143 - SPORT, STATE AND CONSTITUTION: A STUDY ABOUT EDUCATIONAL AND FUNDAMENTAL SPORT IN BRAZIL

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doi:10.16887/86.a1.143

Introduction

Sport that is an important social phenomenon and could be interpreted in different ways is understood nowadays as a key factor in the development of man and modern society, and its importance is accepted around the world. One example of the importance of this phenomenon is the constitution that happens in many countries and from this point developed their national sports policies and management systems of sports.

This recognition is based in the International Letter of Physical Education and Sport that was adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO), which links the assessment to sport with man's fundamental rights. In this document sports is raised to the fundamental condition for the performance of human rights, as described in the United Nations Declaration, as away to improve and preserve the physical, moral and intellectual aspects of man and increases its practice in most population around the world (Miranda, 2011).

Objective

The aim of this study was to identify and discuss the status of educational and fundamental sport in accordance with the Brazilian national legislation confronting National Sports Policy and prompting further studies about this specific topic.

Methods

A review and analysis of the Brazilian legislation has been developed based on the 1988 Constitution, and critical reading investigation of literature about this topic researchers are are also discussing this topic in national and international conferences such as Federação Internacional de Educação Física - FIEP

Sport in the Brazilian Constitution

In Brazil, sport is provided and guaranteed in the Constitution, in Article 217 which provides:

> It is an obligation of the State stimulate by fomenting formal and non-formal sporting activities, such as an individual right, observed:
> I-the autonomy of sports entities and associations, as to their organization and operation;
> II-the allocation of public resources and valorization of educational sports and high completive sport level;
> III-the priority treatment for professional and unprofessional;
> IV-the protection and fostering of sports created in the country.
> 1º The Judiciary only will accept actions regarding discipline and sports competitions after exhausting the instances of the sports courts, as regulated by law.
> 2º Sports courts shall have sixty days of the initiation of proceedings to defer final decision.
> 3º The Government shall encourage leisure, as a form of social promotion.

There are also laws that deal with this subject, such as Law No. 9615 of 1998 (Pele), which regulates national sport, among others. mongering. Since 2005, Brazil created a separate agency called the Ministry of Sports, which is trying to administrate the sports in Brazil.

Alves and Pieranti, (2007) affirmed that, during the definition elaboration of guidelines of the current National Sports Policy, the First National Sports Conference, held in Brasilia in 2004. During this conference, the proposal of the Ministry of Sports was adopted and reads in Article in Article 3, I, of Law 9,615, 1998 as:

> Art.3º sport can be recognized in any of the following manifestations:
> I- educational sports practiced in the school system and unsystematic forms of education, avoiding hyper competitiveness of its practitioners, in order to achieve the full development of the individual and their training to citizenship and the practice of leisure;

Many factors contribute to the construction of the National Policy on Sport, which is an unfinished, working document; to meet public demands,

The main highlights of the government's sports policy is the differentiation and separation of educational sport from professional base sport. Firstly, school should offer the condition to initiation of sports. After that, conduce the initial stages in the professional sport and the training process that is the basket of national athletes. The financial support for the initiation of the sports world is received by the federal government through programs such as “Programa Segundo Tempo”, a federal program that provides sports practice for public school students.

However, according to Alves and Pieranti, 2007, acess to a professional sports career in Brazil is only possible the sport private clubs, and the number of positions to sport is completely limited to the sports practices. This point of view is completely different from the national policies developed by countries like the United States and Cuba that even shows totally antagonistic ideological policies they are similar in the fact that both countries have initiation programs in professional sport situated at regular school.

Mendes and Azevedo, 2010, shows that the national sports initiation increased in Brazil by action of the government Public Policy of Sports and Leisure (Políticas públicas de Esporte e Lazer / PPLE) program and the Social Programs for Sports (Programas Sociais de Esporte / PSE). These programs helped in the quantitative and qualitative increased in the fundamental sports in the country using the School Physical Education (Educação Física Escolar / EFE) program.

In 2012, at the conference presentation called the Second Seminar on Public Policy, Sport and Leisure conference in Brasilia, the Minister of Sport Aldo Rebelo, using national data has shown that Brazil needs to develop a national policy that prioritizes Physical Education and sports in a fundamental level at school. This is one example of how Brazil is trying to follow the international programs models and change the national model. However, this is an interesting topic once in Brazil, historically, the initiation in sports in fundamental school has no financial support.

Aldo Rabelo, minister of Sports Minister during that time also mentioned that during its participation as a congressman in the Parliamentary Inquiry Commission (Comissão Parlamentar de Inquérito / CPI) that investigated the contract between the Brazilian Football Confederation (CBF) and NIKE, proposed the deep alteration of the law of the Occupation of the Place (Lei de Ocupação do Solo), that confirms that each school constructed in the country, should necessarily have a place where children can practice sports and have physical education class.

Rabelo also pointed out that the sport policy should be governed by permanent laws, voted in a National Congress. This point of view is extremely relevant, once shows a conviction regarding the need for a National Sports Policy, supported by laws.

This position is supported by the Constitution to be analyzed in item II, of his constitutional article

The allocation of public resources as a priority for educational sports and, in specific cases for the high level performance..

The Brazilian national Constitution requires the legislature to ensure access for all citizens to formal and non-formal sporting activities, specially within the public school system.

Mendes and Azevêdo (2010) confirms the indispensable presence of physical education in elementary schools, which not only enables its function as a curricular component, but also plays a pedagogical function by using technical concepts and theories.

In addition, Minister Aldo Rebelo at the 2012 SPELL (what is this anacronym?) Conference in Brasilia, 2012, explained that “the first” contact of children with the sport should happen at fundamental school and after that giving the way to subsequent submission to those students who demonstrate a greater ability for the different sports.

To demonstrate how fundamental sports is to the development of a country, it is necessary to understand how legislation is financed in Brazil

First, this paper provides a brief overview of Law No. 11,438, Sports Incentive, which provides tax incentives by the government for the sports agencies. Secondly, we will discuss the governmental policy to promote the national base of sport and make a short description of Second Half Program (Programa Segundo Tempo) that belongs to the Ministry of Sports in Brazil.

Educacional Sports

The Federal Law 9.394 of 1996 Act Guidelines and Bases (Lei de Diretrizes e bases / LDB) of Brazilian National Education, which governs the education throughout the country, has in its Article 26, the guidance on the curriculum of the national basic education:

> Curriculum from preschool, elementary school and high school should have common national basis, to be complemented in each education system and in each school and for a diverse part, demanded by regional and local characteristics of the society culture, the economy and learners.

Physical education is included in its paragraph 3, as follows: “Physical education, integrated into the pedagogical proposal of the school, is a compulsory curricular component of basic education.

Education and sports should be offered in physical education classes, according to the National Curriculum Parameters (Parâmetros Curriculares Nacionais / PCNs), which gives the orientation guidelines and their proper knowledges, aiming to standard the basic education to all the students.

As mandatory curriculum component of the national basic education, physical education and sport have in Article 68, the LDB, an indication of the general sources of Brazilian public education.

Specifically, educational sport has part of its financing, guaranteed by Law 10,264, of July 16, 2001, (Agnelo Piva Law), which added subsection and paragraph of Article 56 of Law 9615, 1998, and went on to devote 2% of gross revenues from federal lotteries in the country in favor of the Brazilian Olympic Committee (COB), 85%, and the Brazilian Paralympic Committee, 15%. Of these 85%, the COB, invests mandatory by law, 10% in the School Sport.

The fundamental sport also has its resources funded by the Ministry of Sports, the item I wording of the provision of Article 7 of Law 9615 of 1998 that say:

> Art. 7º - Resources of the Ministry of Sport will be allocated as follows: I -educational sports;

Sport education in elementary schools can be also supported by fundings from the National Fund for Maintenance and Development of Basic Education and Enhancement of Education Professionals (Fundeb), destined for example for the payment of expenses related to the acquisition, construction and maintenance of necessary equipment for sports activities in schools.

The Incentive Law Sport (Lei de Incentivo ao Esporte)

The Federal Law No. 11,438, December 29, 2006, Law Sports Incentive, figure in the list of government measures to stimulate the Brazilian sport, as a tax incentive tool for individuals sponsorships or donations, promoting sports projects approved by the Ministry of Sports.

Regulated by Presidential Decree No. 6180 April 3, 2007, the law allows, by a percentage to be deducted from the national tax due, the sponsors or donors, can encourage sports projects and sports.

Every project to be submitted for approval by the Sports Ministry should be framed in at least one sporting event, namely: sports participation (leisure); educational sports (the public enjoyed this demonstration has to be enrolled in an educational institution, and of this, 50% in a public institution of education); and sport (the sport is aimed at results and has this manifestation, the presence of athletes or athletes in training process to the international competition.

Sports projects should be submitted by a legal entity that is legally authorized to present projects with the Ministry of Sport, should meet the following requirements: no economic purposes; sporting nature; one year of operation. The proponents can be: state governments, municipalities, confederations, federations and leagues, clubs and associations. The sponsoring entities can be: Petrobras, Bradesco, Cemig, Itaú bank, Valley, among many others companies.

The Second Time Program (O Programa Segundo Tempo)

The Brazilian government strategic program, created to democratize access to practice and sporting culture by children, adolescents and youth, primarily for students enrolled in public schools in the country, the basic education system, and in areas of social vulnerability.

Ordinance in Article 2, the objective of the program, namely:

> Art.2 The "Program Second Time" aims to:
> E Provide contact sports practice;
> II- Develop skills and motor skills;
> III- To qualify the professional human resources involved;
> IV contribute to the reduction of exposure to situations of social risk;
> V - To implement indicators for monitoring and evaluation of educational sport in the country.

Coordinated by the National Educational Sport Ministry of Sports, the program offers sports activities at opposite times of the regular study and, by giving the formation of partnerships with public institutions and private non-profit entities, through which are formed service centers to students participating in the program.

As to the source of the resources needed for the development of the program, this is provided for in Article 4 of its ordinance

> The resources to implement the program actions will come from budgetary allocations and partnerships to aggregate Program

The program has as one of its specific objectives, offering suitable conditions for an educational track which students can initiate in sports life.

Results

Lastly, this paper will describe approach and discussion forums on the subject:

The identification of the current situation, referring to the constitutional and infra-constitutional legislation for the educational and sports base in Brazil is important for the increasing in the number of national and international athletes.

At the same time, it was possible also a current identification National Sports Policy may help in the direction of financial support to improve the level of the Brazilian sport competition.

Conclusion

In conclusion, educational sport and the basis of sport in Brazil is a legal mandate, as described in the Brazilian Constitution; therefore, Sports have a specific financial support programs and there are some stimulation of their policies by encouragement, maintenance and development.

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SPORT, STATE AND CONSTITUTION: A STUDY ABOUT EDUCATIONAL AND FUNDAMENTAL SPORT IN BRAZIL

ABSTRACT

In the Brazilian state, the sport is expected and guaranteed by, Article 217 of the Constitution. From this premise, the study seeks to identify the situation of sport education and grassroots, national, in the light of relevant legislation and its own bibliography of events held on the topic, and also in the context of the current National Policy on Sport. Makes a specific approach: the Educational Sports, the Sports Incentive Law and the Second Half Program. We conclude that even though, both covered legally, require more effective, permanent and comprehensive public policies that opportunism greater access of the population to sports practices.

KEYWORDS: Sport education. Base sport. Constitution. .

RÉSUMÉ

Dans l'état brésilien, le sport est dejà prévu et garanti par l'article 217 de la Constitution de la République. En partant de cette prémisse, l'étude vise à identifier la situation de l'éducation et de la base de sport, nationales: la lumière de la loi pertinente, propre bibliographie d'événements réalisés sur le thème et aussi dans le contexte de l'actuelle Politique Nationale des Sports. En fait, l´aproche spécifique: le Sport pour l'éducation, la Loi d'encouragement au sport et deuxième programme "Segundo Tempo". Il est conclu que, même si, les deux, à la fois envisagé légalement, ont besoin de politiques publiques plus efficaces, permanentes et complètes, Afin de créer de nouvelles opportunités et meilleur accès du public aux sports.

RESUMEN

En el Estado brasileño, lo deporte está previsto y garantido en El, articulo 217, de la Constitución de la República. A partir de esa premisa, el estudio busca identificar la situación del deporte educacional y de bases, nacionales: A la luz de la legislación pertinente, de bibliografía propia, de eventos realizados acerca del tema y, aun, en el contexto de la actual Política Nacional de Deporte. Hace una, abordaje, específica en relación: al Deporte Educacional, a la Ley de Incentivo al Deporte e al Programa Segundo Tiempo. Concluso que, mismo estando, ambos, contemplados legalmente, necesitan de políticas públicas más efectivas, permanentes e abarcador, que de oportunidad a la un mayor acezo de la población a las prácticas deportivas.

PALABRAS-CLAVE: Deporte educacional. Deporte de bases. Constitución.

ESPORTE, ESTADO E CONSTITUIÇÃO: UM ESTUDO DO ESPORTE EDUCACIONAL E DO ESPORTE DE BASE NO BRASIL

RESUMO

No Estado brasileiro, o esporte está previsto e garantido no, artigo 217, da Constituição da República. A partir desta premissa, o estudo busca identificar a situação do esporte educacional e de base, nacionais: à luz da legislação pertinente, de bibliografia própria, de eventos realizados sobre o tema e, ainda, no contexto da atual Política Nacional de Esporte. Faz uma abordagem específica em relação: ao Esporte Educacional, à Lei de Incentivo ao Esporte e ao Programa Segundo Tempo. Conclui-se que, mesmo estando, ambos, contemplados legalmente, necessitam de políticas públicas mais efetivas, permanentes e abrangentes, que oportunizem um maior acesso da população às práticas desportivas.

PALAVRAS-CHAVE: Esporte educacional. Esporte de base. Constituição.