

The right to education and adolescents in socio-educational measures with deprivation of freedom during the COVID-19 pandemic: educators' perception

O direito à educação e os adolescentes em cumprimento de medida socioeducativa com privação de liberdade durante a pandemia de COVID-19: a percepção dos educadores

El derecho a la educación y los adolescentes en medidas socioeducativas con privación de libertad durante la pandemia COVID-19: percepción de los educadores

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ABSTRACT

The study aimed to know the perceptions of educators working with adolescents deprived of liberty regarding the guarantee of the right to education that was provided to them during the COVID-19 pandemic in 2020 and 2021. It was developed based on data produced from interviews with pedagogical coordinators and questionnaires applied to teachers working in schools located in a delimited area of São Paulo city. The data were processed using content analysis. They revealed the educators' perceptions regarding changes in teaching and learning conditions and processes. These perceptions covered the work of teachers, as well as the learning of adolescents, and emphasized the problems caused by the lack of face-to-face and remote interaction between teachers and students. The guarantee of the right to education was problematized by the educators, considering that there was only formal access to education, not quality education.

Keywords: Right to Education. Adolescents. Socio-Educational Measure. COVID-19.

RESUMO

O estudo buscou conhecer as percepções de educadores que atuam com adolescentes privados de liberdade sobre a garantia do direito à educação assegurada a eles durante a pandemia de COVID-19, nos anos de 2020 e 2021. Desenvolveu-se por meio de dados produzidos com base em entrevistas com coordenadores pedagógicos e de questionários aplicados a professores atuantes em escolas localizadas em área delimitada do município de São Paulo. Os dados foram tratados pela análise de

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conteúdo, por meio da qual foram destacadas as percepções dos educadores ligadas às alterações das condições e dos processos de ensino-aprendizagem. Essas percepções abrangeram o trabalho docente, bem como o aprendizado dos adolescentes, e enfatizaram os problemas causados pela falta de interação presencial e remota entre educadores e educandos. A efetivação do direito à educação foi problematizada pelos educadores, considerando-se que houve apenas acesso formal ao ensino, e não educação de qualidade.

Palavras-chave: Direito à Educação. Adolescentes. Medida Socioeducativa. COVID-19.

RESUMEN

El estudio buscó conocer las percepciones de educadores que trabajan con adolescentes privados de libertad sobre la garantía de su derecho a la educación durante la pandemia del COVID-19 en 2020 y 2021. Se desarrolló a partir de datos producidos en entrevistas con coordinadores pedagógicos y cuestionarios aplicados a profesores que trabajan en escuelas localizadas en un área definida del municipio de São Paulo. Los datos se analizaron mediante el análisis de contenido, que puso de relieve las percepciones de los profesores sobre los cambios en las condiciones y procesos de enseñanza y aprendizaje. Esas percepciones abarcaron tanto el trabajo docente como el aprendizaje de los adolescentes y destacaron los problemas causados por la falta de interacción presencial y a distancia entre educadores y alumnos. La realización del derecho a la educación fue problematizada por los educadores, al considerar que sólo había acceso formal a la educación y no una educación de calidad.

Palabras clave: Derecho a la Educación. Adolescentes. Medida Socioeducativa. Covid-19.

INTRODUCTION

In Brazil, the 1988 Federal Constitution confers a social character to the right to education (*apud* Duarte, 2007). It is understood that education transcends individual limits, since, even though it represents, for a subject, a form of insertion into the world of human culture, for society it is a common good in that “it represents the search for the continuity of a way of life that is deliberately chosen to be preserved” (Duarte, 2007, p. 697).

Despite having a significant presence in the national legal apparatus, several issues involve the right to education in Brazil. Saviani (2013) presented how the conflict between the right to education and the duty to educate historically developed, with an interest in the distinction between the proclamation of rights and their implementation. Identifying a historical resistance from public authorities to invest in education and, consequently, to lead the State to fulfill this duty, the author highlights not only the tendency to transfer responsibility from the State to civil society in the form of philanthropy, but also the public-private promiscuity that permeates state policies and actions.

Cara (2019) — for whom the right to education is the right to appropriate culture, being inherent in the human condition and necessary for the full enjoyment of life — states that, for this right to be realized, two efforts, or tasks, are necessary: that of teaching and that of learning, carried out respectively by educator and student. Thus, the conditions necessary for the realization of these two tasks are what the right to education must guarantee. By stating that the teaching-learning process takes place in schools, he considers that learning is the individual appropriation of the culture taught and teaching is the work of educators to facilitate student learning.

However, in Brazil, the path has been the opposite, as a result of ultraliberal and ultraconservative perspectives that permeate Brazilian society, states Cara (2019). For ultraliberals, education is, above all, a factor that drives the economy, and thus their focus falls on demanding student performance and not on the conditions necessary for education to take place. Ultraconservatives, seeing education as a strategy for political domination, create a false opposition between pedagogy and discipline, promoting, through authoritarianism, the suppression of the appropriation of culture in a free and emancipatory way (Cara, 2019). Thus conceived, education takes on a meaning opposite to that indicated by Paulo Freire (1967; 1996), for whom students should have the right to a challenging education, based on an educator-student relationship in which it is recognized that the knowledge of both is equally relevant to the realization of the pedagogical act. This encounter is what allows us to foster an emancipatory, dialogical education for freedom, guided by critical awareness.

The right to education is also the subject of the Statute of Children and Adolescents — ECA (Brasil, 1990), which provides for the comprehensive protection of Brazilian children and adolescents and establishes in the normative sphere the concept that these are subjects of rights who experience the peculiar condition of a person in development. The Statute states that they are guaranteed, by law or by other means, all the opportunities and facilities necessary to enable physical, mental, moral, spiritual and social development, in conditions of freedom and dignity. It is up to the family, the community, society in general and the public authorities to guarantee them, with absolute priority, a set of rights among which is the right to education.

The ECA also contains references that highlight the condition of children and adolescents who have been charged with offenses, seeking to reconfigure the legal, political-administrative, and social structure that prevailed for decades in the country, as shown by Rizzini and Pilotti (2011). In that scenario, whether under the 1927 Minors' Code or the New Minors' Code of 1979, children, adolescents, and families living in poverty were essentially addressed through surveillance, repression, and correction, which maintained the repeated violation of their rights. Judges had the power to decide on the applicable actions in legal cases involving children and adolescents, which frequently resulted in their confinement and segregation in institutions that reproduced the punitive prison culture already applied to adults, especially when they housed young people considered "delinquents." With the ECA, in contrast, it was established that, through a legal investigative procedure, adolescents between 12 and 18 years of age who had committed infractions must be held accountable through the fulfillment of socio-educational measures in a manner proportional to the seriousness of the damage caused. The nature of the measure must be essentially educational and vary in intensity with regard to the restriction of the adolescent's rights, and it may range from a warning to confinement in an educational institution, that is, with deprivation of liberty, also called the "internment" regime (Brasil, 1990).

Specifically, regarding the socio-educational measure of internment, the ECA establishes that it should only be applied when there is no other more appropriate measure, and that it is subject to the principles of brevity, exceptionality, and respect for the peculiar condition of a person in development. Its application should occur when it is found that "an infraction was committed through serious threat or violence against a person; due to repeated commission of other serious infractions; due to repeated and unjustifiable non-compliance with a previously imposed measure" (Brasil, 1990, p. 55). However, there has been a noticeable inconsistency with what is determined by the ECA, mainly regarding the exceptional nature of confinement. According to Sposato and Moitinho (2021, p. e225885), "despite the guarantees proposed by the Statute, forensic practice is not always aligned with it." In this sense, they affirm that it has been observed that the measure of confinement is systematically imposed with weak legal justification and, in many cases, without due consideration of the legal requirements demanded by the ECA. This leads to an excessive number of adolescents deprived of freedom in the

country, confined for long periods and subjected to chronic overcrowding, verified in a large part of the units carrying out the measure (Brasil, 2019). In addition to coming from the most vulnerable segments of the population, these adolescents often have a school trajectory marked by learning difficulties, grade repetition, age-grade distortion, and dropout (Borba, Lopes and Malfitano, 2015).

In the state of São Paulo, the Foundation for the Center for Socio-Educational Care for Adolescents (CASA) is the institution responsible for the execution of socio-educational measures in a closed environment, working with young people aged 12 to 21, and is linked to the Secretariat of Justice and Citizenship Defense. In the Detention Centers maintained by the Foundation, adolescents must have their right to education ensured. They must be offered basic education to provide continuity of their studies, in addition to vocational courses and sports and artistic activities. The responsibility for offering basic education lies with the Secretariat of Education of the State of São Paulo (SEDUC-SP), with the support of the CASA Foundation. The classes, often multi-grade, are created and operated in the CASA Foundation's Detention Centers by public schools from the regular network (also known as "linking schools"). These schools are designated by the Education Boards, on the basis of criteria such as geographic location and other aspects defined by law (São Paulo, 2017).

In accordance with the ECA, the National System of Socio-educational Measures — SINASE (Brasil, 2012b) states that socio-educational measures aim to promote the adolescent's accountability for the harmful consequences of the infraction, as well as to integrate them into society, ensuring the guarantee of their individual and social rights. However, there are many questions about the effectively educational nature of the socio-educational units, as well as their capacity to guarantee rights (Oliveira, 2014). On the one hand, adolescents serving socio-educational measures are denied the development of reflective and critical capacity through educational practices aligned with ideals of conformity and adaptation to prevailing values and norms (Raniere, 2014). But, even more seriously, according to diagnoses carried out by agencies such as the National Council of Justice (Brasil, 2012a) and the National Council of the Public Prosecutor's Office (Brasil, 2019), violent and punitive practices are structural characteristics of the socio-educational system. Within the CASA Foundation, the complexity of relationships and rationalities through which institutional violence is reproduced has been exposed in works such as those by Mallart (2014) and Almeida (2022).

With the start of the COVID-19 pandemic in Brazil in March 2020, the situation of school education was profoundly transformed throughout the country. Due to information that physical contact should be avoided to curb the spread of contamination by the novel coronavirus, which causes the disease, face-to-face classes were soon partially or totally suspended, giving way to the adoption of non-face-to-face teaching strategies and the use of remote teaching technologies (INEP, 2022). With regard to the school activities of adolescents who, at that time, were serving a socio-educational measure involving deprivation of liberty, under the custody of the State, the challenge of making changes to the usual ways of implementing the teaching-learning process by the linking schools — these well described and discussed by Olic (2017) — also arose.

Thus, taking into account that the right to education applies to all Brazilian children and adolescents, without distinction, as well as the importance of the school experience to promote equal opportunities (Cury, 2002), the study started from the question of the access of adolescents deprived of liberty to this right during the COVID-19 pandemic in the municipality of São Paulo. It also took into account that, as evidenced by studies such as those by Antão (2013), Padovani and Ristum (2013), Albuquerque (2015) and Cunha and Dazzani (2016), education has a relevant place in socio-educational processes in a closed environment. In light of this, the study sought to understand the perceptions of educators who worked in affiliated schools regarding the realization of the right to education for incarcerated adolescents, considering the new working conditions for teachers and students implemented throughout 2020 and 2021.

METHODOLOGICAL APPROACH

The study, of a qualitative nature, was exploratory and descriptive (Gil, 2008). Its data were produced from questionnaires and interviews with educators, who were teachers and pedagogical coordinators from schools that serve adolescents from Detention Centers in the municipality of São Paulo under the management of the Northwest Metropolitan Regional Division (DRMNO) of the CASA Foundation. This division operates in the neighborhoods of the north and west zones, such as Pirituba, Vila Maria, Parque Ipê, and Raposo Tavares, while the Southwest Metropolitan Regional Division is responsible for the Detention Centers located in the neighborhoods of the other zones of the municipality.

From the identification of the school units that served the adolescents from the DRMNO Detention Centers during the established period, face-to-face interviews were conducted with each of the pedagogical coordinators of these units, and information was collected from their teachers through individual electronic questionnaires. Of the five schools in the DRMNO's coverage area, four agreed to participate in the study.

Semi-structured interviews (Gil, 2008) were conducted with five pedagogical coordinators working in these units, two of whom worked in the same unit. The interviews took place in May and June 2022, on the premises of the affiliated schools, on days and times scheduled by mutual agreement between the researcher and the participants.

The teachers who taught adolescents in the Detention Centers in the DRMNO area during the pandemic were approached through electronic questionnaires. Nineteen completed questionnaires were obtained, out of the 40 sent to all teachers in the four schools. The questionnaire consisted mainly of open-ended questions and was sent to the teachers by the pedagogical coordinator of each of the participating schools. Mailing began in May 2022, and responses were accepted until the end of July of the same year.

Both instruments — interview script and electronic questionnaire — were developed by the researcher, presenting questions that sought to encompass the following qualitative variables related to the research problem: changes that occurred during the pandemic period in relation to the educational processes implemented with young people from CASA Foundation; and the educators' perception of the guarantee of the right to education in these circumstances.

Data analysis involved examining the content of the teachers' responses to the questionnaire and the content of the interviews with the pedagogical coordinators. The phases outlined by Bardin (1977) for the categorical analysis process were followed. Thus, after the preliminary analysis, with successive readings, the material was coded, establishing thematic recording units, centered on the following "core themes" (Bardin, 1977, p. 106): changes in the conditions of teaching work; changes in the work process and in the didactic-pedagogical strategies; changes in teacher-student interaction; positive considerations about the changes in the teaching work process and in didactic-pedagogical strategies; negative considerations about the changes in the teaching work process and in didactic-pedagogical strategies; and the right to education of students deprived of liberty. In the categorization phase, following the principles indicated by the author, three categories emerged through semantic approximation: perceptions about the conditions, practices, and quality of the work developed by educators with adolescents at CASA Foundation during the pandemic (2020 and 2021); perceptions about the teaching-learning processes developed with adolescents at CASA Foundation during the pandemic (2020 and 2021); and relationships between the conditions of teaching work, the teaching-learning process, and the right to education.

The age of the 24 study participants (identified here by numbers) ranged from 38 to 52 years, and the length of time working with adolescents at CASA Foundation was, at the time, predominantly two to seven years, with two teachers having more than 20 years of experience. Regarding gender

identity, 12 participants in the teacher subgroup identified as women and seven as men, and, in the coordinator subgroup, four identified as women and one as a man.

Documentary research on national, state, and municipal educational regulations established before and during the pandemic period was essential to clarify and contextualize the possibilities and limitations created by the legal-institutional environment implemented during the study period.

The study complied with the ethical standards defined for research with human beings, having been approved by the Research Ethics Committee of the Faculty of Philosophy, Letters and Human Sciences of the University of São Paulo on April 19, 2022 (Approval No. 5,357,542). In addition to this approval, even without the direct involvement of professionals or adolescents from CASA Foundation, the research project was reviewed and authorized by the sector responsible for analyzing studies to be carried out at the institution.

RESULTS AND DISCUSSION

TEACHING-LEARNING PROCESS OF ADOLESCENTS DEPRIVED OF LIBERTY DURING THE PANDEMIC AND EDUCATORS' PERCEPTIONS OF TEACHING WORK UNDER THE ESTABLISHED CONDITIONS

Right at the beginning of the pandemic, Recommendation No. 62 of March 17, 2020, from the National Council of Justice (CNJ), instructed magistrates to reassess determinations regarding compliance with socio-educational measures of confinement and semi-liberty, indicating that socio-educational measures in an open environment should be applied preferentially. In addition, it requested a review of decisions that applied confinement as a sanction (to adolescents who violated previous measures), especially when intended for breastfeeding, pregnant, and indigenous adolescents (Brasil, 2020). The Recommendations of the National Council for the Rights of Children and Adolescents (CONANDA) for the comprehensive protection of children and adolescents during the COVID-19 pandemic (Ministério da Mulher, da Família e dos Direitos Humanos, 2020) corroborated the CNJ Recommendation and highlighted the need to guarantee the rights of these adolescents, as well as to carry out actions to ensure the educational character of socio-educational measures during the health emergency period.

The indication of a preference for open settings encompassed both the prison system and the socio-educational system, and the resolution text reflects public recognition of the precarious conditions to which people deprived of their liberty in the country are subjected. Among other problems, it references the high rate of transmissibility in these conditions and the significant increase in the risk of contagion in prison and socio-educational establishments, given factors such as overcrowding, unsanitary conditions in the units, and difficulties in ensuring compliance with minimum hygiene procedures and rapid isolation of symptomatic individuals (Brasil, 2020). The degrading conditions to which adolescents deprived of their liberty may be subjected, whose rights the State is responsible for guaranteeing at all times, were clearly and directly exposed.

In the state of São Paulo, decrees and resolutions from SEDUC-SP sought to organize and manage the pandemic reality in the field of education, such as Resolution SEDUC-SP No. 44, of April 20, 2020 (São Paulo, 2020a) and Resolution SEDUC-SP No. 45, of April 20, 2020 (São Paulo, 2020b). In these, as well as in the Guiding Document — Non-Face-to-Face School Activities (São Paulo, 2020c), the implementation of non-face-to-face activities with elementary and high school students during the period of physical distancing was instituted, as well as the advancement of vacations and recesses for students and teachers, among other aspects. Adolescents serving socio-educational measures involving deprivation of liberty were provided with guidelines for *education in contexts of deprivation of liberty*: non-face-to-face activities should be organized in the form of *study plans* prepared by teachers,

considering the heterogeneity of the classes they were addressing (almost always multi-grade), and printed out. These guides should be sent weekly by the school units to the detention centers, according to a flow established between these institutions. Mention was made of the fact that there would be no interaction between teachers and detained students in many detention centers (São Paulo, 2020c).

The guidelines issued by SEDUC-SP do not assign responsibilities for presenting study guides to incarcerated adolescents. It was up to the Detention Center to determine who would present and guide these activities to them. According to one of the coordinators interviewed, “the teachers made the printed guides and sent them. I know some went there to deliver them, but also Foundation employees came to pick them up here at the school. There was no standard to follow” (pedagogical coordinator 3). Regarding the presentation of activities to adolescents, educators reported a lack of knowledge. One of the coordinators interviewed stated, “I don’t know how it was done inside [the Detention Center]. We weren’t informed of anything” (pedagogical coordinator 5). Several teachers also pointed out that there had been no planning, meetings, or contact between the teachers of the affiliated schools and the professionals of the Detention Center, perceiving this absence as detrimental to the quality of the teaching work. One of the research participants mentioned that the information provided was quite generic: the presentation of the guides to adolescents was the responsibility of the Pedagogical Sector of each Detention Center. In the educators’ own words, it is noted that the mediation between the educational proposals and the students was carried out by agents whose professional skills were unknown, and the method employed was not agreed upon nor discussed with the participation of the educators who would implement it. One of the pedagogical coordinators interviewed stated that the study guides were presented to the adolescents by “jailers,” that is, by people without the necessary competence to support the students in the activities, in her view. According to her, for this reason “the printed activity lacked the necessary pedagogical guidance during a large part of the pandemic” (pedagogical coordinator 4). It is worth briefly commenting here on the coordinator’s use of the term jailer, since this highlights that, even among educators, one can notice the strength of the social imaginary that attributes a punitive function to these units, which can extend to the identification of these adolescents as criminals (Misse, 2010).

This point also predominated among the negative considerations of the teachers regarding the changes in the teaching work process and the didactic-pedagogical strategies adopted during the period, where the harm caused by the lack of proper educator/student interaction was frequently emphasized. Motivated by this concern, as he stated, one of the teachers said: “I tried to explain [the activities] coherently and in minute detail in writing, in each exercise, in each new content, inserting it in the simplest way so as not to hinder learning” (teacher 8). The teacher mentioned this example in the context of presenting his efforts but did not refer to the results achieved.

Teachers and coordinators also pointed out problems in the operationalization of the proposed changes, as well as the lack of adequate support to deal with their inconveniences. For one of the coordinators,

It’s very tiring separating activities..., printing..., all of that. The teachers [...] print here at the school and take it there, and then the Foundation staff brings it back, or they go to print at the Education Board, which has a better, faster printer. Because it’s a lot of work (pedagogical coordinator 3).

Presenting their point of view on the difficulties that the implemented method brought, one of the study participants added that part of the financial cost of the proposal fell on the teachers themselves: “The printing of activities was done by teachers at the Education Board, and we didn’t even receive money for gasoline from the government, because we were in distance learning. This caused embarrassment” (teacher 4).

In general, educators listed common difficulties and negative considerations about the educational work of that period. One of the most prevalent concerns the set of obstacles encountered in operating the procedural dimension of learning, since the detection of students' difficulties, when possible, did not allow for a clear identification of their components, and, consequently, an attentive and procedural follow-up of these difficulties. The lack of communication with students was pointed out as a decisive factor in the cause of this problem. Thus, several concerns of the educators about the quality of the teaching-learning process emerged in the teachers' responses related to these difficulties. As one of them stated, "the activities returned without being resolved [by the adolescents]. And the management of the [detention] unit claimed that it was due to a lack of staff from the Safety Secretariat" (teacher 4). In addition to highlighting a significant problem in the basic conditions for teaching, this statement shows once again the association made by the teacher between Detention Centers and the function of combating crime, since he attributes to the Public Safety Secretariat responsibility for managing the activities that take place there.

EDUCATORS' PERCEPTIONS OF STRATEGIES AND RESOURCES ADOPTED IN THE TEACHING-LEARNING PROCESS DURING THE PANDEMIC

The guiding document (São Paulo, 2020c) listed possible strategies for conducting non-face-to-face activities with basic education students in the state of São Paulo, such as the use of digital platforms (Matific and Stoodi, among others), printed materials and books, as well as live classes broadcast from the SEDUC-SP studios, accessible through social networks or through the free application and open TV called Centro de Mídias da Educação de SP. In these classes, students could interact in real time with teachers through the chat system, asking questions or making comments. All content, it is reported, would be available for asynchronous consultation.

In view of the guidelines in this document, a different approach was suggested for adolescents deprived of liberty. The use of any type of digital teaching platform or environment, internet or microcomputers and tablets was not contemplated, with the printed study guide being the only resource mentioned (São Paulo, 2020c). No justifications were given for this restriction, whether related to security issues or the lack of technological resources in the institutions.

The educators participating in the research confirmed that this determination was followed, with 100% of those who responded stating that activities printed on paper were the main means of contact with the adolescents. Only 21% (4) of them stated that they had adopted complementary educational resources. One of these resources was the short video, created using the teacher's personal cell phone, with simple technology available on the mobile phone. The attempt made by these teachers, according to themselves, was to create ways to facilitate understanding of the content present in the activity scripts, this being an individual, voluntary initiative without institutional support. According to the teachers, these videos could be transmitted to adolescents through the Detention Center television, since the files were made available through a portable device (pen drive). One of them reports:

During the pandemic, I worked with textbooks, workbooks, and video lessons I recorded myself to assist in learning and developing activities, since the students did not have internet access. The students watched the videos and then worked with the material sent to the Detention Center (teacher 1).

The information that it would be possible to provide audiovisual materials to the young offenders via television is not included in the guidance document.

Given that it was also possible to transmit larger digital files, containing films or documentaries, via pen drive, some teachers adopted them occasionally and created activities related to the appreciation of these contents. Although teachers believe that these initiatives may have contributed to student learning, the lack of synchronous interaction was pointed out as a limitation for the pedagogical use of audiovisual resources, as well as for the development of more creative and stimulating educational activities. For educators, the impossibility of remote dialogue mediated by technology — as was offered to other students in the network — negatively impacted elementary pedagogical dimensions, such as the exploration of curricular content and the clarification of doubts, but also the welcoming and listening that is provided to adolescents as part of the daily relationship between them. In this sense, the educators considered that interpersonal interactions and exchanges, even if they could only take place remotely, could have minimized the damage to the collective knowledge construction process.

Reflecting on possibilities for addressing the problems generated by the lack of direct contact with students, the educators pointed out that the use of digital technologies, such as video calls and synchronous classes through applications, could have been adopted even if the premise of not allowing internet access for incarcerated adolescents was maintained. From this perspective, the prohibition was perceived by educators as a factor that subtracted some important educational opportunities from the educational process, deepening vulnerabilities already present in the school trajectory of these adolescents. Suggestions from the teachers involved the regulated use of digital tools, integrating “more dynamic classes, where students could have access to the internet to carry out research and use mathematical applications” (teacher 4) and “a room with internet controlled by the agents for live transmission of classes” (teacher 6). In the educators' view, the government could have made a greater effort to facilitate access to digital tools for young offenders, given the evident educational setbacks observed over time.

Although internet access is not a reality for all Brazilian schools, nor for all teenagers, it is worth noting that, considering only the municipality of São Paulo and its 2,381 public schools, a study by the National Institute of Educational Studies and Research (INEP) found that, in 2021, 92.9% of schools made teaching and learning materials available online — videos, podcasts, social media posts, and the use of virtual platforms and mobile applications —, and 59.8% conducted live online classes, allowing for direct interaction between teachers and students. These tools were used in conjunction with printed materials, picked up at the school or delivered to students (INEP, 2022). Thus, without disregarding the problems inherent in remote learning — widely discussed by Saviani and Galvão (2021), among other researchers —, the teachers highlighted the inequality in the provision of educational opportunities promoted by the State, considering the adolescents in regular education who enjoyed freedom during the pandemic and those deprived of it. In this sense, it is worth remembering that the number of adolescents serving socio-educational measures in custodial units in the state of São Paulo was significant. Even after the guidelines issued by Recommendation No. 62 of March 17, 2020, from the CNJ for the reduction of adolescent internments, the 2022 Yearbook prepared by the Brazilian Forum of Public Security shows that there were 4,675 adolescents interned in the Detention Centers of the state of São Paulo in 2020, and 4,847 in 2021 (Fórum Brasileiro de Segurança Pública, 2022). This maintained São Paulo's position as the federative unit with the highest number of incarcerated adolescents in Brazil.

THE RIGHT TO EDUCATION DURING THE PANDEMIC AND ADOLESCENTS DEPRIVED OF LIBERTY

In 2020 and 2021, the topic of the right to education was on the agenda in Brazilian society, mainly addressed from the perspective of access to so-called “emergency remote learning.”

The advent of the new coronavirus pandemic brought to light not only the existing economic inequalities in the country, but also educational and digital inequalities (Almeida and Dalben, 2020). A significant portion of Brazilian children and adolescents lacked the basic conditions to participate in remote learning activities: microcomputers, access to broadband internet, adequate home spaces for study, among others. Thus, several criticisms were leveled at the fact that the pedagogical use of digital tools would not favor the participation of socially vulnerable segments of the population, restricting the exercise of the right to education to certain social strata.

When asked if the right to education had been guaranteed to adolescents deprived of liberty, the educators participating in the study took different positions. Some teachers considered that the right was not guaranteed, answering this question negatively without detailing their considerations. “They did not have [the right to education guaranteed]” was the response from teacher 2, for example. A small portion of the teachers considered that the right was guaranteed, highlighting that the students had access to the study guides: “Yes. Despite the difficulties, all the activities reached the students in every way, and were corrected” (teacher 4). The realization of the right to education, in this way, was essentially addressed by maintaining the formal procedures of the educational process. But most teachers presented less assertive answers, stating that positive or negative answers could be given, depending on the angle adopted or the factor prioritized to analyze the right to education.

The pedagogical coordinators, on the other hand, were eloquent in concluding that the right was not guaranteed, problematizing the quality of the teaching practiced:

The population has a right to education, but often it is not a quality education. If you think about it that way, they had [the right guaranteed]. Because they continued to receive instruction. They didn’t stop receiving printed materials for a single week. [...] Now, the right to quality education, as the Constitution says, [...] I don’t think so. There was no change, no different perspective on the education of these young people. Couldn’t they have put in a television? Couldn’t they have done a meeting (synchronous class)? I think that quality education — whether in school or at the Foundation — should prioritize the student’s needs (pedagogical coordinator 4).

Formally, yes, the right was guaranteed because there were teachers, assignments, assessments, and the hours were counted. But beyond the formal aspects, if you consider teacher training, burnout, lack of resources, and precarious working conditions, it wasn’t guaranteed. Distance learning was disastrous, despite all efforts, especially ours. Everything was compromised (pedagogical coordinator 3).

By broadening the discussion about the right to education beyond its meaning in the sphere of access, bringing educational praxis to the forefront, these educators illustrated the right to education in a way that made it more complex and expressed perceptions that associate teacher working conditions, ways of educating, and resources involved in the teaching-learning process. In fact, without disregarding that access to education and educational coverage continue to be part of the country’s challenges, and that there are persistent needs related to the construction of schools and the increase in number of institutions and enrollments, the existence of a common standard in the education quality has been pointed out as a goal that is organically associated with the realization of the right to education, as discussed by Saviani (2013) and Cara (2019).

According to Gadotti (2010), the quality of education is not an easily defined proposition, as it is a dynamic and political concept that changes historically, according to a set of intra- and extra-school variables (conceptions of teaching, teacher training, investments, public policies, among others).

The author considers quality a markedly social factor, as it equally empowers everyone to participate in community life and practice citizenship. From this perspective, if quality is for the few, becoming a privilege, the right is not realized. Thinking about the right to education implies considering that achievements are the result of permanent struggles and demands, and the democratization of education requires questioning everyday selection mechanisms that promote the exclusion of certain social fractions from the educational system.

The coordinators of the participating affiliated schools in the study, as well as the other teachers who problematized the quality of education as a foundation of the right to education, suggest, therefore, that adolescents deprived of liberty during the pandemic period in the municipality of São Paulo were part of those excluded from this right. The educational opportunities offered were insufficient to provide what, from their perspective, would be elements that confer quality to the teaching-learning process. Dimensions of quality such as the educational environment and the working conditions of teachers and students were considered as relevant as access to and retention in school for guaranteeing the right to education. Adopting Cara's (2019) perspective, it is possible to say that the statements of educators — pedagogical coordinators and teachers — indicated a lack of adequate conditions to ensure the right to education. Although schooling was not interrupted, safeguarding access to school activities for the detained adolescents, there was a compromise in the two tasks that make the right to education effective: teaching and learning (Cara, 2019).

FINAL CONSIDERATIONS

The quality of education offered to Brazilian children and adolescents is a complex issue, inseparable from debates about the right to education. The adolescents served by the schools participating in this study are included in this scenario as members of the most socially vulnerable segments of the population and, even before receiving the determination to comply with a socio-educational measure, they were part of the statistics that show the high rates of school dropout and age-grade distortion affecting these segments. One might think that, obviously, they should be the ones to receive the greatest attention from educational plans aimed at a more egalitarian society or, even, plans that simply fulfill their duty to prioritize the fundamental rights of children and adolescents. They should be the target of the best opportunities created to reverse already known difficulties.

However, the educators do not consider this to have been the path taken, as the opportunities for formal education offered to these adolescents were different during the COVID-19 pandemic. This different treatment compared to that given to students not deprived of liberty, far from positively addressing the unique needs of this group, seems to have further restricted their learning opportunities, according to them. Without the possibility of dialogical interactions, as part of processes through which they might be able to constitute themselves as subjects with autonomy and responsibility, these students were doubly disadvantaged: in the educational system (prior to detention) and in the socio-educational system, even though they were guaranteed access to education.

Further studies are needed to understand different dimensions of the right to education when dealing with adolescents in state custody during the pandemic. It is also important to consider the existing available evidence regarding the error of uncritically adopting digital technologies as a mediator in education. For now, the reflections arising from this investigation add to those that question the educational nature of socio-educational measures involving incarceration, highlighting that, from the educators' perspective, these adolescents were not offered the necessary opportunities to appropriate culture and, consequently, benefit from it upon their return to life in freedom.

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