

THE INFLUENCE OF THE LIVING ENVIRONMENT ON THE CRIMINAL PRACTICE AND THE (IN)APPLICATION OF ARTICLE 66 OF THE PENAL CODE



<https://doi.org/10.56238/arev6n3-059>

Submitted on: 10/07/2024

Publication date: 11/07/2024

Everton de Godoy¹ and Thiliê Marson Sanches².

ABSTRACT

The contrast between countries such as Switzerland and Brazil demonstrates how cultural and educational aspects directly impact the crime rate. The determining influence of the living environment on human behavior is noticeable by examples such as the "Little Albert" Experiment and the Stanford Prison Experiment, which illustrate how conditioning to extreme contexts shapes behaviors. In an interdisciplinary way, criminology contributes to the study based on consensus theories, with emphasis on the Chicago School and the theory of differential association. The possibility of legally evaluating the influence of the living environment on the practice of criminal conduct to determine the penalty finds support in the Penal Code, but the judge may find limits in a summarized understanding. Thus, understanding crime requires a consideration of the social, economic, and cultural context in which people are inserted.

Keywords: Criminology. Behaviour. Conditioning.

¹ Law student – Faculdade Centro Mato-Grossense

² Lawyer, Public Servant and

Advisor Professor of the Law course – Faculdade Centro Mato-Grossense

INTRODUCTION

The living environment has an influence on the decision-making process and the formation of the human being's personality. From the analysis of the objects of criminology, such as crime, delinquent, victim and social control, it is verified that some scholars recognize the influence of the environment on criminal behavior and, thus, it is necessary to evaluate it in the application of Criminal Law.

For example, look at the cultural and educational factor. Countries such as Switzerland, which has a very high level of education, differentiates their crime rates when compared to Brazil. According to data from the OECD (Organization for Economic Cooperation and Development), 86% of adults between 25 and 64 years old have the equivalent of a high school diploma in Switzerland, while in Brazil, only 43% of adults in the same age group have a high school diploma.

The issue of education is reflected in crime. Switzerland has one of the lowest crime rates of all industrialized countries, with its homicide rate of 0.5, according to OECD data. On the other hand, in Brazil, the crime rate is 25.5 and only 44.78% of the population feel safe walking alone at night, which in Switzerland has a higher percentage, as 85.9% of the population feel safe walking alone at night.

Experimental studies also seek to understand the external influence on human behavior, such as the "Little Albert" experiment and the experiment carried out at Stanford. At this point, foreign literature is used, as there are no experiments similar to these in our country.

In the field of criminology, Robert E. Park and Ernest Burgess, who are part of the Chicago School, and Edwin Sutherland, who brings the theory of differential association, which will allow an interdisciplinary view of the subject, deserve to be highlighted.

In this way, the objective of analyzing how the living environment has an influence on criminal practice will be achieved. Specifically, the extent to which such influence can be taken into account in judgments will be highlighted. Above all, for the mitigation of the penalty due to a relevant circumstance, prior or subsequent to the crime, as provided for in article 66 of the Penal Code.

Finally, the barrier that may be imposed on the law enforcer by Precedent 231 of the STJ will be addressed, especially with the recent judgment, in September 2024, of Special Appeals 1,869,764/MS, 2,052,085/TO and 2,057,181/SE.

The research is of a basic nature in a prospective temporal delimitation, the procedure adopted is that of documentary and bibliographic research, with the objective of explanatory research and qualitative approach, analyzes recent judgments, in opposition to the Criminal Legislation, and articulates the theme with the literature of social experiment and criminology.

In view of this structural outline, it will be possible to reflect on the topic under debate and its consequences, including in relation to convicts with the base sentence set at the legal minimum.

EXPERIMENTS: "LITTLE ALBERT" AND THE LUCIFER EFFECT

The "Little Albert" experiment, conducted by John B. Watson and Rosalie Rayner in 1920, is widely recognized for its importance in understanding classical conditioning and its effects on behavioral psychology. (Bisaccioni; Carvalho Neto, 2010)

This experiment demonstrated how exposure to stimuli and traumatic events in a specific environment can influence the formation of emotional responses and deviant behaviors, and for Watson, the experiment was a success as it would be proof that fears are learned and not inherited. However, it is important to note that the experiment also faced ethical criticism due to the lack of informed consent from Albert's parents and the traumatic implications for the participant.

John B. Watson called his theory "behaviorism" and made it popular. He warned parents to take active control in the upbringing of their children, modeling the environments in which they lived.

The book "The Lucifer Effect: How Good People Become Bad People" by Philip Zimbardo (2007), shed light on human behavior in extreme contexts, based on the infamous Stanford Prison Experiment of 1971.

This study was originally intended to investigate the effects of the prison environment on social interactions, but quickly deteriorated when the "guards" began abusing the "prisoners".

The book analyzes how generally good individuals can engage in cruel and unethical behavior when placed in certain contexts, thus maintaining, in short, that we learn to become good or bad, regardless of our genetic heritage, personality or family legacy.

The Stanford Prison Experiment took place at Stanford University's own institution and highlighted the influence of the power conferred on the "guards" and the rapid

transformation of identities according to the situations. This raises profound questions about how social norms, situational pressures, and authority can lead people to engage in morally questionable behaviors, even against their personal convictions.

In this experiment, the prisoners no longer had their identity, considering that, during the calls and during the interaction with the other "inmates", they could not call each other by name, but had to stick to calling them by their numbers that were stamped on the guards considering that some calls were made at dawn, meals were not served properly, among others.

It is important to note that the students who were figuring as prison guards were always encouraged to be very hard with the prisoners, but everyone knew (guards, prisoners and other people who worked in the experiment) that it was nothing more than an experiment, just as they were just playing those roles and, even though they knew that all that was nothing more than "staging", it was not a cause of impediment for exorbitant situations to begin to arise.

It is also worth remembering that the experiment was so intense that on the second day there was already the first rebellion, causing the prisoners (who at the beginning of the experiment were peaceful) to become euphoric with the first manifesto.

During the day shift, the prisoners of Cell 1 made a barricade, not allowing the guards to enter, as well as not wanting to leave, because they said that the contract they signed would be broken. However, with the use of force, the guards managed to enter the cell and took away the prisoners' beds, saying that they would be returned only when they learned to behave. Nevertheless, they tried to entice the "good prisoners" so that they could persuade others to behave appropriately.

In his book, Zimbardo (2007, p. 279) states that what separates civilization from barbarism is a very narrow line, that is, it is not difficult for human beings to find themselves in a situation of stress that exceeds the limit of civilization:

The chronological narrative of this study, which I have tried to recreate here with fidelity, vividly reveals the extent to which ordinary, normal and healthy young people succumbed, or were seduced, by the social forces inherent in that behavioral context [...]. The boundary between Good and Evil, already thought of as impermeable, proved to be, on the contrary, quite permeable.

It can be seen that, in certain conditions of extreme stress, the individual can be led to let the worst of what he has flourish within himself. For Zimbardo (2007), an individual is

constantly involved in a two-way street with society – adapting to its norms, roles, and recipes for social ascension, but also acting on this society to reshape the norms.

Prior to the Stanford Prison Experiment, Zimbardo (2007, p. 48 to 51) carried out another relevant experiment, as he was very intrigued by the contrasts between the feeling of anonymity of the environment and the feeling of community and identity he felt in the city of Palo Alto.

The psychologist became interested in the effects of so-called induced anonymity – when people felt that no one could recognize them, in an environment that encouraged aggression.

In summary of their experiment, beautiful cars were placed on the streets on the way to the campuses, New York University in the Bronx and Stanford University in Palo Alto, with the hood up and the signs removed, in order to attract citizens and vandals.

In the Bronx, the first vandals showed up to dismantle the vehicle, even before the recording crew had positioned themselves. The father shouted orders for his son to check the glove compartment and for the mother to empty the trunk, while he himself removed the battery from the vehicle, in daylight. However, it turned out that the vandals were nothing more than ordinary citizens in society, they were adults, well-dressed people who, in different circumstances, would demand more protection than police distrust.

On the other hand, the vehicle left on the way to the campus at Stanford University, there was not a single act of vandalism, even though the car stayed in the same place for a whole week, no one even touched the vehicle, except for one day when it started to rain and a guy closed the hood so that the engine would not get wet. When Zimbardo (2007) went to drive the car back to the Stanford Campus, three neighbors called the police to report the alleged theft of an abandoned car.

Thus, Philip Zimbardo (2007) concluded that internalized anonymity does not need darkness to express itself. His experience as a psychologist inspired James Q. Wilson and George L. Kelling to develop the so-called "broken windows theory" in the field of criminology. (Masson, 2021, p. 474)

The three experiments carried out bring an important reflection that is completed with the study of criminology. This is because, scientifically, it will be seen that this behavior, shaped by an external stimulus, will have an influence on criminal conduct.

CRIMINOLOGY: EMPIRICAL SCIENCE

Criminology, known as the science of "being", because it is empirical, presents crime, criminal, victim and social control as its object of study. Thus, the social circumstances that are related to a criminal fact that, in an interdisciplinary way, is not limited only to the study of crime are addressed. (Penteado Filho, 2018, p. 14)

Criminological theories are separated into individual or sociological level theories. Individual-level theories limit the analysis to the criminal himself, based on his biology or psychology, while sociological level theories, called criminal sociology, understand that crime is a social phenomenon. (Purity, 2024, p. 94)

Criminal sociology is divided into two currents based on the analysis of society. The first is the sociological theory of conflict, which understands that force and coercion are essential for social harmony, whose existence depends on a relationship of domination. The second is the sociological theory of consensus, which argues that society shares the same values, there is a collective faith in institutions and systems of control. (Penteado Filho, 2018, p. 14).

The Chicago School is a sociological theory of consensus, founded at the University of Chicago in the early twentieth century, distinguished by its innovative approach to the study of crime, criminality, and deviant behavior.

The study was carried out aiming at understanding the criminal practice in the city of Chicago, considering that it had an exponential and disorderly growth. The city was expanding from the center to the periphery, thus causing serious social, economic, cultural problems, among others, which contributed to the increase in crime, even more so due to the absence of social control mechanisms. (Pureza, 2024, p. 99)

From social surveys in the investigation of criminal phenomena that could be noticed by observation, as well as individual cases that allowed the verification of a criminal career profile in conjunction with social surveys, the importance of the environment in the understanding of criminal and deviant behavior. (Penteado Filho, 2018, p. 57).

One of the central concepts of the Chicago School was the study of urban ecology, which focused on the relationship between the physical structure of cities and the occurrence of crime. The concept of social disorganization is explored for the contribution of crime in urban areas. The main exponents of this theory (Ecological Theory) are Robert E. Park and Ernest W. Burgess. (Purity, 2024, p. 100)

The Chicago School was a pioneer in conducting field research and empirical studies to collect data on crime and urban life. This research has helped to provide a solid foundation for the study of criminology and has contributed to the application of scientific approaches.

Another consensus theory is the Differential Association Theory, elaborated by Edwin Sutherland. This theory argues that criminality is a result of exposure to criminal norms and values, which are learned through social interactions. Sutherland emphasized the importance of the influence of peer groups in the development of criminal behavior. (Purity, 2024, p. 105)

The theory of Anomie and the Subculture of the Delinquent are also among the theories of consensus. Sociological theories of conflict include the labelling approach and critical criminology.

The importance of social, economic, and cultural factors in understanding criminality, challenging more traditional views that emphasized the innate nature of crime, can be seen from the sociological theories outlined above that, to a greater or lesser extent, explain certain crimes.

With the notion given by the literature of criminology, the legal operator, with this knowledge, is called upon to carry out his legal evaluation. Thus, the analysis of criminal and deviant behavior in contemporary society cannot be ignored in the consideration of the penalty to be applied.

RESULTS AND DISCUSSIONS OF THE CONSIDERATION OF THE LIVING ENVIRONMENT IN THE PENAL CODE

Article 68 of the Penal Code establishes the form of application of the penalty: in the first phase, the base penalty will be set (Ganem, 2018), in the second phase, the aggravating or mitigating causes of the penalty will be analyzed and, finally, in the third phase, the causes of increasing or decreasing the sentence will be analyzed. It is the so-called three-phase method of applying the penalty.

Article 66 of the Penal Code, used in the second phase of dosimetry, allows judges to consider any relevant circumstance to reduce the sanction imposed on the convicted person: "Article 66 - The penalty may also be mitigated due to a relevant circumstance, prior or subsequent to the crime, although not expressly provided for by law."

It is argued here that this provision should be applied in cases in which the social and family environment in which the individual settles significantly influences his behavior and, therefore, criminal conduct. Thus, the penalty must be mitigated in proportion to this external influence.

For example, if an individual grew up in a violent environment, with high crime rates and lack of opportunities, this can be an important factor in mitigating the sentence. The judge may take into account factors such as lack of family support, exposure to violence, or the influence of violent friends and family members to mitigate the sentence based on the aforementioned article.

With the support provided for in article 66 of the Brazilian Penal Code, the possibility of introducing the principle of co-culpability in the Brazilian Legal System is proposed. This is due to the authorization granted to the judge to evaluate in detail the particularities of each individual and, depending on the specific situation, to issue the sentence.

In this context, it is important to emphasize that co-culpability is not an institute expressed in current legislation, Zaffaroni and Peirangeli (2004) explain the following, in the quoted excerpt from the work Law, economy and society (2023):

A circumstance that, unfortunately, the current text does not mention in what express way, but which can be considered mitigating in this way, is the lower culpability of the agent arising from what has become accustomed to calling "co-culpability" (Zaffaroni; Pierangeli, 2004, p. 791).

It is argued, therefore, that the principle of co-culpability is present in article 66 of the Penal Code. This is due to the fact that this article allows the judge to use mitigating factors not listed in article 65 of the Penal Code, as long as they are relevant, prior or subsequent to the offense. In this way, the magistrate has the possibility of considering a circumstance that was not specified by the legislator. In relation to this theme, Paulo José da Costa Junior (2007, p. 220), states the following:

[...] In every human conduct, the imponderable is felt, while the legislator's myopia prevents him from foreseeing all the hypotheses that will arise. No law will therefore be able to predict, catalog, define and systematize the facts that will be unleashed in the future phenomenal reality. [...] The magistrate, when considering unforeseen angles, may reduce the sanction in order to adapt it to the culpability of the agent. However, the judge is not exempt from giving sufficient reasons for the decision.

Grégore Moreira de Moura (2006, p.41) argues in his work that if the State recognizes the principle of co-culpability, it would be allowing the judge, specifically at the

time he was applying the penalty, the possibility of taking into account situations relevant to the crime committed by the agent, which would be the socioeconomic conditions of the individual, as long as these have a direct influence on the practice of the crime committed.

It is therefore clear that co-culpability is appropriate to the article in question, since, although it is not explicit, it is a relevant cause that precedes the offence and has an influence on its commission. Therefore, when analyzing the particular case, the judge may base his decision to mitigate the sentence by applying the principle of co-culpability.

There is also a divergence in the Superior Court of Justice about the use or not of the theory of co-culpability to mitigate the individual's sentence based on article 66 of the Penal Code.

The school of thought that understands the possibility of generic attenuation presents the following weighting:

The generic mitigating factor provided for in article 66 of the Penal Code can be used as a basis, as it is a generic provision, which allows the magistrate to consider any relevant fact - before or after the practice of the criminal conduct - even if not expressly provided for by law, to reduce the sanction imposed on the defendant. [...] The theory of co-culpability, however, depends on the verification, in the specific case, of elements that demonstrate that the State has failed to provide due assistance to the accused. [...] STJ. 5th Panel. HC n. 411.243/PE, Rel. Min. Jorge Mussi, judged on 12/07/2017.

It can be seen that the current that validates the use of the theory of co-culpability for generic mitigation, understands that the use of this thesis varies from case to case, since it depends on the concrete demonstration of elements that show that the State has really failed to provide assistance to the accused.

In the Habeas Corpus substitute for Special Appeal in Habeas Corpus No. 509,589, the Minister of the Superior Court of Justice Reynaldo Soares da Fonseca argued that:

Article 66 of the Penal Code provides for a generic legal circumstance, which allows the magistrate to consider any relevant fact – prior or subsequent to the practice of the criminal conduct – even if not expressly provided for by law, in order to reduce the sanction imposed on the defendant. According to part of the doctrine, this mitigating factor is linked to the idea of co-culpability, although it is not restricted to it.

In other words, article 66 of the Penal Code gives the judge the possibility of considering relevant facts to obtain a reduction in the sanction imposed on the accused, according to his cognition. In the case cited above, the principle of co-culpability was not analyzed due to the suppression of the instance, that is, the Court of origin did not analyze the issue in question and, as a result, cannot be analyzed by the Superior Court.

On the other hand, there is a school of thought that does not admit the use of the theory of co-culpability as a mitigating factor for the penalty, as provided for in article 66 of the Penal Code, as it would be a reward for agents who do not assume their responsibility for the criminal conduct. Let us see the understanding of this current of the STJ:

The theory of co-culpability cannot be raised to the condition of a true reward for agents who do not assume their social responsibility and make crime a way of life. (STJ. 6th Panel. AgRg in REsp No. 1.770.619/PE, Rel. Min. Laurita Vaz, judged on 06/06/2019.)

The analysis of the circumstances surrounding a crime plays a crucial role in determining the appropriate punishment. Article 66 of the Penal Code, by allowing the reduction of the sentence based on relevant circumstances, provokes discussions about what factors should be considered in this process.

It is also noted that the adoption of the theory of co-culpability would not reach all cases, since, as provided for in article 68 of the Penal Code, the base penalty will be set according to the criterion of article 59 of the same legal diploma and, when the base penalty is stipulated at the legal minimum, the mitigating factor of article 66 of the Penal Code, cannot be used, as stipulated in precedent 231 of the STJ.

Precedent 231, of the Superior Court of Justice, establishes that "the incidence of the mitigating circumstance cannot lead to the reduction of the sentence below the legal minimum." This precedent, even today, is a point of intense discussion and divergence in the courts, especially with regard to the possibility of setting penalties lower than the legal minimum, even when there are mitigating circumstances, such as the co-culpability of the State or another generic mitigating factor.

Justice Schietti Cruz, of the STJ, had a significant voice in this debate, highlighting that the rigid application of Precedent 231 can, in some cases, lead to unfair results, as stated in his report:

[...] Not infrequently, reality presents concrete situations in which the minimum sentence obtained in the judicial process of individualization of the criminal sanction still seems to be excessive and nothing can be done – even in the presence of an extenuating circumstance – due to a criminal categorization that is inflexible. (Special Appeal No. 1,869,764/MS, Rapporteur Justice Rogerio Schietti Cruz, Rapporteur for the judgment of Justice Messod Azulay Neto, Third Section, judged on 8/14/2024, DJe of 9/18/2024.)

Such inflexibility has been criticized, especially because modern Criminal Law offers new instruments to deal with complex crimes. As an example of these mechanisms, we can

mention the judicial pardon for plea bargaining and the non-prosecution agreement, in which the Public Prosecutor's Office can choose not to file a complaint if the accused confesses to the crime and complies with the conditions imposed.

These discussions about the entry of Precedent 231, of the STJ, arise in a context of recent judgments. As can be seen in Resp 1.869.764 – MS, in which the defense pointed out the violation of articles 65 and 68 of the Penal Code, to the argument that the recognition of the mitigating factor of the confession should have resulted in the reduction of the sentence below the legal minimum.

The result of the ruling demonstrates the complexity of the discussion. The winning vote was accompanied by four justices, while the other four welcomed the overcoming of the precedent. Thus, the result of 5 to 4 brought the maintenance of the understanding signed with the following conclusion:

Judgment theses: 1. The incidence of a mitigating circumstance cannot reduce the penalty below the legal minimum, according to the binding understanding of the Federal Supreme Court in Topic 158 of the general repercussion. 2. The Superior Court of Justice does not have the competence to review binding precedents set by the Federal Supreme Court. 3. The mitigating circumstance may not lead to the reduction of the sentence below the legal minimum. (Special Appeal No. 1,869,764/MS, Rapporteur Justice Rogerio Schietti Cruz, Rapporteur for the judgment of Justice Messod Azulay Neto, Third Section, judged on 8/14/2024, DJe of 9/18/2024.)

In Resp 2.052.085-TO, the defense claimed that the spontaneous confession should mitigate the sentence and asked for the removal of Precedent 231. In a judgment held on the same date (8/14/2024), the conclusion was identical to that of the judgment indicated above and the same occurred in the judgment of Resp 2.057.181-SE, maintaining the application of the precedent indicated.

Thus, it is verified that, even if the possibility of applying the co-culpability of the State were recognized, with the application of article 66, CP, in some cases this analysis would remain innocuous, since the penalty, when set at the legal minimum, cannot be reduced, according to a recent understanding upheld by the STJ.

This is not what is considered appropriate. In this context, it is worth quoting the words of Zimbardo in the book "The Lucifer Effect":

[...] Understanding the 'why' of what was done does not excuse 'what' was done. Psychological analysis is not an 'excuse'. Individuals and groups that behave immorally or illegally have yet to take responsibility and answer legally for their complicity and their crimes. However, when determining the severity of his sentence,

the situational and systemic factors that caused his behavior must be taken into account. (Zimbardo, p. 326)

In this analysis, psychosociological theories can contribute to this assessment by providing some valuable insights into the factors that influence criminal behavior.

The Little Albert Experiment, conducted by Watson and Rayner, demonstrated the influence of previous experiments in determining future responses. Childhood trauma, abuse or exposure to violent environments has a major impact on an individual's behaviour, suggesting that previous experiences of conditioning should be taken into account when applying the mitigating factor of Article 66.

In addition, the circumstances subsequent to the crime also deserve consideration. The Lucifer Effect, presented in the Stanford Prison Experiment, demonstrates how situational factors can influence human behavior. The prison environment and the authorities exert a significant influence on the convicted, suggesting that the context in which a crime is committed and the conditions of detention should be considered when considering the application of Article 66.

The Chicago School perspective emphasizes the relevance of an in-depth analysis of circumstances in view of the broader social context. Factors such as poverty, inequality, and local culture can have a crucial impact on determining criminal behavior. Therefore, when applying article 66 of the Penal Code, it is essential to consider the social and environmental context in which a crime occurred, promoting a more equitable and contextualized justice.

In short, by integrating the perspectives of the theories studied in the assessment of the circumstances relevant to the determination of the penalty, a fairer and more equitable application of the law will be ensured. This not only facilitates the rehabilitation of the offender, but also reinforces the integrity and effectiveness of the criminal justice system as a whole.

The analysis of the data presented so far consistently points to the conclusion that the living environment and external influences play a crucial role in criminal practice, in addition to supporting the idea that situations like these should be considered by the magistrate in the dosimetry of the penalty.

The point of difficulty, which will not be possible to overcome by scientific analysis, is the practical application. This is because the individualization of the penalty still does not

allow the judge to know the individual and, thus, be able to legally evaluate all the external influences to which he was exposed.

FINAL CONSIDERATIONS

In view of the reflections presented, it is noted that the living environment and external influences are factors that direct criminal practice, as can be seen from the studies carried out in the experiments of "Little Albert" and Stanford Prison.

The theories of criminal sociology and the examples presented emphasize that understanding crime requires considering the social, economic, environmental and cultural context in which it occurred, considering the influence of the living environment in its practice.

However, even with all the analyses of external influences, as well as the possibility of mitigation of the sentence provided for by the Penal Code, in its article 66, it is concluded that the Judiciary, as a rule, does not adopt the mitigation of the sentence based on these arguments and removes the co-culpability of the State.

This can be attributed to the practical complexity of carrying out the analysis of the external influence in the context of each crime and on each human being.

In conclusion, the data clearly show that the living environment is an important factor for criminal practice, but the difficulty of identifying the context in which it occurs and the measure of this external influence prevents the mitigation of the penalty and perpetuates the circle for the influence to be renewed successively.

REFERENCES

1. Bisaccioni, P., & Neto, M. B. de C. (2010). Algumas considerações sobre o "pequeno Albert". *Psicologia: Teoria e Prática*. Available at: https://pepsic.bvsalud.org/scielo.php?script=sci_arttext&pid=S1413-389X2010000200022. Retrieved on October 7, 2024.
2. Brasil. (1940). Código Penal. Decreto-Lei nº 2.848, de 7 de dezembro de 1940. *Diário Oficial da União*. Available at: https://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm. Retrieved on February 23, 2024.
3. Costa Junior, P. J. da. (2007). *Código Penal comentado* (9th ed.). São Paulo: DPJ.
4. Figueiredo, C. P. de, & Fontgalland (Eds.). (2023). *Direito, economia e sociedade*. Campina Grande, PB: Amplla. Available at: https://books.google.com.br/books?id=91_5EAAQBAJ&pg=PA43. Retrieved on February 23, 2024.
5. Ganem, P. M. (2018, February 20). Qual é o critério para fixar a pena-base na primeira fase da dosimetria? *Canal Ciências Criminais*. Available at: <https://canalcienciascriminais.com.br/criterio-pena-base-dosimetria/>. Retrieved on February 18, 2024.
6. Masson, C. (2021). *Direito penal: Parte geral* (Vol. 1, 15th ed., rev., updated, and expanded). São Paulo: Método.
7. Moura, G. M. de. (2006). *Do princípio da co-culpabilidade no Direito Penal*. Niterói, RJ: Impetus.
8. OECD. (n.d.). Brasil. *OECD Better Life Index*. Available at: <https://www.oecdbetterlifeindex.org/pt/paises/brasil/>. Retrieved on October 15, 2023.
9. OECD. (n.d.). Suíça. *OECD Better Life Index*. Available at: <https://www.oecdbetterlifeindex.org/pt/paises/suia/>. Retrieved on October 15, 2023.
10. Penteado Filho, N. S. (2018). *Manual esquemático de criminologia* (8th ed.). São Paulo: Editora Saraiva.
11. Pureza, D. (2024). *Manual de criminologia* (3rd ed.). São Paulo: Editora Jus Podium.
12. Superior Tribunal de Justiça. (2019). *AgRg no Recurso Especial nº 1.770.619 - PE (2018/0260741-6)* (Relatora: Ministra Laurita Vaz, Sexta Turma, julgado em 06/06/2019, DJe 18/06/2019). Available at: https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=201902392399&dt_publicacao=18/09/2024. Retrieved on October 4, 2024.

13. Superior Tribunal de Justiça. (2017). Habeas Corpus nº 411.243 - PE (2017/0195810-6) (Relator: Ministro Jorge Mussi, Quinta Turma, julgado em 07/12/2017, DJe 19/12/2017). Available at: https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=201701958106&dt_publicacao=19/12/2017. Retrieved on October 4, 2024.
14. Superior Tribunal de Justiça. (2020). Habeas Corpus nº 509.589 - SP (2019/0133862-9) (Relator: Ministro Reynaldo Soares da Fonseca, Quinta Turma, julgado em 11/02/2020, DJe 17/02/2020). Available at: https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=201901338629&dt_publicacao=17/02/2020. Retrieved on October 4, 2024.
15. Superior Tribunal de Justiça. (2024). REsp nº 1.869.764/MS (Relator: Ministro Rogerio Schietti Cruz, Relator para acórdão: Ministro Messod Azulay Neto, Terceira Seção, julgado em 14/08/2024, DJe 18/09/2024). Available at: https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=201902392399&dt_publicacao=18/09/2024. Retrieved on October 4, 2024.
16. Superior Tribunal de Justiça. (2024). REsp nº 2.052.085/TO (Relator: Ministro Rogerio Schietti Cruz, Relator para acórdão: Ministro Messod Azulay Neto, Terceira Seção, julgado em 14/08/2024, DJe 18/09/2024). Available at: https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=202202805110&dt_publicacao=18/09/2024. Retrieved on October 4, 2024.
17. Superior Tribunal de Justiça. (2024). REsp nº 2.057.181/SE (Relator: Ministro Rogerio Schietti Cruz, Relator para acórdão: Ministro Messod Azulay Neto, Terceira Seção, julgado em 14/08/2024, DJe 18/09/2024). Available at: https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=202203109810&dt_publicacao=18/09/2024. Retrieved on October 4, 2024.
18. Zimbardo, P. (2007). O efeito Lúcifer: Como pessoas boas se tornam más. São Paulo: Editora Record.