

Adolescents in conflict with the law: violators or victims?

There is a noticeable and growing escalation of incarceration in the country. The latest National Survey of Adolescents Deprived of Freedom revealed that in 2014 approximately 25,000 adolescents were serving periods of internment in the country, with a significant increase in rates in comparison with previous years.

Wacquant¹ points out that the increase of the police and criminal apparatus has arisen due to a deterioration of the social protection of the State. The more neglectful the State continues to be with respect to the guarantee of social rights and well-being, the more attentive it will need to be through penalization of behavior, depriving those individuals considered threats to public order of their freedom.

The socio-educational policy in Brazil faces a paradox: progress in the proposals of the Guarantee of Rights: the National System of Socio-educational Assistance (2012)², the Statute of Youth (2013)³ and, in the field of health, the National Policy of Comprehensive Healthcare for Adolescents in Conflict with the Law⁴. At the same time, there is an upswing in support for reducing the legal age of criminal responsibility. Adolescents who break the law are perceived as violent and as promoters of the increase in urban violence. This is exacerbated by the view that they are not held accountable by the State, which, in turn, feeds the discourse favorable to reducing the legal age of criminal responsibility.

One of the effects of mass institutionalization is overcrowded units that do not fulfill their socio-educational role and operate, primarily, through punitive and coercive logic. The situation of development and vulnerability of the adolescent is scantily addressed. Unfavorable socioeconomic conditions, a violent social context, idleness, precarious education, skepticism about the future – among other factors – contribute decisively to a significant portion of young people being more vulnerable to violence and delinquency⁵, being simultaneously both violators and victims.

The enactment of PNAISARI⁴ which aims to guarantee and expand access to healthcare for adolescents in conflict with the law in compliance with socio-educational measures, is an important advocacy tool for ensuring the right to health. Those involved are afflicted by many physical and mental problems, namely skin, dental and musculoskeletal disorders, among others, many of which are aggravated by the physical conditions of overcrowding, lack of ventilation and poor sanitation of the units in which they are institutionalized.

The promotion of the health of this group is made complex due to the sundry vulnerabilities experienced (before and during institutionalization) and exacerbated by the fragile health network both intramurally and extramurally. The advances in the legislation are not yet integrated to the current practices in the institutions, configuring an abyss between the legal ideal of the guarantee of rights and the reality that leads to violation of such rights.

As a glimmer of hope, the successful experiences dotted around the country give us indications that it is possible to get close to the ideal of comprehensive care for these young people and asserting their rights. Zamora⁶ invites us to reflect on the following:

We hear voices calling for prison for violent offenders; however, little is said of the daily life in these places where misery prevails. Spaces set aside for the undesirable, namely those whose behavior threatens the social order. It is the veritable valley of the damned; the slave quarters of the undesirables of all races.

Patricia Constantino (<https://orcid.org/0000-0001-5835-0466>)¹

¹ Escola Nacional de Saúde Pública Sérgio Arouca, Fiocruz. Rio de Janeiro RJ Brasil.

References

1. Wacquant L. *As Prisões da Miséria*. Paris: Raisons d'Agir; 1999.
2. Brasil. Lei nº 12.594 de 18 de Janeiro de 2012. Institui o Sistema Nacional de Atendimento Socioeducativo (Sinase), regulamenta a execução das medidas socioeducativas destinadas a adolescente que pratique ato infracional. *Diário Oficial da União* 2012; 18 jan.
3. Brasil. Lei nº 12.852, de 05 de Agosto de 2013. Institui o Estatuto da Juventude e dispõe sobre os direitos dos jovens, os princípios e diretrizes das políticas públicas de juventude e o Sistema Nacional de Juventude - SINAJUVE. *Diário Oficial da União* 2013; 06 Ago.
4. Brasil. Lei nº 1.082, de 23 de Maio de 2014. Redefine as diretrizes da Política Nacional de Atenção Integral à Saúde de Adolescentes em Conflito com a Lei, em Regime de Internação e Internação Provisória (PNAISARI), incluindo-se o cumprimento de medida socioeducativa em meio aberto e fechado; e estabelece novos critérios e fluxos para adesão e operacionalização da atenção integral à saúde de adolescentes em situação de privação de liberdade, em unidades de internação, de internação provisória e de semiliberdade. *Diário Oficial da União* 2014; 23 Maio.
5. Constantino P, Arêas N, Ribeiro D. Violadores, Violentados e Violados: a propósito de adolescentes em conflito com a Lei. In: Minayo MC, Assis SG. *Novas e Velhas Faces da Violência no Século XXI*. Rio de Janeiro: Fiocruz; 2017. p. 427-444.
6. Zamora H. Os Corpos da Vida Nua: sobreviventes ou resistentes? *Latin American Journal of Fundamental Psychopathology* 2008; 5(1):104-117.