

## The Defense of Socio-Educational Internment: Feature of the Hygienist Principles<sup>1</sup>

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**Abstract:** Youth violence and interventions to affront it are the focus of our scientific research. The aim of this study is evaluate the existence of the aspects contained in the justifications of hygienism judgments of teenagers who meet admission youth work. In this sense, we 21 sentences that determined the internment and its supporting materials which makes up the judicial process of teenagers that have entered the year 2010 in the Center of Socio-education II in Cascavel Paraná State. The results led us to conclude that nowadays, notwithstanding the Children and Adolescent, we are still, by judicial determination, removing the Teen Delinquency situation and closed the judicial term returning it to the same context from which it was withdrawn. Enshrined due differences in shape and time note this routing aspects of the ideology of mental hygiene and the minor doctrine.

**Keywords:** juvenile delinquency, mental health, Children and Adolescent Code, correctional institutions

### Defesa da Internação Socioeducativa: Aspecto do Ideário Higienista

**Resumo:** O objetivo deste estudo foi avaliar a existência de aspectos do higienismo nas justificativas das sentenças judiciais de adolescentes que cumprem a internação socioeducativa. Foram analisadas 21 sentenças que determinaram a internação e os respectivos materiais de apoio que compõem o processo judicial de adolescentes que deram entrada no ano de 2010 no Centro de Socioeducação II de Cascavel, no Estado do Paraná. Os resultados indicaram que, na atualidade, não obstante o Estatuto da Criança e do Adolescente, continuamos, por determinação judicial, retirando o adolescente da situação de delinquência e encerrado o prazo judicial devolvendo-o para o mesmo contexto de onde foi retirado. Resguardadas as devidas diferenças de forma e de tempo, nota-se nesse encaminhamento aspectos do ideário da higiene mental e da doutrina menorista.

**Palavras-chave:** delinquência juvenil, saúde mental, Estatuto da Criança e do Adolescente, instituições correccionais

### La Defensa de la Internación Socio Educativa: Aspecto del Ideario Higienista

**Resumen:** La violencia juvenil y las intervenciones para enfrentarla son el enfoque de esta investigación científica. El objetivo del este estudio fue evaluar la existencia de aspectos del *higienismo* contenidos en las justificativas de las sentencias judiciales de los adolescentes que cumplen la internación socioeducativa. Analizamos 21 sentencias que determinan la internación y los respectivos materiales de apoyo que componen los procesos judiciales de adolescentes que ingresaron en el año de 2010 en el Centro de Socioeducação II de Cascavel en el Estado de Paraná. Concluimos con los resultados alcanzados que, actualmente, pese al Estatuto del Niño y del Adolescente, seguimos por determinación judicial, retirándoles de la situación de delincuencia y, pasados los plazos judiciales, devolviéndoles para el mismo contexto de donde fueron sacados. Salvaguardadas las diferencias de forma y tiempo, notamos en estos encaminamientos aspectos del ideario de la higiene mental y de la doctrina menorista.

**Palabras clave:** delincuencia juvenil, salud mental, Estatuto del Niño y del Adolescente, instituciones correccionales

Brazilian children and adolescents have stood out in the media with regard to violence, either because their fundamental rights were violated or because they violated the rights of third parties. In this study, we focused on adolescents who violated the rights of third parties, more specifically those in socio-educational internment.

The Child and Youth Statute establishes that internment is subject to the principles of brevity, exceptionality and respect for the peculiar condition of developing persons, with a maximum

length of three years. No other appropriate measure will be applied in any case and it is only justified when an infraction is committed through a severe threat or violence against a person, through the repeated commitment of other severe infractions and repeated and unjustifiable failure to comply with the previously imposed measure (Law No. 8.069, 1990).

Both the Child and Youth Statute and international legislations issued in the democratic state recommend that internment should be the last resource and for the shortest possible time and that priority should be granted to community-based programs in order to prevent juvenile delinquency (Volpi, Saraiva, & Koerner Júnior, 2008). According to the Secretary of Human Rights (SDH) and the National Secretary for the Promotion of Child and Adolescent Rights (Presidência da República, 2010), the Brazilian jurisprudence has accumulated positions that show

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an inclination towards juvenile internment, based not on the Statute, but on a supposed dangerousness of the youth's antecedents, on family relations, on social maladaptation, on drug use/abuse, among others. As observed, the internment is considered as a resocialization strategy, a "benefit", a form of correcting the adolescent and the internment is the indicated treatment (Presidência da República, 2010). The study of juvenile violence, more specifically the justifications for institutionalization, can further the understanding of the existing contradictions between the legislation and the material and social situation of the adolescents who are deprived of their freedom, so as to contribute towards more objective measures to cope with this violence.

The data presented thus far may give the impression that youth violence and the intervention models to interrupt it are issues that have concerned the Brazilians in recent decades. History undoes that impression though when we recover the historical period when the child-juvenile violence gains social visibility in Brazil and the proposals produced to overcome it, as indicated in Cunha (2002) and Santos (2007). According to these authors, child-juvenile delinquency in Brazil is not characteristic of the contemporary times. Records of this phenomenon are found in Brazilian history since the imperial period and mainly in the first decades of the Republic, back in 1889. Criminal statistics involving children and youth increase as a result of the country's industrialization process. In contrast with the "economic progress" observed in the Brazilian territory, mainly in the States of Rio de Janeiro and São Paulo, hundreds of people (mainly abolished slaves) roamed across the streets unemployed, lived in extreme misery, got ill due to precarious and inhuman health and housing conditions and also practiced crimes. It was evident that the worsening of the social conditions, the changes imposed by the capitalist organization form and the new social standards imposed by urban life enhanced the practice of crimes by adults as well as minors (Santos, 2007). Hence, together with the intensification of the Brazilian industrialization, crime rates increased during the republican period, requiring containment measures from the public power. At the end of the 19<sup>th</sup> and the start of the 20<sup>th</sup> century, various intervention proposals were available to cope with child-juvenile criminality and, in this respect, the hygienist proposals are highlighted (Zaniani, 2012).

According to Radecki (1925), an important participant in the Brazilian League of Mental Hygiene, the hygienist ideas can be understood as "a set of practical actions, aimed at creating conditions that can facilitate the mental development of human individuals, adapting this development to the social requirements and to personal happiness" (Radecki, 1925, p. 11). In the belief that mental hygiene is capable of solving social and mental problems, since the start of this movement in Brazil at the end of the 19<sup>th</sup> and the early 20<sup>th</sup> century, the hygienists studied contemporary problems, such as alcoholism, delinquency, suicide, child mortality, mental impairment and madness, among others.

The analysis of the original productions published in the *Archivos Brasileiros de Higiene Mental*, journal of the Brazilian League of Mental Hygiene, reveals that many of its studies were focused on children. The principles of mental hygiene defended that education could interfere in the child's formation and, therefore, that it could guarantee adults who are more "adjusted" to the moral values. In accordance with Vianna (1925), the care for childhood goes beyond any feeling of benevolence or charity; it is essentially aimed at improving the human race. Moncorvo Filho (1926), a hygienist physician who worked for the cause of childhood and founded the *Instituto de Proteção e Assistência à Infância* in 1891, also affirmed that, when childhood is neglected, this compromises not only the country, but also the human race.

During the First Brazilian Congress for the Protection of Childhood, held in Rio de Janeiro in 1922, child criminality was one of the themes discussed. Dr. Alfredo Balthazar da Silveira, responsible for the presentation, highlighted the relevance of the theme and of the public power's actions to cope with this problem. On that occasion, the participants agreed that child criminality was a consequence of a bad education the parents offered, that the children should be distanced from having contact with them, and that the most correct method for moral and intellectual formation is the teaching of religious education (Silveira, 1924). During the same congress, in a presentation about "Child and Youth Criminality", Moraes (1924) indicated that the causes of child-youth criminality were correlated with individual factors, pathological predispositions, alcoholism and social factors, including: influence of industrialization, lack of orientation in primary education, lack of professional instruction and failure of preventive and repressive methods. The same author alerted that, in view of social factors, simply putting in practice the interventions recommended by charity or philanthropy would not be enough.

In his work "Profilaxia da delinquência infantil", published in the *Archivos Brasileiros de Higiene Mental*, Ximenes (1941), affiliated with the Technical School of the Social Service, also declares that the etiology of delinquency derives from individual (hereditariness and glandular problems), family and social causes. Nevertheless, the author emphasizes that delinquent actions are determined by multiple, interrelated factors and that, therefore, the cause of child delinquency cannot be exclusively attributed to hereditariness. As a form of prophylaxis, Ximenes defends that abnormal minors be scientifically treated, educated and instructed in establishments for this purpose and that the families be educated, as they house any and all actions to prevent social deviations and are capable of guaranteeing the improvement of poor people's living conditions, within the context of their needs. As observed, poverty was not acknowledged as the result of a class society, but as a natural and unalterable phenomenon.

In 1930, Lopes pinpoints some characteristics that can distinguish a normal child from one who is considered

incurrível. He reveals that “incurríveis menores”: “(...) in their most severe form, are characterized by an extremely pronounced abnormality, with perverse trends deriving from their congenital lack of affection” (Lopes, 1930, p. 243). For those actually diagnosed as incurríveis, Lopes emphasizes that no treatment exists, as there is no way to cure them, therefore indicating segregation in an appropriate establishment that, in the author’s opinion, corresponds to specialized psychiatric services, whether attached to asylums or not. In that article, he underlines the importance of isolating those children in order to avoid possibilities of mental contagion, which “they would definitely exercise if mixed with the other children, mainly the mentally impaired” (Lopes, 1930, p. 245).

This short summary of the knowledge the hygienist physicians produced about child-youth criminality allows us to observe that the causes of delinquency were generally attributed to individuals, whether due to hereditary, psychopathological factors or the bad influence of the “unstructured” family or the social context. The social contradictions characteristic of that age were denied and considered natural. As a treatment to cope with the child-juvenile criminality, in general, moral education and work were indicated.

This information stimulated towards the development of this study, which was aimed at assessing the existence of aspects of the hygienist principles in the justifications of court verdicts for adolescents in socio-educational internment. Next, we will present the methodological course followed for this purpose.

## Method

This is a historical study, which is intended to systematically reconstruct the past, verifying evidences and social contradictions and proposing considerations. Therefore, all aspects need to be considered in their interdependence, whether involving groups, ideas, movements, institutions, among others (Gressler, 2003). A study based on a Marxist historical research cannot understand history as a determined series of social evolutions that happen in progressive phases, but as a contradictory, dynamic process, in a movement produced by the contemporary society as a whole. In that sense, according to Fazenda (1994), developing a research does not mean departing from knowledge level “zero” (author’s marks). We depart from previously existing conditions, from a practice before ours and that of other people, which created the need for the research. In the historical investigation, according to Moro, Lecuona and Álvarez (1985), the search for sources is determined by the definition of the theme, which needs to be well outlined in order to locate those sources that permit reaching the knowledge sought. In this perspective, as a methodological strategy, we adopt the bibliographic research, privileging primary sources, and the documentary research, mainly focused on the legal document called “court verdict”. The court verdict expresses the judge’s act of deciding on a certain issue in court and is essentially aimed at solving a matter taken to court. In the case of adolescents who have infringed the law, the court verdict expresses what will happen

to them after the authorship and materiality of the infraction have been proven.

## Procedure

**Data collection.** Data collection started by choosing the court verdicts. The following criteria were adopted for that choice:

1. Analyzing the court verdicts of adolescents registered at the *Centro de Socioeducação II de Cascavel (Cense II)* in 2010. The only criterion for choosing this socio-educational unit among the 19 units in the State of Paraná was the primary author’s easy access and data collection, who serves as a psychologist at that service.

2. Choosing the court verdicts issued by different legal districts in the State of Paraná (totaling 155), in order not to personify the analysis to the figure of a certain judge and to guarantee greater representativeness.

3. Analyzing only one verdict per district, so as to respect the criterion of choosing verdicts from different legal districts.

4. Prioritizing verdicts accompanied by support material. The following was considered support material: the Public Defense, list of hearings, the certificate of the infraction and the technical reports elaborated by the socio-educational units for temporary internment or by professionals designated by the Judiciary Power to replace the application of internment, available at the Cense II in Cascavel - PR.

According to the established criteria, in this study, we analyzed 21 court verdicts of internment and the respective support material present in the court case. In 2010, the Centro de Socioeducação II de Cascavel received 114 adolescents from 23 districts. After consolidating the files and carefully reading the court verdicts, however, we observed that the institution did not have two verdicts in its files, without the possibility of replacement by other verdicts in those districts, as these were the only adolescents these had forwarded. Therefore, this study was restricted to 21 verdicts. The choice of one verdict per district happened at random.

Based on the court verdicts, we registered the description and type of infraction practices, the closing arguments of the Public Prosecutor, the technical suggestions in the professional reports from social services or Socio-Educational Centers in the State and the foundations the judges used to apply the socio-educational measure of internment to each. It should be clarified that, in the state of Paraná, until 2011, the public defender’s office was still being organized. Therefore, during the study period, the right to full defense could not actually be guaranteed, which is why the position of the technical defense was not analyzed.

We adopted fictitious names to preserve the identity of the judges who pronounced the verdicts analyzed and did not name the districts or any information that could identify them. Therefore, we used numbers for distinction and to indicate that each of them referred to a certain

district. The same procedure was adopted to identify the adolescents and the victims of their infractions cited in the verdicts.

**Data analysis.** The analysis and interpretation of the collected data was based on the Marxist historical perspective. In the afterword to the second edition of *Das Capital*, Marx cites one of his critics and agrees with the following assertion: “According to Marx, only one thing matters: to discover the law of the phenomena he researches. [...] What can serve as a starting point, therefore, is not the idea but exclusively the external phenomenon” (Marx, 1985, p. 14-15).

It should be clarified that the information surveyed in the verdicts were subject to qualitative analysis. First, each verdict was analyzed individually. Next, we identified the most frequent justifications the judges adopted to intern adolescent offenders and, based on this survey, created the analysis categories. After creating the analysis categories, we compared the justifications the judges used and the ideas the

hygienist physicians defended about the institutionalization of children and adolescents, signaling existing similarities between the two conceptions.

**Ethical Considerations**

To access the legal documents, first, we requested and received authorization from the Coordenação de Socioeducação da Secretaria de Estado da Criança e da Juventude, responsible at the time for the Socio-Educational Centers in the State. Through Opinion 06/2011, issued by the Research Ethics Committee at Universidade Estadual de Maringá, we received authorization to develop the research.

**Results and Discussion**

Table 1 presents the summary of the results found in this research, which will be analyzed next.

Table 1  
*Summary of Information Collected From Court Verdicts*

| Verdict | Infraction  | Closing arguments of Public Prosecutor   | Suggestions in technical reports                  | Judicial determination                                    |
|---------|---|--|---|---|
| 1       | Theft   | Internment (adolescents João and Pedro)<br>Probation (Paulo and José)                | No report in the proceedings                      | Internment for all  |
| 2       | Theft   | None   | No report in the proceedings                      | Internment  |
| 3       | Theft   | Internment   | No report in the proceedings                      | Internment  |
| 4       | Homicide  | Internment   | Internment  | Internment  |
| 5       | Drug dealing  | Internment (adolescent Nilton)<br>Semi-liberty (adolescent Alan)                     | No report in the proceedings                      | Internment  |
| 6       | Theft   | Internment (adolescent Daniel)<br>Probation (adolescent Robson)                      | No suggestion in the report                       | Internment  |
| 7       | Attempted homicide  | Community services   | Data from the report are not cited in the verdict | Internment  |
| 8       | Theft   | None   | Data from the report are not cited in the verdict | Internment  |
| 9       | Theft followed by rape  | Internment   | Internment  | Internment  |
| 10      | Drug dealing  | Internment   | Internment  | Internment  |
| 11      | Theft   | Internment plus protective measures  | Internment  | Internment  |
| 12      | Theft   | Internment   | Data from the report are not cited in the verdict | Internment  |
| 13      | Theft   | Internment   | No report in the proceedings                      | Internment  |
| 14      | Theft followed by rape  | Internment   | Internment  | Internment  |
| 15      | Failure to comply   | Internment   | No report in the proceedings                      | Internment  |
| 16      | Drug dealing  | Internment   | No report in the proceedings                      | Internment  |
| 17      | Theft   | Internment   | No report in the proceedings                      | Internment  |
| 18      | Drug dealing  | Warning and community services (adolescent Erick) and Internment (adolescent Robson) | Data from the report are not cited in the verdict | Internment for all  |
| 19      | Theft   | Internment   | Internment  | Internment and protective measure for adolescent’s father |
| 20      | Conspiracy to commit crimes and irregular possession of firearm | Internment   | Internment  | Internment  |
| 21      | Theft   | None   | Data from the report are not cited in the verdict | Internment  |

As verified, 11 out of 21 internments were motivated by thefts, described in the Brazilian Penal Code as the action of: “taking away movable items belonging to another person for oneself or any other, through a severe threat or violence against the person, or after obtaining it by any means, reducing the possibility of resistance” (Decree-Law No. 2.848, 1940, p. 82). As observed, most of these thefts involved the use of a firearm and the presence of people. In two cases, the victims were assaulted, characterizing bodily injury. The other internments were justified by the commitment of two thefts followed by rape, one homicide, one homicide attempt, four cases of drug dealing, one failure to comply with a previously imposed measures and one case of conspiracy to commit crimes and irregular possession of firearm.

As regards the position of the Public Prosecutor’s Office, in 13 verdicts, it was verified that the prosecutors only suggested the application of the internment. In Verdict 4, the Prosecutor formulates this suggestion based on the legislation for minors, calls the adolescent a “minor” and unbridled, unrestricted and immoderate, and talks about the fundamental need to separate him in function of his antisocial conducts. It should be reminded that the legislation for minors precedes the creation of the Child and Youth Statute and proposed interventions focused on material and morally abandoned and offending children. When the Serviço de Assistência a Menores (SAM) was functioning, “minor” represented a dangerous childhood, which threatened society and suffering from a moral-pathological defect (Rossato, 2008). When the *Fundação Nacional do Bem-Estar do Menor* (Funabem) was created, the term gained new outlines. “Minors” referred to children and adolescents “from the peripheral areas of big cities, children from unstructured families, unemployed parents, mostly migrants, and without elementary notions of life in society” (Passetti, 2007, p. 357).

In Verdict 14, we also identified the thesis that internment is the sole measure appropriate for the case of that infraction. The prosecutor of Verdict 11 also suggests internment, but at the same time applies protective measures, acknowledging that deprivation of liberty would not be sufficient in that case to inhibit the violence practiced by that adolescent.

In this study, the analyzed verdicts show that the Public Prosecutor’s office is also aligned with the hegemonic model of institutionalizing adolescents in situations of conflict with the law. By the way, it should be reminded that society in general has increasingly demanded punishments from the public spheres for the sake of fighting impunity. One example is the popularity of the proposal to reduce the penal majority to 16 years of age. It is important to highlight, however, that reducing the age to anticipate the ability of criminal guilt is no historical novelty in Brazil and, again, would represent a disservice and regression for the Brazilian people (Koerner Júnior, 2008).

As regards the professional assessments, in most of the verdicts, it is evidenced that the content of the technical report was used to subjectively justify the institutionalization, that is, due to reasons not established in the current legislation.

Contradictorily, in the conclusion to the report attached to Verdict 4, the internment (segregation) is suggested, “envisaging the adolescent as a protagonist of his history, endowed with potentials and the ability to face challenges” (Paraná. Sentenças, 2010). Those professionals also emphasize that the internment only limits the right to come and go, but would not restrict the access to other constitutional rights. Nevertheless, according to the *Levantamento Nacional de Atendimento Socioeducativo ao Adolescente em Conflito com a Lei*, issued in 2009, the presence of irregularities related to severe violations of rights at internment services all over the country, including threats against adolescents’ physical integrity, psychological violence, maltreatment and torture, unhealthy environments, negligence of health-related matters and procedural matters (like non-compliance with deadlines, absence of Public Defender’s Offices and Specialized Child and Youth Services and difficulties to get access to justice) (Presidência da República, 2010).

In a study about the psychological expert reports that suggested the internment of an adolescent offender, Frassetto (2005) also evidenced that “the adolescent’s basic rights to privacy, to not confess the practice of the infraction, to respect, to his own opinion, to voluntariness, to full defense, to non-discrimination, to non-internment, among others, are violated with impunity, if not in the elaboration of the reports, then based on the use that is made of them” (Frassetto, 2005, p. 6). These notes can be observed in the technical assessment recovered in Verdict 19, the adolescent is discredited for talking superficially about his life and it is affirmed that he did not demonstrate regret about having committed the crime. In Verdict 20, the Psychology professional presents a prognosis of a possible relapse, ignoring the whole transitory nature of the individual history and that of humanity. Thus, the assessments cited in the legal foundations that justify the interment considered institutionalization as a strategy to cope with adolescent violence.

### Judicial Justification for Internment

**Child and Youth Statute (ECA) as a guideline.** In four of the 21 verdicts analyzed, the judges did not even mention the ECA to support the application of internment as a socio-educational measure. In these cases, the internments were only based on subjective criteria. The justification for internment was predominantly based on legal criteria in only two verdicts but, even in these cases, the conceptions were defended that society and the adolescent need to be protected against the “damageable means” and that internment is the only possible intervention and an opportunity for intensive education. As verified, the internment was also applied because previously imposed measures were unable to avoid relapses, which is not established by law. The reasons for the failures are not questioned, not is the need for more appropriate interventions problematized in order to distance the adolescent from committing infractions. As observed, relapse is frequently associated with the individual’s failure,

without taking into account the actual conditions that made him repeat the infringement.

**Internment: “There is no other alternative”.** In general, from the judicial perspective, internment is the only possible measure to guarantee personalized attendance, full protection, to withdraw the adolescents from the risk situation, reeducate them and prepare them for the practice of citizenship. As the hygienists defended, internment by itself will be capable of putting an end to the situation of social risk, without any material change in the reality, and segregation will permit the gradual reinsertion and reeducation of the adolescent.

(...) internment should be applied to them as a suitable measure to stop a situation of social risk which the subjects are part of. In sum, the socio-educational measure that best responds to the adolescent’s full protection is the internment, which can best respond to the claims for full protection and reeducation of the adolescents, particularly due to the manifest situation of social risk they are in (Tribunal de Justiça do Estado do Paraná, 2010).

Although the benefits of the internment are underlined, some magistrates admit that institutionalization is not ideal for human promotion, but nevertheless acknowledge that there is no alternative, in accordance with the judge of verdict 4:

It should not be forgotten that the establishments to comply with a measure that implies restriction of liberty are far from ideal. Nevertheless, there is no other alternative. (Tribunal de Justiça do Estado do Paraná, 2010) [our marks].

Thus, it can be affirmed that the idea that we need to isolate the people who bear or represent the social ills remains hegemonic, although it is clear, in accordance with the judge of Verdict 17, that the rights guaranteed to the adolescent offenders are actually a utopia, that is, they are limited to the wording of the law.

The situation established in the ECA for internment is an ideal situation. In practice, the acts of violence and atrocities interned adolescents commit against one another are known, as well as the fact that compliance with all rights in article 124 of the ECA is today a utopia (Tribunal de Justiça do Estado do Paraná, 2010).

Internment is still considered as “treatment and cure”. In the eyes of society, only internment would be capable of returning a morally “adjusted” individual. It is ignored that, when the adolescents return to social life, they are confronted with the same material conditions that collaborated for them to commit the infringements.

**Internment to protect society and the adolescent.** Another reason that justifies the adolescents’ internment is

the need to protect society from the youth who is considered “dangerous”, as well as to protect these young people against the social context and risks involved in the practice of infractions.

As a Christian and human being, I cannot collude with this situation! Hence, in view of the adolescents’ antecedents, the absence of favorable conditions to distance the subjects from the cursed world of marginality, the demonstration that they care little about Justice and do not fear the application of any measure that may be imposed, I establish that, without a temporary distancing from the social life they are accustomed to, they will not be affected by any therapeutic or pedagogic measure but, on the opposite, will continue representing serious risks to other people in the community (Tribunal de Justiça do Estado do Paraná, 2010).

As Amélia Rodrigues showed in her sonnet called “O Vagabundo”, which was published in the magazine *Álbum das Meninas* in 1898, today’s society still claims for measures from the State in order to take the “minors” from the streets who threaten the public order, the tranquility of the bourgeois family and mark the contradiction between increased progress versus increased poverty. In some verdicts, it is evidenced that internment simply serves to withdraw the adolescent from social life. The verdicts that defend the benefits of temporary withdrawal from the social context outline at least two contradictions.

The first is the idea that the internment will stimulate family and community life. We know, however, that this socio-educational measure limits and restricts mainly community life, all the more when the accomplishment of external activities is prohibited, like in Verdict 10, a resource that permits stimulating this joint life. The second is that, although the adolescents are characterized as “maladjusted and dangerous to the citizens and to themselves”, the judge who proclaimed Verdict 17 mentions that the internment should permit:

(...) that the subject in question gains awareness of his importance in society and finds a way to be occupied and feel useful to the local community, thus preventing the adolescent from getting lost in the world of drugs and marginality (Tribunal de Justiça do Estado do Paraná, 2010).

The judge who proclaimed verdict 17, however, did not allow the adolescent being judged to perform external activities either, due to the danger he represented, thus limiting the integration and the practice of a new social role. Hence, institutionalizing the adolescent to protect society and “protect him” against himself merely evidences the extent to which the State has been concerned with the task of guaranteeing the preservation of private property and neglected its role as a proponent and executor of public policies.

**Internment as a synonym of education and work.** In some of the verdicts analyzed, we found the idea that

institutionalization, education and preparation for work are capable of confronting the violence, in accordance with the examples drawn from verdicts 1 and 5, respectively:

The objective of the internment measure is not only to hold the adolescents Pedro, Paula and João accountable, but to make them reflect about the gravity of their conduct, in the attempt to discourage relapse and reeducate them, instilling them with values of citizenship to permit their reinsertion in society in a condition that differs from the previous one (Tribunal de Justiça do Estado do Paraná, 2010).

The socio-educational measure is not punitive, but is aimed at enabling the adolescents to be inserted in the social means they live in, through orientation, educational support, professionalization, dignity and respect. If that is the central goal of this measure, where can it be applied? I believe that in a place where the subjects remain separated and distanced from their bad company, surrounded by an entire multidisciplinary team that can grant them support, allow them to gain a broader view of a promising future. It is certain that the Education Centers the Government of the State of Paraná has created exist to achieve that objective (Tribunal de Justiça do Estado do Paraná, 2010).

The legal experts of the verdicts analyzed suggest that, through the internment, the adolescents will have access to education, professionalization, culture, leisure, but inside an institution, ignoring the existence of services that guarantee these fundamental rights in the open context. In our perspective, these adolescents' access to these community services could be questioned. The idea that internment guarantees education and other basic needs is not recent. In 1909, in his creation of the project *Instituto Educativo Paulista*, the legal expert Cândido Motta also observes that the institutions that sheltered "morally abandoned minors" should instill work habits and educate, providing literary, professional and industrial instruction, preferably in the agricultural means (Motta, 1909). The conception that internment is a route towards intensive education and preparation for work is also identified in the verdicts, reinforcing the idea that it should not be understood as a punitive measure, but as an "opportunity" for development:

I consider it appropriate that the measure be not considered as a punishment for the adolescent, but as an opportunity for intensive education, far from the damageable stimuli of his environment, so as to be reintegrated into society (Tribunal de Justiça do Estado do Paraná, 2010).

Whether in the past or in the present, it is observed that, in the discourse cited, all damaging effects the internment produces are ignored. Moreover, the media, the Brazilian Institute of Geography and Statistics (IBGE, 2011) and the United Nations Organization for Education, Science and Culture (UNESCO, 2010) announce that a significant part of children and youth in general did not even start or dropped out of the school context. As regards access to work, according to Martin and Schumann (1999), 500 representatives from the global elite, after a debate on the world's perspectives for the 21<sup>st</sup> century, concluded that 20% of the workforce will be sufficient to move the economy.

These data evidence that, even today, society has met difficulties to allow the general population to learn the most essential subjects of education and access to work. In view of this picture, it is controversial to affirm that the internment will enhance the preparation of critical men and will permit the transformation of the general population's material condition.

**Internment to protect against the family and the "unstructured" social environment.** As presented, the hygienists defended the institutionalization in function of the "loss of family structure" and to avoid the damage provoked by the social environment (Moncorvo Filho, 1931; Moraes, 1924; Silveira, 1924). Today, although society acknowledges the existence of several family models that do not longer fit into the ideal of a bourgeois family and the need to stimulate work with families and communities, in the attempt to prepare them for the protective care of their children and adolescents, the deprivation of liberty is justified by the "loss of structure" of the family and social context.

Although the legal experts justify the internment due to the "loss of structure" in the family and social environment, protective measures to include the family in an official or community support program were applied in only two out of 21 verdicts analyzed. In this study, in general, we observe in the discourse of the experts, professional teams and the Public Prosecutor's Office that these families from popular backgrounds are disqualified, and even that institutionalization is defended because of this. The idea still prevails that totalitarian institutions can guarantee the welcoming and care for children and youth in risk situations. Also, the need for technical interventions to try and minimally alter the social context described as "unfavorable context, damageable, environment not very favorable to recovery and regeneration", among others, was not mentioned in any of the verdicts.

The violence practiced by adolescents is still considered as a problem of the individual, the family and the society where they live together. Therefore, without a collective and social construction, internment is sufficient. In the judicial verdicts analyzed, it is evidenced that there is no need to reconsider and alter the material base. What is defended is the distancing of those people who denounce and disclose the social contradictions.

## Final Considerations

The recovered history and analysis of the court verdicts indicate that, today, despite the ECA, we are still withdrawing adolescents from situations of delinquency, upon court determination and, at the end of the legal term, are still returning them to the same context they were withdrawn from. Even when considering formal and time differences, these measures indicate aspects of the hygienist principles.

The institutions that execute the internment today have not been able either to interrupt the practice of infringements and their increasing severity. In that sense, through this research, we intend to highlight the need to find other answers to cope with child-juvenile violence, which definitely go beyond the practice of imprisonment. In our perspective, replacing this hegemonic model of institutionalization by one that guarantees care at the heart of the community is not exclusively the function of the Judiciary Power, but of society as a whole, mainly the entities of social control and the executors of the public care policy for children and adolescents. Accordingly, the challenge is to give way to a more humane and equalitarian form of social organization that truly permits the full protection of children and youth.

On the one hand, it is clear that our study does not exhaust the discussions started here. On the other, in line with Zamora (2008), studies about the theme in Psychology have focused more on the profile of the youth, motivations for the crime, relation with the family and community, connection with criminal dynamics, particularly with drug dealing, and the situation of the national socio-educational system. We hope to have contributed to the advancement of these discussions and perhaps to reflections that favor more assertive measures to cope with child and youth violence.

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