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Brazilian child and adolescent statute: workers' views about their practice*

ESTATUTO DA CRIANÇA E DO ADOLESCENTE: A VISÃO DOS TRABALHADORES SOBRE SUA PRÁTICA

ESTATUTO DEL NIÑO Y DEL ADOLESCENTE: LA VISIÓN DE LOS TRABAJADORES SOBRE SU PUESTA EN PRÁCTICA

Lara de Paula Eduardo¹, Emiko Yoshikawa Egry²

ABSTRACT

The Brazilian Child and Adolescent Statute (CAS) has generated an increase in the number of programs assisting the referred population, but there have not been changes in terms of approach. The objective of this study was to understand the perceptions of workers in institutions providing adolescent care, the difficulties they face and methods of overcoming them. The study was performed in São Carlos, Brazil. Data was collected at institutions providing adolescent care, by means of documents and performing interviews. The documents were analyzed based on the Bourdieu framework. Results showed that the institutions perceive adolescence and adolescents apart from their sociality and historicity and focus attention on problematic adolescents, and not as subjects with rights. A more radical change in these adolescents' view would enable the construction of new work process instruments capable of assisting them as a whole.

KEY WORDS

Adolescent.
Public policies.
Adolescent health services.
Public health.

RESUMO

O Estatuto da Criança e do Adolescente impulsionou aumento significativo dos programas que assistem este grupo populacional. Entretanto, não significou mudanças na forma de aproximação deste objeto. Esse estudo buscou conhecer as percepções dos trabalhadores dos programas de atendimento ao adolescente, suas dificuldades, e formas de superá-las. O cenário foi o Município de São Carlos (SP). A metodologia é descritiva, qualitativa. Os dados foram coletados junto a instituições que atendem aos adolescentes, por meio de documentos e de entrevistas. Os depoimentos foram tratados segundo referencial de Bourdieu. Os resultados mostraram que as instituições percebem a adolescência e o adolescente desvestidos de sua socialidade e historicidade, e que o objeto da atenção continua o adolescente com problemas, e não o sujeito de direitos. Uma mudança mais radical da visão sobre estes adolescentes possibilitará a construção de novos instrumentos dos processos de trabalho, capazes de alcançá-los na sua integralidade.

DESCRIPTORES

Adolescente.
Políticas públicas.
Serviços de saúde para adolescentes.
Saúde pública.

RESUMEN

El Estatuto del Niño y del Adolescente impulsó un aumento significativo de los programas que asisten a este grupo poblacional, aunque no implicó cambios en la forma de aproximación al objeto. Este estudio se enfocó a conocer las percepciones de los trabajadores afectados a los programas de atención del adolescente, sus dificultades y los modos de superarlas. El escenario fue el Municipio de San Carlos (San Pablo, Brasil). La metodología utilizada es descriptiva y cualitativa. Los datos fueron recolectados junto a instituciones que atienden a los adolescentes, mediante documentos y entrevistas. Los testimonios fueron tratados de acuerdo al referencial de Bourdieu. Los resultados mostraron que las instituciones ven a la adolescencia y a los adolescentes despojados de su socialidad e historicidad, y que el objeto de atención continúa siendo el adolescente con problemas, y no un sujeto de derecho. Un cambio más radical en la visión de estos adolescentes posibilitará la construcción de nuevos instrumentos para los procesos de trabajo, capaces de alcanzarlos en su integralidad.

DESCRIPTORES

Adolescente.
Políticas públicas.
Servicios de salud para adolescentes.
Salud pública.

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INTRODUCTION

The Statute of the Child and Adolescent (ECA)⁽¹⁾, established in 1990, when compared to the Underage Code⁽²⁾ points out a transformation of the adolescent conception, and this social group starts to be seen as in a specific condition of development and, therefore, they can receive preferential attention and access granted to services and health conditions, food, education, leisure, culture, sports, professionalizing, dignity, respect, and social relationship, as it can be seen in article 4th Title I – of ECA Preliminary Provisions⁽¹⁾.

These new conditions are explained through two main axes: in the first case the relation between *delinquency* and *political-economical-social system* and, in the second, the exchange for *right* and *political-economical-social system*⁽³⁾.

Notice that, in this new conception, *non-regular situation* children and adolescents are held responsible for the situation however now this responsibility is on the State, family, and society who are responsible for the whole protection of all children and adolescents.

Adolescence is frequently identified with puberty, the evidences of physical transformations and according the medical-biological paradigm. It is a natural phenomenon, which gives adolescence a fixity stigma and immutability, since it is referred to as a physical phenomenon. This vision subordinates the psychological and social-cultural compounds to the body changes originated during this period, still in this conception, adolescence as a natural development, excludes something that was culturally produced. Adolescence *invented* by the Occident is characterized by its long duration, lack of fixed criteria, large amount of conflict, and *asynchrony* between sexual maturation and adult social status achievement⁽⁴⁾. While some authors use aggregated chronological markers to other compounds for a more comprehensive definition of adolescence, works were identified that argue the universal and generic definition of adolescence without considering the historical moments of the societies in which they are, implying an essay to comprehend the adolescence as a social *construct*. This work develops an adolescence conception as a social phenomenon, subordinated to the mode of production division in effect⁽⁴⁾.

To understand the programmatic action of adolescent health services and their crucial necessity issues, we need to understand that the judgment over these necessities does not exist in one sole perspective, nor do they precede the program formulation, these judgments are however, interchangeable and dependable upon those who perform this formulation⁽⁵⁾. Adolescents of a certain community will never figure as a homogeneous mass of interest, but as a set of individuals permeated by conflicts and contradictions.

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The attendance of this population must have priority and requires a construction of specific criteria justified by adolescence's own condition of existence in our society, physical and mental transformations, articulated in a large re-dimensioning of social role identities⁽⁵⁾. Without counting with the current importance of juvenile mortality due to external causes in great urban centers and in the countryside. There are a great number of adolescents who die as result of totally avoidable causes and under basic social medical resources, thus indicating a precarious medical assistance to this population group. Accordingly, there is no doubt that an early prevention and detection of harms to health, although extremely important and perfectly reasonable, are not sufficient. It should be emphasized that adolescents present few clinical demands; however, a distinguished *auscultation* is mandatory in order to detect demands for information, thought and discussion spaces, experimentation and opportunities of receiving support and incentive for obtaining financial assistance and achieving the goal of *defending yourself of social, political, economical, and other orders*⁽⁵⁾.

While performing this study about Federal actions regarding public policies for youth, in which adolescents are included, we verified that up till the 1990's there was no specific actions for youth, however they were incorporated in the general policies⁽⁶⁾. It was only in the late 90's that the first initiatives emerged to point out changes from civil society institution demonstrations and in Federal, State, and regional instances of the executive power. Regarding the youth public policies, it is clear that they not only incorporate youth concepts but also help to create new representations⁽⁶⁾. Youth is historically and socially understood as a phase in life marked by instabilities related to certain social problems and changes in the way of understanding them.

As for the incorporated concepts, the social risk condition caused the creation of sports, cultural and work oriented programs, primarily for suburb neighborhood areas with the objective to exert social control of their spare time. In these places, the increase of violent deaths and drug-trafficking networks has made criminality a permanent issue in public policy debates concerning youth.

The rights to a priority access to services and healthy conditions for adolescents' development have been performed with assistance and unsatisfactorily, without the Government's presence, in other words, with the Government participating as not to promote and in a certain way to hinder the articulation and emancipation of civil society.

OBJECTIVE

The objective of this work was to provide assistance for the formulation of public policies for adolescents, and with a

general objective to know the perceptions of the adolescent attendance institutions' workers about the work performed with ECA, their difficulties, and how they overcame them.

METHOD

It is a descriptive study based on conceptions of adolescence, adolescent and to adolescence⁽⁴⁾ and about their necessities⁽⁹⁾. The hereby study is anchored in the historical and dialectical materialism and in the Nursing Practice Intervention Theory in Collective Health - NPITCH⁽¹⁰⁾, proposed in the methodological theory applied to scientific investigation. The research was authorized by the Research Ethic Committee of the Nursing School of the University of São Paulo (CEP-EEUSP), on December 20, 2004, complying with the CONEP request, resolution 196/96, ref. Proceeding n.417/2004/CEP-EEUSP.

After explaining program identification, entities, and projects, each institution was informed about the research objectives and was invited to participate, indicating a person to be interviewed. The interviews were recorded, written, catalogued in numbers (Interv01, Interv02... and so on) and submitted to data analysis⁽¹¹⁾. Accordingly, the relationships between the individuals were identified inside the adolescent assistance practices. The research relationship is in fact a social relationship that exerts effects on the obtained results. Therefore, the testimonies' analysis and presentation were made according to the proposed methodology, namely, the situation analysis without fragmentation, emphasizing its essential terms, with no alteration of the dialogue structure and trying, whenever possible, to maintain the details⁽¹¹⁾. The contents were submitted to a deep study guided by the theoretical-methodological referential and therefore the theme-phrases that gave significance to adolescent assistance practice were selected.

RESULTS AND DISCUSSION

The data herein presented are part of the research⁽⁷⁾ in which the adolescent attention policies in the regional environment through the mapmaking and configuration of institutions or programs existing in São Carlos⁽⁸⁾ State of São Paulo.

Twenty-seven (27) institutional programs registered in counsels or connected to city secretaries were identified in 2005. Out of these, 24 are associations and non-governmental organizations and only three of them are connected to the government, although some of them are a result of partnerships. It is important to emphasize that this does not mean that there is no other work in the city, however, these are the ones significant to study education, articulation and planning of public policies to this part of population, once they are registered in counsel or connected to municipal secretariats. Nineteen (19) institutions authorized the interviews, responding to 47 projects.

Institutions which attend adolescents in this city were very different regarding objectives, sizes and age of target audience, religious or laic orientation, workers' type and quality. Inasmuch as most of them focus their activities in assistance and complementary education, others offers professionalizing education, sports, health attendance, and, finally, some of them give exclusive attendance to adolescents who had any transgression occurrence problems. The assistance bias prevails; however, not much had been done for achieving citizenship and guaranteeing the adolescents' rights⁽⁸⁾.

In a similar study⁽¹²⁾ of the city of Goiânia, it was verified that street child and adolescent assistance services demonstrated that attendance policies to this population aims only to minimize their problems without solving these situation aspects.

Work for the Statute of the Child and Adolescent

I do not deeply know the ECA. We have already sent a student to the Tutelary Counsel (Interv01).

There is the Statute and we officially can contact the Tutelary Counsel and notify what is happening with the child (Interv03).

The Tutelary Counsel is a great reference when the institutions are inquired about ECA, since they seem to be a refuge to all difficult situations for dealing with: abandonment of a position, violence, non-commitment to the program, problems of transgression, drugs, and street situations, among others. However, it is not clear which measure the counsel adopted, the counsel is clearly isolated with several situations of difficult resolutions and of their own complexity and faces the service dead and side lines, because it frequently sends and receives adolescents who remain apart and distant from their rights.

As a matter to understand the counselors' point-of-view about their actuations⁽¹³⁾, we realize a necessity to broad integrality comprehension for beyond actions, services, policies and personal behaviors, but to pursue a development of potential mutual and continuous learning of building new paradigms between technicians, entities and community.

According to ECA⁽¹⁾, the Tutelary Counsel is currently in charge of supervising the compliance with the child and adolescent rights, and it can also use the following resources: request public services in all areas, represent towards judiciary authorities in cases of unjustified transgression of their determinations, send to the Department of Justice the report of administrative or penal infraction fact against these population's rights, request documents, give assistance to the local executive power to elaborate appropriation bill for plans and programs of attention to child and adolescent rights. In this sense, it is clear that this organization is a fundamental and integrant part for molding a new attendance public policy to the adolescent; however, this role of the counsel is not yet clear to the institutions.

We realize that the programs focus the adolescence concept and the phenomena therein connected as, for instance, time, behavior and forms of articulation which are taught during the child socialization process and will vary according to the society and culture in which they are inserted⁽⁴⁾. There is not a clear comprehension about adolescence inasmuch as a social phenomenon with reflexes in their social insertion in the current mode of production.

Recapturing the history, we verify that the first social concern about youth was in the modern industrial era, when there was an interest in young technical training for work. Coincidentally or not, most of the programs and projects nowadays in Brazil for adolescent attendance are with the intention to train young people for work, with the objective of inserting them in the capitalist mode of production. In Brazil, we talk about certain social classes and in this sense, the political projects are focused. There are economical nature determinants such as, for instance, the reduction of the labor force costs that are disguised by the widespread idea that *it is better work than to stay on the streets, than to become an outlaw*, other than *an idle mind is the devil's workshop*. It emphasizes the prejudice point-of-view determining the fate to a poor adolescent not allowed to study and have fun but to *work, professionalize*, not became an outlaw, a delinquent⁽³⁾.

The phrases below illustrate well the Object focus attention:

The ECA 68 and 69 articles state about the social security rights that adolescents can only work on things they really have conditions to do. This means that they are not obliged to work on something like washing cars or to do a brutal physical labor. Instead of this, we'd rather choose an administrative auxiliary, which does not hurt anybody and provides this learning condition (Interv04).

He comes to take care of our car, he does these kinds of things, and he stands in front of bank agencies. Moreover, I cannot say that our boys and girls are not suddenly involved in robberies. Our work has at the same time a therapeutic and preventive character (Interv05).

And an orientation, even a small one, is already preventing a harm in the future, it is better to be here than on the streets (Interv06).

The concern with learning is always present, although limited to the kind of work and training offered to the adolescent, who is always destined to *choose* between woodwork, shoemaking, bakery, manicurist, tapestry, hairdresser, office boy or administrative auxiliary, gardener, computer assistant, etc.

Here we have pre-professionalizing offices, however they are not sufficient, they should have a place where they could get out of here and deal with money. Washerwoman, housekeeper, whatever they should be, but they must have this training (Interv01).

It should be a job for educating, let me see, woodwork, or computer assistance. It would be good to have a course for girls, for example, for hairdresser, manicurist (Interv06).

These are dignified jobs, however without a further achievement to other professions that are socially more appraised. In other words, these lower-class adolescents are educated almost only to subordinate jobs, implying the maintenance of their social class situation.

In the last years, there has been a total detachment and distance of the health professionals towards the situation of child and youth social abandonment⁽¹⁴⁾. The positivist point-of-view prevails among the health workers who while receiving guiding from other areas (mainly from education) reallocate the solution responsibility of the problem on the family, more precisely, on the mother⁽¹⁵⁾.

Even professionalizing courses, in the way they are constituted, are unable to encompass every adolescent with difficulties. Therefore, if these adolescents who are able to participate in these programs are already excluded from society, without an opportunity to ascend, imagine those who do not have access even to such courses.

The prejudice and labor-market constraint are the main difficulties for the institution to comply with its purposes (Interv01).

We make a guiding for a professionalizing course, for instance, and the answer is: handicapped only at APAE (Association of Parents and Friends of Handicapped Children), not allowed to attend any course. There are some services, but our students are hindered (Entrev02).

The education system is not prepared to receive handicapped students; the school inclusion process in regular schools is gradual. Afterwards, they will steadily take out this fear of receiving handicapped people and guide them to a regular school... (Entrev03).

In regard to the attendance to children and adolescents, history shows its assistance face⁽¹⁶⁾. The Catholic Church registered its beginning in the century XVIII in Europe, which were brought to Brazil by the Portuguese and were performed according the model of the House of the Exposed or Rejected, which welcomed primarily poor children and adolescents. Notwithstanding, there also came orphans, handicapped, and bastard children whose important parents did not care to assume the paternity, among others. This model was implemented in Bahia and afterwards in several other Brazilian cities in the 1750's. After the Independence of Brazil, it was established that the Houses of Mercy would attend this kind of city demand, however, not on the city's account. The Casa do Educando Artífice (Craftsman Education House) was created in Maranhão circa 1850's, some years later the Instituto dos Menores Artesões (Underage Craftsman Institute) was founded in Rio de Janeiro and almost twenty years later the Asilo para a Infância Desvalida (Shelter for the Disfavored Child) was created in Niterói. In the Northeast region of Brazil, agricultural colonies based once again on the European model were implemented, there were based on the mentality of the era which stated the control and domestication of the so called dangerous classes. Consequently, since then, the proposal was to assist so as to prevent⁽¹⁶⁾.

Therefore, to ECA, at least ideally it would be a space directly offered to childhood, for them to play, to have leisure activities, pastime, as well as education activities, complementary education (Interv07).

Although this new conception created from ECA appears in speech, in practice, as verified in works, in objectives and in the way, the institutions refer to the adolescents in general, they do not demonstrate this new point-of-view. The programs corresponded better in the parts of the Statute that reproduce former conceptions ⁽³⁾, as in the statement below:

It is a Project developed, based on ECA, to the city to implement social-education measures (Interv12).

We also verify that the adolescents and their families are still targets to solve the problem situation they face. In other words, the Government, family and society still do not take on responsibility to guarantee *whole protection* to every child and adolescent. Accordingly, adolescents and their families continue being victimized and assisted, thus hindering the complete citizenship development. Institutions' work objects – adolescence and adolescent – are destitute of their sociality and historicity. In most of the times these adolescents are treated like *the underage transgressor or the transgressor-to-be*. This work object must be reviewed, rescuing the human side of the adolescents and our society and the rights that these adolescents have in Statute.

Aside from family victimization, we can also understand here the consequences of the social-economical-cultural problems, which hinder the child-youth population ⁽¹⁷⁾. The lack of quality education, concentration of income, low salaries, unemployment have directly affecting this population portion trajectory, obliging them to enter earlier in the labor market and in the drug traffic. To these authors, first of all, the option to these young people would be to fight the simplistic, limited and, in a veiled manner, prejudiced conception that the adolescents have to work instead of becoming idle. In second place, it is of highly importance to provide them with a quality education to develop a critical conscience for knowledge that would go beyond ideologies, being aware of their rights and overcoming problems and not only being cheated with part-time jobs they are offered in professionalizing courses we currently have in Brazil, therefore stating that the worker-adolescent chances in this country will be the future unemployed-adults of tomorrow. The adolescents will face a market that have already taken them all that really matter: study, health, adequate and salutary house, and other basic rights. In this sense, there is a long way to citizenship, dignity, and right access as priority, although some institutions do not understand this:

This institution work with ECA... intends transmit its conception about citizenship. At pedagogical activities, we always explain to them a critical sense of their rights and obligations (Interv11).

Difficulties

The main difficulties of the adolescent programs in São Carlos vary from: prejudices, financial problems, and lack of human resources, excess of bureaucracy, social-economical precarious conditions of families, adolescent-guiding difficulties, and unclear policies. Some interviewed statements illustrate these difficulties:

We face a lot of bureaucracy in law, company insolvencies, namely, there are a lot of obstacles (Interv04).

Other times we have problem with the family, bus ticket... At home, they do not have support to come or do not attend school anymore (Interv10).

The financial resources are not sufficient for us to make at least a workshop or extend this place to have a better attendance and prepare them for labor market (Entrev05).

As for a specific personal necessity for this kind of job. We would have to work with an interdisciplinary team (Interv02).

However, I think the main difficulty is really this unclear policy, it is not to have an efficient coordination and the coordination team do not have an open autonomy (Interv07).

Other statements refer to culture difficulties in the adolescent families as well as between the adolescents and their families. The challenge is to elevate their self-esteems, not only in their work in the institution, but also in the other structures they live.

Parents do not do anything right. Therefore, children come and say bad words. They send their children to ask for alms on the streets. Because the parents are rebelled, however we understand that, since it is not easy to raise a child without a job (Interv09).

The main difficulty for the institution while complying with the objectives is to rescue their self-esteem. Because they [the adolescents] are so tired of all this social, economical and cultural experience... (Interv11).

The technicians and family relationship suffer many times interferences from different concept about education, health, violence, habits, themes that must be well contextualized for the actions not to be full of prejudice, discrimination and cuts from each side of the reality ⁽¹⁸⁾.

The self-esteem rescue is connected to genre issues. A recent study ⁽¹⁹⁾ states that

it is indispensable to understand the construction process of the social individuals, the logic that rules the proposed role organization for female and male genders, and the interferences of genre relationships in adolescent decisions about sexuality. The discussion about these issues assume an emancipating character inasmuch as argues the internal logic of difference construction, proposes a more critical attitude in face of social roles attributed both to men and women and motivates female-adolescents of becoming change-agents in their environment, recognizing the social place of women and claiming for their rights.

Another frequent issue that surprisingly does not appear in this research is pregnancy in adolescence, which frequently becomes banal when considered only by recurrence and not from pre-supposed social roles and the non-consideration about the interferences of experiencing this motherhood process during this phase of life⁽²⁰⁾.

Overcoming difficulties: the change in process

To overcome program difficulties is not a simple task, it depends on articulations with the city and state governments, perform works with adolescents in general and not only with those who present problems.

It is complicated to overcome them. I think that in regard to prejudice, it is rather dealing better, informing the population (Interv05).

Here we try to follow some of the ECA rules; however, many things are not of our competence, there should be something else from the city government to attend these students (Interv02)).

...State and city governments should work more with the child and adolescent, regardless the fact of them having a problem or not, with sport, leisure, culture... (Interv03).

It is possible to overcome this difficulty with companies financing more, knowing more the entity, and passing forward the taxes (Interv08).

To overcome this, I need to obtain contracts everywhere else. Since we can do the gathering for events. (Interv04).

The constant complain is about the lack of dialogue - between the entities and between the entities with the municipal power - we are overcoming this problem with the creation at the city of ReCriAd (Child and Adolescent Information Net), in 2005, which is an institutions' net under the command of the Special Secretariat of Childhood and Youth of the City of Sao Carlos, which aims *to coordinate the public policy in this area, to strength the integration, and to foment the government priority projects*, exactly to orchestrate the actions to synergize them.

Some institutions believe they have to promote new relationships between children and adolescents and between them and the educators and the community in general, as a way of delating all forms of negligence and violence against them and to build a more just society. They think that one of the methods could be to attentively *hear* this population:

Since normally the adolescents hear too much, however they do not have the right to express their feelings (Interv11).

The part of ECA that we are better complying with is the one in which we try to appraise the child and adolescent. That is exactly the ECA's intention: to provide dignity to children, adolescents and young people (Interv05).

The diffusion of ECA⁽¹⁾ among children and adolescents could contribute for providing an education of more participant and cognizant citizens who appropriate to themselves and even create opportunities of developing skills and abilities, so they can feel as part of a totality that can effectively include them⁽²¹⁾.

CONCLUSIONS

For the people who work in the city of São Carlos with the child and adolescent programs, the Tutelary Counsel is still a great reference when inquired about their post-ECA transformations, revealing that the Object detached attention is the adolescent with problems or about to bring trouble to the society, redounding on them and their families the onus situation. Therefore, there is a clear perception of the transgressor adolescent, and the programs intend to rescue them or prevent them to enter in this situation, offering activities to achieve this. For future studies, it would be very interesting to understand the adolescents' expectations regarding these institutions, which mission, according to ECA, is to provide an ample development of a citizenship for everyone.

The programs show they have not incorporated the right conception when evidencing that certain adolescents, primarily from underprivileged classes, and taking them as a global example; however the programs keep on insisting on the adolescents' duties they have transgressed or might transgress. But there are changes, as we have pointed out in the statements about rights, listening, and Government responsibility. Therefore, changing radically the point-of-view about this part of the population will enable the construction of new work processes capable to achieve them in its integrality. This change will have as consequences the evidence of more powerful instruments for transforming this social group or a new program and institutional proposal format. The already existent ReCriAd and the proposal of the Childhood and Youth Observatory, which is being fomented in this exact moment by The Special Secretariat of Child and Adolescent of São Carlos City, will be without any doubt a place for monitoring, action proposing, action appraising, synergism, and of necessary transformations so as to understand the adolescents' necessities. The adolescents' participation in the decision houses will be indispensable to construct a place molded for the real necessities of this population.

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