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Chapter Author –

Jorge Ferreira, ISCTE-University Institute of Lisbon

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Child Protection in Portugal

Jorge Ferreira

Introduction

Portugal is a small country in the context of the European Union, with a population of ten million and five hundred thousand residents, of which about one and a half million are children aged 15 and under, representing 14% of the total population; about seven million are in the active population group - 65% (15 - 64 years); and foreign population residents in the country represents four percent. Most of the families are Catholic (66%), on average they have 2.6 members and 22% are single-parent families, with a 64% divorce rate associated with this indicator. The birth rate is low at 1.38 per woman of childbearing age, the first child is born at 30 years of age and about 55% of children are born out of wedlock. Life expectancy is 77.8 for men and 83.4 for women and the child mortality rate is 2.7% (<https://www.pordata.pt>; <https://www.dgs.pt>).

The state has been increasingly called upon to intervene in the field of childhood through policies for social protection, preventing risks and dangers, through education and policies for strengthening family life through measures such as support for maternity and reconciling work and family life. These policies are guided by principles of equality of opportunity, citizenship,

responsibility, participation, multicultural and local intervention (Portuguese Institute of Social Security 2007). The state recognizes children and young persons as social actors and develops protective measures designed to foster their individual economic, social and cultural rights.

The child protection and welfare system in Portugal fits the so-called Southern European model (Esping – Andersen 1990; Ferreira 2011) a model that is characterized by mixed social protection, i.e., the existence of cash transfers although fragmented and the existence of universal health services. It is a model based on the role of the social partners in income guarantee policies and in which taxes mainly support Social and Health Services. About children we have identified examples of applying an intervention model centered on a systemic approach where the principle of collaborative intervention and inter-institutional partnership is privileged, and a model of network intervention, in which the guiding principle of intervention is articulation, cooperation and partnership.

There are currently two intervention models underlying the social protection of children / young people: a social intervention model directly related to the Child and Youth Protection Commissions and local social action services, and a judicial intervention model related to the public ministry, the courts, and the Education Centers of the Directorate General of Social Reinsertion.

Since 1999, the Portuguese state has intervened in the welfare system to protect and educate children in a relationship involving the interaction and cooperation between the Social Security system and the Legal system. The consolidation of norms, “(...)”, on the one hand, expanding the process of equal opportunities, (...), and, furthermore, reducing social inequalities (...)

form the constitutional matrix and the principles for action by the Welfare State” (Mozzicafreddo 2001, p. 15).

In 2018, according to data provided by the child protection system (CPCJ 2018 annual activity assessment report (www.cnpdcj.gov.pt)), the main situations of child protection are: (1) negligence, with 31.2% (the data also show that negligence (main situation of diagnosed danger), presents a slight increase between 2017 and 2018); (2) domestic violence, with 22.7%.; (3) hazardous behaviors in childhood and youth with 17.5%; and (4) situations that call into question the right to education with 16.1%.

Regarding the situation of domestic violence, in the case of children, we speak essentially of vicarious violence involving 3789 diagnoses, with a higher incidence in males of 52.7%. Almost all diagnoses of domestic violence (99%) refer to situations of exposure to violent behaviors. However, in 1% of situations children are also victims of physical offense. Diagnoses of physical abuse total 997 situations, including two cases of female genital mutilation and 120 cases of corporal punishment (0.0008 per 1,000) (12% of the total), with a higher incidence in boys (52%). A total of 333 sexual abuse situations were diagnosed, mainly related to females, 81%.

Domestic violence and dangerous behaviors of children or young people increased by 0.5 and 0.7% respectively from 2017 - 2018, and situations related to education stabilized at 16%. It should be noted that reports of physical abuse represent 5% of the total and those of sexual abuse 2%, representing an increase of 86 and 73 cases, respectively, compared to 2017 (CPCJ 2018 annual activity assessment report (www.cnpdcj.gov.pt)).

Social Welfare and Assistance

In the system of child promotion and protection in Portugal we find two types of measures that have as a principle to protect the best interests of the child and constitute as an alternative to the biological family.

The CPCJ, in accordance with the principle of the best interests of the child and the prevalence of the family (art. 4 of the LPCJP), applies measures keeping the child in his or her natural environment, whenever the conditions are met. Only when this is not possible, do they resort to placement measures.

The measures in the natural environment of life include support to parents; support to another family member; trusting person and support for the autonomy of life. The placement measures are host family and residential placement.

Natural living environment measures have a maximum duration of 12 months and can be extended up to 18 months. The duration of family and residential placement measures will be set in the promotion and protection agreement or in the court ruling.

The total number of promotion and protection measures implemented and monitored for children aged 0-17 in 2018, by CPCJ, was 41,498. Of these, 79.1% (32 825) of children remained at their parents' home and 20.9% (8 673) were away from their parents.

The largest number of measures implemented with children and young, as 56%. This incidence increases in proportion to age, namely the 15-21 age group accounts for 42% of the measures implemented and the 11-14 age group for 23% of the total, i.e. 3/4 of the measures are implemented on children over 10 years old. An analysis of the data identify that 9,7% of measures are implemented in the natural environment of children live, in particular support for parents.

A more detailed analysis shows that:

- Support to parents is consistently the measure most applied by the CPCJ. For the 15-17 age group, there is a greater tendency to apply it.
- The second most widely applied measure is residential placement care and focuses mainly on young people in the 15-17 age group.
- The support measure for other family members is more focused on youth of man gender and the value tends to increase when the age group is higher.

The distribution of child/youth protection measures is as follows:

- Support to parents (Biological Family) - 79.1% (32 825);
- Residential placement - 9.4% (3 901);
- Support measure with another family member (extended family) - 9.3% (3 859);
- Trusting person (Possible adoption family) - 1.1% (456);
- Support for life autonomy - 0.8% (332);¹
- Host family (foster families) - 0.3% (125).

The support measure with parents is the most applied measure and the second most applied measure is residential care and focuses mainly on young people aged 15-17 years. The support measure with another family member has a higher incidence in males and the value tends to increase when the age group is higher.

Social Work's function under the law of child protection is highly specific: «the external Social Work is due to investigate the antecedents of each minor, study the conditions of their family, professional and social surroundings and stimulate the independent factors that these environments may have to provide for the social reintegration of minors» (art. 120 no.1 id 1962). About social intervention in the family, «the families are visited regularly by Social

¹ Support for life autonomy is a measure applied to children aged 12-21.

Assistants that shall seek to conserve and strengthen the family bonds, feelings and responsibilities and cooperate in the resolution of their difficulties» (art. 143. 2 id: 1962).

Revisions to the Organisation of the Guardianship of Minors of 1962 by the 1978 law (D.L.314, 27/10 1978) established a new formality for determining the means of juridical intervention. The minor's courts were endowed with the purpose of « (...), the judicial protection of minors and the defence of their rights and interests about the application of guardianship measures for protection, assistance and education» (art. 2 - OTM 1978). The alteration of the prevailing legislation, the 1978 Organisation of the Guardianship of Minors (Portuguese acronym OTM hereafter), limited the judicial protection of minors within the field of criminal law.

Where there is a present or imminent danger to the life or serious impairment of the physical or mental integrity of the child or young person, and in the absence of consent of the holders of parental responsibility or de facto custodian, the CPCJ (Children and Youth Protection Commission) shall take appropriate measures to immediate protection and request the intervention of the Court or law enforcement authorities (Article 91 of the LPCJP).

Juridical framework for the child protection system in Portugal

Portugal was one of the first countries to enact protective measures for children. Three significant landmarks in the Portuguese legal system include: the 1911 legislation, the «Law of Infant Protection», the 1962 Organization of Guardianship for Minors, and the 1978 revisions of the Organization of Guardianship for Minors. The social and judicial intervention in the field of minors (civil and educational guardianship) then fell within the political-ideological context characterized by the dictatorship.

The Infant Protection Law of 1911 (coinciding with the setting up of the first court for minors in Portugal) conveys a political context centralized in the Republican Government that held maximum authority for determining the core social policies for the country. The government proceeded according to an ideology based on the good, the moral and a well-structured society in which there was only space for unanimity (Ferreira 2011). The second Organization of Guardianship for Minors in 1978 emerged out of a decentralized political context in which there were both legislative and consultative powers (for example: the Government, the Assembly of the Republic, active social movements implemented at the community level), with the political parties taking on an equally active role in political life as a guarantee of the heterogeneity of ideologies, specifically as regards the well-being of the population.

Over the period in Portugal from 1911 to 1978, other legislation was enacted for the protection of minors, in particular:

In 1926, legislators attributed to «the guardians of infants the competences to declare minors in moral danger through to twenty-one years of age (...), the protection measures established by the law, including the restoration of paternal powers or the guardianship functions and the provision of foodstuffs», (D.L.12:74,26/11, art. 30 1926).

In the 1960s, there appeared a new definition as regards to the purposes and goals of courts for minors following the publication of the law – Organising the Guardianship of Minors (GM) - (D.L.44 288, 20/4 1962). According to this law, GM are responsible for « (...), the judicial protection of minors, within the domain of criminal prevention, through the application of measures for protection, assistance, education and in the field of defence of their rights and interests» (id: art. 2 1962).

Child protection intervention agents have specific responsibilities. In particular:

- The judge is responsible for preparing and deciding on all cases involving minors (art. 12, 1-OTM 1962);
- Under the current protection law in Portugal, any child 12 years of age and older may be represented in a social service or protection committee or in court by a lawyer.
- «The persons attributed to the Social Assistance service only perform those functions that are expressly charged to them by the judge, in their exercise, they hold the same attributions, rights and duties as Social Assistants or Auxiliaries» (art. 17 id. 1962).

The professional (social worker) has an intervention with the child and family, which can be developed in the institutional context or at the person's home, assuming some characteristics appropriate to the type of “intervention populations”, based on a theoretical-methodological framework of knowledge, in particular:

- Diagnosis, includes doing the screening of the situation; identify the social and risk indicators related to the situation; make an in-depth study based on the request, the signage made, and the assessment of the case and / or situation;

- Screening the situation is the first step to providing help / protection to the subject and family;

- Risk indicators, the professional uses a set of indicators that facilitate the reading of the problem and analysis of the needs of the child and / or family, namely: the state of the subject; needs of the subject; conduct problems of the subject; specific family characteristics and social context; housing; territorial space of residence etc;

- Investigation or in-depth study, has as its principle to prove the validity of the problem situation, through fundamental evidence and analysing if the subject needs:

- Case evaluation, consists of identifying the possibilities and potentialities that motivated the problem; determine the aspects / factors that represent the weak points of the family, while also seeking to identify obstacles to intervention.

In the execution of their work they resort to technical-methodological procedures, using a diverse set of instruments / technical tools that support their intervention as scientific and technical practice:

- Social Information (art. 1, al.) G)) Code of Criminal Procedure;

- Social Report (art. 1 al.) H)) Criminal Procedure Code;

- Psychosocial assessment report;

- Social expertise.

In the performance of professional activity their work might include:

- Social assistance to children, young people and families in urgent situations (e.g., emergency financing, repatriation, situations of violence and or mistreatment)

- Social contract is a means of explanation, clarification, accountability and reciprocal cooperation, in the construction of social responses to the subject's problem assuming a technical dimension and an administrative dimension, in the negotiation process;

- Fundamental social support in promoting the relationship of closeness, inclusion and social integration and in promoting the active social citizenship of the person in distress.

Child and youth protection – the reform of the system

The Portuguese legislation on «Mistreatment of Minors» covers all the behaviours or attitudes that inflict:

- «Physical mistreatment, treating cruelly, or not providing them with the care or assistance to their health that the duties stemming from their functions require of them, or employing them in dangerous, forbidden or inhuman activities, or overloading them physically or intellectually, with excessive or inappropriate work in a way that offends their health or their intellectual development or exposes them to serious danger» (art. 153.a) and b), penal code 1984).

In 1998, the designated «Reform of the system for implementing penalties and measures», led to the separation of Children and Youths at risk from Children and Youths in breach of the law, integrating the former under the auspices of Social Intervention² (the Ministry of Employment and Social Security) and the latter within the scope of Judicial Intervention³ (by the Ministry of Justice).

² Law 147/99, of 1 September «law of protection for children and youths», revoked by law 142/2015, of 8 September

³ Law 166/99 «education guardians law», revoked by the Education Guardianship law no. 4/2015, of 15 January

The law for the Protection of Children and Youths in Danger (law no. 147/99, of 1 September), revoked by Law 142/2015, held the objective of fostering the rights and the protection of children and young persons at risk to guarantee their well-being and integral development. This understands children or young persons as under the age of 18 or a person aged under 21 who requested the continuation of an intervention that began before they turned 18 years of age. According to the law (142/2015), children and youth are in danger whenever: (1) they are abandoned or live under their own supervision; (2) suffer from physical or psychological mistreatment or are victims of sexual abuse; (3) they do not receive the care or attention appropriate to their age and personal situation; (4) are obliged to undertake excessive amounts of labour or inappropriate to their age, dignity and personal situation or otherwise prejudicial to their training and development; (5) are subject, whether directly or indirectly, to behaviours that seriously affect their security or their emotional balance; or (6) display behaviours or give themselves over to activities or consumption that seriously affect their health, security, formation, education or development without their parents, legal representatives or whoever is their de facto guardian opposing this in a means able to resolve the situation.

Within this legal framework, a governmental administrative structure was founded with the title of the CNPCJR – the National Commission for the Promotion of the Rights and Protection of Children and Youth, established by Decree-Law no. 98/98 -- with functions for state planning and intervention and the coordination of the child protection system (CNPCJR 2013). According to article 31 of Law no. 142/2015, the National Commission provides for (1) specialist and informed training on promoting the rights and the protection of children and youths at risk; (2) setting out recommendations for the commission's regular functioning and composition; (3) intervene in situations where a child or young person is in danger (Article 21

(1) LPCJP); (4) implementing programs, as well as promoting and actively implementing cooperation protocols; and (5) fostering mechanisms for the supervision of local commissions.

Each protection committee is empowered to apply measures in the natural environment of life (parents, extended family or third persons) and institutional care measures according to the diagnosis of the situation of the child or youth. Within this framework, they intervene through multidisciplinary teams, nurturing interdisciplinary interventions to ensure wide-reaching protection of children/youths.

Measures for the promotion of rights and the protection of children and the young are the exclusive jurisdiction of the Protection Commissions and the courts. Their work takes place within children's natural living environment and include (Law no. 142/2015, of 8 September, art. 34 and 35 and 56): (1) support for parents; (2) support for other family members; (3) welcoming the children in reputable families; (4) support for autonomy in life; (5) analyze and facilitate the process of child adoption through families already selected by the social security system; (6) civil sponsorship (a family that supports a child in solidarity); (7) family accommodation; and (8) institutional care (shelters and homes). The Protection Committees function in two formats: plenary (extended) mode and restricted mode.

- The Plenary/Extended Format serves as a forum for discussion and reflection on child/youth problematic issues and developing an appropriate response.

- The Restricted Format operates constantly and serves as the technical staff of the Protection Commission providing services in the local community whenever children or youth are at risk or in danger. The Commission may review cases and refer to the judicial system, if necessary; it will ensure collaboration with other public and/or private entities; and will decide on the application, supervision and/or revision of Protective Measures.

The Law of Educational Guardianship applies to youth aged 12 to 16, with circumstances that qualify as a crime under the law, and who are susceptible to restraining measures. These include: (1) warnings and cautions; (2) removing the right to drive motorbikes; (3) compensation to the injured party; (4) community service duties; (5) behavioural restrictions and other obligations; (6) attending training programs; (7) educational supervision; and (8) internment in an education centre. Interventions are based on the public policies enacted by the General Directorate of Social Reinsertion and Prisoner Services (<http://www.dgrs.mj.pt/web/rs/index>). Interventions target the prevention of criminality and social reinsertion as well as guardianship measures (as above) in addition to the implementation of community sentence penalties (alternatives to prison custody) and preventive imprisonment denominated as “electronic surveillance”.

Education Centres are used with some frequency in Portugal. In an Open Regime, the child/youth lives and is educated in the establishment but may be authorized to leave the grounds and spend holidays or weekends with parents or others. In a Semi-open Regime - the child/youth lives and is educated at the Centre. S/he may be authorised to leave the grounds, but these excursions are normally accompanied by staff. In a Closed Regime, the child/young person resides in and is educated at the Centre. Should the court provide authorization,

following a proposal from the social reinsertion services, unaccompanied excursions may take place for limited periods.

We may thus conclude that the response to child related problems has evolved with greater autonomy from political or government powers. While in the legal dispositions of 1911, interventions were almost exclusively through state courts and institutions focusing on issues around protection and prevention; the current legal framework maintains the diversification and strengthening of the role of partners in the application of Justice to Minors. From the 1980s onwards, non-state interventions have expanded with the emergence of a highly diverse range of institutions under the auspices of Private Social Solidarity Institutions.

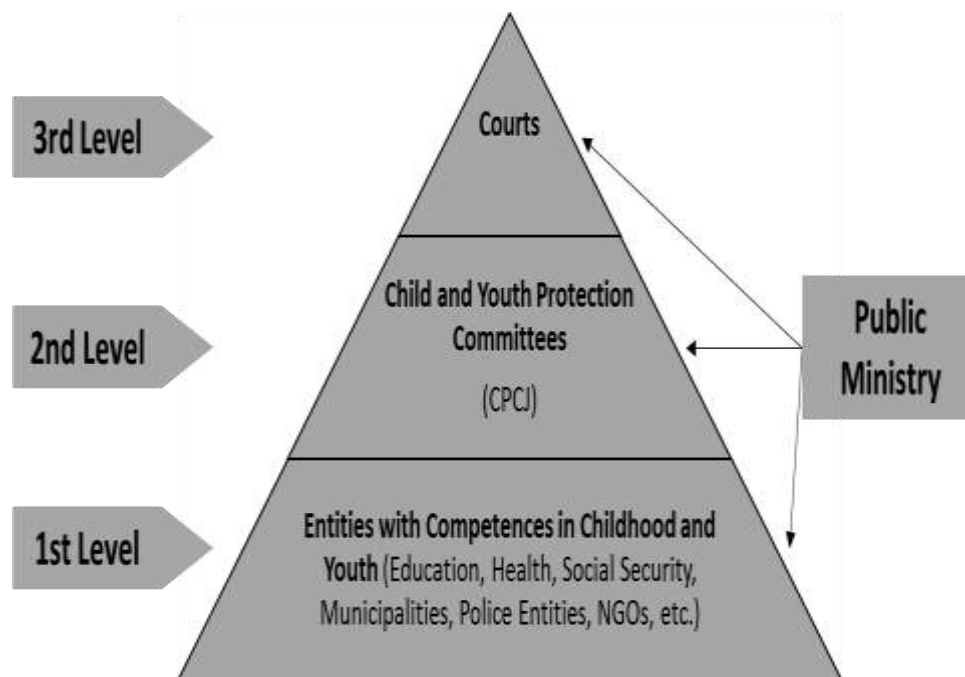
Focusing on the problems of fostering social wellbeing among the children and youth of Portugal, we would highlight the role of the Centre of Judicial Studies (<http://www.cej.mj.pt/cej/home/home.php>) as the institution responsible for training judicial magistrates and the Public Ministry. The Centre is also involved in child/youth promotion under the «Jurisdictions of Minors and Families», when necessary, regularly promoting multidisciplinary interventions.

Another important facet of this law and that directly interrelates with the promotion of the greater interests of children is establishing agreement over the exercising of parental responsibilities (art. 1776-A) and over the amounts of maintenance (art. 2016-A). Within this scope there is intervention by the ECJ – Children and Youth Teams, integrated into the Social Security social development unit (<http://www.seg-social.pt/iss-ip-instituto-da-seguranca-social-ip>), which undertake a process of mediation between spouses in conflict, seeking to

establish agreements between the parties. Concluding, we may affirm that fostering the rights and protection of children and young persons at risk/in danger is the responsibility of the entities with skills in the field of children and youth, the Commissions of Children and Youths at Risk, and ultimately to the minors and family courts.

In summary, we may depict the child protection system in Portugal as follows:

Figure 1: Intervention according to the Principle of Subsidiarity



«Source: APAV (2011) »

Differentiation criteria between the 3 levels of intervention:

3rd Level (Public Ministry, Family & Minors Courts)	- Intervention in specific situations; - Application of Guardianship measures and Protection measures; - Validation or not of the 2nd line intervention.
2nd Level (CPCYP)	- Collaborative approach with first line services; - Diagnostic deepening; - Integrated intervention plan; - Application of protective measures - Integrated social prevention plan
1st level (Services with competence in the field of childhood)	- Identification of cases; - Diagnosis - Integrated primary intervention plan (child, family, community)

In this pyramidal system we identified some communication and articulation difficulties:

- Understanding of Literacy in the protection system;
- Communication flows (+ Top-Down /- bottom up);
- Ethical dilemmas in the intervention of 1st and 2nd line.

Evolution of the system of child protection in Portugal

In the system for the protection of children, defending their rights and applying measures for their protection, assistance and education, different systems interact across Portugal including Health, Social Security, Employment, Income, Education, and community services.

- 1911 to 1919

- In 1911, courts for minors were established in Lisbon, Oporto and Coimbra, with the supreme function as the guardian organs in the application of measures for the protection, defense and promotion of the rights of children. (art. 1 – Infancy protection law 1911). This also involved the setting up of child support institutions, in particular: - «Infancy Guardianship, the National Federation of Friends and Defenders of Children» (art. 2 idem 1911).

- 1919 to 1962

In 1919, Decree-Law 5611 (10/5/1919) established the first central service, founded under the Ministry of Justice as the coordination organism for the activities of guardianship of minors and then entitled – the General Inspectorate of Child Protection. This service was subsequently converted into an Administration and the General Inspectorate of Jurisdictional Services and Guardianship of Minors (D.L. 10767 1923). Through Decree-Law 15:162 5/3: 1928, the Directorate of Jurisdictional Services and Guardianship of Minors expressed the need to stimulate and promote collaboration among the private entities and institutions with the courts. This raised interest in social action on behalf of youth and children, although the state was yet to organize and deploy the necessary means of action.

1980 to 1998

The Judiciary statute of 1944 (D.L. 33547, 24 / 2) altered the designation of guardianship to the court of minors. Law 82 of 1977 specified the separation between courts for minors and courts for families. The family courts took on actions relating to the separation of persons, assets, divorce, and allocating guardianship (Law 38, 1978: art. 60.61).

The Ministry of Solidarity and Social Security targets the less advantaged including the homeless, the poor, and children. This required setting up support structures such as homes for children and youth at risk or deprived of their normal family environment; *creche* and infant facilities (schools for different social strata and age groups of children); and local social action services with the objective of providing social and economic support to members of the population with the greatest difficulties. The Ministry studied situations of minors at risk and defined prevention strategies. It also developed alternative responses such as infant nurses, host families, and temporary accommodation centres to host children, orphans, those abandoned, maltreated, neglected, or in moral danger, in conjunction with the jurisdiction of the Courts of Minors and Families. Other important organizations and actors included:

- Health Centres, through family doctors took on a fundamental function in identifying and preventing situations of risk/maltreatment.

- Child Psychiatric Centres deal with and accompany children with disabilities or with irregular patterns of development.

Another structure that constituted a fundamental pillar of local social action in the city of Lisbon is the Santa Casa de Misericórdia de Lisboa. This institution runs teams of Social Assistants with the objective of providing support and assistance to groups most in need.

The Particular Institutions of Social Solidarity set up by the Ministry of Social Affairs (State Secretary for Social Security) are institutions that propose the resolution of social problems for which state interventions are insufficient (D. L. 119 1983, 25/2). These institutions have become a major partner of the state in its response to social problems. Within this institutional framework there are creches, pre-schools, homes under interned and semi-interned regimes, free time activity centres, host centres for children abandoned or removed from parents due to serious illness (AIDS), or abnormal behaviors (e.g. drug addiction, prisoners, ...), centres of early intervention, homes for single mothers, prostitutes or abandoned or maltreated by the parents or by the husband, centres for children deprived of normal family environments and the Casa Pia home and training centres of Lisbon providing multiple services for protection, welcoming and education.

In 1992, the Council of Ministers resolution no. 30/92 created the inter-ministerial PAFAC - the Project for Support to the Family and to Children, with representatives from the ministries of justice, health, employment and social security and Santa Casa da Misericórdia de Lisboa, with the purpose of providing services targeting maltreated children through psycho-social family intervention teams, which function in conjunction with the hospital network.

- Child Abuse Emergency Line and the mobile crisis intervention team, which act in situations of child emergency in response to urgent appeals received via the telephone hotline from children, parents, teachers, neighbors, friends and the community in general.

In 1986, the Portuguese Association for the Rights of Minors and the Family was founded with a national scope and objectives of undertaking interdisciplinary studies on issues regarding the judicial and administrative protection of minors and the family as well as fostering, organizing and dynamically running community support services for children, youth and the family.

In 1995, new alterations were introduced into the Portuguese juridical system within the scope of the organic law structuring the Institute of Social Reinsertion -D.L.58: 1995. Under the auspices of the Social Interventions of Justice, the Social Institute of Reinsertion integrated all the activities carried out by the General Directorate of Guardian Services to Minors. The Institute set up CAEF – the Colleges of Accommodation, Education and Training with skills for ensuring the accommodation, educational and training framework for minors that are completing judicial measures in institutions.

1999 – 2015

This period is marked by both reform of the Law for Minors in Portugal, and the enactment of the Law of Protection for Children and Youths (Law no. 147/99, of 1 September) and the Guardianship Education Law (Law no. 166/99, of 14 September), bringing about certain reforms to the response structures for children and youth and handing down new and more appropriate ethical-political orientations for the social protection system.

Law no. 147/99 implements in a renewed fashion and configured into a model of participation and social responsibility, the Protection Commissions for Children and Youths, in both a wide-reaching approach (with the greater involvement of civil society) and with a restricted focus (more technical) with objectives of deepening participative and interdisciplinary diagnosis of the problems facing children and youth. This new legal framework also acknowledged parents as a factor in the effectiveness of any intervention with children, recognizing their obligations and social responsibilities (art. 9) and the consent of the child / youth aged 12 or over (art. 10), apart from situations deemed urgent (art. 91). The law of protection also provides a legal government representative for children and young persons aged 12 or over. This new legislative landmark reflects a philosophy centred on the family, lower levels of child institutionalization, and greater responsibility of the family in the promotion of the well-being of children / youths. This philosophy was further deepened by the legislative framework currently in effect for the child protection system (Law of protection no. 142/2015, and the Guardian Education Law no. 4/2015) with the alignment of the means of an institutional response⁴.

Partnerships were also designed and launched with universities and centres of study of preventive based programs, highlighting the Safe School Program (Dispatch no. 25 650/2006) and the Choices program (Resolution of the Council of Ministers no. 80/2006).

⁴ - Centre of family support and parental counselling; Street team for child and youth support; Host families for children and young persons, Temporary Accommodation Centres, Apartment of Autonomy, Early Intervention Units, Social Sponsorship and Care Homes.

Social policies for the protection of children and families in Portugal

Social policies fall within the scope of the public policy context, understood as “a set of mutually interrelated actions, taken by an actor or a set of political actors as regards the choice of objectives and the means to achieve them within the context of a specific situation, due to these decisions, in principle, located within the range of the powers these actors have to achieve them” (Jenkins 1978, in Pereirinha 2008, p. 17). The public policies are defined in legal norms that express their goals in accordance with their area of action (Ferreira 2017). Social policy distinguishes itself from other areas of public policy intervention due to the fact that the former targets goals around the fostering of well-being in society, meaning that this is about meeting social needs that seek to improve social justice in society. “This means understanding the concept of need as a social construction, relative to society” (Pereirinha 2008, p. 20).

In the social protection system for children and the family, we encounter direct responses and indirect responses that, as Pereirinha defines, are, “actions targeted directly at a social problem, whether a general situation of society (unemployment, financial sustainability of social security, the existence of regions in economic depression, and poverty), or that characterize a social group (problems of persons caring for the elderly, problems of failure and school dropout in youths attending secondary schooling)” (Pereirinha 2008, p. 94). The indirect responses, thus, are those that are not directly targeted at the problem in itself but that are to indirectly impact on it. These include how “(...), economic growth acts favourably on employment and the earnings of households and family and so fostering growth may resolve problems with unemployment and poverty, without having the need to target actions on the unemployed or the poor population” (Ferreira 2016).

Within the scope of child protection, the Social Security sub-system acts in conjunction with the citizen in promoting well-being through:

- Family based payments, with the objective of compensating for the costs incurred with the family. These payments may be made to national and international citizens, refugees and stateless persons, resident in the national territory in accordance with the requirements defined by law. The type of family payments made by the state include:

- Family subsidy for children and young persons,⁵ a monthly payment made to the parents or guardians of children with the objective of offsetting some of the costs of maintaining and educating children and young persons. Family subsidies are paid through to the age of 16 and continue until 18 whenever the child/youth is attending secondary school or equivalent and 24 years of age when attending higher education. These subsidies are part of the social action policy known as Family Allowances for families with social needs or in situations of poverty, and the child is more an indicator of formal requirement in the granting of support than is often the direct beneficiary.

For the purposes of awarding this payment, Portuguese legislation considers the concepts of Aggregate Family and Family Economy. The Aggregate Family includes, in addition to the child or youth, all members that live in the household to include parents and similar, directly and collaterally through to the 2nd level; adopters and adopted; guardians and their charges;

⁵ - Law no. 53-B/2006 and Decree no. 106/2007;
- D-L. No. 176/2003, of 2 August;
- D-L. No. 41/2006, of 21 February;
- Decree no. 458/2006, of 18 May.

children and youth entrusted into care by a judicial or administrative decision; spouse of the youth or person in de facto unions for longer than two years.

For the purposes of awarding this subsidy payment, children and youths are considered eligible in isolation when in situations of internment in public or private non-profit establishments, as well as residents in care homes, guardian education or detention centres.

We now have some child protection measures that form part of the formal and public child protection system in Portugal:

- The protection regime⁶ of benefits for disability consists of an additional payment to the family subsidy in the case of children and youth aged under 24 and registered as disabled (currently, as special needs), and who are attending or are interned at a specialist rehabilitation establishment or are in conditions to attend or require residential care and that need specialist individual support either of a pedagogical or therapeutic nature.

- Subsidy to attend a special education establishment, attributed to children and youth, registered as disabled, aged under 24 and in attendance at a specialist teaching establishment, receiving individual educational support by this specialised entity, needing to attend a private establishment for regular education following attendance in specialist teaching, or attending creche or pre-school, as a specific means of social integration.

⁶ - D-L. No. 133-C/97, of 30 May

- Third person⁷ career subsidy, attributed to children and young persons in receipt of the Family Subsidy, with additional payments due to disability, depending on and effectively receiving assistance from a third person to ensure their basic needs.

- Lifetime monthly subsidy⁸, attributed to descendants of beneficiaries aged over 24, registered as disabled on physical, organic, sensorial, motor or mental grounds, which renders impossible their ensuring their own subsistence through exercising a professional activity.

- Additional extraordinary solidarity payments⁹ are a pecuniary amount paid monthly in addition to the amount of the lifetime monthly subsidy.

- Orphan's pension¹⁰, attributed to children and youths through to attaining adulthood or independence, who are orphans of persons not covered by any social protection regime and that meet the requirements set down in the law.

Indirect child protection measures

In our country, this RSI measure (Insertion Social Income) is part of a social protection policy, called public and social policy for the family and the child, against poverty and social

⁷ Law no. 4/2007, of 16 January (base social security law)

⁸ Law no. 2/2008, of 7 January

⁹ D-L. no. 208/2001 of 27 July

¹⁰ Regulatory Decree no. 71/80, of 12 November

exclusion. In terms of child protection, it is of relevance because it aims to prevent social deprivation within the family, the integration of children into school, access to the National Health Service and the overcoming of balanced dietary needs.

The Social Insertion Income social policy¹¹ is important, given its scope covering families with children and the role it plays in the improvement of their wellbeing. The RSI consists of a payment integrated into the Solidarity subsystem under the auspices of the public Social Security system and in an insertion program that provides support adapted to individual and family situations, contributing to meeting their essential needs and their social and community integration. These insertion programs consist of a set of actions of social integration for direct beneficiaries and members of their household (art. 3, Law no. 13/2003). These actions might include employment, professional training, attending education, participation in occupation programs or others of a temporary character that favour the subsequent integration into the employment market, actions of a vocational type, professional rehabilitation initiatives, prevention action, drug treatment and rehabilitation programs, the development of activities ongoing under the auspices of the Particular Social Solidarity Institutions, utilization of social support equipment, domestic support and incentives for the launching of activities whether as self-employed or through the creation of employment (art. 18, Law no. 13/2003).

In Portugal, the child protection system, is part of a large group of public policies that directly and indirectly promote the protection and well-being of the child / youth. They are part of a transversal model of public policies, of which we highlight:

¹¹ Law no. 13/2003 of 21 May

- Support measures for reconciling family life and working life, especially domestic support services;
- Strengthening RSI insertion payments considered as the minimum income guaranteed by the state to each person;
- Facilitating the access of families to new technologies as a means of educating the family for a knowledge-based society and also as a form of child Internet protection and prevention;
- Developing family mediation services¹² and parental training programs as a means of supporting households facing situations of crisis;
- Support for families experiencing domestic violence as well as vulnerable families at risk of social exclusion, especially single parent families;
- Promoting the social participation of families in NGOs and Social Solidarity Institutions to build on household access to the social support rendered by the state;
- Social support and fiscal benefits to large families.

In the field of health Portugal provides some benefits that are indirectly supportive of children.

For example, the sickness subsidy consists of a pecuniary payment awarded to compensate for the loss of earnings resulting from a temporary incapacity to work due to illness.

¹² Dispatch no. 5524/2005, of the Ministry of Justice

- Compensation subsidy payments for Holidays¹³, and Christmas, are made when the beneficiaries, due to disease (and receiving subsidies), do not have the right and have not been paid the holiday and Christmas subsidies by their respective employer in accordance with that established in the collective working regulations based upon the right to work.

Social responses

- What other countries might describe as “foster care,” Portugal describes as family hosting, defined as “attributing the trust of a child or youth to a single person or a family, qualified for such purpose, seeking their integration into the household environment and the provision of the care appropriate to their needs and well-being and the education necessary to their integral development” (Law no. 142/15). Family hosting is a temporary measure of protection for the child, which is achieved through the placement of the child or young person with a family, with a view to integrating into the family environment, as well as the provision of personal and educational care appropriate to the child’s needs. The purpose of the host families is to provide the child or young person with a socio-family environment suitable for the development of his or her personality in place of the natural family. (<http://www.seg-social.pt/familia-family-children-and- youth>).

Services put into practice through the support and social assistance programs /projects, essentially consist of undertaking activities targeting groups or communities with the objective of preventing and/or responding to specific problems, as well as research-action initiatives.

¹³ Decree-Law no. 28/2004 of 4 February, rewritten by Decree-Law no. 146/2005, of 26 August.

These programs/ projects may take on a local, regional or national scope and are designed to respond to and improve the quality of life of children and families. In other words, they are programs that articulate a professional intervention profile based on the action research method. In some cases these programs become social policy initiatives at the central government level.

In the Portuguese protection system, we may identify prevention programs especially in terms of behaviours incurring risk and the transmission of contagious diseases, programs of personal, social and parenting skills and research-action programs with the objectives of studying, analysing and reviewing intervention methodologies.

One of the measures that best portrays this social policy approach at the local level, and with clear reflections on the social intervention models and methodologies, is that entitled the Social Network. This initiative strives to bring together efforts at the local level to provide a diagnosis and a solution to social problems, with an emphasis on poverty and social exclusion. The approaches use a logic of proximity and hence “at the level of congregating efforts” should take place at “a level as proximate as is feasible to the location registering the social problems, beginning with the parish, and whenever there exists the means for possible solutions” (Introductory Preamble to the Resolution of the Council of Ministers no. 197/97).

In 2018, the XXII Constitutional Government of Portugal (council of ministers of March 8, 2018) implemented a new social protection program called 3 Online, a program for the reconciliation of professional, personal and family life. This program proposes a cultural change in thinking about public policies in an integrated and cross-sectoral rather than sectoral way, in line with the EU's open coordination model strategy, which calls on society to make a collective

commitment to impact measures in the short, medium and long term. There are 33 measures aimed at promoting a better balance between work, personal and family life (exclusive of initial parental leave of the father from 15 to 20 days, the exemption of three hours for civil servants to accompany their children (up to 12 years) in the first school hours or the exemption of annual hours so that workers can deal with personal and / or family matters), recognized as essential tools to promote the reduction of absenteeism and also contributing to demographic sustainability.

The program aims to promote a better balance between professional, personal and family life, as a condition for effective equality between men and women and for full citizenship and free choice. The importance of this balance is recognized in the European Pillar of Social Rights as one of the just conditions of work, referred to as Program 3.

Program 3 Online is structured in four axes:

- Axis 1 - (Im)Pact for conciliation - adds measures that mobilize different types of employers for the development of practices promoting proactive family policies and their embodiment;
- Axis 2 - Harmonization in Public Administration - adds measures that represent the commitment of the central and Local Public Administration with the promotion of proactive family policies;
- Axis 3 - Equipment and services sector should encourage to promote proactive family policies, in particular in the fields of care, education, transport and health;

- Axis 4 - Knowing to reconcile - adds measures that lead to the production of knowledge and its dissemination, which can support the development of new actions.

The program promotes cross-sectoral and sectoral measures, pilot projects and public and social policy measures targeting diverse target groups, including: public, social and private organizations, women and men at different stages of their life cycle (children, young people, adults / older people) and families in their diversity of models.

Conclusion

Today, social problems are not isolated, but they assume a systemic and multidimensional configuration. In this context, we must consider the constructivist paradigm (Parton 2009), centered on the skills and capacities of the citizen, guided by a logic of action in partnership, and using network interventions. Social citizenship (recognition of all citizens as subjects of rights and essentially of their Human Dignity) and human rights should be central to a policy and program approach. (Ferreira, et al. 2016).

Child protection should integrate the legal model with the community model. Therefore, child protection should include the development of a community intervention focused on the development of skills in the family; promotion of specific local proximity networks; prevention; evaluation; training and intervention and the application of the cartographic method in the definition of specific territories of high, medium and low priority. Other challenges include the professional service and the related organizational culture and politics, namely: the

ecological sustainability frameworks of protection and well-being, for children and family, e.g. the eco-social model in vulnerable communities (Rocha & Ferreira 2016).

The professional must know how to respect and use in its intervention the principles of individuality, freedom and self-determination of each citizen, the respect for privacy (confidentiality) and private life of the subject and its autonomy, recognizing their skills and capacities, and its interdependence facing rights and duties that are recognized for every citizen in the society.

The conception of the family in an integral bio-psycho-social dimension requires an approach that takes into account the family's social relations, and its belonging to the community. Interventions should be centered on the relationship between personality, means, resources, social relations, and groups (Ferreira 2011/2016 a).

We conclude that the Portuguese model of child and youth protection is:

- a well-established system with an evolutionary history in terms of the transverse welfare policies and the diversity of the target group.
- a system that, while still very child-centered, is beginning to integrate other important actors as a focus of its own resources (host families, support families, etc.);
- a system that is well structured and defined, with several legally implicated actors (education, police, social security, environment, security, justice, etc.).

While on the one hand it can be seen as synonymous with a hierarchical and rigid system, it can also be seen as ripe for a reconfiguration of the protection system, renewal of professional practices with the interaction of collaborative working methodologies, networking, integration of community resources, inter-professionality, and ready to embrace professional literacy in the area of child protection as a true expression of recognition of their citizenship.

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