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The Right to Education in Brazil for Children and Adolescents During the Pandemic

The Right to Education in Brazil of Children and Adolescents During the Pandemic

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SUMMARY
The present work consists of bibliographical research, using texts, doctrines and norms that aim at the fundamental rights and guarantees of children and adolescents during the new coronavirus pandemic, more specifically with regard to the sphere of education. In the context of the Covid-19 pandemic since March 2020, in-person activities were suspended and remote classes had to be implemented, this article seeks to investigate the effects of this form of teaching and the right to education of children and adolescents, if they whether or not they were duly fulfilled. Firstly, the articles that legislate on the right to education in Brazil will be analyzed: 205th, 206th and 208th of the Federal Constitution, which provide education as a right for all and a duty that must be ensured by the family and the State, as well as the bases on which he must be ministered to; Law No. 9,394/96 which establishes the guidelines and bases of national education and the articles of the Child and Adolescent Statute relating to the themes. Secondly, an explanation will be made about the different means that educational institutions have adopted in addition to the face-to-face approach, taking into account aspects such as the economic factor, the social context, digital exclusion, among others. Keywords: Law. Education. Pandemic. Children. Teenagers.

ABSTRACT
Thepresentwork consists of bibliographical research, using texts, doctrines and norms that aim at the fundamental rights and guarantees of children and adolescents during the pandemic of the new coronavirus, more specifically with regard to the sphere of education. In the context of the Covid-19 pandemic since March 2020, face-to-face activities were suspended and remote classes had to be implemented, this article seeks to investigate the effects of this form of teaching and the right to education of children and adolescents , if they were or were not properly fulfilled. First, the articles that legislate on the right to education in Brazil will be analyzed: 205th, 206thand 208thof the Federal Constitution, which provides for education as a right for all and a duty that must be ensured by the family and the State, as well as the bases on which he is to be ministered to; Lawth9,394/96, which establishes the guidelines and bases of national education and the articles of the Children and Adolescents Statute referring to the theme. Secondly, an explanation will be given of the different means that educational institutions have adopted in addition to face-to-face, taking into account aspects such as the economic factor, the social context, digital exclusion, among others.
Keywords: Right. Education. Pandemic. Children. Teenagers.

1. INTRODUCTION

The right to education of children and adolescents is provided for in different ways in the Brazilian legal system, whether in the Federal Constitution, in the Law of Guidelines and Bases of National Education (LDB) or in the Statute of Children and Adolescents (ECA). With regard to the Federal Constitution of Brazil, Chapter III, section I, "Education" legislates on the duty to guarantee education, the bases and principles of application for it and on public resources allocated to schools.

In March 2020, the problem of Covid-19 emerged around the world[1], consequently society underwent several transformations giving light to previously existing problems. Such problems became even clearer during the period of confinement and isolation, social inequalities became more pronounced as time passed and face-to-face activities were paralyzed.

Minorities were the most affected in this scenario and the present work aims to analyze the situation of

1 This refers to the Covid-19 pandemic, caused by the SARS-Cov-2 or New Coronavirus virus, which did not generate repercussions. cussion only of a biological and epidemiological order on a global scale, but ratherrepercussionsand social, economic, political, cultural and historical impacts.

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one of them in particular: that of children and adolescents, as well as the impacts of the situation on the right to education provided for in Brazilian legislation.

The main problem lies in the fact that with the shutdown of society due to the virus, schools were forced to suspend their in-person activities, creating the need to find other means for the program content to reach students.

However, the effectiveness of such means is questioned, whether they obtained the same results as classes taught in the classroom or whether they fell short of what is necessary for the complete and satisfactory education of children and adolescents, as provided for by law.

Firstly, the right to education in Brazil will be explained based on the Federal Constitution, the Law of Guidelines and Bases (LDB) and the Statute of Children and Adolescents (ECA). Secondly, an analysis will be carried out on education during the pandemic period and the ways schools applied to meet the needs of students, whether they were effective or not and whether they managed to reach everyone equally.

For this purpose, research was carried out using the bibliographical research method, using works of rials already produced on the topic such as books, scientific articles and theses. Laws, statutes, treaties, the human rights convention, the federal constitution will also be used as a form of research.

It is assumed that during the period of remote classes, children and adolescents were deprived of rights inherent and necessary for the construction of quality education. We also seek to verify whether the principle of equal conditions for access and retention at school was respected or whether the pandemic has further accentuated previously existing social and economic inequalities.

For these reasons, the purpose of the study is to evaluate the applicability of laws aimed at protecting children and adolescents in the sphere of education in the pandemic scenario (where face-to-face activities have been stopped) and evaluate the consequences that are already being observed currently and those that may arise in the future.

twoRIGHT TO EDUCATION IN BRAZIL

Education can be defined as the process of socialization of individuals, upon receiving it the person assimilates and acquires knowledge. The educational process is materialized in a series of skills and values that cause intellectual, emotional and social changes in the individual. Education is also characterized by a system, encompassing various procedures and tools, which means that it does not work alone. (SENA, 2021).

The evolution of society brought with it the dissemination of the ideas of thinkers such as Descartes and Jaeger, who defended the act of forming thinking, critical citizens capable of transforming society as the objective of education. Such ideas are widely accepted and disseminated today by educators around the world, however the concept of education, as well as its methods and models, are constantly being shaped and improved over the years. (SANTOS; DIEZ; SANTOA, 2018).

It can be said, therefore, that education has as its main characteristic the fact that it is constantly changing. tation, it is always adapting according to the transformations that exist in society. Over the decades it has gone through different conceptions and been applied in many ways until it reached the current model.

Firstly, it is worth highlighting that the right to education is one of the second generation fundamental rights[two] and is provided for in the Federal Constitution as a fundamental social right. In addition to this general provision that guarantees its status as an immutable clause, the Federal Constitution also has other specific instruments, such as the Title VIII- Social Order, chapter III, Section I- Education; also having art.205 that reinforces the concept of education as an inherent right of the human being. (ZAPATER, 2019).

two

The application of the principles that govern national education constitutionally stated must be adjusted to real situations. They involve the functioning of school networks; the adequate training of specialists and teachers;

two Second generation fundamental rights are linkedto aspectssuch as equality, social, economic and cultural. In this case, the State has the responsibility to realize an ideal of dignified life in society, without the monetary aspect, second generation rights cannot be effectively fulfilled. The right to education, in turn, is considered a second generation fundamental right, due toto severalaspects such as its cultural and social relevance, in addition to the State being largely responsible for implementing it.

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enrollment conditions; student achievement and learning; financial, material, technical and human resources for the development of education and adequate infrastructure; the participation of public authorities and the teaching peculiarities of the different regions of the country. (SOUZA; SILVA, 1997).

Article 205 of the Federal Constitution specifically provides for education as a right for all, which must be ensured by the State and the family, being promoted through the collaboration of society as a whole in order to guarantee the full development of the human person, their qualification for the work and exercise of citizenship. (ZAPA-TER, 2019).

Also art. 206th of the Federal Constitution points out the principles on which teaching should be taught, The main ones being equal conditions for access and retention at school; the freedom to learn, teach, research and disseminate thought; the pluralism of ideals and different pedagogical conceptions and the free education in official establishments. (BRAZIL, 1988).

Article 208 specifies the obligation of free and compulsory basic education for children and adolescents from 4 (four) to 17 (seventeen) years of age; specialized educational assistance for people with disabilities; the provision of regular evening education adapted to the student's reality; student assistance at all stages of basic education through supplementary programs for school teaching materials, transportation, food and health care; among other rights. (BRAZIL, 1988).

The first and second paragraphs of the aforementioned article expressly provide for education as a subjective public right, implying its legal enforceability before the State both with regard to the individual dimension and the diffuse and/or collective dimension. (ZAPATER, 2019).

Article 1 of the Law of Guidelines and Bases (LDB), Law no. 9394/96, education is a sum of training processes that occur in society, taking place through the student's interaction with family life, human coexistence at work and in teaching and research institutions, in social movements and in the organization of civil society as well as cultural manifestations. (SOUZA; SILVA, 1997).

In art. 2nd also of the LDB, education is characterized as an inalienable function of the family and the State, and society must be included as co-responsible. This device includes two inspiring principles of educational policy, namely: freedom and the idea of human solidarity. Therefore, the three levels of education: elementary, secondary and higher must make an effort to serve the student, providing them with self-development as a human being and instructing them for work, as well as for the exercise of citizenship. (SOUZA; SILVA, 1997).

The art. 3rd of this same law establishes that teaching must be provided using some bases and principles. Section I establishes fundamental education as mandatory and universal, therefore, equality of access and permanence must be insisted on in order to prevent any socioeconomic differences from favoring some over others. (BRAZIL, 1996).

In particular, section IX of the same article guarantees a quality standard, it establishes that there must be an acceptable minimum, in order to reach increasingly higher levels. Finally, section XIII provides for the guarantee of the right to education and lifelong learning. (BRAZIL, 1996).

The art. 4th of the LDB, title III, "The right to Education and the Duty to Educate" provides that theThe State's duty with public school education will be carried out by guaranteeing free and compulsory basic education from 4 (four) to 17 (seventeen) years of age, organized in pre-school, teachingelementary and secondary education. (BRAZIL, 1996).

Item IX, also of art.3 of the LDB, guarantees a quality standard as one of the basic principles for the application of teaching, while in art.4 of the LDB there is a provision for minimum standards of teaching quality for all, as the minimum variety and quantity per student. In addition to inputs that are essential for the development of the teaching-learning process. (BRAZIL, 1996).

The other sections of the article also guaranteeaccess to the highest levels of teaching, research and artistic creation according to each person's ability; offering regular evening education that is appropriate to the student's conditions; the provision of regular school education for young people and adults with characteristics and modalities suited to their needs and availability, guaranteeing those who are workers the conditions to access and remain in school. (BRAZIL, 1996).

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The public authorities must ensure the rights provided for in the Child and Adolescent Statute to meet the needs of minors, and cannot use excuses such as lack of budgetary funds to comply with what is described in the law. On the other hand, it is also the family's duty to provide means for the child to have an adequate education. (NUCCI, 2020).

According to art. 53 of the ECA, every child and adolescent has the right to education aimed at the full development of their person, preparation for the exercise of citizenship and qualification for work. Therefore, they are guaranteed equal conditions to remain at school, the right to be respected by their educators, the right to challenge evaluation criteria, the organization and participation in student entities, access to free public schools close to their residence. (BRAZIL, 1990).

Finally, the issue of evaluation is foreseen in the LDB, in early childhood education the evaluation will take place through monitoring and recording the child's development, without the objective of promotion, even for access to elementary education. The LDB, therefore, takes a clear position against the practices of some systems and institutions that retain children in pre-school until they become literate, preventing their access to primary education at the age of seven. (BARRETO, 1998).

The right to education is also provided for in Article 6 of the Federal Constitution, which describes social rights that need to be regulated by other laws. The right to education, housing, health, food, work, leisure, security, social security, maternity and childhood protection, as well as assistance to the destitute are among the rights described in the aforementioned article. (IGNACIO, 2017).

2.1 Education with the start of the pandemic

In March 2020, with the start of the new coronavirus pandemic, the disease took hold in bodies and thousands of people became seriously ill. The health systems of rich and poor countries collapsed, deaths multiplied, panic set in, commercial and personal relationships were compromised, borders resurfaced and the right to come and go was blocked. (COUTO; COUTO; CRUZ, 2020).

Several daily activities were interrupted, such as sports, school, cultural activities, meetings, trips, among others. Those that could be carried out remotely, such as classes, began to take place in this way. (COUTO; COUTO; CRUZ, 2020).

When the first cases of the pandemic arrived in Brazil, schools were closed and remote classes were adopted across the country to meet the need and right to education for children and adolescents. (NEW, 2020).

From one moment to the next, several online school activities promoted by teachers were announced. Some of them already had an affinity with technology and started to promote programmatic content through YouTube channels, platforms or digital social networks. The phenomenon of social isolation has mobilized thousands of other teachers to do the same thing, many of them who were previously anonymous orhadlittle visibility on networks. (COUTO; COUTO; CRUZ, 2020).

The objective of remote classes was to offer continuity of schooling through technological means, normally the lessons were sent to the classes by teachers of their respective subjects. In the private network, teaching was more effective: done by a teacher who taught classes, through videoconferencing or similar resources or recorded and transmitted online. The workload was also the same as in-person classes, maintaining frequency. (NEW, 2020).

However, not all schools and not all students had the necessary resources to transmit and receive curricular materials via the internet. The situation was worsened by the considerable number of students do not have computers,*tablets*,*smartphones*or even internet access to watchthe classes.In other cases, the situation was aggravated by the fact that a device connected to the internet had to be shared between several members of the same family. Such incidents reinforced an already pre-existing problem: digital exclusion. (NEW, 2020).

Exclusion is inequality in access to the internet, initially it was attributed to the country's underdevelopment and was conceived as something temporary that would disappear as the population gained access to technology. However, it persisted even in the face of the commercialization of electronic devices with internet access. (DIGITAL DELETION, 2022)

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Currently, the causes of this form of exclusion are attributed to the high price of technological devices, the lack of knowledge about its use or the lack of infrastructure for its access by everyone. (DIGITAL DELETION, 2022)

In general, there are three types of digital exclusion: access exclusion (refers to the possibilities that people have to access this resource, socioeconomic differences between people and countries); exclusion of use (refers to people's lack of competence in digital aspects, which impedes the management of technology) and exclusion of quality of use (when there are digital skills to use the internet, but not the necessary knowledge to make good use of it) her). (DIGITAL EXCLUSION, 2022).

Technological discrimination is characterized as a form of poverty and social exclusion, as it deprives part of the population of essential resources to develop. During the Covid-19 pandemic, many students and workers found it difficult to work remotely and follow online classes. (DIGITAL EXCLUSION, 2022).

Therefore, the pandemic heightened the effects[3] of digital exclusion in education: teachers and students on the margins of society do not have access to technology and sufficient digital skills. (DIGITAL EXCLUSION, 2022).

The tools and platforms used during the aforementioned periodthere were countless,like the *Whatsapp,* Google Hangout Meets, Google Forms, AVA (digital environmentwith contentaimed at virtual learning environments). With the aim of greater inclusion for those in situations of social vulnerability and who do not have easy access to the internet and technological tools, additional methods were also adopted. (LOPES, 2020).

Radio and television were used as a way of transmitting classes, here in the state of São Paulo, the State Government's TV Cultura was used. In cities in the interior of the state where students do not have access to a support network and do nothe hasconditions to have access to remote teaching viainternet, employeesof the schools were the students' own homes in order to take the activities that needed to be carried out and the teaching material. (LOPES, 2020).

In this scenario, access to other important basic services provided by schools, such as lunch, was also disrupted.[4], recreational programs, extracurricular activities, pedagogical support and access to health, hygiene, water and sanitation infrastructure provided by educational institutions. These were some of the immediate consequences in the daily lives of children and adolescents. (CARAM, 2021).

Initially, some students who were inexperienced in what distance learning consisted of liked the idea, being certain that this teaching method would be much calmer and even better than in person. The negative aspects didn't even cross most people's minds, however they didn't take long to start to appear, the act of spending so many hours in front of the computer reading in small print caused migraines in many of them. (PINHO, 2021).

Many students report unbearable headaches from not being able to keep their eyes fixed for so long in such strong light. After migraines, difficulty maintaining concentration was the main symptom, many students reported difficulties in maintaining the focus they had in the classroom. (PINHO, 2021).

More than 1.4 million children and adolescents were affected by the closure of schools around the world, in underdeveloped countries like Brazil the percentage of those affected is even higher. A survey carried out by Unicef shows that around 28% of Brazilian families do nothe hasaccess to the internet and in low-income families the number reaches 28%. (CARAM, 2021).

However, despiteDespite the difficulties, remote teaching has brought some advantages such as technological advances in virtual learning platforms, virtual libraries and other resources and tools. The different models pedagogical, the adoption of teaching and learning tools, digitalization of services and academic records can also be considered an advantage in this area. (POZZEBON, 2021).

3 Among the effects of the pandemic, one can highlight the increase in social inequalities, due to digital exclusion, during this During this period, classes took place remotely, however not everyone has the necessary structure to enter the virtual space. The pandemic imposed yet another gap on low-income students, as following classes required the use of appropriate equipment and internet access. The new reality has deepened existing inequalities in relation to opportunity of learning.

4 Refers to meals offered in educational establishments - usually for children and teenagers - in poor regions School lunches are considered the main, if not the only source of daily food for millions of students.

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The way of teaching tried also encourages the student to have more discipline, organization, proactivity, creativity, self-management and constant research. If active methodologies are well executed, encouraging critical thinking and autonomy can be beneficial for students' training. (POZZEBON, 2021).

FINAL CONSIDERATIONS

It is concluded, therefore, about theresultsharmful effects of the pandemic on educationthat the country runs the risk of regressing two decades in relation to the advances made in this area. In November 2020, more than 5 million girls and boys did not have access to education in Brazil, this number is similar to what the country had in the early 2000s. (UNICEF, 2021).

Among the aforementioned group, more than 40% were children aged 6 to 10 years old, a stage of schooling that was practically universal before Covid-19. With the closure of schools due to the pandemic, in November 2020, almost 1.5 million children and adolescents aged 6 to 17 did not attend school. They are joined by another 3.7 million who were enrolled, but did not have access to school activities and were unable to continue learning at home. In total, 5.1 million children and adolescents had their right to education denied until November 2020. (UNICEF, 2021).

One of the most notable consequences highlighted in research is the fact that students have lost their basic numeracy and literacy skills, the interruption of face-to-face education meant that millions of children lost the learning they would have acquired if they had been in the classroom. The youngest and most vulnerable children have faced the brunt of the loss. (UNICEF, 2022).

In low- and middle-income countries, learning loss for children as young as 10 has been estimated at up to 70% of them being unable to read or understand simple text, compared to 53% before the pandemic. Specifically in Brazil, in several states, around three in four students are outside of reading standards and one in ten students between 10 and 15 years old reported that they did not plan to return to classes with the reopening of schools. (UNICEF, 2022).

Currently 3% of government stimulus packages have been allocated to education, howeverMuch more funding than is currently available will be needed to restore education. The UNICEF report notes that although almost all countries offer remote learning opportunities for students, the quality and scope of these initiatives are different: in most cases they offer at best a partial replacement for in-person teaching. More than 200 million students live in low- and middle-income countries that were not prepared to implement remote learning during emergency school closures. (UNICEF, 2021).

Amid the context presented, it was observed the fact that the pandemic and distance education further accentuated the gap between public and private education, as it revealed many realities that were previously treated in a masked way. (LOPES, 2020).

In the public education scenario, it was not uncommon to find families, for example, who had more than one school-age child on the same shift and in the house there was only one computer or just one cell phone with internet, often with low connection quality and speed. . There is also a portion of students who lived in rural communities where there was not even an internet signal. (LOPES, 2020).

Another problem that appeared was the fact that not all parents were able to follow the marathon of activities sent by teachers, both digitally and in printed materials, often they did not have sufficient instruction and not even pedagogical preparation for school education. (LOPES, 2020).

In the private network, classes followed a different model from what was available in the public network. They can-They lasted longer, unlike public schools, and students had access to textbooks, in addition to having technological resources that facilitate remote teaching. (LOPES, 2020).

However, the harmful effects of the pandemic on education affected all students, some more than others, but everyone was harmed. Those who belonged to a lower social class often did not have access to computer equipment to participate in remote learning and did not have adequate infrastructure to

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homeschooling. While those with a better economic situation still suffer from problems such as constant headaches, difficulty concentrating and following a schedule independently.

The LDB in its article 1st provides that education covers the formative processes that develop in family life, in human coexistence, at work, in teaching and research institutions, in social movements and organization of civil society and in cultural manifestations. During the period of isolation during the pandemic, children and adolescents were deprived of many of these aspects that characterize education - such as human coexistence - thus harming the students' training process. (BRAZIL, 1996).

The principle of equal conditions and access to education provided for in article 3, item I, of the LDB was also not observed. It legislates on equal conditions for access to education and staying in school. In a face-to-face teaching situation there is already a huge diversity in relation to each person's ability to access school, but during social isolation and remote classes such differences only increased. (BRAZIL, 1996).

Finally, it is worth highlighting that the present study does not aim to discuss social isolation as a result of Covid nor does it take a position against remote classes during 2020 and 2021, it only analyzes the way in which they were applied. Aspects such as the funds invested were taken into consideration; social and economic inequalities; the existing legislation on the topic and its factual applicability; the public policies implemented and their consequences.

The main focus of the study is on ways to make up for lost time and, notably, reduce technological inequalities, because if there is, again, the need for isolation and the institution of this form of education, society will be better prepared to meet the needs of children and teenagers.

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