

THE PROTECTION OF  
CHILD AND  
ADOLESCENT,  
EVERYONE'S DUTY

THE PROTECTION  
OF CHILDREN AND  
ADOLESCENTS, THE  
DUTY OF  
EVERYONE

SANTOS, Fernanda Camargo dos

[1]

[1] fernanda-santos@susepe.rs.gov.br

SUMMARY

Unfortunately, the presence of teenagers in urban crime does not have a lack of financial resources as the only responsible aspect. We must add to this factor the low level of education, the fragility of family ties, as well as the social violence that integrates and plagues our daily lives. Responsibility for the physical, cognitive, social and emotional development of adolescents requires a lot of attention from the family and the State. Financial difficulties, as well as difficulties in social and emotional relationships, which are difficult for families to overcome, can cause a risk situation for teenagers, which sometimes ends up driving them into crime. And, after becoming criminal, resocialization becomes almost impossible. Preventive work is urgent and extremely necessary. We must work and provide protection before they enter the world of crime, because afterward, it is very difficult to save them.

**key words:** Child and teenager; protection is everyone's duty; family; social vulnerability; and youth crime.

ABSTRACT

Unfortunately, the presence of adolescents in urban crime does not lack financial resources as the only responsible aspect. We must add to this factor the low level of education, the fragility of family bonds, as well as the social violence that integrates and plagues our daily lives. Responsibility for the adolescent's physical, cognitive, social and affective development requires a lot of attention from the family and the State. Financial difficulties, as well as in social and affective relationships, which are difficult to overcome by families, can cause a situation of risk to adolescents, which, at times, end up boosting their entry into crime. And, after entering crime, resocialization becomes almost impossible. Preventive work is urgently and

extremely necessary. We must work and provide protection before they enter the world of crime, because afterwards, it is very difficult to save them.

**Keywords:** Child and Adolescent; protection is everyone's duty; family; social vulnerability; and juvenile crime.

## 1. INTRODUCTION

This work aims to provide a brief explanation about the protection of children and adolescents. It is important to remember that the edition of law 2,040 of September 28, 1871, known as the "Free Womb Law", which granted freedom to slaves born from the date of its promulgation, contributed greatly to the first steps towards the rights of children and teenagers. Despite being a step towards the abolition of slavery, it had a more symbolic than practical effect, as, even though they were considered free, they depended on the care of their parents, who were still slaves. They were born legally free, but the realization of this freedom was compromised, since the slavery of their ancestors was maintained, who would only be fully freed with the Golden Law, in 1888.

At the time of the Áurea law, female and child labor was widely used in the development of Brazilian industry, mainly in the textile industry. In 1891, before the promulgation of the Republican Constitution, Decree No. 1,313, of January 17, sought to regularize child labor when it established a minimum age of twelve for work and, from the age of eight, only as an apprentice.

With the 1934 constitution, mention began to be made of support for motherhood and childhood, in article 138, which provided for support for families with large offspring, tasking the three federated entities to adopt legislative and administrative measures with the aim of reducing infant mortality, in addition to protecting youth against physical, moral and intellectual exploitation and abandonment (BONAVIDES; ANDRADE, 1990, p. 321-325).

From 1988 onwards, the principles became binding norms in the relations between the State and the person and between individuals and each other. By considering the dignity of the human person as the foundation of the Republic and placing the family as the basis of society, the 1988 Constitution contributed fundamentally to the defense of the rights of children and youth. At this time we have the recognition of children and adolescents as subjects of rights. Full protection for children and adolescents was enshrined in fundamental rights

registered in article 227 of the 1988 Federal Constitution and in articles 3 and 4 of the Child and Adolescent Statute (Federal Law nº 8,069, of July 13, 1990).

Considering their condition as developing people, the duty of the family, the State and society to protect these individuals is even greater. In this sense, it is important to think about a study on the fundamental rights of children and adolescents, seeking to clarify what conduct and protection initiatives the citizenship that emanates from fundamental rights is supported by. I begin with the protection of childhood and adolescence provided for in the Federal Constitution and the Child and Adolescent Statute, describing the main elements. Next, considerations regarding the fundamental rights of children and adolescents enshrined in article 227 of the 1988 Federal Constitution. This reflection seeks to understand the meaning and scope of the protection required.

## 2 THEORETICAL FOUNDATION

The child is recognized as a developing person, endowed with dignity and personality. As a mere spectator of family life, your rights must be protected and guaranteed. The national power has undergone transformations that allow it to be exercised by both parents in order to promote the development and personality of the minor.

The Child and Adolescent Statute and the Federal Constitution proposed the full protection of minors. Therefore, if we think about this responsibility only relying on public policies in the strict sense, we will not achieve the objective determined by law. According to Murillo José Digiácomo (2013, p.1) within the system of guarantees "the role of each one is equally important so that the full protection of all children and adolescents, promised in article 1 of law nº 8,069 of 1990, be achieved."

The family is also responsible for applying and monitoring the fundamental rights of these minors, as the law itself determines, in this case, the Federal Constitution (art. 227) and the Child and Adolescent Statute (Law 8,069/90). The Federal Constitution of 1988, in its article 226, states that "the family is the basis of society and has special protection from the State", therefore, it has an important role in terms of creation and enjoyment

of these policies, as it is from them that the victimized child and youth population emerges and it is towards them that these policies must also be directed, in an attempt to create a family support that supports, and that, at the same time, avoids the aggression to the human rights of children and teenagers.

It is important to note that the family is not considered the only or the main culprit of attacks, as the State has a responsibility to provide policies that can improve the child's living condition together with that of their family. Article 3 of the Child and Adolescent Statute is very appropriate when it says that: [...] all opportunities and facilities are ensured by law or other means, in order to provide them with physical, mental, moral, spiritual and social, in conditions of freedom and dignity. (ECA, 2011, art.3).

The 1988 Constitution of the Federative Republic of Brazil was innovative in adopting the Doctrine of Comprehensive Protection in the issue of childhood and adolescence in Brazil. Cury, Garrido and Marçura teach that:

Full protection is based on the concept that children and adolescents are subjects of rights, vis-à-vis the family, society and the State. It breaks with the idea that they are simple objects of intervention in the adult world, placing them as holders of rights common to any and all people, as well as special rights arising from the peculiar condition of people in the process of development (2002, p. 21 ).

As Paolo Verelone, Judge of Law in Italy, rightly defines, "the term protection presupposes a protected human being and one or more human beings who protect him, that is, basically, a human being who needs another human being" (CURY, 2008, p. 37). Said magistrate goes more in-depth when dealing with this topic, saying that:

Full protection must be understood as the set of rights that belong only to immature citizens; These rights, unlike those fundamental rights recognized to all citizens, are materialized in claims not so much in relation to negative behavior (refraining from violating those rights) as to positive behavior on the part of public authorities and other citizens, of rule of adults responsible for ensuring this special protection. Due to full protection, children and adolescents have the right for adults to do things in their favor (CURY, 2008, p. 36).

The principle of full protection, in short, guides the construction of the entire legal system aimed at protecting the rights of children and adolescents. It is based on the assumption that such human beings do not have the capacity to exercise their rights on their own, and therefore need third parties (family, society and State) who can protect their fundamental legal assets, enshrined in legislation. specific, until they become fully developed physically, mentally, morally, spiritually and socially.

Unfortunately, we suffer from the daily increase in teenagers involved in Brazilian crime. Characterized as a crucial phase of human development, adolescence, given that several processes related to cognitive, emotional and social acquisitions occur at this stage. This phase is conducive to the formation of habits and behavioral patterns. At this time, there is greater permeability to environmental influences when the individual begins to become independent of their parents and explore different situations that they may not yet know how to deal with very well. There are also intense physical and psychological transformations.

Therefore, it is necessary to understand the great importance of guaranteeing public policies that help and protect the most vulnerable groups with today's social problems. In short, children and adolescents are much more vulnerable to crime.

The traits of delinquency may be the result of a social construction whose roots lie in family and social violence itself (LEVISKY, 2000, p.31). From this perspective, it is possible to deduce that the fragile and insufficient social attachment of children and adolescents to projects and/or institutions (such as the family, school and church, for example) whose function is to adapt and train these individuals to social norms, encourages them to practice deviant behavior. It thus appears that the commission of infractions is due to the failure or simply the lack of effective conventional social controls that would prevent such commission (HIRSCHI, 1969).

The lack of family structure, lack of a life project, valuing having rather than being, lack of public policies that combat social inequalities and the increase in drug consumption, are pointed out by experts as the great motivation for involvement of teenagers with crime.

Every minute, the dark universe of crime has a significant increase in children who leave their childhood innocence aside. Boys and girls aged 11, 12, 13 play with guns, pocket knives and knives, instead of cars, balls and dolls. The family environment, which becomes more and more unstructured every day, when it is unable to impose limits, teach values and educate for life, gives way more and more space to drugs.

Between 1996 and 2014, the number of young people between 12 and 17 years old who were apprehended in Brazil for committing crimes increased almost six times. According to the yearbook of the Brazilian Public Security Forum released this Monday (30), there is an increase in the incarceration of teenagers in the country: it went from 4,245 to 24,628. The data was compiled by the yearbook using indexes from the Ministry of Human Rights and IBGE (Brazilian Institute of Geography and

Statistic). Among the young people apprehended, 22.5% are in provisional detention. And around 9% are in semi-freedom.

It is sad to say that the preferential target of drug traffickers is precisely teenagers. It is at this stage of life that pressure arises between groups of friends, curiosity and the search for self-esteem. With the use of chemical substances, which cause dependence, there is a strong involvement of adolescents in violence, as they need to commit illicit acts to support their addiction.

Added to this, we do not have schools with sufficient and appropriate structures to provide quality education for everyone. Programs aimed at citizenship are rare in educational establishments. Cultural, sporting and artistic activities are a luxury item. And it is precisely this lack that causes the lack of content to expand students' horizons.

## CONCLUSION

It is impossible to deny the increase in crime among young Brazilians. It is clear that it has been growing gradually in large urban centers in Brazil, involving an increase in the participation of young people in the world of crime.

In my opinion, the lack of perspectives and life projects are the main causes of young people and adolescents' involvement in crime. Unfortunately, we live in times where everything is disposable, fleeting, transitory and superficial. Where HAVING is much more valued than BEING. Young people take as examples for their lives what is directly related to consumption, superficiality and the lack of positive values.

We need to surround our children with positive role models and this is a task that everyone must get involved in. We must rescue family moments, worry and get involved sincerely with our children's aspirations and projects. Value small things not related to consumption and superficiality, such as a hug, a family lunch, a conversation with friends. Value what we really have that is important in this life.

Furthermore, I understand that there is a lack of serious public policies, more specifically in the areas of education, health and social assistance. It is extremely important to encourage the permanence of teenager at school, with reinforcement for vocational courses, treatment programs

RCMOS–Multidisciplinary Scientific Journal O Saber. ISSN:2675-9128. São Paulo, vol. 04, no. 4 p. 01-08, April, 2021.



of drug addiction and their reintegration into society, as well as monitoring the addict's family.

No less important, the awareness of public and political bodies about the importance of programs of socio-educational measures that truly fulfill the role of re-education. Money spent on security and education, especially for our teenagers, is an investment and should be a priority. I believe, with all my strength, that it is at this stage (children and adolescents) that there is a real possibility of resocialization. We must work with preventive action, to avoid the search for resocialization.

It is essential, therefore, that our Governments and society, as a whole, begin to give due importance to the issue at hand. To achieve this, all that is needed is a little integrated political will among public agents who have the necessary skills, as well as the dedication and will of Brazilian families.

Crime, increasingly organized and strong, is always ready to entice our young people. Investments in modern educational projects, rehabilitation clinics for addicts, in short, essential measures to help young people out of delinquency and prevent others from entering, are extremely urgent.

Thus, although the Brazilian legal system has introduced the Doctrine of Integral Protection through article 227 of the Federal Constitution, which declared that it is the duty of the family, society and the State to ensure, to children and adolescents, with absolute priority, the right to life, health, food, education, leisure, professionalization, culture, dignity, respect, freedom and family and community coexistence, in addition to keeping them safe from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression, we must talk, think and act in order to really make all this protection effective. Seek actions and measures that guarantee these rights and that, effectively, remove any possibility of these children and adolescents entering into crime, since, after entering this life, it is difficult to see an opportunity taken to leave. Once they join the school and "family" of crime, unfortunately, it is almost impossible to leave!

## REFERENCES

CURY, M. (coordination). **Commented status of children and adolescents: legal and social comments.** 9th ed., current. São Paulo: Malheiros, 2008.

CURY, M.; PAULA, PAG de; MARÇURA, JN **Statute of children and adolescents noted.** 3rd ed., rev. And current. São Paulo: Revista dos Tribunais, 2002.

HIRSCHI, T. Causes of Delinquency. **Berkeley:** University of California Press, 1969. Available at: <http://www.cruzeirodovale.com.br/geral/por-que-tantos-adolescentes-estaose-envolvendo-na-criminalidade-/>. Accessed on: 12 Mar. 2020.

LEVISKY, D.L. **Aspects of the adolescent identification process in contemporary society and its relationships with violence.** São Paulo: Casa do Psicólogo, 2000