

Right to early childhood education: legal, collective and individual protection

Direito à educação infantil: proteção legal, coletiva e individual

Derecho a la educación de la primera infancia; protección legal, colectiva e individual

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Abstract: This article analyses the right to early childhood education as legal, individual, and collective protection, through research involving systematization, analysis, and gathering of documents produced in federal scope. It was captured that such a right is connected to the basic principle of democracy – the defense of social rights prescribed by the Federal Constitution of 1988, which protects human rights and judges internal conditions for the imposition of legal guarantees that all citizens must have since birth, that is, an individual right. Early childhood education as a social right demands legal protection, the guarantee of universality, by law, so that, in practice, the access and frequency of each Brazilian child in daycare centers and pre-school facilities are fulfilled as an individual right. The solidification of the universality of early childhood education depends on the implementation of public policies, in which the procedures and main goals are established by the constitutional text.

Keywords: early childhood education; right to education; social right.

Resumo: O artigo analisa o direito à educação infantil como proteção jurídica, individual e coletiva, por meio de uma pesquisa que compreendeu coleta, sistematização e análise de documentos produzidos em âmbito federal. Pôde-se apreender que tal direito está em conexão com o princípio básico democrático – a defesa dos direitos sociais prescritos na Constituição Federal de 1988, que salvaguarda os direitos humanos e ajuíza as condições internas de imposição das garantias legais que todo cidadão tem desde seu nascimento, isto é, seu direito individual. A educação infantil como direito social exige proteção jurídica, a garantia da universalidade em lei, para que, na prática, o acesso e a frequência de cada criança brasileira, em creches e pré-escolas, sejam cumpridos como direito individual. A concretização da universalidade da educação infantil depende da realização de políticas públicas, cujos procedimentos e objetivos gerais estão estabelecidos pelo texto constitucional.

Palavras-chave: educação infantil; direito à educação; direito social.

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Resumen: Este artículo analiza el derecho a la educación infantil como protección jurídica, individual y colectiva, a través de una pesquisa que incluyó la recolección, sistematización y análisis de documentos producidos a nivel federal. Se pudo entender que este derecho está en conexión con el principio democrático básico – la defensa de los derechos sociales prescritos en la Constitución Federal de 1988, que salvaguarda los derechos humanos y juzga las condiciones internas para la imposición de garantías legales que todo ciudadano tiene desde su nacimiento, es decir, su derecho individual. La educación de la primera infancia como derecho social requiere la protección jurídica, la garantía de universalidad en la ley, para que, en la práctica, el acceso y la frecuencia de cada niño brasileño a las guarderías y jardines de infancia se cumplan como un derecho individual. La realización de la universalidad de la educación infantil depende de la implementación de políticas públicas, cuyos procedimientos y objetivos generales son establecidos por el texto constitucional.

Palabras clave: educación infantil; derecho a la educación; derecho social.

1 INTRODUCTION

Every child in the world
Should be well protected
Against rigors of time
Against rigors of life.
(Ruth Rocha)

This ideal, expressed through Ruth Rocha’s poetry, is synchronic with the basic principle of democracy, which determines the defense of the social rights set in the Article 6 of the Federal Constitution of 1988 (CF/1988), which are: “[...] education, health, food, work, housing, transportation, leisure, security, social welfare, protection of childhood and motherhood and assistance to the destitute, as set in this Constitution” (BRASIL, 1988). In other words, every “child needs to have a name, needs to have a home, health and can’t be hungry, needs to have security and to study” (ROCHA, 2014, p. 18, translated by the authors).

Social rights lead to full human personality development and to the fortification of respect for human rights and fundamental freedoms, which express the ethical understanding of a State that gives legitimacy to all human rights and judges internal conditions for the imposition of citizen’s legal guarantees by the State, enabling political actions and social relationships.

Educational policies are embedded in social policies that must be idealized and organized by public administration. However, there are contradictions in this

line of thought, once we live in a neoliberal capitalist country where wealth production is associated with private companies, banks and oligopolies, which contest social policies, for understanding that they conflict with economic development, as they constitute expenses with no return; so, those private institutions seek to influence the economy in a way that it follows the same orientations as neoliberal countries, such as the United States.

According to the neoliberal theory, social policies must be understood in a junction between social policies and national security problems. This point of view disrupts social movements, which lose their protagonism in the fight for their rights, once they are linked to a security matter. In this case, democracy is threatened, given that it will no longer be built by the people. (GONÇALVES, 2012).

Brazil, although having a “rooted liberalism” (GONÇALVES, 2012, p. 640), throughout the 1980’s until 2012, was one of the countries that most assure the rights, in form of laws that guarantee them, to children and adolescents, and the full exercise of citizenship, although the way educational policies are being held since 2015 is very worrisome, considering that social rights are being mistaken by services that can be sold by the market, which follows competition laws, that many times seek to violate human, social and labor rights. However, regarding children’s rights, even the market needs to understand that “[...] is not a question of wanting, either agreeing. Everyone needs to protect children’s rights” (ROCHA, 2014, p. 18, translated by the authors), “[...] with no discrimination towards race, color, sex, language, religion, birthplace, social class or wealth. Each and every child in the world must have their rights respected”, it is what prescribes the Declaration of the Rights of the Child (ONU, 1959, translated by the authors), from which Brazil is a signatory.

When the reversion of this concept happens, the right to education may be mistaken with an individual action, and not social. The individualism, historically present in Brazilian educational policies, contains values and behaviors that are owned by the market, such as meritocracy. Therefore, it highlights even more the independence in detriment to the commitment with social rights (IANNI, 1997; NEVES, 1999).

This mutation inside the education concept has major consequences on law’s effectiveness, since it creates actions which retrocede achievements made by civil society sectors which, since the 80’s, “have articulated to open and expand

spaces of political actions for groups that claimed individual guarantees and rights and, especially, the right to participate in political decisions” (BIGARELLA, 2015, p. 45, translated by the authors), under the context of fighting for the return of democracy and for the right to citizenship- that is, the political, legal and social recognition of citizen’s rights and duties, guaranteed by law. It is legal recognition of one’s sense of belonging as a member of a state society (BOBBIO, 2004).

In this context, citizen’s existence should already be enough to guarantee rights provided by law, without having the need to claim them. Citizenship is related to human dignity, which alludes to the ethical and moral supreme value of all fundamental rights inherent to an individual. This protection is the *sine qua non* condition to the building of a free, fair and supportive society, as it is prescribed in the Article 3 of the Federal Constitution of 1988.

This link between citizenship and education is quoted on the Article 205 of the Federal Constitution of 1988, when it determines that education is “a right to all and a duty of the State and the family [...] with a view to the full development of the person, their preparation for the exercise of citizenship and their qualification for work” (BRASIL, 1988). The effectiveness of social policies relies on the implementation of public policies, of which procedures and overall objectives are determined by the constitutional text. The Federal Constitution of 1988 establishes a mark of temporality in the recognition of social rights, such as childhood education, since it places the child as an individual whose also has the right to education, in the Article 208, item IV, which predicts “early childhood education in day-care centers and pre-schools to children from zero to six (6) years of age” (BRASIL, 1988).

2 THE RIGHT TO EARLY CHILDHOOD EDUCATION

The constitutional text generated other rights and created other duties, through ordinary laws (primary normative acts, which create and/or extinguish rights) and complementary laws (that have the complementary goal of explaining and adding any other detail to the constitutional text). As examples, there is the Law number 8.069/1990, that provides about the Statute of Child and Adolescents (ECA), the Law of Directives and National Educational Bases, number 9.394/1996, the Complementary Law number 12.796/2013 and the Law number 13.005/2014, which approves the National Education Plan (PNE/2014-2024). All

this legal framework sustains the establishment of public policies which should implement full guarantee of child and adolescent rights.

The Law no. 13.257/2016, which states about the public policies for early childhood and modified the Law no. 8.069/1990 (ECA/1990); the Decree-Law no. 3.689/1941 (Code of Criminal Procedure); the Consolidation of Labor Laws (CLT) approved by the Decree-Law no. 5.452/1943; the Law no. 11.770/2008 and the Law no. 12.662/2012 establish policies that aim to secure children's and adolescents' rights in terms of the constitutional text, and of the Law no. 13.257/2016. This law determines intersectoral actions for the treatment of "the best interests of the child and their condition as a rightful and citizen individual" (BRASIL, 2016, p. 1, translated by the authors), as well as for the mothers and future mothers of those children.

ECA/1990, in the Article 2, considered, for the purposes of the law, a child as "a person over twelve years of age incomplete, and an adolescent as the one between twelve and eighteen years of age" (BRASIL, 1990, p. 1, translated by the authors). After conceptualizing children and adolescents, in the Article 3, the referred Statute also secures:

[...] all fundamental rights inherent to a human being, without loss of the full protection covered by this law, ensuring them, by law or other means, all the opportunities and facilities, in order to provide physical, mental, spiritual and social development in freedom and dignity conditions. (BRASIL, 1990, p.1, translated by the authors).

The right to education, in conformity with the Federal Constitution of 1988, is predicted in the Article 53 of ECA:

Art. 53: The child and the adolescent has the right to education, in the view of full development of their being, preparation to the citizen's exercise and labor qualification, ensuring them:

I- equality of condition to access and permanence in school;

II- right to be respected by their educators;

III- right to contest evaluative criteria, while being able to appeal to higher school courts;

IV- right to organize and participate in student entities;

V- access to free public schools nearby their residence;

Single paragraph. It's the right of their parents or guardians to be aware of

the pedagogical process, as well as being able to participate in the definition of educational proposals (BRASIL, 1990, translated by the authors).

Such right must be foreseen to all children and adolescents, with no discrimination of birth, family situation, age, sex, race, ethnicity, religion or belief, personal conditions of development and learning, economic conditions, social, regional and housing environment, and/or any other condition that could distinguish any person, family or community in which they live (BRASIL, 1990).

In the same Article 53, ECA/1990 certified the Federal Constitution of 1988 when it guaranteed, in the form of the law, to the child and the adolescent, the right to education, guiding them to the exercise of citizenship, creating equal access and permanence conditions to early childhood education and elementary school (BRASIL, 1990).

This legal device also secures this right and reassures the obligation of a series of government and non-government actions, which are directed to Federation entities, as it is predicted in Article 86:

The policy of promotion of child and adolescent's rights will be done through an articulated set of government and non-government actions, through de Union, the states, the Federal District and the municipalities. (BRASIL, 1990, p. 17).

Article 87 expresses the lines of action of the policies for the effectiveness of this promotion:

I - basic social policies; II - programs and policies for social assistance, in a supplementary disposition, for those who need; III - special services of medical and psychosocial assistance for victims of neglect, mistreatment, exploitation, abuse, cruelty and oppression; IV - identification and tracking services of missing parents, guardians, children and adolescents; V - legal-social protection provided by organizations that protect the rights of children and adolescents; VI - policies and programs destined to prevent and shorten time off family life and to guarantee the effective exercise of the child and adolescent's right to family living; VII - campaigns that encourage welcoming under child custody of children and adolescents away from family living and up to adoption, with specific healthcare or disabilities and groups of siblings. (BRASIL, 1990, p. 17, translated by the authors).

The right to education was also asserted in 1993, in the Decanal Plane of Education for All (1993-2003), which intended to fulfill within a decade (1993 to

2003), the resolutions set by the World Conference on Education for All, held in Jomtien, Thailand, in 1990.

It is important to emphasize that, although in the last two decades Brazil has invested in social policies due to the promulgation of the Federal Constitution of 1988, which recognized the child as an individual of rights and not a mere object of intervention in the adult world, antagonistically, the State was silent regarding the obligation of offering early childhood education. The access to this stage of Basic Education should happen at the family's own will; this way, early childhood education was relegated by the market. Therefore, the right to education for children of zero to six years of age was not fully enforced.

Children's right delimited a special field in the Brazilian legal system. The full protection of children, as it was declared in the Federal Constitution of 1988, guarantees the condition of the development and dignity of the human person:

Art. 227: It is the duty of the family, society and the State to ensure to the children, adolescents and young people, with absolute priority, the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom, and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression. (BRASIL, 1988, n.p.).

It must be noted that the recognition of the guarantee of the right to education is associated with the constitution of the capitalist society that, when shifting the "[...] production process from the field to the city, embedded the knowledge (the science) and the written codes into the production, in the right and in the urban life's organization". Therefore, basic education became a right, and free public schools an instrument to access of writing and reading, as a capital requirement (SAVIANI, 2009, p. 20, translated by the authors).

The Article 205 in the Federal Constitution of 1988 expresses: "Education, which is the right of all and duty of the State and of the family, shall be promoted and fostered with the cooperation of society, with a view to the full development of the person, their preparation for the exercise of citizenship and their qualification for work." Education, therefore, represents the act of generating humanity and "[...] the promotion of the human being as a mediator character of education under society" (SAVIANI, 2008, p. 24, translated by the authors).

In this same perspective, Mészáros (2008) points out that education has a vital and strategic role in a way of overcoming the capitalist society, as it can create another shape of thinking about society itself- other than the one stated by the need of goods production and by the profit, in which all social rights are at disposal of capitalistic needs, which happens to make social policy subordinated to economic policy.

In the 1990s, with State Reform, this subordination became more evident. The globalization brought to the country financial speculation which, even more, created barriers to social policies, amongst them, to education. Even with the promulgation of the Constitution of 1988, this reform implicated in new propositions which would narrow the limits of social organizations and public services through legal, political and economic strategies, produced within the material terms of society and in the redefinition of arguments focused on the idea of reducing the State's participation as an executor, provider and regulator of services, such as health and education (CARDOSO, F.H., 1995).

The State, as an executor, led to the intervention of many international organizations - World Bank (WB), Inter-American Development Bank (IDB), and the International Bank for Reconstruction and Development (IBRD)- in education policies of countries marginalized from central economy, such as Latin America countries, including Brazil (SOUZA; FARIA, 2003). These facts are contemporary with the country's inclusion in the new worldwide economic scenery, which is seen both as a condition and as a result, in discussions about the accomplishment of goals related to establishing democracy, access of citizenship and the nation's development, and pointing to the redefinition of the role of the State (SOUZA; FARIA, 2003). Based on this administrative model, the relations between State and the policies developed in the 1990s were materialized.

In the middle of the 1990s, in compliance to the Federal Constitution of 1988, the Law of Directives and Bases of National Education no. 9.394/1996, in Article 29, stipulates that "early childhood education, first stage of basic education, has, as its goal, the full development of the child over six years old, in physical, psychological, intellectual and social aspects, in order to complement family and community actions" (BRASIL, 1996, p. 17, translated by the authors). Therefore, this law legitimize the early childhood education as the first stage of basic education, in addition to family and community actions. The early childhood education

must be offered with quality in free public institutions that must respect children as acting individuals, protagonists of their own stories and cultures (BRASIL, 1996). The referred law also determines that early childhood education must be offered in day-care centers, for children with over three years of age, and in pre-schools facilities, for children from four to six years of age.

The Article 30 expresses the need of early childhood education to be offered in “I- day-care centers or equivalent facilities, for children over three years of age; II- pre-school facilities, for children from four to six years of age” (BRASIL, 1996, p. 17, translated by the authors).

Both of these articles from Law no. 9.394/1996 reverberate the constitutional order of the democratic State, which, in turn, improves and qualifies the educational and learning process, determining a direct link between right and education, which is established by the Federal Constitution of 1988 and by the Law of Directives and Bases of National Education no. 9.394/1996.

This link between right and education is also presented in the document named “Criteria for Day-Care Centers Treatment Which Respects Children Fundamental Rights”, that stipulates day-care centers services, for children of zero to six years of age, clarifying that day-care centers must enable that all “[...] children have access to humanity’s culture production” and “[...] find suitable means to promote infant development, without the early submission to a rigid school system” (BRASIL, 1996, p. 39, translated by the authors).

Focusing on the treatment provided by day-care centers, documents that enhance the Federal Constitution of 1988 and the Law of Directives and Bases of National Education no. 9.394/1996, in several parts, point the need of guaranteeing the fundamental rights of the children to: dignity and respect; autonomy and participation; happiness, pleasure and joy; individuality, free time and social life; differences and similarities; equality in opportunities; knowledge and education; professionals that are specific trained; specific spaces, periods and supplies.

The Law of Directives and Bases of National Education no. 9.394/1996, in Article 29, clarifies that “[...] early childhood education has, as a goal, the full development of the child over six years old [...]” (BRASIL, 1996, p. 17, translated by the authors), in which the specific function is to care for the child and to educate them in an integrated manner.

Regarding the function of caring and educating, the National Curriculum Reference to Early childhood education (RCNIE), from 1998, seeks to explain these two concepts, which must be aligned in the making of early childhood education proposals, as one of them refers to the role of affection in the pedagogic relationship, and the other to the development or knowledge (BRASIL, 1988). Still according to this document, the “[...] care on the sphere of early childhood education means to understand it as a full part of education, although it might demand knowledge, ability and instruments that extrapolate pedagogic dimension” (BRASIL, 1988, p. 24, translated by the authors).

“Caring means valuing and helping the development of capacities. Caring is an act of relation between one and yourself that owns an expressive dimension and implicates in specific procedures” (BRASIL, 1988, p. 24, translated by the authors). In other words, caring of a child in an educational environment is a multidisciplinary task, which involves the cooperation of different professionals from different areas, once caring demands reflection over the children’s needs (BRASIL, 1988).

Educating, still according to the same document, implies in creating “[...] learning conditions that reproduce everyday situations in which, for example, writing, reading, counting, drawing, looking for information and etcetera, have a real function” (BRASIL, 1988, p. 35, translated by the authors). Therefore, it means creating possibilities for the child to produce other types of knowledge, interaction and challenges.

Caring and educating are two inseparable things. They constitute intrinsic actions; therefore, it is of fundamental significance to understand them as essential dimensions for the development of children from zero to six years of age.

The document “Criteria for Day-Care Centers Treatment Which Respects Children Fundamental Rights” (CAMPOS; ROSEMBERG, 2009) considers as fundamental rights to the children: dignity and respect; autonomy and participation; happiness, pleasure and joy; individuality, free time and social life; differences and similarities; equality in opportunities; knowledge and education; professionals that are specific trained; specific spaces, periods and supplies.

Early childhood education lost its domestic education character and came to be regulated and structured to meet children in their physical, psychological, social and intellectual aspects, as it was already predicted in the Law of Directives

and Bases of National Education no. 9.394/1996 (BRASIL, 1996). In the form of the law, children education starts by acknowledging the specificities of caring and educating.

In the same context, the Resolution no. 05 from December 17th of 2009, which assigned the National Curricular Guidelines for Early childhood education (DCNEI), determined, in Article 4, that pedagogic proposals for Early childhood education must consider the child as the center of the curriculum planning, once the child must be respected as “[...] a historical individual with rights whom, in relationships, interactions and daily practices which they experience, builds up their own personal and collective identity [...]”. During this process, the child builds up senses about nature and society, therefore, producing culture (BRASIL, 2009, p.1, translated by the authors).

Article 3 of the same document expresses that the Early childhood education curriculum must be planned “[...] as a series of practices that seek to articulate children’s experiences and understandings with knowledges about cultural, artistic, environmental, scientific and technologic heritage [...]”. These types of exercises must be able to promote the full development of children. Another important matter, in Resolution no. 05/2009, is explicit in Article 8, when treating about the pedagogic proposal of early childhood education institutions. According to the article, this step of basic education must have “[...] as a goal guaranteeing to the child the access to appropriation, renovation and articulation processes of knowledges and learning of different languages, as well as the right to protection, health, freedom, reliance, respect, dignity, child’s play, social living and interaction with other children” (BRASIL, 2009, p. 2, translated by the authors).

Item I, first paragraph, of Article 8, reinforces democracy inside the school environment, when it prescribes that pedagogic proposals of early childhood education facilities must be elaborated through collective work that secures the “[...] education in its full completeness, while it understands care as something inseparable from the educational process” (BRASIL, 2009, p. 2, translated by the authors). Article 9 specifies pedagogical exercises; amongst them are the expanding of sensory experiences, the use of different languages, both oral and written; spacetime orientations; references and identities when talking about diversity recognition; children’s questions and knowledge when it comes to the physical and social world, to time and nature; children’s interactions with different kinds

of music manifestations, visual and graphic arts, cinema, photography, dance, theater, poetry and literature; their knowledge about life on Earth and its biodiversity and sustainability; children's knowledge about Brazilian culture traditions and manifestations; the use of recorders, projectors, computers, cameras and other technological and media resources, as well as other practices (BRASIL, 2009).

It is also noted that the National Curricular Guidelines for Early childhood education, as an educational policy, acknowledges early years of life as an important step for the child's development, once it is about a moment when they are building their own identity and much of their physical, social-affective and intellectual structure, which are fundamental elements to the full development of the child, since it is about early years of life and the child's first interaction with the educational institution (BRASIL, 2009).

3 LAW NO. 13.257/2016

Early childhood is stated in Law no. 13.257, passed in March 8th of 2016, which disposes about "[...] public policies for early childhood and modifies Law no. 8.069, from July 13th of 1990 (Child and Adolescent Statue), the Decree-Law no. 3.689, from October 3rd of 1941 (Code of Criminal Procedure), and Consolidation of Labor Laws (CLT), approved by Decree-Law no. 5.452, from May 1st of 1943, Law no. 11.770, from September 9th of 2008, and Law no. 12.662, of June 5th of 2012" (translated by the authors).

This Law no. 13.257/2016 is significant when it comes to the aspect of the regulation of public policies, given that Article 2 considered "[...] early childhood as the period which includes the first six years of life or 72 months of a child's life" (BRASIL, 2016, p.1, translated by the authors). Article 3 reaffirms that "[...] children, adolescents and young people rights" in terms of the constitutional text and, yet, if the child has rights, the State has duties, especially in creating "[...] policies, plans, programs and services for early childhood which should attend this age range's specificities, in view of guaranteeing their full development" (BRASIL, 2016, p.1, translated by the authors).

Other important aspect, in this document, is about health assistance, securing to every women, in Article 8, since pregnancy, the:

[...] access to women's health policies and programs, reproductive planning and, to pregnant women, the proper nutrition, humanized attention

towards pregnancy, labor and postpartum and full prenatal, perinatal and postpartum services under the Unified Health System. (BRASIL, 2016, p.3, translated by the authors).

In Article 14, it is stated that governments must make policies and programs that support “[...] families, including home visits and responsible parenting programs [...]”, through links between “[...] health, nutrition, education, social assistance, culture, labor, housing, environment, human rights areas, amongst others, for the full development of the child” (BRASIL, 2016, p.5, translated by the authors).

Union, States and Municipalities, besides setting priorities for children and adolescents’ public social policies, should work together for the effectiveness of children and adolescents fundamental rights, since, regarding them, it is not for the federated entities to postpone any policy. This means a deal for children and adolescents rights, a deal for the future of the country, which involves different kinds of autonomous entities, whom goal is to make it worth the interdependence between the parts, derived from separation of functions and powers between different government levels. (ABRUCIO, 2010).

The significance of the Law is due to the fact of both civil and political society will become aware of how resources allocated to education are not a cost, but an investment. The higher the investment towards a joint educational project, the lower will be any future expenses with health and security issues.

According to Law no. 13.257/2016, Union should create ways for states and municipalities to join in an intersectoral project to promote early childhood rights. To do so, it must offer technical assistance in the elaboration of state and municipalities multisectoral plans. Increasingly, education and care in early childhood are treated as priority matters, by the force of the law, by Federal, State and Municipal government.

This law reaffirms the greek concept that *polis deveria*, since early childhood, has the duty of “[...] assuming the responsibility of taking full care of children, educating them to needed roles in the City” (CHAUÍ, 2000, p. 493, translated by the authors). This law, when safeguarding children rights, seeks to create new contexts to childhood, and not submitting them “[...] to a same initial kind of training in which, at the end, there is a selection: the ones whom are less able will be destined to an economic class, while the able ones will continue their education” (CHAUÍ, 2000, p. 493, translated by the authors).

To end this article, it is important to say that childhood needs to be defended in any kind of way, as the child has the right to education, as well as:

go down the slide, make soap bubbles, ice cream, if it's hot, play guessing games. Strawberry with whipped cream, watch a top hat magician, the singing of the bem-te-vi, ball, ball, ball!

Lick the bottom of the pan, be treated with affection, be happy and talkative they can also say no!

Toy car, games, dolls, set up an arming game, hopscotch, petecas, and a jumping rope (ROCHA, 2014, p. 20, translated by the authors).

Children have a charming power. Their words have their own meanings, which are not conventional. They are just words that seek to explain things they see. They are the emotions that will be kept in time.

4 FINAL CONSIDERATIONS

Legal aspects of early childhood education are historical processes in continuous motion of transformation and renewal. In each and every one of us, transformation occurs by the enlargement of our perception, given the development of scientific productions in the Infant Childhood area.

Therefore, through the effort of social movements, supported by important legal milestones, such as the Federal Constitution of 1988, ECA/1990, and the Law of Directives and Bases of National Education no. 9.394/1996, which withdrew early childhood education from the Secretariats of Social Assistance and integrated it as the first step of basic education, it became a right of every children of the age range to be able to attend day-care centers and pre-school facilities.

We also highlight that laws are majorly important to secure children social, economic and culture rights. However, there is still a part of society who cannot have access to those rights, as they don't have material reception conditions that prove their citizenship. Therefore, plans, programs, projects and state budgets are necessary, so that they can translate the process of fulfillment of this right. This right must have a universal reach, which means the universality of benefits provided by social policies. Citizen's social rights are only effective if there are guarantees that secure them.

Individual rights have different attributes, but are not antagonistic. Individual rights are the citizen's prerogatives as an individual. Social rights are benefits that every citizen has as a social individual.

Right to education is the first social right. It is universal, obligatory and demands immediate and mandatory actions from the State. Early childhood education, as a social right, is a right to all and a duty of the State and the family. Education may also be understood as a legal, and both an individual and collective property, as every citizen is able to demand fulfillment of educational benefits from public authorities, secured by the Federal Constitution of 1988. Therefore, the right to education needs to secure, for every child, a happy childhood, so that in the future they can only remember about joys of life and of their parents' affection, and not about sadness or sorrow that are imposed by social and economic differences.

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