

# UNVEILING RESTORATIVE JUSTICE AND ITS CHALLENGES: IMPLEMENTATION IN THE STATE OF GOIÁS AS A PUBLIC POLICY FOR SOCIO-EDUCATIONAL ASSISTANCE<sup>1</sup>

## DESCORTINANDO A JUSTIÇA RESTAURATIVA E OS SEUS DESAFIOS: A IMPLEMENTAÇÃO NO ESTADO DE GOIÁS COMO POLÍTICA PÚBLICA DE ATENDIMENTO SOCIOEDUCATIVO

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### Abstract

Restorative justice applied to adolescents in conflict with the law has been primarily led by the judiciary, constituting a judicial public policy. The overall objective of the research is to verify whether restorative practices are being developed in the state of Goiás within the realm of juvenile delinquency in the procedural phase. The research is quantitative, employing descriptive statistics to demonstrate the number of adolescents in conflict with the law apprehended in Goiás and the municipalities of Goiânia/GO and Luziânia/GO between 2016 and 2019. It is also qualitative, employing a case study with an analytical-descriptive approach through semi-structured interviews. Therefore, to address the research question "To what extent are restorative practices being implemented within the juvenile justice system in Goiás at the procedural level?" the research hypothesis is that there is a structured procedural application of restorative practices with juvenile offenders in Goiás who are serving detention measures. However, one of the main findings indicates that restorative practices were not being implemented in the procedural phase at the Juvenile Court in Goiânia/GO in 2018, despite information to the contrary in the report titled "Piloting Restorative Justice" by the National Council of Justice. Another result of the research is that a restorative circle training course was conducted by the Court of Justice in Goiânia/GO at the end of 2019. During the period from 2016 to 2019, the only

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noteworthy experience in the state of Goiás was in the municipality of Luziânia/GO with institutionalized socio-educational participants.

**Keywords:** Public Policy, Goiano Social and Educational Plan, Restorative Justice

### **Resumo**

A justiça restaurativa aplicada aos adolescentes em conflito com a lei tem tido o protagonismo do poder judiciário, constituindo-se como política pública judiciária. O objetivo geral da pesquisa é verificar se as práticas restaurativas estão sendo desenvolvidos no estado de Goiás, no âmbito infracional em fase processual. A pesquisa é quantitativa ao utilizar estatística descritiva para demonstrar o quantitativo de adolescentes em conflito com a lei apreendidos em Goiás e nos municípios de Goiânia/GO e Luziânia/GO, entre 2016 e 2019, bem como qualitativa, com estudo de caso com orientação analítico-descritiva, mediante entrevista semi-estruturada. Assim, para o questionamento “Em que medida processual as práticas restaurativas estão sendo implementadas no âmbito da justiça infantojuvenil em Goiás?”, a hipótese da pesquisa é de que há aplicação processual estruturada de práticas restaurativas com adolescentes em conflito com a lei em Goiás que cumprem medida de internação. Contudo, como um dos principais resultados obtidos, constatou-se que as práticas restaurativas não estavam em execução na fase processual na Vara da Infância e Juventude, no âmbito infracional, em Goiânia/GO no ano de 2018, embora houvesse informação no Relatório denominado “Pilotando a Justiça Restaurativa” do Conselho Nacional de Justiça em sentido contrário. Outro resultado da pesquisa é que houve curso de formação em círculo restaurativo fornecido pelo Tribunal de Justiça em Goiânia/GO no final do ano de 2019, sendo que no período de 2016 a 2019 a única experiência que se sobressaiu no estado de Goiás, foi a do município de Luziânia/GO com socioeducandos institucionalizados.

**Palavras-chave:** Política pública; Plano Socioeducativo Goiano; Justiça Restaurativa.

**Summary:** 1. Introduction; 2. Restorative justice and adolescents; 2.1. The implementation of restorative judicial policy for adolescents in conflict with the law in the context of Goiás; 2.2. Goiás Socioeducational Care Plan; 3. Goian experience in restorative justice: application with adolescents under socio-educational internship measures in luziânia/go; 3.1. Restorative Justice Manual of the Court of Justice of the State of Goiás; 3.2. Interview conducted with the judge in charge of the Childhood and Youth Court of Luziânia/GO; 4. Monitoring of restorative justice; 4.1. The problematic analysis of state public policies; 4.2. Indicators for monitoring the implementation of restorative justice and relevant propositions; 5. Conclusions; 6. References.

## **1 INTRODUCTION**

Initially, it is important to clarify that the focus of the research described in this article was to verify whether restorative practices are being implemented in the state of Goiás within the context of juvenile delinquency in the procedural phase. In this sense, the research hypothesis is that there is an application of restorative practices with juvenile offenders in Goiás in a structured manner, as established by the State Plan, which would align the Judiciary of the State of Goiás with nationally established practices.

Data were intended to be collected at the Juvenile Court of the capital, Goiânia/GO, as the National Council of Justice (CNJ) published in 2018 an analytical and propositional report entitled "Piloting Restorative Justice: The Role of the Judiciary" indicating in "Table 1 - Scenario of Restorative Justice in the

Brazilian Judiciary" that the application of restorative techniques was in the procedural phase<sup>2</sup>.

However, after sending letters and initiating an administrative procedure at the Court of Justice of Goiás, it was discovered that there was no implementation of restorative justice in the realm of juvenile delinquency. In other words, the information officially provided to the CNJ did not hold true, which is one of the significant findings of this investigation. Only in 2019 was there a training course on restorative practices for professionals in the socio-educational system.

Given this situation, the research was quantitative, analyzing data on juvenile offenders in Goiás, as well as qualitative, which was redirected to analyzing the scope of the restorative goal of the Goiás socio-educational plan (GOIÁS, 2016), and the investigation showed that the only city (district) that had implemented restorative practices was Luziânia/GO. From a qualitative standpoint, the feasible technique was therefore a case study, as it is the only location where restorative practices were observed in actual fact before the pandemic scenario.

Within the qualitative approach, the aim was to deepen the understanding of the reality of restorative practices within the juvenile justice system in Goiás. This is because empirical research allows for the exploration of the nuances and complexities of the topic, providing a more detailed view of the experiences of the actors involved.

Thus, this article presents, in the first section, quantitative data on the profile of adolescents in conflict with the law who were apprehended between 2016 and 2019, a quadrennial period specified in the state socio-educational plan. Identification of this profile is relevant due to the limited dissemination of data related to the socio-educational system.

Subsequently, the second part discusses considerations regarding the restorative justice manual of the Court of Justice of Goiás, followed by the presentation of empirical research conducted in Luziânia/GO, including the results of an interview conducted with the judge in charge of youth affairs in the municipality.

After deliberation, the third section raises questions about public policy, suggesting the implementation of monitoring in three dimensions of restorative justice.

## 2 RESTORATIVE JUSTICE AND ADOLESCENTS

The conceptualization of restorative justice is complex, fluid, and polysemic. Although it lacks a universal definition, according to Veronese, it can be understood as "the pursuit of rebuilding relationships between individuals and the community. In other words, it is a form of collective repair, promoting actions that can strengthen the community".

Vera Regina Pereira de Andrade analyzed the concepts of various authors such as the paradigmatic Howard Zehr, the Australian John Braithwaite, as well as Elizabeth Elliott and Kay Pranis, who support the concept of transformation. According to Vera, the different theoretical propositions demonstrate:

*[...] Restorative Justice transitions, in terms of its objectives, from a micro conception (repair of harm) to a macro conception (transformation), both mediated by the centrality of the encounter. [...] it moves from a micro potentiality to produce encounters and restorations in intersubjective relationships to a macro potentiality to effect change in justice and in the process of communication and social relations, both mediated by the force of participation and dialogue, whose essence is the production of connections severed among subjects divided within the core of everyday conflict and its manifold instrumental and symbolic violences.*

For Raffaella Pallamolla, “restorative justice has not only an open but also a fluid concept, as it has been modified, along with its practices, since the earliest studies and restorative experiences”. The author further reflects on the difficulty in conceptualizing restorative justice extending to its objectives (such as accountability, conflict resolution, conciliation or reconciliation between parties, rebuilding of bonds, and prevention of reoffending), as these may or may not be achieved or sought in a single restorative procedure.

## 2.1 The Implementation of Restorative Justice Public Policy for Juvenile Offenders in Goiás

The Resolution 225 of the National Council of Justice (CNJ), as well as Resolution 300 of the CNJ which added articles 28-A and 28-B to the former, serve as the national platform for the formulation of Judicial Decree 1346/2017 by the Court of Justice of Goiás (TJ/GO), implementing the judicial policy of restorative justice at the state level. Additionally, Instruction Number 0001/2018 establishes rules and guidelines for the implementation and development of restorative justice practices, thereby instituting public policy within the judiciary of the state of Goiás.

Public Policy is defined by Maria Paula Dallari Bucci as “governmental action programs aimed at coordinating the means available to the State and private activities, for the achievement of socially relevant and politically determined objectives”<sup>4</sup>. The author also considers them inherently interdisciplinary<sup>5</sup>.

Liberati understands that “the formulation and management of public social policies have always been a major challenge for Public Administration, “because “public policies are the actions carried out by Public Administration on behalf of the State, to satisfy the essential needs of each citizen”<sup>6</sup>.

The formulation and management of public policies pose a challenge to the state, requiring engagement and planning from both the State and its administrators to ensure the realization of fundamental rights. Considering that public policies are actions aimed at satisfying commitments made by Public Administration towards citizens, the assessment of the realization of fundamental human rights for adolescents in conflict with the law in Goiás involves their initial contact with the police system.

In order for public policies to be created, developed, monitored, and evaluated, it is essential that information about the subject of study, in this case, the socio-educational system in connection with restorative tools, is available to the

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<sup>4</sup> BUCCI, Maria Paula Dallari, *Direito Administrativo e Políticas Públicas*, São Paulo, Saraiva, 2002, pp. 241.

<sup>5</sup> *Ibid*, Op. cit., pp. 227.

<sup>6</sup> LIBERATI, Wilson Donizeti, *Políticas públicas no Estado Constitucional*, São Paulo, Atlas, 2013, pp.97.

public, along with identification of the population targeted by a specific policy. This purpose encompasses both public control of state guidelines and policy management itself, as well as enabling research and empirical analysis regarding the allocation of human, material, and financial resources aimed at continuous monitoring of public policy, which requires planning:

*It is important to note that the development of decennial plans for socio-educational services should not be seen as a mere formality in compliance with a legal requirement, since the intersectoriality that should permeate this policy presupposes a wide range of policies and social actors, demanding efficient programmatic and operational planning. Therefore, the requirement for plans is not merely to satisfy a legal mandate but because such planning is crucial to provide quality, individualized, and genuinely specialized care, extended to families and provided not only by social assistance but also, as stipulated by law, by other organs and sectors of administration<sup>7</sup>.*

In this sense, specialized and individualized care necessarily involves the pathway of information regarding who the intended recipients of a given public policy are. The presentation of data itself can be useful in shaping clearer public policies, facilitating institutional and community self-analysis of what has been achieved in practice through the interpretation and application of legislation in the real world, not just in theory.

Moreover, SINASE compiles statistical information on the Brazilian socio-educational system through data collected from managers of socio-educational establishments who complete a structured form, which recently yielded the following figures:

*The Annual SINASE Survey data for the year 2017, consolidated, indicate that there were 24,803 adolescents and young people aged between 12 and 21 years old served in educational and semi-liberty establishments, with 17,811 in internment measures (71.8%), 2,160 in semi-liberty regime (8.7%), and 4,832 in provisional internment (19.5%) at 484 units aimed at restriction and deprivation of liberty (internment, provisional internment, and semi-liberty) as of November 30, 2017, in addition to 1,295 adolescents in other service modalities (initial care - 937, sanction internment - 306, protective measure - 63), totaling 26,109 adolescents and young people included in the system overall<sup>8</sup>.*

According to the description above, the majority of adolescents in Brazil are under internment socio-educational measures (71.8%), although it is important to note that data production is not continuous. There is a delay between data production and dissemination, and there is no standardized publication pattern, which means that data may be included in one survey and omitted in the next.

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<sup>7</sup> BRAZIL, *Panorama da execução dos programas socioeducativos de internação e semiliberdade nos estados brasileiros*, E-book, 2019, Disponível em: <[https://cnmp.mp.br/portal/images/Publicacoes/documentos/2019/LIVRO\\_PROGRAMAS\\_SOCIOEDUCATIVOS\\_WEB.pdf](https://cnmp.mp.br/portal/images/Publicacoes/documentos/2019/LIVRO_PROGRAMAS_SOCIOEDUCATIVOS_WEB.pdf)>, Acesso em: 28 jun. 2024, p. 39.

<sup>8</sup> BRAZIL, *Plano Nacional de Atendimento Socioeducativo*, Diretrizes e Eixos Operativos para o SINASE, Brasília, 2019, Disponível em: <[http://www.mpgp.mp.br/portal/arquivos/2017/03/03/17\\_49\\_45\\_295\\_Plano\\_NACIONAL\\_Socioeducativo.pdf](http://www.mpgp.mp.br/portal/arquivos/2017/03/03/17_49_45_295_Plano_NACIONAL_Socioeducativo.pdf)>, pp. 12. Acesso em: 20 fev. 2021.

## 2.2 Goiás Socioeducational Care Plan

The National Socio-Educational Assistance System (SINASE), established by Resolution 119/06 of CONANDA and Law 12,594/12, aims to uphold the principle of presumption of innocence for adolescents, municipalize care services, and ensure comprehensive protection of the rights of adolescents in conflict with the law. This system coordinates public policies aimed at integrating these youths, promoting structured management, and implementing socio-educational measures in an integrated manner among state and municipal systems, as stipulated by Article 64 of Law 12,594/12.

The law also mandates the development of "socio-educational service plans" at the national and state levels, valid for a decade, aimed at instituting policies that converge with adolescent rights. Additionally, it establishes guidelines for restorative justice in the National SINASE Plan, promoting educational accountability and social inclusion of adolescents as defined in the national plan.

In Goiás, the State Socio-Educational Assistance Plan, aligned with SINASE, directs specific policies for adolescents in conflict with the law from 2015 to 2024, focusing on decentralization and adaptation to local realities. The state operates eight detention units across six municipalities, with three in Goiânia, addressing the highest state demand.

The Goiás Court of Justice, through State Law 17,961/2013, established NUPEMEC to implement consensual conflict resolution methods, including restorative justice under Judicial Decree 1346/2017. This regulation defines collaborative methods such as victim-offender mediation, restorative conciliation, and restorative circles, integrated into judicial and extrajudicial practices.

Directive 0001/2018 establishes guidelines for the application of restorative techniques in Goiás districts, supervised by NUPEMEC, with ongoing facilitator training and monthly monitoring reports. The involvement of lawyers, public defenders, and the Public Prosecutor's Office is essential, ensuring the protection of fundamental rights of adolescents and the effectiveness of restorative practices.

To expand the use of restorative justice, community engagement and interdisciplinary collaboration with fields such as social work, sociology, anthropology, and psychology are crucial, as advocated by the CNJ. The need to correct inconsistent information regarding the implementation of restorative techniques underscores the importance of transparency and accuracy in judicial data disclosure.

Although the analytical-propositional report "Piloting Restorative Justice: The Role of the Judiciary" from the National Council of Justice (CNJ) indicated the procedural application of restorative techniques in the Juvenile Court of Goiânia<sup>9</sup>, subsequent research in the first half of 2019 found no application of restorative justice in procedural matters. It was discovered through the submission of an official letter and the opening of administrative procedure No. 201906000173298 at the Goiás Court of Justice that there was no application of restorative justice in 2018 within procedural scope. This reveals that the Goiás judiciary provided inconsistent

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<sup>9</sup> ANDRADE, Vera Regina Pereira de *et al*, *Pilotando a Justiça Restaurativa, o papel do Poder Judiciário*, Relatório Analítico Propositivo Justiça Pesquisa, direitos e garantias fundamentais. Brasília, Conselho Nacional de Justiça, 2017.

or inaccurate information to the CNJ, as the final CNJ report presented data suggesting a different reality from what was actually found in this research, which confirmed that only in 2019 was there a training course in restorative practices for socio-educational system professionals. Moreover, the Court's response suggested conducting empirical research in the municipality of Luziânia/GO. Therefore, rectification of such information is suggested.

### 3 GOIAN EXPERIENCE IN RESTORATIVE JUSTICE: APPLICATION WITH ADOLESCENTS UNDER SOCIO-EDUCATIONAL INTERNSHIP MEASURES IN LUZIÂNIA/GO

According to information from the Goiás Judiciary, the implementation of restorative practices developed in the municipality of Luziânia/GO during the initial phase of the Goiás Socio-Educational Plan's restorative goal, spanning from 2016 to 2019.

Despite restorative justice offering various practices such as victim support, victim-offender mediation, restorative conferences, sentencing and healing circles, peace committees, citizenship councils, and community service<sup>10</sup>, the practice utilized in both Porto Alegre and São Caetano do Sul is the Restorative Circle. One of the most relevant theoretical frameworks for this practice is Kay Pranis<sup>11</sup>, which Goiás also follows.

Therefore, this paper presents empirical research conducted through a case study in Luziânia/GO, specifically focusing on the judge responsible for the court where adolescents are mandated to undergo closed custody socio-educational measures (CASE). Although not providing a comprehensive interpretation of the entire issue, the case study method was chosen for its aim to investigate while preserving holistic and meaningful aspects of real-life situations, fostering debate and structured discussion<sup>12</sup>.

Subsequently, the results of an interview with the former judge in charge of youth and juvenile affairs in the municipality will be discussed, highlighting insights into Goiás's public policy restorative goals, followed by indications of empirical research limitations and proposals for the next quadrennial of the Goiás Socio-Educational Plan.

#### 3.1 Restorative Justice Manual of the Court of Justice of the State of Goiás

The Goiás Court of Justice, through the Citizenship Management of the Permanent Center for Consensual Conflict Resolution Methods (NUPEMEC), under the coordination of Judge Maria Socorro de Sousa Afonso da Silva, who presides over the Juvenile Court, published in 2019 the "Restorative Justice Manual of the

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<sup>10</sup> ACHUTTI, Daniel, *Justiça Restaurativa e abolicionismo penal, contribuições para um novo modelo de administração de conflitos no Brasil*, 2ª ed, São Paulo, Saraiva, 2016, pp.79-83.

<sup>11</sup> PRANIS, Kay, *Teoria e Prática, Processos Circulares*, Tradução, Tônia Van Acker, São Paulo, Palas Athena, 2010.

<sup>12</sup> YIN, Robert K, *Estudo de caso, planejamento e métodos*, Robert K. Yin, trad. Daniel Grassi – 2. ed. – Porto Alegre, Bookman, 2001, pp. 20-21

State Court of Goiás"<sup>13</sup>. This document addresses fundamental aspects of restorative justice, emphasizing the relationship between victim, offender, and community. It details restorative methods and practices such as victim-offender mediation, restorative conciliation, and restorative circles, providing a structured description with emphasis on essential elements.

The manual also discusses the application of restorative justice in various legal areas, including criminal (such as domestic violence, penal execution, traffic violations, procedures before the special criminal court), childhood and youth (delinquent acts and protective measures), and civil (family and special civil court), among others. The final chapter outlines the implementation of restorative justice in Goiás, delineating the team's role, operational methodologies, reception, intervention plans, referrals, and methods and practices applied to various audiences, addressing topics related to alcohol and drugs, domestic violence, youth issues, victim support, family violence, and traffic workshops. It also mentions the external network for assistance, social services, education, health, work, and mutual support groups.

The manual is based on theories by Howard Zehr, emphasizing that the restorative approach includes all parties involved in a specific offense or harm, collectively seeking to identify and address the damages, needs, and responsibilities arising from the offense to restore individuals and rectify the situation as effectively as possible. In this way, it acknowledges both the potential and vulnerabilities of the human condition collectively, aiming to meet the needs of the parties involved in repairing damages and improving the conflicted situation to the greatest extent possible.

Furthermore, the document underscores that, pursuant to Decree No. 1346 of June 2017, the State Court of Goiás instituted a Restorative Justice Policy, establishing the use of these practices in various areas, initially focusing on experiences in childhood and youth.

*In the pre-procedural phase, situated between the commission of the infractional act and the informal hearing conducted by the Public Prosecutor's Office, the Prosecutor, upon assessing suitability, may include the application of Restorative Justice in ministerial remission (Article 126 of the Child and Adolescent Statute). Following the receipt of the representation: the judge may employ judicial remission, suspending proceedings to apply Restorative Justice (Article 126, sole paragraph, of the Child and Adolescent Statute). During the execution phase: the judge can link the approval of the adolescent's Individual Assistance Plan (IAP) to Restorative Justice. The adolescent and their family are summoned to attend. Additionally, child and adolescent care network personnel, guardianship council members, school representatives, and other stakeholders involved in plan execution may be invited for informed interaction, establishing connections among themselves and forging a pact capable of considering all of the adolescent's demands. It can be applied, including within Juvenile Detention Centers for compliance with socio-educational measures, as well as to disseminate*

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<sup>13</sup> TRIBUNAL DE JUSTIÇA DO ESTADO DE GOIÁS, *Manual de Justiça Restaurativa*, 2021, Disponível em: <<https://www.rotajuridica.com.br/wp-content/uploads/2021/01/aqui-4.pdf>>. Acesso em: 20 de fevereiro de 2021.



*circles of peacebuilding within the protective network (health, education, public safety, among others) through programs*<sup>14</sup> (2019, p. 17-18).

In the realm of juvenile offenses, the applicability of restorative justice is enhanced through the educational nature of socio-educational measures. In the State of Goiás, the cities hosting Socio-Educational Assistance Centers include Goiânia/GO, Anápolis/GO, Formosa/GO, Itumbiara/GO, Porangatu/GO, and Luziânia/GO. Luziânia/GO was specifically authorized by the Goiás Court of Justice to conduct empirical research, following approval of the study under number 35604720.6.0000.5083 by the Ethics and Research Committee of the Federal University of Goiás.

### 3.2 Interview Conducted with the Judge in Charge of the Childhood and Youth Court of Luziânia/GO

A The interview was based on five axes, which were not necessarily conducted sequentially during the interview, but are organized as follows: the conceptual axis, related to understanding the theme of restorative justice; the procedural axis, related to the techniques used and their procedural impact; the experimental axis concerning restorative experiences with adolescents in conflict with the law; the institutional axis, regarding institutional interrelations and with the federative units themselves.

Rosenblatt argues that "there is no ready-made and finished 'restorative theory' out there to be translated and transplanted to Brazil"<sup>15</sup>. While a universalist conceptualization of restorative nature may limit and impoverish the theory, given the range of contexts and situations in which it can be applied, there is a great risk of complete relativization of its practices, as the breadth of the conceptual framework and objectives can lead to difficulties in evaluating Brazilian restorative justice programs. For evaluative appreciation, both theoretical and practical conceptions are considered, in order to envision the identity design of public policy and the objectives to be achieved. Subsequently, using the expressions verbalized by the interviewee, their answers and reflections are presented throughout the interview experience.

In this logic, the first axis introduced the question about the interviewee's understanding of what Restorative Justice entails. It was highlighted that the response obtained was about the new perspective on dealing with crimes and social, family, and individual conflicts, although the term "justice" cannot be exclusively associated with the judiciary.

The concept of restorative justice is not rigidly defined in Resolution 225/2016 of the National Council of Justice (CNJ), which presents principles, techniques, and actions to resolve these conflicts in a structured and organized manner. Unlike retributive justice, which involves only the State and the offender, restorative justice includes the participation of the victim, the offender, families, the

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<sup>14</sup> TRIBUNAL DE JUSTIÇA DO ESTADO DE GOIÁS, *Manual de Justiça Restaurativa*, 2021, Disponível em: <<https://www.rotajuridica.com.br/wp-content/uploads/2021/01/aqui-4.pdf>>. Acesso em: 20 de fevereiro de 2021.

<sup>15</sup> ROSENBLATT, Fernanda Fonseca, *The role of community in restorative justice*, Oxford, Routledge, 2016, p. 113-114.

community, and society. There is a reassertion of the role and participation of the victim. Facilitators are trained in self-composing, consensual, and restorative techniques to play a crucial role in this process, focusing on the needs of all involved and promoting active co-responsibility. There is genuine "empowerment of the community and society, which will promote future, albeit slow, social transformation".

In the same vein, the interviewee also considers that adolescents "enter the world of unlawful acts, and we must have a different approach in socio-educational measures, lest we repeat the retributive model of criminal proceedings". This new perspective, or paraphrasing Zehr, this "change of lenses," points to restorative justice.

She further emphasizes that, in general, adolescents who have committed unlawful acts have already had a series of rights violated, which may have occurred since childhood, necessitating the simultaneous application of protective measures.

Next, within the procedural axis, she was asked about which Restorative Justice methods have been used in Luziânia in the socio-educational system, and why this specific choice was made. It was explained that two groups were trained through the "Pilares Project," which is a "training of facilitators in restorative justice techniques, mainly in restorative circles and peacebuilding circles (...) aimed at capacitating the network, especially the education network." During the training of the protection network, socio-educational system techniques were also included, both in closed and open environments.

The judge said they started with peacebuilding circles but also intend to hold conferences between victim and offender, as well as between family members. Initially, there was a focus on "the offender, their role, responsibility towards themselves, family, and social responsibility, and towards the victim regarding the unlawful act committed by them." Thus, the circle is only conducted with offending adolescents and their families, with the intention of involving the victim and other family members later.

When the judge highlights the importance of fundamental rights, especially Article 227 of the Federal Constitution, emphasizing that young people must be treated with absolute priority in the best interest of children and adolescents and with full protection, she establishes a correlation between restorative techniques and the enjoyment of these rights. She also indicated that the SINASE Law (Law 12,594/12) establishes a restorative parameter in the execution of socio-educational measures.

Next, there was a question in the experimental axis regarding the legal repercussions of restorative practices on adolescent processes, whether before, i.e., pre-processual, during the process, or post-processual. The interviewee informed that they are applying them during the procedural phase, starting from the initial hearing, as "we already enter into active listening techniques, and in active listening, they are also led to reflect through non-violent communication." She then elaborated on the applicability of restorative justice in procedural, extrajudicial, and post-judicial phases, including recidivism analysis.

On a legislative level, there is a questioning regarding the recent law 13,431/2017, which amended the Child and Adolescent Statute, establishing the Child

and Adolescent Rights Guarantee System (SGDCA), and regulated specialized listening and special testimony, ways in which children and adolescents in situations of violence should be heard. Despite the intention to fully protect all children and adolescents, the law makes no mention of adolescents in conflict with the law. Can they not be offered active, specialized, humanized listening or a form of special testimony? Only young people needing protective measures can have full protection?

Regarding the aforementioned question, it was asked whether it would be correct to affirm that restorative principles and instruments themselves are used in the procedural phase and in the execution of the measure "Yes, but with the caveat that in the procedural phase, restorative justice techniques are used, the circles, the construction of peace circles, today they are practiced, effectively implemented in the execution phase by the CREAS or by the CASE." (sic)

Here, a relevant fact was observed: the proper method of restorative justice, the restorative circle, has been used in the execution phase of socio-educational measures. From 2016 to 2019, there was no opportunity to conduct a circle as an alternative mechanism to socio-educational measures or even before the formalization of judicial process.

Regarding preventive aspects, it was mentioned that "restorative justice finds a very fertile ground in the educational environment, to resolve and prevent conflicts. So a conflict, a bullying situation, can be resolved there." People trained by the Pílares Project held circles with coordinators, teachers, and students to minimize and prevent conflicts. The interviewee also highlighted that many demands of the judiciary come from a school context where acts analogous to the crimes of slander, defamation, libel, bullying, bodily harm, among others, are committed, which is why there is a large field of action.

Moreover, within the experimental axis, regarding the impact and receptivity of restorative practices in the daily lives of adolescents, it was emphasized that restorative and socio-educational approaches allow adolescents to reflect on the impact of their actions on the victim. The socio-educational process includes spaces for restoration, focusing on the adolescent's reflection on their personal role, individual and social responsibilities, and regarding the victim. Initially, engaging offending adolescents in participating in restorative circles can be challenging due to shyness, lack of motivation, or unfamiliarity with the process, requiring a pre-circle to address these issues. However, once motivated and engaged, they can overcome social and familial prejudices, facilitating dialogue and understanding of the proposed techniques, resulting in positive impacts on co-responsibility and awareness of the consequences of their actions.

Regarding adolescent consent, it was emphasized by the interviewee that restorative justice embodies "a voluntary practice, you cannot be forced to participate," as it would hinder "personal, community, and social transformation." Therefore, it is important for there to be "adherence of the socio-educands and their families when they participate. Initially, the socio-educands, they are all invited. So, in the first moment, the circles will only be for socio-educands and later socio-educands and their families." (sic)

On this theme, the interviewee informed that legal representatives participate, and there are circles where only socio-educands participate, addressing specific

family, adolescence, and rights violation issues when values are addressed. And in a second moment, adolescents, socio-educands, and their families participate." (sic)

In the institutional axis, she was asked about her knowledge of other institutions involved in restorative themes that directly or indirectly assist in conducting restorative procedures in Luziânia/GO, highlighting the Psychosocial Care Centers (CAPS), the Municipal Department of Education, and the Specialized Reference Center for Social Assistance (CREAS).

According to information from the socio-educational plan of Goiás, the goal was set to achieve 55% implementation of restorative practices from 2016 to 2019 in the state, and the interviewee said that in the city of Luziânia/GO, they are working to make these practices more frequent.

There was also questioning regarding the above-mentioned issue, and it was reaffirmed that there was a contribution from the Municipal Executive Power, but the State was not clearly identified. Challenges that Restorative Justice needs to face were then highlighted: The main challenge lies in overcoming established paradigms and eliminating ingrained prejudices. For centuries, a predominantly retributive model of justice has been followed, but it is crucial to understand that this is not about replacing this model with the restorative one; both are complementary. The first step involves recognizing that we live in a new constitutional order, in a globalized and interconnected world, drastically different from what it was two decades ago. The interviewee also emphasizes the importance of society fostering restorative practices.

#### 4 MONITORING OF RESTORATIVE JUSTICE

The public policy must meet requirements of rationality, strategy, and scale, as "the strategic component is intrinsic to the idea of public policy. Government action in motion, in a rationally conceived direction, involves the conception of the steps in which the action unfolds, with some clarity about the actors involved at each step, the relationships between them, and so on"<sup>16</sup>.

To assist in monitoring, it is essential to state that Restorative Justice prioritizes the following values: 1) Non-domination: attempting to mitigate participants' domination over others, with Restorative Justice aiming to minimize power differentials among the parties involved in the process; 2) Empowerment: the power of narrative, including the victim's active participation in the process; 3) Honoring limits: prohibiting any form of degrading or humiliating treatment; 4) Respectful listening: avoiding constraining, disrespecting, oppressing, or diminishing others, thus emphasizing mutual respect; 5) Equal concern for all stakeholders: ensuring all participants have equal conditions and some form of gain; 6) Accountability/appealability: ensuring individuals have the right to choose between the restorative process or traditional judicial process; 7) Respect for human rights as stated in the Universal Declaration of Human Rights and the Declaration of

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<sup>16</sup> BUCCI, Maria Paula Dallari, *Direito Administrativo e Políticas Públicas*, São Paulo, Saraiva, 2002, pp. 252.

Basic Principles of Justice for Victims of Crime and Abuse of Power, and other relevant international documents<sup>17/18</sup>.

There are also secondary values, not mandatory, guiding the procedure (maximizing values), such as damage repair, restoration of dignity, minimization of offense effects, and prevention of new offenses. The third group comprises emerging values (emerging values) spontaneously enabled both during and after the encounter, including apologies, forgiveness between parties, reconciliation, understanding of the injustice committed, which cannot be demanded from the parties<sup>19/20</sup>.

In this sense, the analysis of the restorative goal outlined in the Goiano Socio-Educational Plan aiming to achieve 55% utilization of restorative mechanisms within juvenile justice between 2016 and 2019 is surrounded by subjective issues and challenges. It should be noted that this article focused on the previous goal as the subsequent quadrennial goal (2020- 2024) is still ongoing and aims for 100% implementation.

#### 4.1 The Problematic Analysis of State Public Policies

In analyzing the compliance with the state plan, it is possible to affirm that what is concretely available is merely the presentation of the goal, without any detailing of how to achieve it, thus raising more questions than answers due to the absence of definition regarding what reaching 55% of its objective entails. Was the goal merely a reproduction of the national plan? Does the implementation of restorative programs concern only the capital of the state of Goiás or all municipalities in Goiás? Are only the judicial districts with detention units, semi-liberty, and probation facilities subject to the goal? What is the 100% universe considered for achieving the 55% target in the quadrennium from 2016 to 2019? Was the intention to implement restorative justice in 55% of the judicial districts of the state or gradually implement it in all? Additionally, what are the criteria, objectives, and evaluation methods to achieve the goal? The socio-educational plan did not clarify any of these questions, which hampers a detailed analysis of public policy.

The absence of establishing short, medium, and long-term stages for achieving the restorative goal undermines both execution and evaluation, as it appears that there is an attempt to "introduce a 'restorative oasis' within a punitive desert. If we seek a paradigm shift, good ideas and virtuous intentions are not sufficient"<sup>21</sup>, especially in the absence of planning, "often resulting in a growing archipelago of punishments disproportionately affecting the poor, Blacks, and other marginalized segments of society."

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<sup>17</sup> ACHUTTI, Daniel, *Justiça Restaurativa e abolicionismo penal, contribuições para um novo modelo de administração de conflitos no Brasil*, 2ª ed, São Paulo, Saraiva, 2016.

<sup>18</sup> PALLAMOLLA, Raffaella, *Justiça restaurativa: da teoria à prática*, São Paulo, IBCCRIM, 2009.

<sup>19</sup> ACHUTTI, Daniel, *Justiça Restaurativa e abolicionismo penal, contribuições para um novo modelo de administração de conflitos no Brasil*, 2ª ed, São Paulo, Saraiva, 2016.

<sup>20</sup> PALLAMOLLA, Raffaella, *Justiça restaurativa: da teoria à prática*, São Paulo, IBCCRIM, 2009.

<sup>21</sup> ROSENBLATT, Fernanda Fonseca, "Um olhar crítico sobre o papel da comunidade nos processos restaurativos", *Revista Sistema Penal & Violência*, v. 6, n. 1, pp. 80-81.

Fernanda Rosenblatt<sup>22</sup> further criticizes the implementation of Restorative Justice, coexisting with the penal and juvenile justice system, which may enhance the state's punitive power, favoring more control and punishment, contrary to restorative principles. There is also caution about the ambiguity of the notion of community, increasingly complex and mutable, as it is not adequately explained how societal participation consolidates social ties, potentially resulting, at the end of the restorative process, in a mere handshake between individuals who would likely not otherwise meet.

The author also warns against romanticizing the community, which supposedly possesses a shared, positive, and collective worldview, without acknowledging that common sense itself legitimizes state punitive power. In other words, societal participation could foster social control, potentially aiding in the recovery of the worn-out legitimacy of governmental institutions.

On the other hand, the triple shared responsibility of the state, family, and society encourages collective engagement in monitoring the services provided to socio-educational offenders, whether they are in open custody or interned, preparing to return to community life. In conclusion, within the cycle of public policies – agenda setting, policy formulation, decision-making, implementation, and evaluation – the Goiás State Socio-Educational Plan regarding restorative justice still needs development in terms of monitoring.

In this regard, Paulo Januzzi asserts that the monitoring and evaluation process of public policy should consider specific indicators to assess the social impacts and positive effects that affect societal well-being, emphasizing the following points regarding program implementation and its outcomes:

*...it is necessary to evaluate the effort expended through input indicators and process indicators to assess the efficiency of the resources deployed. When evaluating implemented programs, results should be measured through various output indicators to gauge effectiveness in meeting specific goals and the social effectiveness of suggested solutions. For instance, a municipal health policy should be evaluated based on resource allocation efforts, how these resources are utilized, and how the policy contributes to improving health and living conditions of the population<sup>23</sup>.*

Finally, it should be noted that the state of Goiás plays a fundamental role in realizing public policy, assuming its responsibilities in formulation, decision-making, implementation, and evaluation, including budget planning. Drawing from these insights, indicators will be presented for monitoring the state's restorative public policy within the juvenile justice context.

#### 4.2 Indicators for Monitoring the Implementation of Restorative Justice and Relevant Propositions

A After presenting the challenges inherent in the intended analysis, we arrive at the propositional moment, wherein a theoretical framework drawn from the scientific production titled "Monitoring Restorative Justice in Three Dimensions" by

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<sup>22</sup> ROSENBLATT, Fernanda Fonseca, "Um olhar crítico sobre o papel da comunidade nos processos restaurativos", *Revista Sistema Penal & Violência*, v. 6, n. 1, pp. 72-82, 2014.

<sup>23</sup> JANNUZZI, Paulo de Martino, "Considerações sobre o uso, mau uso e abuso dos indicadores sociais na formulação e avaliação de políticas públicas municipais", *Revista de Administração Pública*, v. 36, n. 1, 2002. p. 61.

Daniela Carvalho Almeida da Costa<sup>24</sup> is utilized. This work stems from research conducted at the Court of Justice of the state of Sergipe, with the overarching goal of constructing and testing a specific monitoring model for restorative practices applicable to Restorative Justice Centers implemented by the Courts of Justice. The research conducted from 2016 to 2019 addressed the Court of Justice of Sergipe (TJSE), as well as programs and practices developed beyond the judiciary.

As a result of the research journey, Daniela Costa's study facilitated the development of three indicators necessary for evaluating programs involving restorative justice: relational, institutional, and social.

Thus, the evaluation indicators for Restorative Justice encompass several fundamental dimensions. In the relational dimension, notable aspects include the facilitator's role in accordance with the values and principles of RJ, active participation of the involved parties, the degree of satisfaction achieved, and the availability of legal assistance. These elements have the potential to bring about significant transformations in individuals' behaviors and attitudes.

Within the institutional dimension, the indicators encompass the program's adopted conceptual framework, its specific objectives within the institutional context, caseload flow and volume, the effectiveness of restorative agreements in terms of compliance and monitoring, as well as the available material and human resources, including mechanisms for self-assessment, ongoing evaluation, and team training. These factors not only impact program operationalization but also have the potential to influence attitudes and practices among the managerial and institutional actors involved.

Lastly, in the social dimension, the assessment focuses on the role of the community, the effectiveness of coordination with the social protection network, and the transformative potential in the perceptions and actions of community members.

Costa's research also includes a standardized instrument designed to evaluate restorative programs, presenting the content of each dimension correlated with identified indicators for their evaluation, highlighting what would constitute the ideal fulfillment of each indicator, as well as the appropriate methodology for evaluation purposes. Additionally, there are questionnaire models to be applied to the parties regarding the program's adherence to restorative principles and values, as well as satisfaction and participation, with the initial model developed in the first year of research refined into a more streamlined and consolidated version. In this regard, it is observed that:

*The entire path taken since July 2016 aims ultimately to construct a monitoring model for restorative practices that, guided by the purposes and dimensions of a Restorative Justice program, can measure its transformative potential beyond a mere conflict resolution technique. Moreover, it is expected that the constructed monitoring model will offer a valuable tool for ongoing evaluation, and that the indicators will serve as*

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<sup>24</sup> COSTA, Daniela Carvalho Almeida da, *Monitoramento da Justiça Restaurativa em três dimensões*, desenho a partir da experiência das práticas restaurativas da 17ª Vara Cível da Comarca de Aracaju (adolescentes em conflito com a lei), Aracaju, Editora UFS, 2019.

*parameters for course adjustments and continuous training planning, to be used by the program's own team or its management group*<sup>25</sup>.

One of the essential aspects of the public policy cycle is evaluation, and in restorative programs, this evaluation demands continuous implementation. Therefore, the dimensions structured by Daniela Costa, aiming to establish an applied paradigm through indicators, represent an evaluative guide.

Regarding the relational dimension, the repercussions on the lives of those involved in the restorative process—victims, offenders, their families, and the community—are considered, even if indirectly concerning the latter. The conflict and its management are returned to the parties, providing opportunities for new perspectives on themselves, others, and the conflict itself. In this aspect, questionnaires are useful for assessing the satisfaction that the restorative experience provided to the individual.

Concerning the institutional dimension, the concern lies in the gradual and structural improvement of institutions involved in administering justice, whether within or outside the judiciary. In this dimension, Costa<sup>26</sup> evaluates how justice is administered under a restorative approach and whether it promotes the necessary structural transformations to "investigate what measures are needed to establish justice as a social value, transcending the logic of punishment, through a cultural redefinition of responsibility"<sup>27</sup>.

Regarding the social dimension, the evaluative part is more complex due to the achievement control of public policy being seen in medium and long-term scenarios, with fragmented implications over time. There is an interdependent relationship among the dimensions, as satisfaction with the jurisdictional service provided directly impacts societal perceptions of the justice system and justice operators, with the same dynamic occurring within institutionalized structures.

The three analytical dimensions represent the repercussions of conflict and the new way of viewing and interacting with it through a restorative lens. In the relational dimension, the analysis begins with monitoring the facilitator, who is responsible for presenting and guiding the restorative experience, requiring adequate training and continuous improvement. The facilitator's role should not dominate or impose personal will but should foster a safe environment for voluntary participation and the expression of opinions by the involved parties, promoting empathy and respectful dialogue.

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<sup>25</sup> COSTA, Daniela Carvalho Almeida da, *Monitoramento da Justiça Restaurativa em três dimensões*, desenho a partir da experiência das práticas restaurativas da 17ª Vara Cível da Comarca de Aracaju (adolescentes em conflito com a lei), Aracaju, Editora UFS, 2019, pp.16.

<sup>26</sup> *Ibid. op. Cit.*, pp.26.

<sup>27</sup> PENIDO, Egberto de Almeida, MUMME, Mônica, "Justiça Restaurativa e suas dimensões empoderadoras - Como São Paulo vem respondendo o desafio de sua implementação", *Revista do Advogado, AASP*, São Paulo, ano XXXIV, vol. 123, p. 75-82. 2014, pp. 77.



Furthermore, the agreement is not a mandatory outcome but should result from consensus and active construction by the parties converging toward an agreement that meets everyone's demands, as explained by Daniela Costa<sup>28</sup>.

It is also evident that monitoring of the restorative public policy is intertwined with the facilitators' performance, with relational, institutional, and social indicators interrelated among themselves and with the activities developed by facilitators.

Another issue that needs to be addressed is the public problem that drove the design of the state's restorative public policy for adolescents in conflict with the law. If public problems are related to the state's response to adolescents, restorative justice can present itself as an alternative conflict resolution method, offering an alternative to the judicialization of delinquent acts. Alternatively, if public problems are procedural, restorative justice may be viewed as a mechanism that aids in social control and achieving the goals of socio-educational measures, becoming another phase in punitive and repressive systems.

The indicators developed by Daniela Costa serve as effective tools for continuous evaluation, serving as benchmarks for course adjustments and continuous training planning. They can be used by the team within the restorative program or by its management group. In the case of the Court of Justice of Goiás, they can be used by the teams of the juvenile and youth courts and socio-educational units across the state, overseen by the NUPEMEC management.

Therefore, what can be done in the last proposed quadrennium by the state plan? There is a suggestion to implement a Training and Improvement Plan for facilitators and other stakeholders involved in the state's public policy, both within the Judiciary and the Executive branches, as well as representatives from public security and civil and military police, ensuring continuous and ongoing education for professionals working with adolescents in conflict with the law.

Additionally, there may be encouragement to study the feasibility of implementing a Collegiate Management Committee for the network involved in implementing restorative justice for adolescents in conflict with the law.

Restorative justice is still paving its way to establish itself as an alternative to the traditional conflict resolution method. The more institutions and communities are involved in the debate, and the more plural and relational it becomes, the better opportunity there is to build a regionalized policy attentive to the demands of juvenile offenders.

## 5 CONCLUSIONS

Restorative Justice is evolving worldwide, and Brazil is no exception. Due to its principles and departure from the rigidity of traditional justice with its own regulations, it possesses an adaptable profile suited to diverse cultures and peoples. Nevertheless, restorative practices have coexisted alongside conventional justice, presenting a challenge in breaking away from centuries-old boundaries of a justice system that is continuously under construction and development.

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<sup>28</sup> COSTA, Daniela Carvalho Almeida da, *Monitoramento da Justiça Restaurativa em três dimensões*, desenho a partir da experiência das práticas restaurativas da 17ª Vara Cível da Comarca de Aracaju (adolescentes em conflito com a lei), Aracaju, Editora UFS, 2019, pp. 41-42.

One of the challenges in studying and implementing justice lies in its fluidity, both conceptually and experientially, which paradoxically can be one of its strengths. This fluidity allows for the incorporation of more region-specific issues essential to the exercise of justice. From a scientific standpoint, there must be a balance between fluidity and concreteness to ensure that restorative public policies, especially in socio-educational contexts, do not become so fluid that they lack clear objectives or structure.

The study aimed to analyze the socio-educational care public policy in Goiás, which included a goal of implementing restorative practices in fifty-five percent of cases during the 2016-2019 quadrennium. However, The null hypothesis of the research was confirmed when, in the first half of 2019, restorative practices were not being used in the procedural phase of the Juvenile Court for offenses in the municipality of Luziânia/GO. Consequently, the study focused specifically on the CASE (Center for Socio-Educational Measures) in Luziânia/GO, as it was the only institution identified by the TJ/GO (Court of Justice of Goiás) where restorative practices stood out with adolescents in conflict with the law in the state of Goiás. In other words, the researchers' experience revealed this distinct reality, as there were no young people from the Goiânia metropolitan region who received a restorative procedural experience.

Following empirical research involving questionnaires and interviews, it was observed that the advancement of restorative practices in Luziânia/GO was due to the Court of Justice of Goiás' training of facilitators in restorative circles. However, the development of these practices was primarily driven by the CASE's own staff actions and encouraged by the juvenile court's judge, with minimal effective contribution from the State of Goiás toward realizing the state public policy.

In addition to lacking a clear outline of how the public policy aimed to achieve its restorative goals and the absence of short, medium, and long-term constructions, other concerns arose as the national socio-educational plan had a similar objective. This similarity suggests that the state plan may have merely replicated the restorative goal obligationally, compared to what is stipulated in the Federal Constitution and state constitutions.

In this sense, the information provided by the institutions regarding the applicability of restorative justice in the Goiás infranctional context is at odds with what the population, which is the target audience of public policy, actually accesses in terms of enjoyment of rights.

The analysis of the public policy was compromised due to the aforementioned issues, prompting the recommendation for monitoring the policy across three dimensions: relational, institutional, and social, akin to the approach proposed by Daniela Costa<sup>29</sup>.

Furthermore, fostering specialized debates and public discussions on the topic is crucial, along with organizing lectures and specific training courses for those directly involved with socio-educational students. This approach should encompass the perspectives of the state and municipal executive branches, the judiciary, institutions, universities, and the community.

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<sup>29</sup> COSTA, Daniela Carvalho Almeida da, *Monitoramento da Justiça Restaurativa em três dimensões*, desenho a partir da experiência das práticas restaurativas da 17ª Vara Cível da Comarca de Aracaju (adolescentes em conflito com a lei), Aracaju, Editora UFS, 2019, pp. 16.

Indeed, since it is predominantly a judicial public policy, it is suggested that the training courses for new judges, prosecutors, and public defenders include disciplines that cover restorative justice, and that the servers also have access to periodic courses that disseminate restorative justice.

Despite the individual efforts of magistrates and the existence of national guidelines that supported the implementation of these practices, the consolidation of an effective model faced several obstacles. Institutional limitations due to the fact that it is a policy personified in the figure of the judge, the scarcity of material resources, and the absence of a more robust public policy were pointed out as the main limiting factors.

It is suggested that the Goiás State Court involve those who completed the training course as facilitators of peacebuilding circles in dissemination, implementation, and development of restorative circles, as well as conducting studies on the value of spending on staff, materials, and refresher courses.

In this sense, the research found that, although there was initial enthusiasm and preparatory actions, the effective implementation of restorative practices required a more consistent commitment from the actors involved. The Goiás experience demonstrates that the implementation of restorative practices, although promising, requires careful planning and overcoming several obstacles.

In short, the need for a more integrative public policy between institutions and society emerges as one of the main challenges to be faced to ensure the effectiveness of these practices and the promotion of restorative justice for juvenile offenders.

Certainly, the intent was not to exhaust all proposals but to highlight some nuances observed through the developing restorative lens in Goiás and each municipality with its distinct characteristics. It is evident that each individual, group, or institution can contribute in some way to this paradigm shift.

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