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RESEARCH ARTICLE

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PUBLIC POLICIES AIMED AT EDUCATION IN CHILDHOOD AND YOUTH AND SOCIAL EXCLUSION

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ABSTRACT

This paper proposes an analysis of children and adolescents as subjects of law, highlighting their main rights and guarantees in Brazilian society and the reasons for social exclusion. This study sought support from bibliographic and documental revision on the subject and focused on the theories of public policies using legislation and doctrinal understandings for its production. Public policies aim to promote education and citizenship in society, making clear the responsibility of the State. We point out that, although the country has public policies to encourage access to and permanence in school, there is a lack of interest from the responsible managers in implementing them and that the exclusion process can be minimized by a real effectiveness of the actions and a more effective interference of the constituted authorities in guaranteeing the rights to education of this population. There is a need for commitment from all those involved in education, in order to shorten the distance between what the law says and reality. One of the action fronts is combating school dropout and its consequent social exclusion, ensuring the education of children and adolescents in order to contribute to social transformation.

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INTRODUCTION

Childhood and youth are phases of human development, so individuals who are at this stage of life need full support and public policies aimed at their needs. It was from the end of the 19th century,

until the 1970s, in the 20th century, that the emblematic image of the child in a situation of social vulnerability and in need of more effective social protection began the debates on how this group should be a participant in its construction and mutation in society (ASSIS, 2013). The desire to work with this theme arose from my experience and professional practice as a lawyer, working in

processes that were being processed in the Courts of Childhood and Youth and in the Criminal Courts of the district of Imperatriz - MA, added to the knowledge acquired during the specialization course in Teaching of Higher Education. It is imperative to mention about my admiration and interest in Education as a child observing my mother, who was a teacher, preparing her classes, correcting tests, worried about those who learned easily, but also with those who showed difficulties, releasing notes in the diary or even when she spent the nights organizing parties and memories for her students on the commemorative dates. It was these attitudes of my teacher mother, who expressed so much love for the teaching profession that they were stuck in my affective memory. A few years later, I myself had the opportunity to teach for the early grades and see how important a good teacher and a quality school in the life and training of children is. The educator, whose profession is the task of teaching and leading the student to the critical sense, needs to be attentive to research in the area of education and to adapt each theory to different socioeconomic realities. This article aimed to analyze the right of children to have access to Education, through a legal bias with emphasis on public policies and social exclusion of children, adolescents and young people in situations of cultural and educational hypo sufficiency.

However, this study sought to understand the implementation of public policies for the protection of children and adolescents; and to identify programs aimed at improving and quality of schooling and to promote the return of these groups to the school, to analyze the factors and elements that contribute to the exclusion of children and adolescents [from the school].

To this end, we carried out a documentary analysis in official sources (laws, normative acts, opinions) that subsidize references of the Brazilian educational policy after the Federal Constitution of 1988, namely; Statute of the Child and Adolescent (Law No. 8069/90) and Law of Guidelines and Bases of Education (Law No. 9394/96); National Plan for Education in Human Rights; Curriculum Guidelines for Education in Human Rights and, finally, in Resolution No. 04 of 07/13/10, referring to the National Curriculum Guidelines for basic education. On these foundations have emerged Statutes, International Conventions and Laws that protect these classes, guaranteeing them recognition as subjects of law. Children and adolescents have a constitutional right to education, provided for in Article 208 of the Magna Chart (Brasil, 1988). The constitution requires that primary education be mandatory and free. The problem of the research arises from the perception in which, although the Constitution guarantees children and adolescents, with absolute priority, the right to education, professionalization, culture, dignity, respect, among other guarantees, in addition to fixing protection against all forms of negligence and discrimination, even so, the State does not execute such guarantees in the foreseen way, implying the non-effective. Subsequently, bibliographic and documentary research was carried out, with data collection in books, laws and scientific articles for its production.

Children and Adolescents as Subjects of Law: Brazil has always been present in International Treaties and Conventions that deal with the Rights of Children and Adolescents, however, the conquest of rights of this group was only achieved after great international commotion. On July 13, 1990, Law No. 8.069/90, the Statute of the Child and Adolescent (ECA) was born, providing for the full protection of children and adolescents. The Federal Constitution of 1988, in its preamble, states that the Brazilian State must ensure the exercise of social and individual rights. Article 227 clearly expresses that it is the duty of the family, society and the State to guarantee children and adolescents the right to life, health, food, education, leisure, professionalization, culture, dignity, respect, freedom and family and community coexistence, as well as the protection of any type of discrimination, exploitation, violence, cruelty, oppression and neglect (BRAZIL, 1988). Therefore, by declaring the rights of children and adolescents, the Magna Carta is objective in directing to the Public Authorities the obligation to act according to the principles established in it. The ECA defines children and adolescents as subjects of law who deserve full protection, so that it requires the

articulation of social policies and establishes social assistance as the operator of social protection for children and youth. In this way, the guiding principles of the ECA are born, considered an extension of the fundamental principles of the Federal Constitution, whose objective is to protect and protect the rights already established by the Statute. The Principle of Best Interest Principle is, by definition, the nuclear commandment of a system, the true foundation of it. It is a fundamental provision that extends over different norms, composing their spirit and serving as a criterion for their exact understanding.

It is possible to perceive the transformation with regard to the understanding of the ideology that existed in the irregular issue for the ideology of integral protection, which remained as one of its foundations the principle of the best interest of children and adolescents. According to art. 3, item 1 of the 1989 Convention on the Rights of the Child, such measures concerning children will take primary account of their best interests, as pointed out by Valter Kenji Ishida (2018, p. 26). The author summarizes the whole concept in a way essentially focused on the principle of human dignity applied to the right of children and adolescents (ISHIDA, 2018, p. 25). Enshrined in the Constitution, such fundamental precepts function as general rules, spaces left by the constituent legislator for the fulfillment by the operator of the Law, since its content is open and indeterminate. Thus, this principle operates as a guide in the application of the Statute of the Child and Adolescent and these cease to be treated as objects of protection to, through the commandment of full protection, move to the condition of subjects located in the active pole of interests or needs susceptible to recognition and protection, according to Konzen (2012, p. 88). Thus, it applies to demands against the Government, for the effectiveness of public policies affecting children and adolescents, who should have priority over any other area; in the processes of change of custody; adoption and also in socio-educational measures. The Principle of Absolute Priority is supported by Article 227 of the CF/88, which is corroborated by Article 4 of the ECA. This principle gives priority to children and adolescents for their situation of fragility, since they are still developing, which is why their priority is guaranteed by everyone, that is, by all members of society, namely, the family, the community, society in general and the Government. The Principle of Municipalization provides that meeting the needs of children and adolescents must occur in a municipalized way, that is, the specific characteristics of each region must be observed, so that this population is safeguarded as a priority, in social programs and also so that the resources for cultural, sports and leisure programs are allocated to their respective subject. Municipalization proves to be an imperative and reality, and municipalities should be required to create councils, with the strong oversight of the Attorney General's office regarding the implementation of the applicable budget requirements. Moreover, regarding the rule of municipalization and universal service, it is important that States and the Federal Government support the municipalities in order to ensure that such basic rights of children and adolescents are protected as a matter of law and in practice.

Thus, these populations are recognized as subjects of law, for whom the world should be a place where the foundations for their future life are created, with proper access to quality and free basic education for all, which is promoted in a safe and conducive environment for their development, prioritizing the physical, psychological, social, emotional, cognitive, existential and cultural of these children and adolescents.

National Youth Policy: For the purpose of better understanding, it is necessary to point out the meaning of youth. According to Abramo (2008), the word itself has its meaning changeable according to the historical, social and cultural context, but the most used sense is the one in which youth is portrayed as a phase of transition between adolescence and adult hood. According to the World Health Organization (WHO), youth is the time for the young person to prepare for the role of adult. In Brazil, the National Youth Policy (PNJ) considers young people those aged between 15 and 29 years. This range is divided into three groups: from 15 to 17 years old, those considered young adolescents; 18 to 24 years old, young people; and

from 25 to 29 years old, young adults. It is also important to emphasize, according to studies by IBGE (2007), that Brazil has approximately 50 million young people aged 15 to 29 years, that is, 26% of the population, of this total, 15 million live in families that receive up to half a minimum wage. Studies also indicate that half of the unemployed in Brazil are young, data that are alarming, because they reflect other social ills, such as education, since only 13% of the total attend higher education. Even with the advances in the coverage of Elementary School and the programs created by the government aimed at children and adolescents, such as the Law of Guidelines and Bases of National Education, No. 9,394/96, the Guardianship Council and the Statute of Children and Adolescents, Law 8069/90, according to IBGE, in all, in Brazil, 20.2% of young people aged 14 to 29 years did not complete high school, either because they dropped out of school before the end of this stage or because they never attended it, equivalent to 10.1 million young people. Most of them are men. Research shows the main reason for having dropped out of school, or never attended school, pointing out the need to work as a priority factor and among women, the main reason is pregnancy, caring for people or household chores. According to De Paula (2009), the factors related to dropout are extracurricular, which correspond to the poor quality of life of the students, and also intra-school, which relate to the school and the programs developed in it. It is in this scenario of negligence that young people leave schools, often because of the need to look for jobs to guarantee a dignified life for the family. However, they find closed doors, since without school qualification, they cannot enter the labor market, that is, they become victims of social exclusion. Having said that, we turn to the explanation of the development of youth policy. At the international level, the United Nations (UN), in its Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding among Peoples, created in 1965, aims to create international strategies to face the challenges of youth. In Brazil, the Code of Minors, sanctioned in 1927, was a legal framework that initiated the State's actions for policies aimed at youth. Through this code, in 1941 the Assistance to Minors was created and in 1964 the National Foundation for the Welfare of Minors. It was in 1990, with the creation of the ECA, that young people began to gain more visibility and attention from public policies.

The 2000s was considered the period in which there were more discussions and research on youth, all motivated by the United Nations Children's Fund (UNICEF), especially UNESCO and IPEA. Due to the great movement in favor of youth, in 2003 begins the processing in the National Congress of the Constitutional Amendment Project, PEC No. 128/2003, whose objective was the protection of the economic, social and cultural rights of young people (AMORIM, 2021). In the same year, the Federal Chamber created the Special Youth Commission, in order to bring discussions and point out primordial elements for the Construction of the National Youth Plan and the Youth Statute. In 2005, the National Youth Secretariat, the National Youth Council (CONJUVE) and the National Youth Inclusion Program, Projovem, Law No. 11,129/2005 were created. It was with the creation of the National Youth Policy that young people between 15 and 29 years of age began to be considered as subjects of law. The main objectives and challenges of the country, according to the PNJ, were to expand access to education and permanence in schools; eradicate illiteracy; preparation for the labor market; promotion of healthy living; access to sport, leisure, culture and information; human rights and affirmative policies; citizenship and the improvement in quality of life in rural areas and traditional communities (AMORIM, 2021). According to Castro (2009), there are about 20 national youth programs, structured into three categories of care: universal, attractive and exclusive. The Federal Bodies and Ministries are partners for the development of youth programs. The main programs aimed at improving and quality schooling, as well as school reintegration are: PROEJA, PROUNI, Projovem Campo, Projovem Urbano and Pronaf Jovem. There are also those developed by educational institutions: Rondon Project, Open School Program, Second Half, Youth and Environment, Health and Prevention in Schools Project (SPE), the latter linked to the School Health Program (PSE). It is important to mention that in the areas of culture and

environment there is a low offer of programs, being only Cultura Viva - Points of Culture and Youth and Environment. In sports there are two programs: Segundo Tempo and Bolsa Athlete (BRAZIL, 2006).

The Right to Education in Brazil: The State is a guarantor of the social right to education, as provided for in Article 208 of the Federal Constitution of 1988. Likewise, it is the duty of the State to create supplementary programs of didactic-school material, transportation, food and health care. According to Malika (2001), the right to education is a subjective public right, in which the constitutional legal rule ensures all citizens the power to demand compliance with legislation and the obligation of promotion by the State, that is, subjective public law is a legal instrument for controlling the action of the State, because it grants the citizen the enforceability of the fulfillment of his duties by means through judicial means. Thus, it is possible to say that it is the obligation of the State to guarantee education to the entire population, offering schools, courses, buildings, teachers, etc. The right to education is more than the declaration of laws, it is necessary to offer everyone education, ensuring educational provision. However, it should be noted that education is not only the duty of the State, and it is the obligation of parents and guardians to enroll minors in schools, as well as to ensure school attendance and the well-being of the minor. On September 24, 1990, Brazil ratified the Convention on the Rights of the Child, adopted by the UN the previous year:

The human right to education recognized in the Declaration was transformed into an international legal norm through, mainly, the International Covenant on Economic, Social and Cultural Rights (art.13 and 14), the Convention on the Rights of the Child (art. 28 and 29) and the Additional Protocol to the American Convention on Human Rights in Economic, Social and Cultural Human Rights (art.13). Treating education as a human right means that it should not depend on economic and market conditions. The most important thing is to ensure that all people can exercise and be aware of their rights. In this sense, topic 2 of art. 26 of the Declaration is fundamental in defining the universal purposes of education. The right to education has a broad meaning, it does not refer only to school education. The educational process begins with birth and ends only at the moment of the person's death. Learning takes place in various areas, in the family, in the community, at work, in the group of friends and also at school. (EDUCATION CARD, 2009).

For Oliveira (2001), the State and the family have the triple function of ensuring the realization of the citizen, inserting him into the Democratic State in order to qualify him for the labor market, and the only mechanism for its effectiveness is education. The right to education is related to the dignity of the human person, since it aims to build a free, just and supportive society, with the eradication of social inequalities. Malika (2001), explains that the role of the State is not only the provision of education, but the creation of public policies that enable the expansion of the educational system. Article 206 of the CF/88 brings with it the basis of principles for teaching: equal conditions for access to and permanence in school; the freedom to learn, teach, research and disseminate thought, art and knowledge; pluralism of ideas and pedagogical conceptions of coexistence between public and private educational institutions; the gratuitousness of public education in official establishments; the valorization of teaching.

Article 208 of the Federal Constitution/88 also regulates the role of the State in education:

Art. 208 The State's duty to education will be effected by ensuring:
 I - compulsory and free elementary education, including its free offer to all those who did not have access to it at their own age;
 II - progressive universalization of free high school;
 III - specialized educational service for people with disabilities, preferably in the regular school system;

IV - daycare and preschool care for children from zero to six years of age;

V - access to the highest levels of education, research and artistic creation, according to the capacity of each one;

VI - provision of regular night education appropriate to the conditions of the student;

VII - care for the student in elementary school through supplementary programs of didactic-school material, transportation, food and health care.

§1º Access to compulsory and free education is a subjective public right:

§ 2. The non-offering of compulsory education by the Government, or its irregular offer matters the responsibility of the competent authority;

§ 3. It is up to the Government to register students in elementary school, make the call to them and ensure, together with their parents or guardians, the attendance at school

In this vein, it is observed that education is compulsory and free for elementary and high school. The obligation of educational provision by the State is of great significance, since it is through these mechanisms that the State would be able to guarantee the rights listed in the Magna Carta (BONFIM, 2010). Therefore, the appreciation of education in Brazil is the responsibility of the State, which must offer the appropriate conditions for learning, reinforcing the fundamental rights and freedoms of citizens, so that they are aware and concretize democracy, seeking the economic and cultural productivity of the population.

The absence of the State in the implementation of public policies aimed at Education in childhood and youth: According to Lamenza (2011), although there are already programs that institute the valorization of education in Brazil, the state still lacks investment for all social strata. The fact is that precariousness and vulnerability are present in the lives of a large portion of childhood and youth in Brazil. For Malfitano (2006), Brazilian society is marked by extreme social inequality and does not have effective instruments to promote citizenship, thus all social rights being harmed. Although laws and public policies are created in order to reduce inequality, their creation alone is not enough, structural promotion and implementation is necessary to ensure universal access to public policies and programs. What we see in society is the total lack of efficiency in the public policies already implemented, these are victims of the lack of structural and pedagogical support by the State. That is, education, which is a universal and free right for all, suffers from total disregard on the part of the public manager, who was limited only to the creation of programs and policies, but not to their effectiveness and permanence in quality (MALFITANO, 2006). For Azevedo (2001), the main factor that leads to non-compliance with public education is the total lack of interest of the government in promoting quality education, where managers are more concerned with making the school a political means to achieve power. The reality is that the public school system is hostage to changes in public management. It is also important to note that the pedagogical methods passed on are not efficient to meet social demands, since each reality is different. Public schools have little quality, which does not favor the historical and cultural updating of children and adolescents to exercise citizenship. In addition, it should be observed that public schools have a greater number of students, which causes the overcrowding of classrooms and, consequently, poor quality of teaching. Although there is legislation determining the maximum number of students per classroom, what actually occurs is different, because the legislator cannot observe the need of the most vulnerable community (AZEVEDO, 2001). It should be mentioned that teachers are also not encouraged, they feel helpless, frustrated and worn out, since the State does not offer support and professional improvement. There is no pedagogical support, so there is a great emotional shock.

Childhood and Youth and Social Exclusion: Education as a means of intervention: It is necessary to analyze social structures, observing the factors and elements that form the social process of exclusion, that

is, analyzing education, work, family, community spaces, unions, social bonds, public policies and how each of these areas affects childhood and youth. Thus, the analysis should contemplate the personal and social spheres and generate the debate between need and law (LAMENZA, 2011). In compliance with the process of structuring society, it is possible to understand how social exclusion operates for the social crisis in childhood and youth. Social exclusion refers to four structural spaces: production, labor relationship and distribution of wealth; domestic; citizenship, school and politics; community space. The lack of income distribution generates a more pronounced poverty rate in childhood and youth, which leads to child labor and youth unemployment, since the crisis in school education affects the ability to enter the labor market. It should be mentioned that children in situations of social exclusion are inserted in a domestic space full of family ruptures, with a large number of divorces and children out of wedlock, which leads to total family disruption. As for the citizenship space, with public schools, as previously mentioned, they are victims of a public manager who does not want to encourage education (CUNHA, 2007).

What happens in the citizenship space is the dissemination of knowledge, where public schools are crowded with children and young people who have an unstructured family life, suffer from prejudice, racism and gender discrimination and are faced with a destabilized education and without investments (CUNHA, 2007). According to Molina (2011), public policies are the responsibility of the State for their execution, protection and guarantee, however, the State continues to reproduce and produce policies that generate more exclusion. In the educational context, children and young people are seen as "problem students", which in reality is a denunciation of the educational model in force, since they are not heard, live in the process of exclusion and are coerced into an outdated pedagogical model.

Thus, the problematic situation occurs at a time when, although there is legal imposition, the State still does not execute such a guarantee which implies the non-effectiveness of public policies efficiently, providing only a precarious basic education, failing to train young people for higher academic training and, consequently, this, is not trained for the labor market, which generates more unemployment and social inequality. It is important to mention that the crisis of the school institution does not deserve an exclusively pedagogical response, it is necessary to observe the policies that relate to education, placing the public school as a civic space for training, seeking to mobilize the school as a promoter of citizenship (MOLINA, 2011). For Molina (2011), the participation of children and young people in an institutionalized space is of paramount importance, since he manages to insert the young person into a democratic renewal, thus recognizing the rights of children and adolescents, avoiding social exclusion. Placing the child and young person as a participant in the community space brings with it full educational development. It is clear that the community space is centered on the school, which can be the only means against social exclusion.

To this end, as stated earlier, a political-pedagogical renewal is necessary for the institutional and social transformation of schools, bringing education as a life policy, and not an obligation, as many view. Thus, it is necessary to focus on extra and intra-school problems, in an attempt to get to know them, to then find solutions so that education effectively meets the needs of children and adolescents, so that they overcome the process of school dropout and subsequent social exclusion, making them understand the importance of school education in their lives and encouraging them to engage with these activities, given that, according to Teixeira, (1996, p. 27) education is the process by which the individual will be formed for the plural and multiple society to which he will belong. It is important to remember that the State must have a direct role in education, with investment and renewal of educational regulation and administration, non-bureaucratic control, a management that seeks to support, help and intervene against inequalities, so that more children and young people have broad access to education and a full life in citizenship.

FINAL CONSIDERATIONS

Education in Brazil has projects related to children and adolescents to guarantee their rights and these have been recognized and consolidated over the years. As discussed, public education is a universal right that must be accessible to all social spheres and has the performance of the public manager, investments that guarantee the quality of education, thus avoiding social exclusion. The Brazilian educational policy is still previous, is not innovative and is not inclusive, lacking greater social and pedagogical incentives, since children and adolescents whose only way is public education are on the margins of society. School institutions suffer from structural violence, where there is no incentive or initiatives on the part of the public manager, which only reinforces the social inequalities already experienced in Brazil. School dropout is still a common scenario and this is due to precariousness in education, where often the young person needs to work to be able to help support his family. In view of this, it is evident the need for the commitment of all those who are linked to education, to shorten the distance between what the law and reality says, being one of the fronts of action, the fight against school dropout and its consequent social exclusion, ensuring the formation of children and adolescents and with this, their insertion in society, in order to contribute to its transformation. As for the implementation of new educational public policies, their development and applicability is essential, through strategies and planning, so that there is a reduction in the problems that this population has faced. In view of this, we realize the need for a change through strategies for the realization of existing programs, as well as pedagogical reform that recognizes children and adolescents as subjects of law, effectively, not only in theory, but as a viable way to achieve full citizenship and equity. Thus, the problematic situation occurs at a time when, although there is legal imposition, the State still does not execute such a guarantee which implies the non-effectiveness of public policies efficiently, providing only a precarious basic education, failing to train young people for higher academic training and, consequently, this, is not trained for the labor market, which generates more unemployment and social inequality.

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