of mechanisms of the legislative process to stall the vote: members of the Parliamentary Front against AIDS were mobilized to comment the bill and adjourn the vote. The Family and Social Security Committee was mobilized to present a motion to reject the bill;



From left to right, Georgiana Braga-Orillard (Director of UNAIDS Brazil), Adele S. Benzaken (Director for STI, HIV/AIDS and Viral Hepatitis Department of the Ministry of Health of Brazil) and Deputado Hiran Gonçalves (former president of the Social Security and Family Commission of the Chamber of Deputies). Georgiana Braga-Orillard and Adele Benzaken reunited with Hiran Gonçalves to ask for a public hearing about the Draft Bill 198/2015.

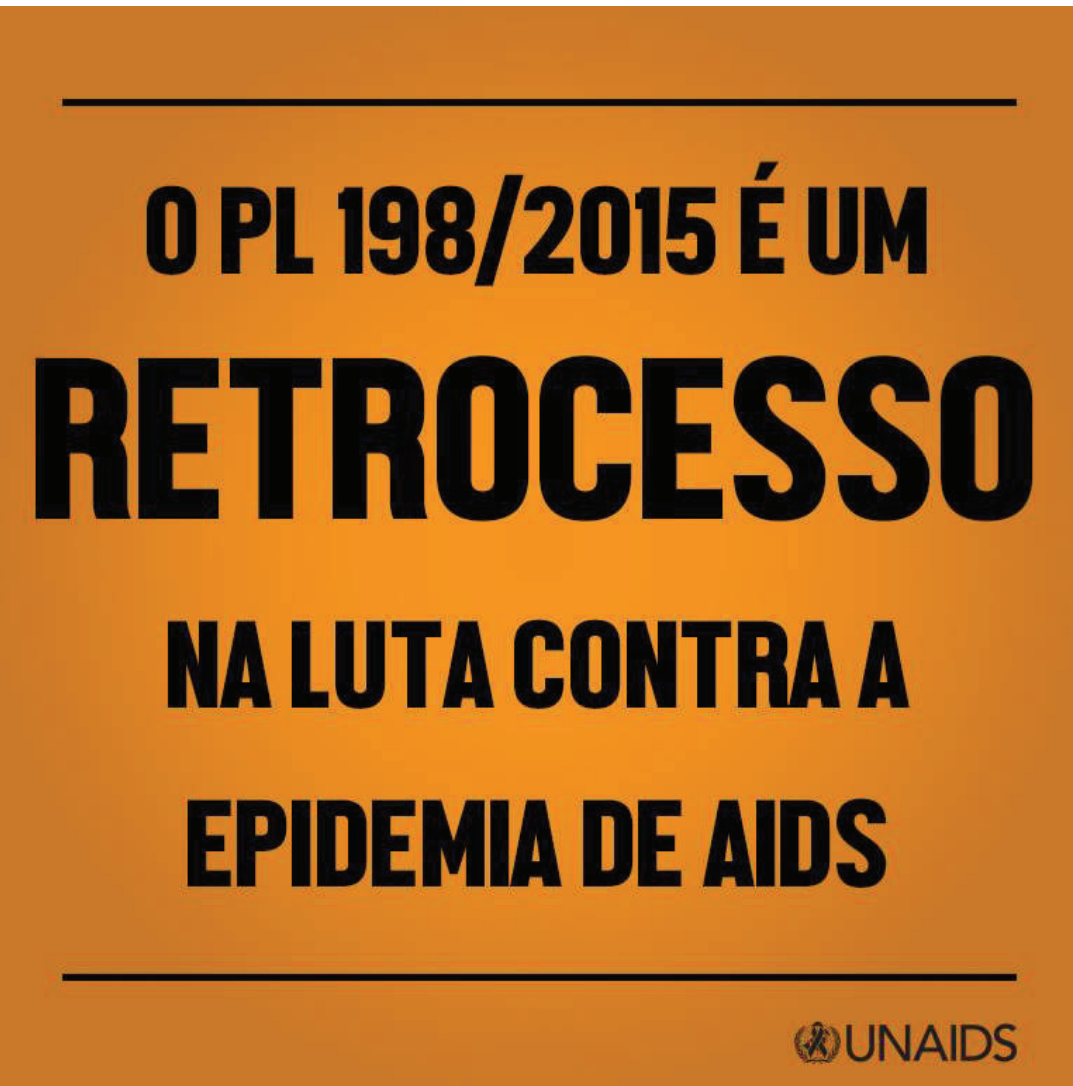
3) Mobilization of media outlets and counter argumentation: UNAIDS and partners launched an active social media campaign against the text to influence public opinion; (images below)



Text: The PL 198/2015 will drive people away from the Health Care Settings.



Text: #ZeroDiscrimination



Text: PL 198/2015 represents a setback in the fight against AIDS epidemic.

4) use of personal networks to reach out to key parliamentarians: members of civil society sensitized Congressmen to finally have the bill retracted.

Results

On 31 August 2017, Congressman Pompeo de Mattos, who had proposed the bill, presented a motion and retracted it (motion number n. 7154/2017). This represented an enormous victory for all involved in the HIV response in the country.

It is arduous to break barriers, it is easier to stop them from being built. Legislative processes are long and very influenced by external political pressure. The whole process to have the bill retracted took two years, amidst the impeachment of President Rousseff, which was at the center of attention in the country. Despite the political turmoil, attempts to reduce the rights of people living with HIV did not stop and are a reflection of the ingrained stigma that still exists.

Building on the strength of each partner was the key to success. Government, civil society and the United Nations brought different strengths to the table and were able to make pressure at different levels.



The UN Expanded Theme Group on HIV/AIDS mobilized UN agencies, civil society and entities from the government discuss strategies to advocate against PL 198/2015.

A meeting of the UN Theme Group on HIV/AIDS was key to bring the three networks of people living with HIV in the country (the Network of People Living with HIV - RNP+, the National Movement of Women living with HIV - MNCP, and the network of young people living with HIV - RNAJVHA). The meeting was also crucial in mobilizing additional support from Ministry of Justice, the Federal Attorney General of the Rights of the Citizens, other governmental offices, embassies and UN agencies.

In addition to all these efforts, UNAIDS initiated work with different instances, including the equivalent of the National Bar Association (the Order of Lawyers in Brazil - OAB), Public Defendants, and civil society to promote knowledge around positive laws in the country. Among these, Law 12984/2014 has been strongly promoted. The text foresees punishment with prison to those who discriminate people living with HIV, including refusals in schools, dismissal from work due to the health condition, or to offend the dignity of a person based on his or her HIV status.



Launch of the folder Law 12.984/2014 at the Public defendant office of the State of São Paulo.



Folder Law 12.984/2014 that criminalizes discrimination against people living with HIV
Text: "For the end of the discrimination against people living with HIV/AIDS - Law 12.984/2014" (left); and UNAIDS folder on the Brazilian legislation regarding HIV/AIDS. Text: "Brazilian legislation and HIV" (above).

Conclusion

Building on the strength of each partner from government, civil society and United Nations was the key to success to bring down the PL198/2015.

Monitoring and continued mobilization is needed and key in order to maintain a legal framework that protects the rights of people living with HIV threats of new bills coming back to vote are real. One of the bills being monitored is PL 1048/2015, which is more generic, and focus on criminalization of exposure to 'incurable diseases', but which also brings back some of the arguments of bill 198/2015.

A permanent legislative watch has been put in place by UNAIDS to monitor closely proposed bills that can affect negatively and positively the rights of people living with HIV and other key populations. Presently, more than 200 bills are being monitored on a weekly basis in order to be prepared and to act upon the draft bills that require some actions right from the beginning of the process.

Brazil is also disseminating in Portuguese the bi-weekly bulletin "Equal Eyes", which gathers information from all over the world on LGBTI rights and HIV.



Weekly internal communication of the Legislative Watch and Portuguese version of bulletin "Equal Eyes".

Acknowledgment

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