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Article

# Review of Scientific Literature on the Age of Criminal Majority in Brazil

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## Abstract

This paper is a review of literature that aimed to describe the main results of scientific studies on the age of criminal majority in Brazil published in three electronic databases: SciELO, LILACS and the Regional Portal of the VHL. From the 57 articles initially found, after screening for the inclusion and exclusion criteria, 11 were effectively analyzed. These were submitted to thematic content analysis. It was identified that the premises of the irregular situation doctrine, although overcome in terms of legislation, remain rooted in institutionalized practices, discourses and representations about adolescents in conflict with the law. However, in the evolution of laws in the world, the tendency seems to be to maintain the age of criminal majority, rather than reduce it. It was concluded that the evidence found, although limited to the criteria of this study, refuted the hypothesis that simply reducing the legal age would be effective in confronting juvenile criminality in the country.

**Keywords**: Juvenile criminality, criminal majority, criminal liability, criminal responsibility.

# Revisão de Literatura Científica sobre Maioridade Penal no Brasil

## Resumo

Trata-se de uma revisão de literatura que almejou descrever os principais resultados de pesquisas científicas sobre maioridade penal no Brasil publicadas em três bases eletrônicas de dados: SciELO, LILACS e Portal Regional da BVS. Dos 57 artigos encontrados, após o crivo dos critérios de inclusão e exclusão, analisaram-se efetivamente 11. Estes artigos foram submetidos à análise de conteúdo temática. Os resultados indicaram que as premissas da doutrina de situação irregular, embora superadas

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em termos de legislação, permanecem enraizadas nas práticas institucionalizadas, nos discursos e nas representações sobre os adolescentes em conflito com a lei. Contudo, na evolução das leis no mundo, a tendência aparenta ser de manter a idade de imputabilidade penal, e não o oposto. Conclui-se que as evidências encontradas, embora limitadas aos critérios do estudo, refutaram a hipótese de que simplesmente reduzir a maioridade penal seria eficaz para enfrentar a criminalidade juvenil no país.

**Palavras-chave**: Adolescente em conflito com a lei, criminalidade juvenil, maioridade penal, imputabilidade penal.

## Revisión de Literatura Científica sobre Mayoría Penal en el Brasil

### Resumen

Se trata de una revisión de la literatura que pretendió describir los principales resultados de investigaciones científicas sobre la mayoría penal en el Brasil, publicadas en tres bases de datos electrónicas: SciELO, LILACS y Portal Regional de la BVS. De los 57 artículos encontrados inicialmente, después del filtro de criterios de inclusión y exclusión, se analizaron efectivamente 11. Estos artículos fueron sometidos al análisis de contenido temático. Los resultados indicaron que las premisas de la doctrina de situación irregular, aunque están superadas en términos de legislación, continúan arraigadas en las prácticas institucionalizadas, en los discursos y en las representaciones sobre los adolescentes en conflicto con la ley. Sin embargo, en la evolución de las leyes en el mundo, la tendencia aparenta ser de mantener la edad de imputabilidad penal, y no lo opuesto. Llegamos a la conclusión de que la evidencia encontrada, aunque limitada a los criterios de este estudio, refutó la hipótesis de que simplemente reducir la mayoría penal sería eficaz para hacer frente a la criminalidad juvenil en el país.

**Palabras clave**: Adolescente en conflicto con la ley, criminalidad juvenil, mayoría penal, imputabilidad penal.

The involvement of youths and adolescents in situations of violence is a phenomenon that has gained prominence in the criminal statistics of Brazil since the 1980s (Waiselfisz, 2013). Academia has given attention to these situations, in order to understand and explain the circumstances and contexts in which this phenomenon manifests itself. Society has also not neglected it (Rosa, Souza, Oliveira, & Coelho, 2012) –whether in the common view, in the media or in political circles. In an attempt to confront it, a number of Constitutional Amendment Proposals (PECs) have appeared in the National Congress with the aim of reducing the age of criminal majority in the country.

Currently, in Brazil, the age of criminal majority begins at 18 years, the age at which a person becomes criminally responsible as an adult. It is an expression that refers to the idea of "imputability", which is derived from the capacity to understand the unlawfulness of acts, to understand the rules and to conduct oneself according to this understanding as an adult (Batistella, 2014; *Lei nº* 7.209, 1984; Sousa, Oliveira & Campos, 2014).

### *Age of Criminal Majority in the Brazilian laws Throughout History*

To understand the meanings attributed to the age of criminal majority in the country, it is important to make a brief historical overview of this subject. Thus, the first laws to establish the age of criminal majority in Brazil were the *Ordenações Filipinas* of 1603, which originated in Portuguese law and were effectively applied after the arrival of the royal family in 1808 (Batistella, 2014; Sousa et al., 2014). The

*Ordenações Filipinas* established that "minors[1]" of seven-years were unimputable, and that, from this age on, penalties would be gradually more severe and could lead to the death penalty (Batistella, 2014; Sousa et al., 2014).

With the end of the colonial period, a new Brazilian legal system appeared, in which the age was modified. The Criminal Code of the Empire of 1830 (Law of December 16, 1830) established the criminal majority of people over 14 years of age (art. 10, § 1º), and that "minors" of 14 who acted with discernment should be placed in correctional houses (art. 13). However, according to Del Priore (2016) and Maia, Sá, Costa, and Bretas (2009), correctional houses only emerged at the beginning of the 20th century and, until then, "minor offenders" were mixed with the adults in prisons.

The passage from the monarchical regime to the republican era was also accompanied by legislative changes, giving rise to the Penal Code of 1890 (Decree No. 847, 1890). In it, the relative age of nine to 14 years was established, with offenders subject to the evaluation of their ability to discern (art. 27, § 1º and 2º), according to the evaluation of the judge (art. 30). Those over 14 years of age were considered fully accountable and therefore punished as adults (Batista, 2015; Maia et al., 2009).

The beginning of the 20th century was marked by growing concern over the issue of the rights of "minors" (Sartório & Rosa, 2010). It was only at this time that children and adults began to serve sentences in separate establishments, when the first correctional homes for "minors" were created (Del Priore, 2016; Maia et al., 2009). In response to this concern, the Code of Minors of 1927 was promulgated (Decree No. 17.943-A, 1927), considered a legal milestone due to it being the first Brazilian law for the child and adolescent population (Batista, 2015; Sartório & Rosa, 2010). In it, imputability was raised to 18 years of age; with an exception in the case of a serious crime and when the offender was considered dangerous. In this situation, relative imputability was considered from the age of 16 (art. 71), with the application of a kind of attenuator, which was the penalty of complicity (according to art. 65 of the Criminal Code of 1890). From this time on, legal language became more popular and the word "minor" acquired a depreciative meaning, being associated with neglect and criminality (Sartório & Rosa, 2010). Thus, more than the age itself, it was the social condition of abandonment or delinquency that really defined the "minor". Under the pretext of surveillance and protection, the Minor's Code of 1927 considered children and adolescents to be objects of state intervention and guardianship, since only those who were "in an irregular situation" - that is, abandoned or delinquent – were targets of the law (Sartório & Rosa, 2010).

The Criminal Code of 1940 (Decree-Law No. 2848, 1940) maintained the concern of the Code of 1927, as regards the distinction between the penalties for "minors" and adults, and exempted those less than 18 years of age from imputability (article 27), who became subject to special legislation. One year later, the Minors Assistance Service (*Serviço de Assistência ao Menor* [SAM]) was created, which was assigned responsibility for the management of facilities for the incarceration of "minors", delinquents, those abandoned and orphans. However, in just over ten years, this care model failed, either because of lack of public resources or because of the failure of the reeducation practices. A few months after the military dictatorship began in 1964, the SAM was replaced by the National Foundation for the Well-Being of Minors (*Fundação Nacional do Bem-Estar do Menor* [FUNABEM]), which was based on the precepts of the national security doctrine[2] (Batistella, 2014). Nevertheless, the same structural problems persisted that led to the failure of the previous care model, that is, the lack of investments and the use of coercive practices

[1] The expression "minor" in quotation marks was opted for to emphasize its character of social construction.

[2] Broadly speaking, the national security doctrine was the ideology that underpinned the military dictatorship. In it, those who opposed the military regime were considered enemies of the nation and, therefore, should be eliminated or confined.

in the treatment of the incarcerated "minors". Also during the military dictatorship, the Minors Code of 1979 (Law No. 6,697, 1979) was sanctioned, also based on the national security doctrine, which covered the care, protection and surveillance of "minors in irregular situations". For the purposes of this law, the "minor" under 18 years of age, abandoned, deprived or delinquent was considered to be in an irregular situation. Therefore, the idea remained that minors and their parents – read as: the poor families – should be guarded and monitored by the state, with the aim of maintaining law and order (Batistella, 2014).

With the re-democratization of the country, during the 1980s, a new phase in the care policies for children and adolescents was inaugurated. This period was marked by the great influence of the integral protection doctrine[3] (Rosa & Tassara, 2012; Sartório & Rosa, 2010), which culminated in the promulgation of the Constitution of 1988 (Constitution of the Federative Republic of Brazil, 1988) and of the Child and Adolescent Statute (*Estatuto da Criança e do Adolescente* [ECA]; Law No. 8.069, 1990), in force until the present day. In its principles and guidelines, the integral protection doctrine is directly opposed to the irregular situation doctrine and to the national security doctrine, since these conceive children and adolescents as objects of surveillance and intervention, while the integral protection doctrine considers them subjects of rights in the condition of development (Livramento, Brasil, Charpinel, & Rosa, 2012; Sartório & Rosa, 2010). For the first time in the history of the country, criminal imputability was raised to the constitutional level, not that of ordinary law, remaining at 18 years of age (art. 228 of the Federal Constitution). This position has been ratified by special legislation, the ECA (art. 104), which established socio-educational measures (art. 112) in cases of committing an infraction, that is, conduct equivalent to crime or criminal contravention. However, although the ECA makes adolescents responsible, with the application of socio-educational measures, conservative movements – especially those represented by politicians in the National Congress – have strived to modify the penal laws, in order to reduce the age of imputability. Thus, with the debate on reducing the age of criminal majority, in addition to seeking to establish a minimum age to punish children and adolescents as adults, what was (and still is) also at stake were (are) the two concepts of childhood and adolescence mentioned earlier.

## *The Current Proposals to Reduce the Age of Criminal Majority: Arguments for and Against*

Considering the panorama described above, this topic aims to outline, in general lines, the main arguments in favor of and against the reduction of the age of criminal majority. Here the intention is simply to expose the motives of both sides, presenting them in a descriptive way, so that the readers can situate themselves in relation to the debate.

For the defenders of the reduction of the age of criminal majority in Brazil (whether politicians or not), the "adolescent offenders" would already have full discernment of their actions (Amaro, 2004; Kaufman, 2004). They claim that scientific, technological and informational progress – which has accelerated between the end of the 20th century and the beginning of the 21st century – has led to numerous social transformations, resulting in a process of early cognitive and emotional maturation of children and adolescents. To try to corroborate this argument, they argue that if the adolescents have awareness to vote and perform acts of civilian life, they would equally be able to discern "right and wrong" in their conduct (Batistella, 2014; Souza & Campos, 2007). They also claim that the ECA protects "offenders", arguing that adult criminals lure younger and younger people as a way to take advantage of their unimputability (Batistella, 2014; Souza & Campos, 2007). In addition, they claim that

[3] The integral protection doctrine was influenced by the Universal Declaration of Human Rights (1948), Universal Declaration of the Rights of Children (1959) and Convention on the Rights of the Child (1989).

other countries, with lower crime rates, would be stricter than Brazil. Another argument widely used in favor of reducing criminal imputability is that the majority of the population favors this kind of measure (Batistella, 2014; Souza & Campos, 2007).

On the other hand, opponents of the reduction of the age of criminal majority (Batistella, 2014; Sousa et al., 2014; Souza & Campos, 2007) assume that adolescents are human beings in the process of development and should be protected by the family, society and the state. They also argue that unimputability does not mean impunity, as adolescents are held accountable for their actions, in keeping with their status as developing people. In addition, they point out that the proportion of adolescent offenders is very small compared to the population of adults who commit crimes (less than 1% of the reports of violence), and that the system of socio-educational measures is not applied as recommended in law. Therefore, they claim that there would be no reason to speak of protective legislation, since it has never been effectively enforced. Finally, they justify being against the reduction of the age of criminal majority because the Brazilian penitentiary system is not able to absorb this demand, much less re-socialize the contingent of adolescents that would be relocated to the prisons, even if, in some proposals, specific prison establishments are created.

It is important to recognize that in this debate there are many arguments that are clearly grounded in the common view and lack evidence to support policy and legislative decisions. Therefore, it was considered opportune to carry out a study that integrated data from diverse scientific investigations on the subject in question, seeking to assure greater reliability in the findings and to provide support for a more qualified debate. Thus, the aim of this study was to describe the main results of the scientific studies on the reduction of the age of criminal majority in Brazil. It was decided not to restrict, a priori, the date of publication of the studies, since the aim was to cover as many publications as possible on the subject and to avoid the exclusion of relevant articles only due to the year of publication.

## Method

According to Zoltowski, Costa, Teixeira, and Koller (2014), a literature review brings together, in a methodical way, the scientific production accumulated over time about an object under analysis, using an explicit and systematized search strategy. In this study, the scientific production on criminality in Brazil, more specifically the reports of empirical studies, was analyzed without restriction of publication date, as previously explained.

### *Data Collection Procedures*

Two reviewers independently consulted the following databases: LILACS (Latin American and Caribbean Health Sciences Literature), SciELO (Scientific Electronic Library Online) and the Regional Portal of the VHL (Virtual Health Library). The choice of these databases was justified by the fact that they integrate a large part of the Brazilian scientific production in their respective areas of knowledge. The searches were conducted in August 2017, without restricting the year of publication. The keywords "*maioridade*" and "*penal*" were used in all searches.

Articles found concurrently in more than one database were counted only once. In addition to the criteria described above, to be included the studies had to (a) cover the Brazilian reality; and (b) have empirical research reporting characteristics. As empirical research reporting characteristics, articles that defined objectives, method, results and discussion were considered. After this filter, the results were submitted to the following exclusion criteria: (a) to be a book, book chapter, thesis or dissertation; and (b) not to have the age of criminal majority as one of the centers of analysis. It was established that the evaluators should enter into discussion if they had any kind of disagreement regarding whether to include or exclude a study found.

### *Data Analysis*

A first reading of the articles found was carried out, aimed at the approximation with their content and the verification of the inclusion and exclusion criteria. Afterwards, a thorough reading of the included studies was carried out and their data were extracted into a standardized worksheet and submitted to thematic content analysis (Bauer, 2015).

The contents of the included studies were evaluated according to the following dimensions: (a) year of publication, (b) area of knowledge, (c) objectives, (d) methodological approach, (e) data collection procedures/instruments, (f) data analysis methods, and (g) synthesis of the results and conclusions. Next, the data were gathered into nuclei of meaning.

## Results and Discussion

Initially 57 studies were found. Of these, 35 were duplicated in two or more databases and were counted only once, which totaled 22 potentially relevant articles. Next, eight articles were removed because they did not meet the inclusion criteria and three others because they fell within the exclusion criteria. At the end of this process, there were 11 articles that composed the *corpus* of this study. There was no divergence between the findings of the evaluators. Table 1 illustrates the general characteristics of the studies included in the review.

**Table 1**
**General Characteristics of the Studies Included**

| *N* | Year of publication | Knowledge area | Periodical |
|---|---|---|---|
| 1 | 2016 | Psychology | *Psicologia: Ciência & Profissão* |
| 2 | 2015 | Psychology | *Psicologia & Sociedade* |
| 3 | 2013 | Psychology | *Psicologia: Ciência & Profissão* |
| 4 | 2011 | Psychology | *Psicologia & Sociedade* |
| 5 | 2006 | Psychology | *Psicologia: Ciência & Profissão* |
| 6 | 2016 | Social Sciences / Political Science | *Opinião Pública* |
| 7 | 2009 | Social Sciences / Political Science | *Opinião Pública* |
| 8 | 2006 | Psychology | *Psic: revista da editora Vetor* |
| 9 | 2015 | Psychology | *Revista Subjetividades* |
| 10 | 2017 | Social Communication / Journalism | *Galáxia* |
| 11 | 2017 | Social Communication / Journalism | *Galáxia* |

*Note*. Source: Table created from the data that compose the articles included in this study.

Within the review criteria, none of the articles recovered were published before 2006. Three articles were from 2006 to 2010, four from 2011 to 2015 and four from 2016 to 2017. Thus, in the format proposed by the study, there was a regular production of research on the subject, when considering the first two periods indicated, and an increase in the final period. Considering that from 1989 to 2006, 34 of the 57 Constitutional Amendment Proposals (PECs) were proposed on the subject, it can be assumed that, as discussions on the reduction of the age of criminal majority circulated in social groups and the number of PECs accumulated in the National Congress, studies on the subject also multiplied in the period studied.

All the articles included belong to the Human and Social Sciences area of knowledge. Of

these, seven were published in scientific journals of Psychology, two in journals of Social Communication and two in journals of Political Science. The Psychology studies were concentrated in the following categories: developmental psychology and morality (Cunha, Ropelato, & Alves, 2006; Galvão & Camino, 2011), social psychology (Corte Real & Conceição, 2013; Espíndula et al., 2006; Petry & Nascimento, 2016) and institutional analysis (Scisleski, Bruno, Galeano, Santos, & Silva, 2015; Silva & Hüning, 2015). The articles of Social Communication can be characterized as studies of the editorial organization of newspapers (Dias, 2017) and the interaction between communication and politics (Maia et al., 2017). The articles in Political Science are related to the analysis of the decision process (Campos, 2009) and public policies (Lins, Figueiredo, & Silva, 2016).

Considering the databases consulted, it was expected that studies in the areas of Human and Social Sciences, especially in Psychology, would be found, since they index various scientific journals in these areas of knowledge. In addition, the Federal Council of Psychology made an intense debate campaign on the subject. However, it was also expected to find empirical research in the fields of Law, Social Service and Medicine (especially Psychiatry), which was not the case. The only two texts of which the authors were psychiatrists were opinion articles and therefore did not fulfill the inclusion criteria. In the area of Law, as well as that of Social Service, perhaps the use of a technical term of the legal area, such as "imputability", may have been more frequent, which may have influenced this gap. Furthermore, it is possible that in these fields there are more theoretical studies than empirical studies.

Regarding the objectives and research designs, the studies were grouped into three groups. One group, composed of four articles (Corte Real & Conceição, 2013; Petry & Nascimento, 2016; Scisleski et al., 2015; Silva & Hüning, 2015), described, from different theoretical frameworks, how various social segments perceive juvenile crime and its subject, the "adolescent in conflict with the law". The study by Corte Real and Conceição (2013) sought to identify the social representations of parliamentarians regarding the reduction of the age of criminal majority, and was based on 13 legislative documents (reports, judgments and constitutional amendment proposals) in progress in the National Congress. The study by Silva and Hüning (2015) sought to investigate the punitive rationality of 37 constitutional amendment proposals (PECs), in the Chamber of Deputies, using the justifications presented in the legislative documents as sources. Petry and Nascimento (2016) analyzed discourses favorable to reducing criminal imputability, published spontaneously on a virtual page in social networks, in order to identify the ideologies that support them. The article by Scisleski et al. (2015) mapped the institutionalized practices by the Justice and socio-educational system professionals with respect to adolescents sentenced with deprivation of liberty (incarceration). To do so, it used judicial documents (processes and sentences), observation of hearings (with judges, prosecutors, defenders and adolescents in conflict with the law), interviews with professionals (psychologists, social workers and socio-educational agents) working in two incarceration units for adolescents and field journal reports. In this set of studies, several qualitative data analysis procedures were used: cartography, discourse analysis (DA), genealogical and archaeological analysis, and classical content analysis (CA), combined or not with computerized lexical analysis (Alceste software).

Another group, formed by three articles (Campos, 2009; Dias, 2017; Espíndula et al., 2006), presented descriptions of images and concepts of adolescents in conflict with the law divulged by the print media, investigating how the newspapers approached the subject of the age of criminal majority. Campos (2009) studied the role of the media in creating a political climate favorable to proposals to reduce the age of criminal majority in the legislative process, using reports (from newspapers and magazines) on infractions committed by adolescents as sources. Espíndula et al. (2006) sought to apprehend the

social representations in printed newspapers of adolescents who committed an infraction. Dias (2017) investigated the most significant nuclei of meaning related to the reduction in the age of criminal majority in the discourses of the newspapers with the greatest circulation in the country. The studies that compose this group also used different data analysis methods, namely: discourse analysis, Howlett's method of media study, classical content analysis and content analysis conjugated with computerized lexical analysis (Alceste software).

The four articles that compose the third group (Cunha et al., 2006; Galvão & Camino, 2011; Lins et al., 2016; Maia et al., 2017) aimed to verify the existence and degree of association between the age of criminal majority (defined as the age at which an individual is punished as an adult under the law) and other variables of interest. The study by Lins et al. (2016) tested the hypothesis that reducing the age of criminal majority decreases violence, comparing the age of criminal imputability in several countries around the world with their respective homicide rates. For this, the authors used data from secondary documentary sources (international studies) gathered in a database organized by the authors themselves. Galvão and Camino (2011) aimed to examine the relationship between opinion (for and against) about the reduction of the age of criminal majority and level of moral development. For this, the authors used questionnaires for surveys of opinion and a standardized scale to evaluate the level of development of the morality. The article by Cunha et al. (2006) aimed to identify the correlation between the age of the authors of legal infractions and the severity (low, moderate and severe) of these actions. With this, they tried to test the hypothesis that adolescents commit more serious violations than adults, which provides a basis for some arguments in favor of the reduction of the age of criminal majority. They used judicial documents (criminal processes and files) as source, using evaluators to measure the severity of the infractions. Maia et al. (2017) developed a study in which five heterogeneous groups, formed by military police officers and residents of suburban neighborhoods of two metropolitan areas, were encouraged to discuss and comment on the reduction of the age of criminal majority before and after the presentation of an audiovisual resource which presented contradictory and favorable arguments for legislative change. The aim was to verify whether, after the screening, the participants would change their opinions on the reduction of the age of criminal majority enunciated before the presentation of the video. In general, the studies in this group were characterized by using quantitative procedures to analyze the data, more specifically, chi-square calculations, Pearson's correlation coefficient, descriptive statistics and a quantitative measure of discourses in deliberations (Discourse Quality Index [DQI]). In addition, three of these studies also used variations of content analysis (semantic CA and categorical CA) for the data classification.

In relation to the results found, it was evidenced that, from different theoretical and methodological perspectives, the majority of the articles (Campos, 2009; Corte Real & Conceição, 2013; Dias, 2017; Espíndula et al., 2006; Petry & Nascimento, 2016; Scisleski et al., 2015; Silva & Hüning, 2015) described how different subjects (parliamentarians, legal operators, professionals of the socio-educational system, students, users of social networks, etc.) perceived the phenomenon of juvenile criminality, forming a kind of mosaic with stereotypes of adolescents in conflict with the law. These stereotypes were constituted by ideologies, institutionalized practices and social representations regarding these young people.

Based on the analysis of 13 legislative documents being processed in the National Congress, one study (Corte Real & Conceição, 2013) showed that the federal deputies and senators who were the authors of PECs related to reducing the age of criminal majority argued that adolescents in conflict with the law are mature enough to discern the gravity of their actions. The study pointed out that, according to these parliamentarians, these young people would pose a risk to society and therefore should be tried and punished as adults. Thus, the study concludes that the parliamentarians attribute the causes of

the increase of violent crime in the country to adolescents and see reducing the age of criminal majority as the solution to this problem.

Another study (Silva & Hüning, 2015), which also investigated the arguments of parliamentarians favoring the reduction of the age of criminal majority, corroborated the results found by Corte Real and Conceição (2013). Silva and Hüning (2015) analyzed the punitive rationalities present in the justifications of 37 PECs that were processed in the Chamber of Deputies from 1993 to 2013. As a result, they pointed out that the parliamentarians consider adolescents to be dangerous subjects, which pose a risk to society, basing their justifications on two main rationalities: in the first, the reduction of the age of criminal majority is justified as a measure that would certainly reduce the violence; in the other, it would be linked to the need to react to impunity, although without a guarantee that this measure would reduce the criminal statistics. In both, the arguments converged to justify the increase in the sense of security and recovery of order and the defense of society.

Analyzing publications (texts and images) of Facebook users, one study (Petry & Nascimento, 2016) indicated that the discourses favoring the reduction of the age of criminal majority in circulation on this social network portray, in a reductionist, dichotomous and simple way, the complex social issues surrounding the phenomenon of juvenile criminality in Brazil. On one hand, these discourses describe a harmonious and peaceful population, constituted by "good citizens", workers and taxpayers, who rigorously fulfill their duties. On the other hand, they refer to the existence of disorderly individuals (bandits, criminals and vagabonds), most of them adolescents and young people, who deliberately act in an illegal way, putting at risk the well-being of the population. According to Petry and Nascimento (2016), these discourses are supported by the neoliberal ideology, which exacerbates the role of the individual and the supposed "delinquent personality" – dangerous due to his/her own immoral nature.

Another study (Scisleski et al., 2015) pointed out that this image is constructed by the professionals responsible for the re-socialization of these adolescents. Through observations of hearings, readings of court cases, visits to incarceration units and interviews with operators of the judicial system and the socio-educational system, the authors mapped current practices in a Childhood and Youth Court and in two incarceration units in the state of Mato Grosso do Sul. They identified that the participants often deal with adolescents as if they were born criminals, unable to be re-educated and re-inserted into social life. They describe that, in practice, the adolescent incarceration facilities do not differ from adult prisons. In this sense, the socio-educative measures of incarceration would function, in the environments studied by the authors, more as a segregation and punishment strategy than a pedagogical exercise of recuperation.

Another three studies (Campos, 2009; Dias, 2017; Espíndula et al., 2006) indicated that the print media (newspapers and magazines) also corroborate with preconceived images about adolescents in conflict with the law. In one of them (Campos, 2009), a study was conducted on the news stories in the *Veja* magazine and in the *Folha de São Paulo* newspaper, analyzing reports about crimes of great repercussion carried out by adolescents. A total of 125 reports were found between November 10, 2003 and June 11, 2004 and 168 reports from February 7, 2007 to August 12, 2007. Based on Howlett's method, which seeks to comprehend the reciprocal effects between public opinion and the political agenda, the study pointed out that the media directly influenced the construction of the legislative agenda regarding the reduction of the age of criminal majority in Brazil, by massively disseminating news that associated infractions involving adolescents and defending the reduction of the age of criminal majority as a solution to confront the rates of violence.

Dias (2017) analyzed the meanings of the reduction of the age of criminal majority, constructed by three of the newspapers of greater circulation in the country (*Folha de S. Paulo*, *O Estado de S. Paulo* and *O Globo*). The researcher identified the main nuclei of

meanings of the journalistic discourses during 35 days of coverage of the first round of voting of PEC 171/1993. Of the 107 significant discursive sequences analyzed, the results indicated the existence of four nuclei of meaning. The most frequent nucleus (47.7%) showed that the interests of the politicians were more focused on promoting the personal image (or discrediting their opponents), with a view to guaranteeing visibility in the electoral scenario, than on solutions to the problems of public security and juvenile criminality. The second nucleus of meaning (28.1%) emphasized the failure to comply with the ECA and the law that regulates the implementation of the measures in the socio-educational system as factors that contribute to the increase of feelings of insecurity and impunity, highlighting the responsibility of the state in these gaps. Another nucleus of meaning (14.9%) revealed that, although the media presented the adolescents as victims of violence, journalistic coverage was significantly more explicit – and numerous – in cases involving adolescents who committed acts of violence, especially when they were serious. The fourth nucleus of meaning (9.3%) showed that the newspapers insisted on reproducing negative stereotypes coined from the common view, despite the lack of reliable data to support these stereotypes. In this way, Dias (2017) pointed out that the newspapers analyzed tended to be favorable to the reduction of the age of criminal majority, although in some cases, in a veiled way.

Espíndula et al. (2006) reported results similar to those presented by Dias (2017) and Campos (2009). They analyzed 325 journalistic articles (reports, letters and articles) published in a period of 12 months (2003 to 2004) in the newspapers of greater circulation in the state of Espírito Santo. From the computerized lexical analysis method, using the Alceste software, combined with traditional content analysis, the authors found five word classes divided into two antagonistic axes. One axis was about the involvement of adolescents in infractions and other illegal practices and, on the other axis, the meanings of the words indicated the reduction of the age of criminal majority as a solution to the violence. Both axes described adolescents in conflict with the law as violent and dangerous and the authors argued that these social representations were anchored in the old Codes of Minors. Such representations would guide, therefore, an attitude favorable to the reduction of the age of criminal majority, from the construction of a preconceived image of the adolescents in conflict with the law.

According to these results, other studies already mentioned (Corte Real & Conceição, 2013; Petry & Nascimento, 2016; Scisleski et al., 2015) show that, although the ECA has been in force for nearly thirty years, the institutionalized discourses and practices regarding the age of criminal majority are also deeply rooted in the doctrines of the old Codes of Minors (1927 and 1979). They also show that the participating subjects (or the documentary data) use different names to describe the poor young people – referred to as "minors" – from those who come from more favored economically social classes - referred to as "adolescents". Thus, as already mentioned, a term of legal origin was absorbed into the common view, designating individuals and families in an "irregular situation" (Corte Real & Conceição, 2013; Petry & Nascimento, 2016).

In three articles (Dias, 2017; Petry & Nascimento, 2016; Scisleski et al., 2015) the data indicated the construction of the ethnic and socioeconomic origin of these adolescents circumscribed to the stereotype of the poor, black youth living in the periphery of the city, revealing updated versions of the hygienist and eugenist ideologies that emerged at the end of the 19th century. In four studies (Corte Real & Conceição, 2013; Dias, 2017; Petry & Nascimento, 2016; Scisleski et al., 2015) the data show that the criticisms of the ECA are directed toward the supposed protection given to the adolescents in conflict with the law, preventing them from being punished. In this sense, they talk about the ineffectiveness of the justice system and the impunity it generates, proposing to discuss whether reducing the age of criminal majority would be a solution to the problem of juvenile crime. This indicates that,

in general, there is a lack of knowledge of the sanctions established in Article 112 of the ECA (socio-educational measures). In addition, the proposals to reduce the age of criminal majority represent the expansion of the punitive power of the state, to the detriment of the pedagogical measures, advocated by the ECA (Campos, 2009; Espíndula et al., 2006; Silva & Hüning, 2015).

Four studies (Corte Real & Conceição, 2013; Galvão & Camino, 2011; Petry & Nascimento, 2016; Scisleski et al., 2015) investigated discussions about awareness and maturity of the adolescents as criteria for establishing age of criminal majority. Petry and Nascimento (2016) showed that the users of the social network analyzed perceived adolescents as being fully aware of their actions and, therefore, should be punished as adults. The discourses of the professionals of the justice systems and of socio-educational measures (Scisleski et al., 2015) show the same perception, stating that adolescents are mature enough to discern "right and wrong". This seems to be the same opinion of the parliamentarian PEC authors who, in addition to seeking to reduce the age of criminal majority, proposed that adolescents who commit offenses should undergo psychiatric and psychological evaluation to determine whether they have full capacity to understand their behavior (Corte Real & Conceição, 2013; Silva & Hüning, 2015). Galvão and Camino (2011) showed that the students favoring the reduction of the age of criminal majority justified their opinions based on these same types of arguments.

In the study by Maia et al. (2017) sixty participants, divided into five groups, debated the reduction of the age of criminal majority, before and after the presentation of a video containing equal amounts of opposing and favorable arguments on the theme. The results indicated that, initially, the majority of the participants were in favor of the reduction of the age of criminal majority. The argument most used in the first stage of the study was that the number of infractions committed by adolescents was increasing. However, after the video was shown, there was a significant increase in the number of arguments against the reduction of the age of criminal majority, especially from those who highlighted the need to improve socio-educational measures and those who saw education as a more efficient preventive strategy than punishment. In addition, after the video, it was also found that the proportion of participants who said they favored a reduction in the age of criminal majority was considerably reduced, and that the proportion of those who claimed to be against it increased. Thus, the study of Maia et al. (2017) suggests that it would be possible to change the opinion of these people by providing qualified information on the subject.

Cunha et al. (2006) tested the hypothesis that infractions committed by adolescents would be more serious than offenses committed by adults. For that, they examined the institutional records of 669 adolescents in a socio-educational unit in the state of Paraná and 356 adults imprisoned in a Custody House in the same state, comparing the severity of the transgressions committed by both groups of subjects. The results refuted the hypothesis, indicating that the greater the age of the subject, the more serious the infraction. Thus, although circumscribed to the reality studied, the results of this study deconstruct the stereotypes that hang over adolescents in conflict with the law.

Lins et al. (2015) analyzed juvenile justice systems in dozens of countries, including Brazil, testing the hypothesis that reducing the age of criminal majority would reduce rates of violence. From the comparison of homicide rates with the age of criminal majority, the results indicated that the mean age of criminal majority in the 123 countries analyzed was 17.76 years, and, over the preceding years, the global trend was of maintain the age of criminal majority, rather than the reduce it. In addition, the results indicated that the greater the legal protection a country offers its youth, the lower the incidence of violence. On the other hand, they also indicated that the younger the age of criminal majority, the more the country tended to be violent, refuting the hypothesis that reducing the age of criminal majority would reduce violence.

## Final Considerations

From this review it was possible to verify that the arguments favoring the reduction of the criminal majority are anchored in institutional practices, social representations and ideologies about adolescents in conflict with the law inherited from the criminal codes of the 19th century and codes of minors of the 20th century, which favored the conservation of pejorative stereotypes. It was evident that, despite almost three decades since the implementation of the ECA, it has not yet been possible to deconstruct the discourses that distinguish between "minor" and "adolescent", continuing to grant them unequal treatment. Thus, it appears that the assumptions of the irregular situation doctrine, although overcome in terms of legislation, continue to largely support the discourses and practices of the subjects investigated in the various publications studied.

It was also observed that, in the background of the reduction of the age of criminal majority, there is a certain tolerance/acceptance of punitive and often violent practices against adolescents in conflict with the law, to the detriment of the pedagogical character that every socio-educational measure should have as the priority. In addition to this, the negative view that several social segments investigated in the studies have of the adolescents in trouble with the law remains evident.

On one hand, supporters of the reduction of the age of criminal majority argue that the fight against violence and crime must be carried out with increasing the severity of punishments, in which the motto can be translated as "the sooner and more rigorously the offender is punished, the more delinquency will be inhibited". On the other hand, the evidence found refuted the hypothesis that simply reducing the age of criminal majority would be an effective resource to address the problem of juvenile crime in the country. In fact, the findings indicate that lower ages of criminal majority are in direct proportion to high rates of violence, not vice versa. In addition, it has been found that, over the centuries, in the evolution of laws in the world, the tendency is to maintain the age of criminal majority, rather than reduce it as some proposals suggest.

It is considered necessary to recognize that the studies included in this article did not involve all of the reports of research on the subject, due to the existence of other databases not consulted. In addition, the previously defined inclusion and exclusion criteria involved leaving out purely theoretical articles, as well as books, theses and dissertations. Undoubtedly, these sources could also provide relevant information to comprehend the issue of reducing the age of criminal majority in Brazil.

All this imposes a limitation on the evidence found in this review, however, does not make it less important. The consensus of the base of discussion among the articles is in the position of defending the maintenance of the current law and against the reduction of the age of criminal majority, indicating that the studies generated in the academic context start from ideological perspectives contrary to those found in the mass media, the common view and in the parliament.

However, opinion polls show the population's adherence to retrogression, based on the vision of this adolescent impressed in the old Code of Minors, which was believed to have been overcome. This mismatch between what is produced by science and the trends of society shows the need to popularize the results of the studies, given that the mainstream media decides, at its discretion, how and what data are relevant to disseminate.

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