

SOCIO-EDUCATIONAL MEASURES AND THE STATE'S RESPONSE TO YOUNG OFFENDERS IN BRAZIL

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SUMMARY

The main purpose of this article is to analyze the effect of socio-educational measures in Brazil, emphasizing the role that the State and the family play in the education and reintegration of young offenders. The research explores relevant issues, such as overcrowding in socio-educational institutions and its adverse impact on the rehabilitation of young people, in addition to investigating the effectiveness of these measures in reducing criminal recidivism and promoting adequate reintegration into society. Using a deductive methodological approach and a literature review, the study examines related doctrines and legislation, with special attention to the Statute of Children and Adolescents, in order to then deduce significant results and implications of the socio-educational practices implemented.

Keywords:Children. Adolescents. Young Offenders. Overcrowding. Socio-educational Institutions.

ABSTRACT

This article's primary purpose is to analyze the effect of socio-educational measures in Brazil, highlighting the role that the State and the family play in the training and reintegration of young offenders. The research explores relevant issues, such as overcrowding in socio-educational institutions and its adverse impact on the recovery of young people, in addition to investigating the effectiveness of these measures in reducing criminal recidivism and promoting adequate reintegration into society. With a deductive methodological approach and a bibliographical review, the study examines related doctrines and legislation, with special attention to the Statute of Children and Adolescents, to then deduce significant results and implications of the socio-educational practices implemented.

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1 INTRODUCTION

Combating youth crime is a priority for public policies and the justice system in many countries, including Brazil. The way to understand and deal with this problem has evolved over time, with the participation of different agents and strategies developed. This research investigates the socio-educational actions implemented by the State to assist young offenders, with the aim of reintegrating them into society and preventing the repetition of criminal acts.

The study investigates the importance of juvenile delinquency, considering its broad consequences for the community. The premise is that appropriate socio-educational interventions can facilitate the reintegration of adolescents who commit offenses and provide a fair and impartial response. The research analyzes legislation, public policies and the views of different stakeholders, such as professionals in the justice system, educators and the young offenders themselves.

The aim of this study is to investigate in more detail socio-educational actions and their effect on the experience of young people in conflict with the law, as well as on the communities in which they live. Furthermore, it seeks to identify points that can be improved in the way the government deals with the issue of crime among adolescents.

Youth crime is a social problem that demands effective government responses. This study focuses on evaluating the effectiveness and relevance of socio-educational actions aimed at juvenile offenders, taking into account the complexity of the situation.

The research suggests a detailed investigation of the socio-educational policies implemented by the State, with the aim of reintegrating, instructing and rehabilitating young people who commit offenses, aiming to prevent

repetition of criminal acts. The study indicates that, when implemented effectively, such strategies are essential for the social reintegration of these young people and in reducing criminal recidivism.

The study examines the relevance of the efficiency and adequacy of socio-educational actions, as well as the obstacles that the government faces in implementing them. These aspects directly influence the ability to address juvenile delinquency in a fair and effective manner.

The issue of juvenile delinquency is multifaceted, as it is affected by various social and psychological factors from childhood onwards. The study analyses the persistence of this phenomenon, challenging the notion that adolescence is always marked by instability. Elements such as lack of parental involvement, living with violence, father absence and inadequate educational methods are highlighted as factors that can precede juvenile delinquency, which increases the complexity of this social issue.

An important aspect discussed in the context of socio-educational measures is the lack of uniformity and disparity in rehabilitation programs across Brazil, which may compromise the effectiveness of these actions. This issue highlights the concern about the variation in the quality of services provided, which may result in different results in the reintegration of young people into society. The lack of consistency may therefore affect recidivism rates among young offenders and raises questions about the capacity of the current system to offer cohesive and effective support that meets the individual needs of each person in the socio-educational context.

SOCIO-EDUCATIONAL MEASURES

Rights aimed at protecting children have not always existed. For a long time, children and adolescents were seen as individuals of little value. They were often treated as smaller versions of adults, and were victims of various forms of violence and neglect committed by their parents or guardians.

The trajectory of childhood resembles a nightmare from which we are recently beginning to emerge. As we go back in time, we notice that the care offered to children was increasingly scarce, increasing the chances that they would be killed, attacked, terrorized and victims of sexual abuse (BARBIANI, 2018, p. 22).

Since ancient times, the upbringing of children and adolescents has taken many forms. In the beginning, abuse of young people was common, but over time, it became less common. Over the centuries, caregivers began to employ more severe, sometimes even inhumane, approaches to their upbringing.

In 1923, the Juvenile Court was created, with Mello Mattos as the first Juvenile Judge in Latin America. In 1927, four years later, the Juvenile Code, also called the Mello Mattos Code, was approved, which became the first legal framework to deal with the protection of individuals under the age of 18 (RUEDA, 2021).

This Code did not include all children, but only those identified as being in an "irregular situation". The objective was to define precise guidelines to address marginalized childhood and adolescence, regulating aspects such as child labor, custody and family authority, among others (NUNES; FERNANDEZ, 2016, p. 20).

During the 1980s, around 30 million children were homeless and excluded on the streets of Brazil, facing extreme poverty and lacking adequate legal or social protection. It was at this time that the new Federal Constitution was officially enacted, on October 5, 1988 (BARBIANI, 2018).

This legislation, which stands out for its progress in the social sphere, implemented a new system for administering social policies, promoting the effective participation of communities through deliberative and consultative councils (CORDEIRO, 2018, p. 30). In its content, it places particular emphasis on the protection of children and adolescents, as evidenced in article 227, which establishes:

Art. 227. It is the responsibility of the family, society and the State to guarantee, as a top priority, the rights of children and adolescents, including the right to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom and integration into the family and community. In addition, they must protect them from any form of neglect, discrimination, exploitation, violence, cruelty and oppression (CORDEIRO, 2018).

Based on the aforementioned article, an opportunity was created for the development of legislation more targeted at young people under 18 years of age. Thus, Law No. 8,069/90 was instituted, which is recognized as the Statute of Children and Adolescents (ECA). This legislation not only aimed to safeguard the rights of children and adolescents, but also to guarantee their full protection and reaffirm constitutional principles, in particular the Principle of Human Dignity (OLIVEIRA, 2018).

The ECA ensures equal protection for all children and adolescents. Regarding the channels of participation, federal, state and municipal levels are provided for. According to Almeida, Marinho and Zappe (2021), UNICEF recognizes the ECA as one of the most sophisticated legal instruments on the subject globally, even being considered superior to the United Nations Convention, for fostering more effective cooperation between the government and civil society.

According to the Statute of Children and Adolescents (ECA), as stipulated in Article 2, "for the purposes of this Law, a child is considered to be a person who has not yet completed twelve years of age, and an adolescent is considered to be a person who is between twelve and eighteen years of age" (BRAZIL, 1990). This legal provision provides a clear definition of what characterizes children and adolescents. Furthermore, there is a special rule for individuals between the ages of eighteen and twenty-one, who may also receive protection from the ECA in specific circumstances.

According to Oliveira (2018, p. 10), "the child represents a human being in a special phase of growth. He or she is an individual, a citizen, has an opinion, must be heard, has a perspective on reality and has something to communicate about himself or herself, about others and about the world around him or her".

Regarding adolescence, Orth (2019, p. 41) describes this stage as "a period that has not yet reached its full development". It is the most significant phase of human life, marked by intellectual growth and physical changes that influence future life. According to Paula et al. (2017), the adolescent is the individual who "is in 'change', that is, has transitioned from childhood to adolescence and is preparing for adulthood, facing an increase in responsibilities and challenges".

According to the Child and Adolescent Statute (ECA), a young person who commits an offense is subject to responsibilities determined by a court decision and must follow socio-educational measures. This approach has an educational nature and not only ensures access to rights, but also seeks to foster the transformation of both personal and social values in adolescents. These guidelines are aimed at those under the age of eighteen who commit offenses.

Socio-educational measures are outlined in the Child and Adolescent Statute (ECA), Law No. 8,069, of July 13, 1990, which guarantees full protection for children and adolescents. According to Article 2 of the ECA, a child is defined as someone who is under twelve years old, while an adolescent is someone who is between twelve and eighteen years old. All rights provided for in this legislation must be available to all children and adolescents, as mentioned in the sole paragraph of this article.

The sole paragraph of Law No. 8,069, dated July 13, 1990, establishes that the rights mentioned in the legislation refer to all children and adolescents, without any type of discrimination related to their birth, family situation, age, gender, race, ethnicity, color, religion, conviction, disability, personal conditions of development and learning, economic situation, social context, geographic location or any other characteristic that may distinguish individuals, families or the community where they reside.

This ensures that all young people have their rights protected by the Child and Adolescent Statute, including the right to protection and social reintegration of adolescents who commit offenses. This is possible through socio-educational measures, which consist of a set of interventions applied after an offense committed by a young person.

The definition of sanctions, according to the Federal Constitution, will be aimed at non-imputable minors. Article 227, paragraph 3, establishes that:

§ 3º Special protection will be extended to the following points: I - minimum age of 14 years for acceptance into the job market, respecting what is stipulated in art. 7º, XXXIII; II - assurance of rights social security and labor rights; III - guarantee of access to education for adolescent and young workers; IV - guarantee of full and formal understanding on the incorporation of an infraction, equality in procedural relations and the right to technical defense by a qualified professional, as established by specific protection legislation; V - compliance with the principles of speed, exceptionality and respect for the differentiated condition of individuals in the development phase, when applying any measure restricting freedom; VI - incentive by the government, through legal assistance, tax benefits and subsidies, in accordance with the legislation, for the adoption, in the form of guardianship, of orphaned or abandoned children or adolescents; VII - prevention initiatives and specialized care for children, adolescents and young people who

face dependence on narcotic substances and related drugs.

The Constitution provides several essential guarantees for children and adolescents, but not everyone is able to enjoy them, such as good access to education, a safe home or the possibility of part-time work. These elements, if respected, could significantly reduce the number of young people who become involved in criminal situations, as many end up opting for crime due to the difficulties and lack of opportunities they face in their daily lives.

Principles and guarantees play an essential role in the education of young people, and fulfilling responsibilities is also crucial in this educational process. However, if the rights and guarantees provided for in the Constitution are not respected, this indicates that there is a problem that deserves to be identified and addressed more rigorously.

The Constitution determines that individuals under the age of 18 are not held criminally responsible (art. 104) and are subject to specific provisions applicable to this age group. Both children and adolescents have the same fundamental rights, considering that they are at a special stage of development.

It is important to note that the Constitution establishes rights and responsibilities, ensuring that everyone has equality before the law. However, young people, being considered minors incapable of responding to criminal charges, require special attention, since they represent the future of the country. Therefore, it is essential to implement actions that target their goals and support their reintegration process.

The Child and Adolescent Statute, which has been in force since 1990, offers several ways of implementing socio-educational measures aimed at young people who are in disagreement with the legislation.

The penalty imposed on young offenders differs from that imposed on adults who commit the same crime, since young people are considered unaccountable. This penalty is established by the Child and Adolescent Statute and classified as a socio-educational measure, aimed at the rehabilitation of young people and the prevention of future offenses (BARROSO FILHO, 2011).

Furthermore, for children and adolescents, there are provisions in article 112 and its sections of the ECA, what

Art. 112. Once the occurrence of an infraction has been confirmed, the responsible authority may impose the following actions on the adolescent: I - warning; II - obligation to compensate for the loss; III - performance of community service; IV - monitoring in freedom; V - inclusion in a semi-freedom regime; VI - admission to an educational institution; VII - any of those provided for in Article 101, items I to VI. The sanctions

imposed have several purposes for those who commit offenses, including the requirement to compensate for the damage caused. The young person cannot transfer this responsibility to third parties and must bear the consequences of his/her actions in relation to the victim, which includes returning property or compensating for damages. If the minor is under 16 years of age, liability may be attributed to his/her legal guardians, in accordance with the provisions of Article 156 of the Civil Code.

An alternative way to implement measures is to offer free community services, which must be carried out by the young person voluntarily. This approach not only involves the adolescent in new responsibilities, but also facilitates their interaction with the community, encouraging them to reflect on their actions and their ideas about work and dignity.

Supervised freedom requires specific care, as it places the young person in a freer context, preserving their family life, but with constant surveillance. This approach, which has been present since the 1927 code, aims to ensure that the adolescent understands the reasons for the actions taken and prevents the repetition of offenses.

The semi-freedom system represents an alternative between supervised freedom and internment, characterized as a partial limitation of freedom. The decision on its implementation is the responsibility of the judge responsible for children and youth and can be extended for a period of up to three years, subject to regular analyses of its effectiveness.

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Detention is seen as the most severe measure, used only in exceptional situations, with the purpose of removing the young person from the social environment to facilitate their reintegration. This approach should only be adopted when the available alternatives are not adequate or do not demonstrate results.

It is crucial to take into account the principle of exceptionality when implementing internment, employing this option only when all other alternatives fail. Such a measure must have an educational focus, with the aim of promoting the transformation of the adolescent, allowing his/her reintegration into society.

The actions to be taken must take into account several aspects, such as the young person's behavior, the severity of the offense committed and the family's situation. It is the judge's duty to evaluate and determine which interventions

tions are most appropriate, ranging from the least rigorous to the most rigorous.

The Child and Adolescent Statute, which has been in force since 1990, introduces important changes compared to previous codes, prioritizing a less punitive approach and one that is more focused on protection and dignity, focusing on the education and reintegration of young people. These provisions are set out in articles 103 to 128 and in section V, which covers articles 171 to 190 of the aforementioned statute.

Young people who are found to be in breach of the law are subject to socio-educational and protective measures designed to promote the rehabilitation and training of these future members of society. Such measures include both open regime measures, which limit certain rights, and closed regime measures, which restrict freedom.

As mentioned by Ramidoff:

Any legal norm directed at young people, as established by both the 1988 Constitution and Federal Law 8,069 of July 13, 1990, and, significantly, by the Doctrine of Comprehensive Protection, must promote the development of individual maturity (education), affection (human values) and humanity itself (Human Rights: respect and solidarity) of those who are in the peculiar phase of forming their identities. (RAMIDOFF, 2010, p. 101).

It is possible to anticipate that the actions adopted will result in advantages and will be useful not only for the young person, but also for the context in which he or she lives, whether at school or at home, with his or her family. These initiatives will contribute to social coexistence, encouraging constructive conversations, providing guidance on respect for others and demonstrating that existence encompasses more than the practice of illegal acts and infractions.

It is important to emphasize that the actions adopted are part of a broader context, aiming at the effective recovery of young people. The central concept that underpins these actions is re-education, prioritizing not only punishment, but also behavioral transformation.

The effectiveness of these actions depends on how each young person perceives and acts upon them. Those who see these interventions as an opportunity for development and growth tend to benefit more, while others may see them as just a way to waste time and be penalized, which ends up compromising the educational purpose of the socio-educational measures.

The social problems of juvenile offenders demonstrate that both legislation and institutions dedicated to protecting minors have a common purpose: to promote the reeducation and reintegration of these young people into society and family life. However, several obstacles are cited as responsible for the difficulty in achieving this goal, including the lack of infrastructure, the absence of professionals specialized in the corresponding areas and insufficient financial resources, among others.

CONCLUSION

Based on the considerations made in this paper, it is clear that adolescence is a fundamental stage in life, marked by profound physical and social changes that often help in the transition to adulthood. During this period, it is regrettable to note a considerable increase in crime, especially among young people aged 16 to 18. This phenomenon is largely a reflection of the changes in values and behaviors in contemporary society, which aggravate social and cultural inequality between people.

In view of this worrying panorama, the State has sought to address the growth of delinquency among young people, especially through the Statute of Children and Adolescents (ECA), instituted in 1990, which has established itself as essential legislation for the safeguarding of this age group. The ECA, combined with Constitutional Law, promotes socio-educational actions aimed at the reintegration of young people into a more inclusive society.

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equitable and healthy. However, although these actions may seem encouraging in theory, in practice they are faced with considerable challenges.

Having good socio-educational guidelines in the law is not enough if they are not actually put into practice. The ineffectiveness of these actions can lead to young people continuing in the cycle of crime, affecting not only the young people directly involved, but also society in general.

The current situation in Brazil reveals the urgent need for special attention to children and adolescents in vulnerable situations. There is no point in having significant legislation, such as the ECA, if the public policies that should support and promote the development of these young people are ineffective or disregarded. It is essential that the government, the community and the family collaborate to ensure social reintegration.

respectful towards these young people, without discrimination or barriers.

To address this challenge, it is essential to find immediate solutions, such as the effective implementation of the rules established in the legislation, the increase in financial funds for training and reintegration centers, and the strengthening of multidisciplinary teams that can offer daily support to young people who commit offenses.

The task of caring for and protecting children and adolescents in vulnerable conditions is a collective obligation of society and the State. Therefore, it is crucial that these young people receive the necessary care, ensuring that they have a dignified and peaceful existence, far from exclusion and violence.

It is essential to recognize that all young people, including children and adolescents, have basic rights guaranteed by current legislation and other means, with the aim of fostering their physical, psychological and social growth. These rights include access to health services, an excellent education, protection from all types of violence, a safe home and the necessary support to develop their full potential. By guaranteeing these rights, society and government contribute to the well-being and a promising future for every child and young person.

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