

International Series on Desistance and Rehabilitation

GOVERNING DELINQUENCY THROUGH FREEDOM

CONTROL, REHABILITATION AND DESISTANCE

Géraldine Bugnon



Governing Delinquency Through Freedom

This book analyzes the non-custodial government of young offenders in two major cities in Brazil. In doing so, it delves into the paradox of an institution exerting control over youths while at the same time promoting their autonomy and responsibility. The study sheds light on the specific logics of power, control, and inequality produced by such institutional settings.

The book's analysis is based on an ethnographic study of 'Assisted Freedom' (*Liberdade Assistida*) – a form of probation – in the Brazilian cities of Rio de Janeiro and Belo Horizonte. This particular context – which is characterized by endemic violent crime, on the one hand, and a highly protective juvenile justice system, on the other – sheds productive light on the contradictions of juvenile justice systems and other public policies based on the values of citizenship, autonomy, and responsabilization. The analysis takes the form of an inverted zoom structure: it begins by looking at cognitive and interactional processes at the level of interpersonal relationships between youths and professionals and then works its way up to examine ties outside the institution itself, with schools, the labour market, and juvenile courts.

Written in a clear and direct style, this book will appeal to students and scholars in criminology, sociology, cultural studies, and social theory and those interested in learning about non-custodial measures and the regulation of juvenile delinquency in Brazil and beyond.

Géraldine Bugnon works as a post-doctoral researcher at the University of Applied Sciences and Arts in Western Switzerland (HES-SO). She holds a PhD in sociology from the University of Geneva (Switzerland) and the University of Lille 1 (France). Her work analyzes the state regulation of deviance in different legal and institutional contexts. Her main research topics are prostitution, juvenile delinquency, and juvenile justice, as well as, more recently, the child protection system. She is particularly interested in the forms of hybridization between the welfare state and the penal state, as well as the impact of judicialization on the management of social problems.

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Governing Delinquency Through Freedom

Control, Rehabilitation and Desistance

Géraldine Bugnon

Translated from the French by Lucy Garnier



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Abbreviations and key terms

Atendimento: face-to-face meeting between a youth and his or her *técnica* or *técnico*.

BHAAS: professionalization programme in Belo Horizonte (fictional name).

CIA (*Centro Integrado de Atendimento ao Adolescente Autor de Ato Infracional*): Juvenile court in Belo Horizonte.

Community officer (*agente comunitário*): professional working for the Secretariat for Social Services or Health, who is not a *técnico/técnica* because he or she does not hold a university qualification.

Confinement (*internação*): socio-educational measure depriving youths of their freedom and implemented by confinement facilities.

Continuation hearing (*audiência de continuação*): further hearing, for example to hear witness statements.

Court-appointed lawyer (*defensor público*): lawyer who defends the minor's interests in the judicial process.

CPF (*Cadastro de Pessoas Físicas*): resident's card; a document testifying that the person is enrolled at the registry for natural persons.

CRE (*Coordenação Regional de Educação*): regional educational bureau responsible for coordinating the public education system in Rio de Janeiro.

CREAS (*Centro de Referência Especializado de Assistência Social*): social services centre under the jurisdiction of the Municipal Secretariat for Social Services and responsible for implementing non-custodial measures, among other tasks.

Descumprimento: situation in which the youth fails to comply with the obligations of the socio-educational measure.

ECA (*Estatuto da Criança e do Adolescente*): Statute of the Child and the Adolescent.

Encerramento, extinção: literally 'closure' or 'extinction'; judicial decision to end a socio-educational measure.

Firmando Vidas: professionalization programme in Rio de Janeiro (fictional name).

Integration meeting (*reunião de inserção*): weekly meeting in which the Belo Horizonte *técnicos* and *técnicas* receive the case files for the new youths with whom they will be working.

- Justification hearing (*audiência de justificação*): hearing in which the youths in situations of *descumprimento* are summoned to explain themselves to the judge (in Belo Horizonte).
- LA (*Liberdade Assistida*): form of probation; non-custodial socio-educational measure implemented by the CREAS.
- Measure progression (*progressão de medida*): judicial decision to give a youth a 'softer' socio-educational measure following good behaviour in a confinement or semi-open facility.
- Monitoring meeting (*reunião de fiscalização*): monthly meeting, in which the *técnicos* and *técnicas* provide an overview of the youths with whom they are working in LA, with representatives from the department coordinating non-custodial measures and the juvenile court (in Rio de Janeiro).
- Municipal/State Council for the Rights of the Child and the Adolescent (*Conselho Municipal / Estadual dos Direitos da Criança e do Adolescente*): council responsible for deliberating on socio-educational policies and devising plans for socio-educational management at a municipal and state level.
- PIA (*Plano Individual de Atendimento*): Individual Assistance Plan, outlining the objectives of the socio-educational measure and the youth's progress within it.
- PPCAAM (*Programa de Proteção a Crianças e Adolescentes Ameaçados de Morte*): Programme for the Protection of Children and Adolescents facing Death Threats.
- Preliminary hearing (*audiência preliminar*): initial hearing, conducted by the public prosecutor's department.
- Presentation hearing (*audiência de apresentação*): follows the preliminary hearing; is held by the judge who decides which socio-educational measure to apply.
- Projeto Digitalizando: professionalization programme in Belo Horizonte (fictional name).
- Promovendo Justiça: professionalization programme in Rio de Janeiro (fictional name).
- Prosecutor (*promotor*): representative of the public prosecutor's office in the penal procedure.
- Provisional confinement (*internação provisória*): measure keeping minors in custody while they are awaiting trial.
- PSC (*Prestação de Serviços à Comunidade*): form of community service; a non-custodial socio-educational measure implemented by the CREAS.
- Regulatory council (*Conselho tutelar*): council in charge of ensuring children's rights' legislation is respected.
- Remission (*remissão*): judicial pardon, which may or may not be handed down along with a non-custodial measure.
- Semi-open measure (*semi-liberdade*): socio-educational measure partially restricting youths' freedom implemented by semi-open facilities.

Sending a case back to the judge (*devolver o caso para o juiz*): notifying the judge that it is no longer possible to continue managing the youth in LA and requesting that judicial measures be taken.

Shelter (*abrigo*): shelter providing housing for homeless people.

Supervisor (*supervisor/supervisora*): specialist in psychoanalysis who runs the supervisory meetings with the *técnicos* and *técnicas* in Belo Horizonte.

Supervisory meeting (*reunião de supervisão*): weekly meeting in which the Belo Horizonte *técnicos* and *técnicas* discuss the most difficult cases with a supervisor.

Técnico/técnica: professional working in social services institutions who has a university qualification (in psychology, social work, or education).

Warning (*advertência*): socio-educational measure implemented in the judge's chambers.

Worker's card (*carteira de trabalho e de previdência social*): document necessary to work on the formal job market in Brazil.



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Introduction

This book analyzes the non-custodial government of young offenders in two major cities in Brazil. In doing so, it delves into the paradox of an institution exerting control over youths while at the same time promoting their autonomy and responsibility. It also endeavours to shed light on the specific logics of power, control, and inequality produced by non-custodial settings. With this in mind, it analyzes freedom as an instrument in the government of juvenile delinquency with a view, more broadly, to understanding the relationship between freedom and constraint in institutional settings combining social and penal objectives.

State intervention based on fostering individual responsibility and autonomy is not new; it has long been prevalent in the welfare state, but its presence in penal policies is more recent. In both material and symbolic terms, the criminal justice system has a monopoly on state violence and thus the legitimacy to intervene in citizens' lives in coercive ways. At first glance, then, basing a penal policy on the freedom of convicted offenders and framing that freedom as a tool for promoting autonomy might seem somewhat contradictory.

Rather than addressing this paradox in philosophical or conceptual terms, this book takes a sociological perspective on the issue. It examines penal policies in their broader social and historical context and considers how they are implemented in the everyday professional practices of agents on the ground.

Over recent decades, criminal justice policies have followed contrasting trends. The world's prison population has risen continuously (Walmsley 2018)¹ while, at the same time, 'alternatives to prison' or 'non-custodial'² sentences have proliferated. These twin dynamics are clearly present in the field of juvenile justice. On the one hand, the delinquency of minors has been increasingly criminalized: new penitentiary establishments have been created and many countries have lowered (or discussed lowering) the age of criminal responsibility (Muncie 2006, 54–55). On the other hand, there is increasing pressure, mainly from international conventions on children's rights, to give priority to non-custodial sentences, to 'open up' and 'humanize' detention centres, and to develop alternative forms of justice such as restorative justice (Muncie 2006, 59–60).

While a considerable body of social science research has examined the drivers, modalities, and consequences of the repressive turn – in both penal policies and their implementation in penitentiary establishments – there has been less focus on alternative measures to prison (Werth and Ballesteros 2017). Penal control may appear more immediately violent when it deprives individuals of their liberty, but it is not necessarily any less present in non-custodial settings. It simply takes different, and very specific, forms, which it is important to identify and explore. In the context of juvenile justice, this attention to non-custodial sentences is even more essential given the preponderance of their application to minors, who only rarely receive prison sentences.

This study sets out to examine the penal regulation of juvenile delinquency in a non-custodial setting by analyzing one specific case in Brazil: *Liberdade Assistida* (LA), which is a form of probation and literally translates as ‘Assisted Freedom.’ Brazilian juvenile judges can hand down a range of six ‘socio-educational measures’ to teenagers³ who have committed an offence. Among these, LA is the most coercive non-custodial option available.⁴ It consists in assigning the youths to a *técnica*,⁵ usually a psychologist or social worker by training, who follows their progress. The *técnicas* work with their charges by means of weekly or bimonthly face-to-face meetings (*atendimentos*) in the nearest social services centre to the youths’ homes. LA measures last for a minimum of six months and no longer than three years. Their duration is not determined at the time of sentencing; the judge decides whether to end or extend the measure as it progresses, based on periodic reports sent by the *técnicas*.

Brazil is a particularly salient case through which to study the issues structuring the field of juvenile justice and especially the tension between punitive and protective approaches. It is the first country in Latin America to have adopted legislation in line with international standards regarding the rights of the child. Its current legislation – the Statute of the Child and the Adolescent – gives priority to non-custodial sentences and stipulates that young people cannot be deprived of their liberty for more than three years, irrespective of the offence committed. However, at the same time, Brazil’s large cities are characterized by strong social inequality and extremely high rates of violent crime (Adorno 2002; Waiselfisz 2010), associated in particular with the massive recruitment of under-age youths into the organized drug trade (Misse 2007). This tension between policies for managing juvenile delinquency which emphasize non-custodial settings and educational approaches and the realities of urban Brazil exacerbates many areas of friction involved in the actual implementation of the LA measure. How can effective support be provided, in a non-custodial setting, to teenagers who live in neighbourhoods controlled by organized crime gangs when the social services responsible for dealing with their cases have very limited resources? By focusing on a specific context which has received little critical attention from researchers in the penal field to date, this book highlights the contradictions of juvenile justice systems but also of other public policies based on the values of citizenship, autonomy, and responsabilization.

The analysis here is grounded in a classic social science tradition that seeks to understand *what institutions do* and specifically how they emerge, are legitimated, and exercise power in the day-to-day (Douglas 1986; Darmon 2013). It takes a 'bottom-up' approach, trying to make sense of the *how* rather than the *why* of regulation and looking as closely as possible at the discourse and practices of actors on the ground. The aim of this theoretical standpoint is to afford a better understanding of a politically sensitive issue which has been taken up by different ideological traditions, either denouncing non-custodial sentences as lax and inefficient or promoting non-custodial solutions as a 'humanist' response to juvenile delinquency.

The book's intention is also to understand these institutions and practices within the broader framework of the sociology of social regulation. Although criminal offences are a particular form of deviance that goes right to the heart of society's morals and the penal system possesses more tangible tools of constraint than other areas of public action, penal policies can nevertheless be analyzed as tools for regulating deviancy in the same way as psychiatric institutions or special needs schools, for example. From this perspective, constraint does not always take explicit forms. Furthermore, the behaviour targeted by techniques of regulation is not always the behaviour that the institution frames as its official focus. Finally, power can be exercised in diffuse and paradoxical forms, sometimes even drawing on the freedom and choices of the individuals it regulates. Building out from these starting points, this book identifies and explains the specific rationalities, procedures, and instruments inherent to the government of delinquency in non-custodial settings.

Institutions have changed since the total social institution described by Goffman (1961) in the 1960s. Contemporary research reveals, instead, institutional fragmentation and hybridization (Laforgue 2009) and often blurred boundaries (Aeby and Berthod 2011). In many respects, the LA measure in Brazil is a prime example of the contemporary institution described by the literature. Insofar as it is applied by a judge but implemented by social workers, it is a clear product of the hybridization of the welfare and the penal spheres. Moreover, the fact that it is not located in one physical space but rather deployed through a network of institutional partners (the juvenile court, social services centres, the public education system, and so on), further exacerbates its shifting and unclear boundaries. Finally, the absence of institutional walls to contain these adolescents means that the LA measure necessarily has to adapt to the urban logics within which it is embedded.⁶ In the cities of Rio de Janeiro and Belo Horizonte, where my study took place, this context is characterized by a high crime rate and substantial social and spatial segregation.

The research presented here shows the coexistence of multiple regimes of government, sometimes complementary, sometimes contradictory. In particular, alongside the imperatives of autonomy and self-reflexivity, we also see the enduring presence of approaches based on older conceptions of passive subjects in whom norms must be instilled. These regimes rest upon specific instruments

of normalization and control, enacted in the verbal interactions between youths and professionals, that range from encouraging reflexivity to demanding justifications or making threats. The youths' compliance with institutional expectations therefore depends on their ability to produce understandable and coherent discourse in the eyes of the institution. Moreover, surveillance in the LA measure is discontinuous and often delegated to other actors and institutions, as well as to the young offenders themselves, who are required to exercise self-control in their daily lives. Finally, this study also shows that control is highly individualized in this context: for the youths who meet institutional expectations, it is more continuous but also more negotiable, while for the more recalcitrant young people, it takes more sporadic but also more repressive forms.

This book is based on fieldwork carried out between 2010 and 2012 in the context of a PhD thesis.⁷ The socio-political situation in Brazil has changed considerably since then: in 2016, the Workers' Party that had been in power since 2003 was replaced by a right-wing conservative government. These political shifts will no doubt have an impact on the future of juvenile justice policies which this book is not in a position to analyze. However, its broader analyses of penal regulation in non-custodial settings remain relevant and sociologically valid, as they extend beyond the concrete contexts in which they were produced.

The first chapter of this book provides an overview of the literature on contemporary changes in juvenile justice policies, internationally and more specifically in Brazil. It then outlines the study's theoretical and methodological approach to understanding regulation in LA, which consists in a 'bottom-up' analysis of institutions.

The second chapter sets the scene, presenting the legal and institutional backdrop to the LA measure at the time of my study by describing first the Brazilian socio-educational system and then the local institutional configurations in the two cities studied (Rio de Janeiro and Belo Horizonte). It demonstrates that the LA measure is a fundamental but fragile element of that system. On the one hand, the recent history of dictatorship in Brazil and the strong need to promote political discourse about democracy and human rights places non-custodial measures at the core of the juvenile justice system. On the other hand, these measures depend on welfare state institutions, which lack resources and legitimacy in Brazilian society.

The following chapters are devoted to understanding the instruments, rationalities, and procedures involved in governing delinquency through the LA measure. They all draw on immersion in the daily practices of the professionals working on the ground. The analysis takes the form of an inverted zoom: it begins by looking at cognitive and interactional processes at the level of interpersonal relationships between youths and professionals and then works its way up to examine ties outside the institution itself, with schools, the labour market, and juvenile courts.

Dealing with these youths involves first of all interpreting their situation within a narrative explaining the offence they committed. Chapter 3 analyzes this process, focusing just as much on the production of these interpretive frames as on their content and implications for the work done with the youths. Chapter 4 goes on to examine the types of verbal interactions that take place between the *técnicas* and their charges, showing that speech acts both as an instrument of normalization and as a tool of control and surveillance. The professionals' use of speech is structured around three distinct but often imbricated conceptions of their work (promoting reflexivity, negotiating the terms of a contract, and instilling norms). Chapter 5 then looks at the *técnicas'* endeavours to enrol the youths in traditional institutions of socialization, outside the juvenile justice system itself – namely school and the job market. This dimension raises the question of the ways in which the LA measure is embedded in a broader institutional, social, and urban environment, to which it necessarily has to adapt. The *técnicas* also have to inform the juvenile judge of the youths' progress on the measure through regular written reports. This involves translating the youths' social realities into a language that is intelligible for the justice system, while at the same time preserving their own interpretive frames as far as possible. Chapter 6 therefore considers the hybridization of penal and welfare logics at work in the LA measure. Finally, Chapter 7 analyzes the government of delinquency in LA based on how the youths themselves experience it in the day-to-day. It explores the different ways in which they comply with or resist the prevailing 'government through speech' (Memmi 2003) and also addresses the specific forms of inequality produced by this penal regulation outside the institution's 'walls.' The chapter closes with an analysis of the desistance processes at work in the trajectories of some of my respondents. These bring to light a typology made up of those who desist through identity transformation (the 'survivors'), those who desist through skills transfer (the 'exemplary' youths), and those who desist in spite of the penal institution (the victims of labelling).

Notes

- 1 Growing awareness of the dramatic increase in the world's prison population gave rise to many studies at the turn of the 2000s, documenting the situation observed in the United States (Wacquant 1999; Pfaff 2008) and in Great Britain (Garland 2001) but also in Latin America (Núñez Vega 2005) and most European countries (Wacquant 2001). Since the 2000s, the prison population has continued to rise on a global scale, but this has followed different patterns in different parts of the world: while this increase is now slowing down in the United States, it is accelerating drastically in South America. Europe has seen a decline in its prison population principally because of lower rates of imprisonment in Russia.
- 2 These alternatives to incarceration have different names, legal frameworks, and modes of implementation. In many contexts, they are currently a response to the challenges facing penal policies because of the overpopulation of prisons and looking for new solutions. Kaminski (2013), for example, has noted the rise in electronic surveillance in Europe over

the last two decades, while de Larminat (2013) has examined the recently renewed focus on probation as part of French penal reforms.

- 3 The law makes provision for the application of socio-educational measures to young offenders aged between 12 and 18. In some cases, a measure can be extended beyond the age of 18 but never after 21.
- 4 The other measures are a warning (*advertência*), reparation of damage (*obrigação de reparar o dano*), community service (*Prestação de Serviços à Comunidade*), a semi-open measure (*Semi-Liberdade* – literally, ‘Semi-freedom’), and Confinement (*Internação*). The last two fall into the category of ‘deprivation of liberty.’
- 5 The term *técnica* (which, in this context, means ‘specialist’ in Brazilian Portuguese) refers to the professionals working in social services agencies and institutions and holding a specific academic qualification, as opposed to the administrative staff. In this book, I use the word in its feminine form as the vast majority of these professionals are women (see explanation in Chapter 1, p. 32–33).
- 6 The results discussed in this book are intrinsically linked to the urban realities in the field in question. A further study would be required to understand the specific ways in which LA is implemented in small towns and rural areas.
- 7 This book is based on my PhD thesis in sociology from the University of Lille 1 in France and the University of Geneva in Switzerland. During my fieldwork in Brazil, I worked within both the University of Rio de Janeiro and the University of Minas Gerais. I therefore circulated between three different national and academic contexts, each of which influenced the research and analysis in its own way. This book is also a translation in two respects: first, in writing my PhD thesis, I translated into French all the empirical material originally collated, organized, and archived in Portuguese; this manuscript was then revised and translated into English for the present publication in Routledge’s international series on desistance and rehabilitation (for further details about translation choices and terminology, see p. 32–33).

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Beyond institutional walls

The non-custodial government of young offenders

Debates about changes in criminal justice policy

Until the end of the 19th century, everyone who violated penal law was subject to a single criminal justice system whatever the person's age. However, as medical science and psychology progressively framed children as 'developing beings' who were more malleable – but also more vulnerable and less responsible – than adults, specific justice systems for juvenile delinquents were created from the early 20th century onwards in the United States, then in Europe, and also in Latin America. A so-called 'tutelary' (Bailleau and Cartuyvels 2002) or 'protective' justice system was progressively put in place, presenting various common features: penal responses were not matched to the nature or seriousness of the offence but instead took into account the child's life circumstances and 'personality,' and deprivation of liberty was limited with preferential recourse to educational measures, often embedded in a longer-term support plan (Bailleau and Cartuyvels 2007).

In a vast historical study on juvenile justice in France, Jurmand (2012) clearly identifies the progressive construction of this therapeutic and protective approach over the course of the 20th century. Its primary aim was to understand the causes of juvenile delinquency and so to provide individualized responses with a view to prevention rather than punishment. In this context, non-custodial sentences prevailed, as they allowed youths to be observed and supported in their habitual social environment (Jurmand 2012). Nevertheless, the rehabilitation of young offenders did also involve placing them in educational institutions intended to stand in for parents when their education was considered inadequate (Macallair 1993). Although officially the aim of these establishments was educational, they often imposed an extremely constraining structure upon the youths in their care, for long periods of time, in order to 'resocialize' them. Constraint and incarceration were therefore not absent from the 20th-century 'tutelary model' of juvenile justice. However, these measures were adopted in the name of the children's best interests and the state's duty to ensure they received 'proper education.'

Furthermore, although the protective model was more prevalent from the post-war period through to the 1970s (Youf 2009), all juvenile justice systems,

whatever their orientation, always had to meet two requirements: on the one hand, to protect and educate children who, according to the paradigms in force at the time, had violated the law because of social, family, or psychological failings and on the other, to protect society and maintain social order.

This double – and in many respects contradictory – requirement was enacted in legal texts and judicial institutions in various ways, depending on national context and time period:¹ different ages of criminal responsibility but also different minimum ages for incarceration; priority given either to removing youths from their home environment or to rehabilitating them through work; and variations in the professional bodies responsible for dealing with them (psychologists, educational specialists, doctors, prison wardens, and so on).

Challenging the protective model in juvenile justice: international trends

Recent studies on changes in juvenile justice systems in Europe (Bailleau, Cartuyvels, and De Fraene 2009) and across the rest of the world (Muncie 2006) all point to the fact that the end of the 20th century marked a turning point in penal policies for young offenders. The tutelary and protective model that had previously prevailed was called into question and progressively supplanted by more repressive policies. According to these authors, this was a consequence of the decline of the welfare state and the advent of a neoliberal ideology advocating individual responsibility and state retreat from conflict resolution. Furthermore, since the 1960s, there had been an increase in criticisms of the ‘total social institutions’ (Goffman 1961) which, from asylums to prisons and rehabilitation facilities, subjected individuals to forms of treatment henceforth viewed as dehumanizing.²

In terms of the law itself, this resulted in tougher penal responses, increased focus on the ‘responsibilization’ of minors, and the transfer of competence from the state to the community (especially through community justice systems)³ (Bailleau, Cartuyvels, and De Fraene 2009). Paradoxically, international conventions on the rights of the child contributed to this hardening in the treatment of young offenders (Muncie 2006). Considering children as subjects of rights implies that they enjoy the same legal guarantees as adults. This therefore led, in particular, to an increase in sentences proportional to the offence, as well as to the public prosecutor and the defence playing a bigger role (Benec’h-Le Roux 2006). These changes limited juvenile judges’ discretionary power, which was a legacy of the protective model advocating a flexible system aimed primarily at protecting the child’s interests. They therefore contributed to reinforcing the punitive side to the juvenile justice system. The focus was increasingly placed on the offence itself (and on its impact on the victim and the social order more generally), rather than on taking the youth’s life circumstances and ‘personality’ into account.

According to Muncie (2006), these changes should be understood in light of the transnational circulation of juvenile justice models: on the one hand,

the international convention on the rights of the child has been increasingly important in defining national legislation; on the other, security-focused discourse, an increase in incarceration, and treating minors as adults are all trends that emerged first in the United States before spreading internationally. Nevertheless, the way in which such trends are imported into new contexts is always informed by local and contingent logics. It is therefore important to analyze on the ground how global, national, and local dynamics combine to produce complex and hybrid models (Muncie 2006, 65).

The rehabilitation ideal in crisis: the global punitive turn

These changes in juvenile justice systems have to be considered in light of more general changes in the meaning and role of punishment in contemporary criminal justice. Recent studies on changes in the penal system (see in particular Feeley and Simon 1992; Garland 2001; Mary 2001; Slingener 2007) have described the shift from a system focused on punishing and normalizing individuals to one that seeks to identify, control, and neutralize ‘at-risk populations.’

This dynamic goes hand-in-hand with a ‘de-moralization’ of the criminal justice system and a move towards greater rationalization of procedures for managing delinquency. Rather than trying to understand the causes of crime and to act upon them (by curing, rehabilitating, or treating the offender), the aim is to prevent offences through technology targeting ‘at-risk populations.’ As Crawford notes, this proposes ‘a very different idea of justice, one that is more instrumental than moral, more consequential than symbolic and more utilitarian than retributive’ (2003, 486).

With the renewed importance of efficient management tools and processes have come new penal technologies based on statistical and probability tools. For example, questionnaires about an individual’s trajectory, socio-demographic profile, and prior offences, are increasingly used to calculate the probability of a repeat offence with a view to determining the appropriate penal sentence (Quirion 2006, 152).

This ‘new penology’ – a term first coined by Feeley and Simon (1992) – went hand-in-hand with a new conception of the offender, now viewed as a rational individual, engaging in a cost-benefit calculation regarding criminal activities and acting according to opportunity. In this context, crime becomes a ‘normal risk’ that must be anticipated and minimized in terms of its negative effects (Slingener 2007, 3).

If the penal state no longer seeks to transform individuals but simply to manage the risks they represent (Quirion 2006, 146), then prison should no longer be envisaged as a machine for disciplining minds and bodies – Foucault’s now classic argument (1977 [1975]) – but instead as an ‘warehouse’ of individuals qualified as dangerous or undesirable, who must be neutralized (Slingener 2007, 9).

Due in particular to the high cost of incarceration, there has also been an increase in alternative solutions. Such alternatives are viewed by this literature

as forms of control that remain on the carceral continuum: offenders who are not imprisoned are subject to surveillance (for example, electronic monitoring; see Kaminski 2013) provided they do not pose too great a risk to the social order. In the field of juvenile justice, the advent and spread of restorative justice offers a way of pursuing the ideal of responsabilizing offenders while also taking into account the rights and suffering of the victims (Muncie 2006, 61). In short, rather than replacing prison sentences, non-custodial alternatives have been added to them, resulting in the widening of the penal net (S. Cohen 1985).⁴

This overall change is also part of both the general dissemination of managerial techniques within state institutions and the progressive weakening of the welfare state. In focusing on measuring the efficiency of punishment in objective terms, penal institutions have responded to criticisms denouncing the inefficiency and leniency of the penal system: 'the new indicators of performance measure what the organization "does" rather than, and for lack of anything better, what it "does successfully"' (Garland 1998, 60; quoted by Cauchie and Chantraine 2005).

If offenders are considered rational individuals, they can be rendered responsible not only for their offences but also for the success (or failure) of penal sentences. Responsibility is therefore being displaced from the state to private actors, to the community, and to the individuals in the grip of the criminal justice system (Crawford 2003).

While 'critical criminology'⁵ researchers specializing in contemporary penal policies generally agree on the existence of this 'punitive turn,' some are nevertheless careful to qualify any interpretations that are too hegemonic or radical. The main criticism levied against these theories is that they claim to have universal relevance despite having been devised in the very specific context of the penal state in the United States. O'Malley (2006) shows, for example, that the punitive turn did not spread across the world in uniform ways and that countries with stronger welfare states than the United States (Australia, Canada) proved more resistant to the importing of these models.

For their part, Cauchie and Chantraine have called into question the idea that the penal system has been in any way 'de-moralized,' offering instead a more nuanced response: in their view, morality has been reconfigured and displaced, now taking the form of a generalized requirement for individual responsibility (Cauchie and Chantraine 2005). They contend that the proliferation of technical apparatuses within criminal justice, all claiming to offer objective and rational ways of handling delinquents, are also part of an endeavour to mask the moral norms underpinning penal policies.

Finally, a recent quantitative study on probation in the United States (Phelps 2013) has underscored the importance of putting the hypothesis of net-widening to the test of empirical evidence. According to his findings, depending on the state, probation is either used as an alternative to prison sentences or as an additional sentence thereby widening the net of penal control.

In short, these different reservations and attempts to account for complexity in respect of the major contemporary changes in penal policy all underline the importance of taking actual contexts into account and putting these theories to the test of empirical realities. The present book is one such project, and I will return to this later, after first providing an overall picture of the main features of the Brazilian juvenile justice system.

Brazil's place in the international landscape

Understanding the Brazilian juvenile justice system first requires a brief detour via current debates on the workings of the rule of law in the country. After looking at these debates, in the pages that follow, I summarize the specificities of the legal framework for young offenders in light of recent changes in juvenile justice in Europe, as well as the main statistical trends in this regard in Brazil.⁶

Brazil and its paradoxes: violent crime, judicial institutions, and the rule of law

Conducting field research in Brazil poses a challenge to the sociology of the state and, more specifically, of penal institutions. The country currently has all the formal features of a democratic capitalist state. However, throughout the 20th century, it alternated between democratic and totalitarian regimes, a history that has left its mark on the workings of the institutions on which the rule of law is based. The Brazilian state is currently facing a dual challenge (Adorno 2005): preserving its monopoly on physical violence and maintaining the legitimacy of state violence.

On the one hand, the state agencies responsible for controlling violence are not in fact able to limit its occurrences. Brazilian cities are the stage for conflicts that the media freely compare to wars: a recent report estimated, for example, that between 1980 and 2014, more than a million people were killed by gunfire in Brazil (Waiselfisz 2017). This violence first and foremost affects young men from the most disadvantaged backgrounds and identified as 'black and mixed race' (*pretos* and *pardos*) (Cerqueira 2018). Homicide is the leading cause of death among young people aged 15 to 29: 50.3% of deaths in this age group are violent (Cerqueira 2018). Furthermore, whereas young people between the ages of 15 and 19 represent 26% of the Brazilian population, they make up 58% of the victims of death by gunfire (Waiselfisz 2017). Lethal violence affecting the disadvantaged youth of Brazil has risen constantly over recent years: between 2006 and 2016, there was a 23.3% rise in murders of young people (Cerqueira 2018). According to Adorno (2005), the specific nature of organized crime in Brazilian cities is an obstacle to the traditional mechanisms for regulating and controlling crime implemented by modern justice systems.

On the other hand, the state itself does not manage to use violence in legitimate ways, and the many dysfunctions of the police and judicial institutions (torture, abuse of power, corruption, and so on) have produced distrust among the population, which only serves further to reinforce the vicious cycle of violence (Adorno 2005). As an example – and bearing in mind that lethal police violence varies considerably from one state to another in Brazil – 463 minors were killed by the police in Rio de Janeiro state in 2010, during a presumed confrontation between civilians and police officers (Misse, Grillo, and Néri 2015).⁷

In this context, many Brazilian researchers and intellectuals question the meaning and workings of the rule of law in their country. Some believe democratic discourse to be simply window-dressing, masking the authoritarian, hierarchical, and clientelist rationales that in fact inform Brazilian institutions (Pinheiro 2005). Some argue that Brazilian society is fundamentally different in essence to European societies, meaning that theories devised in a European context cannot be used to understand Brazil.⁸ And finally others – whose point of view I share – seek rather to provide a more nuanced account of the specific form that democracy and citizenship take in Brazil, without positing any essential difference with European societies.⁹

While the constant concern with understanding Brazil in light of European societies proceeds in large part from the historical formation of the Brazilian state as a former Portuguese colony, these debates do also reveal the ethnocentric nature of social science research: it appears to be difficult to consider the social reality of ‘periphery’ countries without taking as a reference point the countries that seem to have devised universally relevant theories because of their position as the historical cradle of social research.

In choosing to study an institution within the Brazilian juvenile justice system, I faced these same difficulties. My hope is that through fine-grained empirical analysis of this institution, I manage to identify the features specific to the Brazilian context while avoiding two major pitfalls: first, reducing them to the simple result of a fictional or failed importation of European institutions and second, reifying or ‘exoticizing’ their particularities.

Legislation prioritizing non-custodial settings and education

What position does the Brazilian juvenile justice system occupy within the broader international trends described previously? In terms of changes in legal frameworks, the system has followed a very different trajectory over recent decades than that followed European countries. In Brazil, for the better part of the 20th century, it was the rule to imprison minors considered deviant – irrespective of whether they were young offenders, homeless, abandoned, or the victims of abuse (Faleiros 2009; Irma Rizzini 2009). The long period of dictatorship from 1964 to 1985 contributed to reinforcing the repressive nature of institutions dealing with deviant children: during this time, the notion of deviant minors

representing a threat to the nation prevailed over modern principles of educational management, which had barely begun to emerge in public debate (Irma Rizzini 2009, 281).

However, just as Europe experienced a crisis in the rehabilitation ideal and a return to carceral solutions, Brazil adopted a new piece of legislation entitled the Statute of the Child and the Adolescent (ECA), which gave priority to non-custodial solutions. According to the ECA, minors can under no circumstances be judged as adults and the maximum imprisonment possible, whatever the offence or crime, is three years. It would be a mistake, however, to conclude that this entirely reversed the historical trend; it would be even less accurate to take an evolutionist perspective and view Brazil as 'lagging behind' European countries (and only today 'arriving' at a justice model that was founded a century ago in France, for example). The current juvenile justice system in Brazil should be understood as the result of a very singular convergence of historical events and of the transnational circulation of justice models. Even though the Brazilian system in many ways possesses more protective legislation, with a greater focus on education, than certain European equivalents, the imperative of 'responsibilization' is also a key feature of its socio-educational system and contributes to greater criminalization of young offenders.

The socio-educational system in numbers

Based on these initial observations, it is important to examine how this legislative framework has actually been implemented on the ground. Brazil's federal government statistics provide insight into general trends in this regard. They show that, since the current legislation was adopted in 1990, there has been a strong rise in the absolute number of incarcerated minors (in semi-open, provisional confinement, and confinement facilities): from 4,245 youths in 1996 to 17,703 in 2010 (SDH 2011). This dramatic rise, which runs completely counter to the spirit of the law, should nevertheless be put into perspective: the numbers stabilized from 2006 onwards and only rose at a rate of 2.4% between 2007 and 2009 (as opposed to a rate of 218% between 1996 and 2004) (SDH 2009).¹⁰ Moreover, comparison of the figures for the state of Rio de Janeiro shows that the number of incarcerated youths was nearly three times lower in 2010 than during the dictatorship, whereas the overall population has increased considerably since then: in 1976, 2,200 minors were incarcerated in Rio de Janeiro (Faleiros 2009, 67) as opposed to 833 in 2010, including semi-open, provisional confinement, and confinement facilities (SDH 2011).

It would be impossible here to determine with any certainty the reasons for the decline in incarceration since 2006, but it is plausible that the ever-increasing recourse to non-custodial measures contributed to this process.¹¹ A report published in 2007 indicated that only 11.4% of Brazilian municipalities had actually put in place non-custodial measures in keeping with the legal dispositions (Miraglia 2007). In 2008, 16,868 youths were given a non-custodial

measure (Miraglia 2007), a similar number to those deprived of liberty (16,535) during that same period (SDH 2011). However, three years later, in 2010, whereas the number of youths deprived of liberty remained stable, the number serving non-custodial measures had more than doubled (rising from 16,868 to 40,657) (SDH 2011). Based on data collected in 2010, an estimated 69.2% of youths were assigned a non-custodial measure: we can therefore conclude that the spirit of the law is being applied on the ground.

The quality of the statistical data available about the Brazilian juvenile justice system – and especially regarding non-custodial measures¹² – prevents any more detailed examination of these issues. The fact that Brazil is a federal state also makes national trends difficult to analyze as there are considerable disparities from one state to the next: São Paulo, for example, takes a very repressive line, whereas the states of Minas Gerais (of which Belo Horizonte is the capital) and Rio de Janeiro are far below the national average when it comes to the number of incarcerated adolescents compared to the general population of that age group (12 to 18 years old).¹³ The fact that non-custodial measures are run at a municipal level complicates the picture further: certain capitals, such as Belo Horizonte, implemented non-custodial policies from a very early stage and by 2010 had a ratio between custodial/non-custodial measures that was very close to the law's intention (79.2% of non-custodial measures). Conversely, other capitals, such as Rio de Janeiro, only applied these measures after 2008, under pressure from the federal government: in 2010, Rio de Janeiro had a much lower ratio of non-custodial measures (55.8%) (SDH 2011).

Various statistical studies provide information about the profiles of the youths serving socio-educational measures in Brazil.¹⁴ More than nine in ten are male. The proportion of girls is very low in confinement facilities and slightly higher in non-custodial settings. While socio-educational measures can be applied from age 12 onwards, most of the youths are aged 16–17 at the time of their measure. Again, the non-custodial setting differs insofar as the youths are on average slightly older (17–18). Offences against property, and more specifically theft, are the main category of offences committed by the youths in both custodial and non-custodial settings. Recent years have, however, seen a rise in the number of drugs-related offences. The youths' social and family circumstances present interesting characteristics: while their socio-economic situation is clearly disadvantaged (family income ranges between one and three minimum wage salaries, i.e., at the very bottom of the income scale), almost all of them (eight to nine out of ten) were living with their family at the time of the offence. This information therefore contradicts the idea that young offenders in Brazil are street children. However, it should be noted that children living on the street are far harder to locate, and it is therefore much harder to force them to do a measure, especially a non-custodial one.

According to the different reports and studies on this topic, youths serving socio-educational measures also have a low level of education: most of them have not reached secondary school or even finished compulsory education.

Data collected by Miraglia and Sposato (2008) also reveal strong proximity to the world of crime and the prison system: 46% of teenagers have a close relative who has been sentenced by the justice system, while 44% have themselves already been given a socio-educational measure in the past. Firearms are part of their daily lives: three quarters of them (71%) have already owned one. Finally, violence is omnipresent in the daily lives of this population: 94% state they have already witnessed violence, usually in the street, and in half of all cases, the violence in question was a homicide. Sixty-nine per cent state they themselves have been victims of violence, and 18% claim to have been the victim of an attempted homicide (Miraglia and Sposato 2008).

A lack of research into non-custodial measures

While these statistical trends paint an overall picture of how socio-educational measures are handed down by courts and the kinds of youths that find themselves in the system, they do not tell us anything about how the measures are actually applied in the different apparatuses that run them (confinement facilities, semi-open facilities, and the social services centres responsible for non-custodial measures). Empirical studies on this subject are few and far between in Brazil: the social sciences have focused more on urban crime¹⁵ than on the workings of penal institutions.¹⁶ When studies have turned to institutions, their focus has more often been on the most carceral forms of response to juvenile delinquency¹⁷ than on non-custodial settings (Cardoso 2009).

Moreover, academic literature on juvenile justice in Brazil is mainly produced in the disciplines of psychology, social work, and sometimes legal studies. The researchers in question often also hold a professional position in the field. Although these studies are often based on empirical data, to my mind, they nevertheless tend to adopt normative perspectives.¹⁸ Some authors promote the legitimate and progressive nature of either the new 'doctrine of full protection' in force in Brazil (Costa and Assis 2006) or restorative justice (Aguinsky and Capitão 2008). Others seek to denounce the failure to implement the new legal requirements (D'Arc Teixeira 2006; Fuchs 2009) and the resulting discrepancy between progressive legislation and the repressive and reactionary application of measures. Some even challenge the hypocrisy of the new system, seen as content to rename the structures in place without changing them in any meaningful sense (De Paiva Almeida 2004). After a bibliographical inventory of academic studies focusing on LA between 1990 and 2010, Cardoso (2009) noted that 79% of research was conducted in the fields of social work, education, and psychology (as opposed to only 4% in sociology) and that the vast majority of them took an evaluative and normative approach.

This initial overview of current knowledge about the Brazilian juvenile justice system therefore invites further, more detailed study of how socio-educational institutions actually work on the ground. It seems especially necessary to look to non-custodial settings, which have enjoyed far less attention

from researchers despite the fact they concern the majority of youths in the socio-educational system.

In conclusion, this broad overview of contemporary changes to penal frameworks in general, and juvenile justice in particular, more specifically in Brazil, points to some of the key issues addressed by the present study. Juvenile justice has a different history in Brazil than in European countries, although it pursues some of the aims at the heart of contemporary penal policies (for example, the responsabilization of offenders). Furthermore, it is difficult to consider Brazilian juvenile justice without being attentive to the diverse range of regional contexts present in this vast federal country.

Analysis based on legal frameworks, institutional discourse, and official statistics alone cannot, however, answer my central question, which is how young offenders are governed in non-custodial settings. First, I agree with Roux (2012), Gowan and Whetstone (2012), and Crawford (2003) regarding the fact that the literature on the ‘penal turn,’ mainly based on discursive analysis, does not sufficiently examine the local forms taken by institutional practices of penal control. By assuming that official discourse is automatically applied in practice, these approaches tend to exaggerate the importance of the new trends identified and fail to see the persistence on the ground of the penal state’s traditional logics of action (Gowan and Whetstone 2012). In reality, different conceptions often coexist and sometimes reinforce one another (Crawford 2003). Sometimes, too, there is a discrepancy between intentions laid out in the law and actors’ actual practices, as Delarre (2012) has shown in the French context. Judges’ actual practices do not in fact reflect the increasing criminalization of young offenders in legal texts. Instead, they continue to apply the law in a protective manner and to favour non-custodial settings.

Moreover, taking an empirical, qualitative, and comprehensive approach to institutions allows for the temporary suspension of critique in order simply to see *what institutional actors do* in the day-to-day. By exacerbating certain trends, macro-sociological approaches tend to radicalize positions and sometimes even to produce normative discourse about contemporary changes in criminal justice. As Crawford (2003) has underlined, the somewhat biased stance of perspectives outlining the rise of the ‘new penology’ has tended to result in a denial of the space these policies leave for individual agency. It sometimes seems as though, by wanting to show the harmful effects of neoliberal ideology, these approaches are looking back nostalgically to the institutional project of instilling moral principles and discipline (which was the target of criticism until the 1980s).¹⁹

Analyzing modes of regulation

Setting aside these major legal and discursive shifts, let us turn instead to how regulation takes place, in concrete terms, within penal institutions. My perspective here will be that of a ‘bottom-up’ approach,²⁰ looking at the social reality

through a comprehensive and interactionist lens, while also combining theoretical tools at the intersection of the sociology of institutions, work, deviance, and the penal sphere.

My aim is to understand *how* regulation works rather than *why* it does so. Instead of seeking to determine *the purpose* of non-custodial measures (e.g., rehabilitating and re-socializing or disciplining and monitoring) or in whose name they are implemented (e.g., the dominant classes, the capitalist economy, and so on), I ask *how* institutional categories are embodied in practice and what tools and procedures are used to ‘assist the freedom’ of the youths subjected to these measures.²¹ I therefore try to steer equally clear of naïve idealism and cynical functionalism and to show that the LA measure can only be understood as the result of plural determinants.²² The latter derive in part from the historical and institutional context but are above all to be found in the daily working situations faced by the people responsible for implementing this socio-educational measure.

In the following, I provide a brief state of the art of research examining non-custodial settings from this perspective, before outlining the conceptual tools used in this study and the main research questions it addresses.

Non-custodial modes of penal control

Following on from Goffman’s seminal work on psychiatric institutions (1961), much research has focused on how ‘closed’ institutions exert control over the individuals for whom they are responsible. While initial studies focused above all on the ‘total’ nature of institutional control, which intruded upon the private sphere and left individuals dispossessed of their own identity (see, for example, Karmel 1969), more recent research has tended increasingly to take into account the permeable nature of the boundaries of these closed institutions, as well as their continuous exchanges with the outside world (see, for example, Touraut 2012). Chantraine et al. have observed, for example, that the imperative for multidisciplinary management in new youth penitentiary facilities in France has contributed to ‘de-totalizing’ the institution (because the teenagers can build ties with various professionals) while at the same time ‘re-totalizing’ it, as ‘comprehensive management’ of the adolescents requires ‘knowledge of and control over the prisoners’ every action, thought, and intention’ (Chantraine et al. 2011, 523).

These studies also focus on the very features that create the specificity of carceral penal control, that is, the importance of the architectural layout (see, for example, Milhaud 2009), the techniques used to maintain internal order, especially video-surveillance (Chantraine, Scheer, and Milhaud 2012), and the forms of sociability – at once singular and connected to the outside world – created within the institution’s walls (Rostaing 1997; Le Caisne 2009). The absence of most of these features in non-custodial settings (no walls, no continuous surveillance of actions, and so on) raises questions about the specific

ways in which individuals are governed in these apparatuses which, despite the apparent freedom they give to the offenders, are components of penal control.

Studies focusing on non-custodial sentences are less common.²³ Not only have researchers tended to show more interest in the judicial process than in the phase in which sentences are implemented (Chauvenet et al. 2001), but also only a marginal proportion of studies look at non-custodial sentences as opposed to prison. Despite the fact that classic authors such as Michel Foucault and Stanley Cohen have, since the 1970s, drawn our attention to the diffuse nature of penal control and the interpenetration of the social and penal spheres, ‘the prison has been the centerpiece of penal scholarship throughout most of the 20th century, both empirically and conceptually’ (Werth and Ballesterio 2017, 12).

Among the studies on non-custodial sentences, it is important to mention the vast body of literature focusing on probation, more developed in the Anglosphere than in the French-language context.²⁴ This literature, however, generally takes a different perspective to the one I adopt in this book. Many studies, mainly quantitative, have been conducted by criminologists to assess the efficacy of non-custodial sentences and to identify ‘what works’ in order to avoid recidivism (see, for example, Lane et al. 2005; Schwalbe and Maschi 2011; Young, Farrell, and Taxman 2013). Closely related to these questions, the literature on compliance in non-custodial sentences seeks to identify social or psychological factors that explain why individuals comply with or, on the contrary, resist penal control (see, among others, Bottoms 2001; Robinson and McNeill 2008). Farral (2002), for example, highlights the factors that can explain failure to respect probation conditions and especially not attending appointments with a probation officer (drug use, depression, but also perceiving probation as useless). While the empirical data presented in these studies are interesting in several respects, the normative aim underpinning them – that is, asking how to make penal intervention more efficient – necessarily sets them apart from my own goals in this book.

Other authors take a more critical view and endeavour to demonstrate the ‘normative turn’ in probation that has shifted the focus from rehabilitation to risk management (for example, Bhui 2002; Mair and Burke 2012). Finally, part of the literature underscores the fact that developing alternatives to incarceration has resulted in a widening of the penal net and an extension of forms of surveillance (see, for example, B. Garland et al. 2014; Cate 2016). While these results provide fruitful theoretical hypotheses for envisaging my own topic of study, the scale of their analyses differs substantially from mine: rather than seeking to shed light on socio-historical changes in models of intervention or macro-social trends in sentencing, I hope to describe the singular mode in which individuals are governed in non-custodial settings, through detailed analysis of actors’ practices and discourses on the ground.

With this in mind, a series of observations drawn from the existing literature support both my reflections and analytical approach. First, alternative

measures do not exist independently of incarceration: on the contrary, the two are mutually dependent (Gowan and Whetstone 2012). A non-custodial sentence can be seen as either an opportunity that offenders must seize in order to avoid prison or as a chance for early release from prison (on parole), provided they respect the rules imposed upon them (Werth 2011). In a study on electronic monitoring, for example, Razac deconstructs the ideal of virtual and dematerialized surveillance, showing that the possibility of incarceration acts as a force constraining individuals in their movements (Razac 2013, 401).

The literature also emphasizes the intrinsically hybrid nature of non-custodial sentences (Chauvenet and Orlic 2002): although, in judicial terms, they are necessarily part of the penal sphere, they are generally implemented by social workers. Non-custodial settings are therefore a prime area of investigation for understanding the hybridization of the penal state and the social state. Objectives of surveillance and control are pursued in parallel to rehabilitation and normalization, either in complementary or contradictory ways. It is therefore necessary to ask – following here in the footsteps of Castel (2001) and Chauvenet and Orlic (2002) – what factors determine how balances are struck and under what conditions the social becomes colonized by the judicial (or vice versa)? In the same vein, empirical research on probation officers' practices has shown that they put up forms of resistance to the new standards of contemporary penology and has revealed the hybridization of rehabilitation and risk-management rationales (Healy 2012; Hardy 2014). De Larminat (2014), for example, describes how the risk management model has spread in France, while also underlining that, at the same time, probation officers often have profiles positioning them closer to older forms of support provided through social work.

These forms of hybridization vary, especially according to historical context. Gowan and Whetstone (2012) have shown that, in the 1970s, drug rehabilitation in the United States targeting addict offenders focused on psychological therapy outside prison, whereas, by 2010, its institutional, authoritarian, and medicalized aspects had become central. However, the paradigms of intervention in force at a given time are not the only factors that determine the shape taken by non-custodial sentences. Several authors (Castel 2001; Chauvenet and Orlic 2002) have highlighted the importance of local institutional configurations for understanding the rationales underpinning these measures which, because they take place outside a custodial setting, have to adapt to their external environment.²⁵ The people responsible for implementing them have to work with a range of partners (judicial authorities, doctors, psychologists, specialists in professional rehabilitation, and so on), and the nature of these relationships has a strong influence on the content of the measure itself. In analyzing non-custodial measures, it is therefore important to consider the contingent and fluctuating nature of these apparatuses given the determining importance of local configurations (Castel 2001).

The singular forms of control at work in non-custodial settings are also worth examining. The (relative) freedom given to individuals serving such sentences implies that institutional control relies to a large extent on their self-control. The institution urges individuals to take themselves in hand and prove they are autonomous and responsible. Freedom is instrumentalized (Rose 1999) with a view to regulating and promoting autonomy. Pursuing this avenue of thought, Turnbull and Hannah-Moffat (2009) have argued that the government of former inmates on parole produces self-governing subjects encouraged to prove they are capable of making the 'choice' not to reoffend. This model of non-custodial penal management also results in contradictory requirements, as individuals are enjoined to behave as responsible and autonomous citizens but also as obedient and docile convicts in the face of penal control (Turnbull and Hannah-Moffat 2009; Werth 2011). Opsal (2014) has even shown that, in many ways, parole monitoring can be an obstacle to women's professional rehabilitation and social integration after their release from prison. Furthermore, Devresse (2012) argues that there is an 'extension of responsibility' in non-custodial sentences: not only does the institution render individuals responsible for their own control and for the success of the sentence, but this also extends to the people around them who become 'ancillary' monitors of the justice system's surveillance (Devresse 2012; see also Staples 2009).

This last remark opens up the question of the social spaces in which control is exercised in non-custodial settings: unlike closed institutions, where surveillance and control take place within the walls of these facilities, in non-custodial settings they involve various agents (state workers, family, employers, and so on) and various social spaces (the home, the workplace, social services agencies, and so on) (Devresse 2012; Saldombide 2013). The contours of non-custodial sentences thus become blurred and fluctuate, making it even harder for convicts to know when and under what circumstances they may come under judicial surveillance and sanctions.

Finally, the recent development of research on 'experiences of penalty' has fuelled reflection on the modes of government at work in non-custodial settings, this time from the perspective of those who are subjected to it. Werth (2017), for example, describes in detail how individuals on parole select, reinterpret, and adapt to the rules imposed upon them, with a view less to resisting control than to exercising agency in the face of a penal system that often has counterproductive effects on rehabilitation. A study by McCahill and Finn (2013) identifies two main modes of resistance to penal control in non-custodial settings: in the first case, individuals explicitly resist surveillance to preserve their dignity and privacy, with the effect of reinforcing stigma and producing new forms of social exclusion. In the second, individuals collaborate (in part) with agents of penal control so as to minimize the extent of this control and to avoid punishment if they violate the rules. However, this collaboration requires a certain knowledge and understanding of penal rationales, and such skills are unevenly distributed among the populations affected by non-custodial

measures (McCahill and Finn 2013). These studies on experiences of penalty show the variable impact that penal control has on the lives and trajectories of offenders depending on the resources they have at their disposal to circumvent, reinterpret, or resist this control.

A bottom-up approach to penal institutions

In order to envisage the workings of a penal institution via a ‘bottom-up’ approach, this book takes a general theoretical perspective based on the Foucauldian concept of ‘government’²⁶ while, at the same time, drawing on other frameworks for analyzing institutions and public action. This necessary combination of Foucauldian theory and ‘bottom-up’ approaches to institutions is described in the following.

My initial research question can be defined in Foucauldian terms: how are individuals governed in a non-custodial setting, and what type of subject does this institution seek to produce? Foucault defines government as ‘the set of institutions and practices by which people are “led” from administration to education,’ stating that it is ‘this set of procedures, techniques, and methods that guarantee the “government” of people’ (Foucault 1991).²⁷ Techniques of government which target individual conduct (Audureau 2003, 22) are based on knowledge (Laborier and Lascoumes 2005; Cohen 2011) that is developed and used with a view to understanding human beings and acting upon their agency. From this perspective, individuals do not pre-exist apparatuses of government but are instead constituted and fashioned by them (Michaud 2000, 12–13). Power is therefore both constraining and enabling in nature (Laborier and Lascoumes 2005): it produces individuals, while subjugating them; it opens up horizons of possibility for them, while normalizing and disciplining them. This ‘government of conduct’ is based on the freedom of the subjects being governed: rather than using direct constraint to force individuals into submission, techniques of government count on individuals participating in the power to which they are subjected. Rose (1999, 22) refers to a form of ‘regulated freedom’ specific to contemporary liberal societies, which involves a permanent tension between the notion of individual freedom and the need for a common order. As Fassin and Memmi summarize, ‘governing means ensuring that each person governs themselves as best as possible’ (2004, 25).

This conception of power and techniques of government offers a productive lens through which to view the topic at hand in this book: the absence of any direct physical constraint in non-custodial sentences – whereas by their very nature, as instruments of the penal system, they necessarily seek to act upon individual conduct – further reinforces the paradox of governing free individuals. This paradox is particularly acute in the LA measure, which, by its very name (‘Assisted Freedom’), explicitly places the focus on the freedom of those it governs. According to Rose, freedom should not just be understood as the

condition of individuals being governed but instead as a tool of government in its own right, leading us 'to be governed through our freedom' (1999, 62).

While the research questions and conception of power at the heart of this book are Foucauldian in outlook, my methodology stands apart from most research conducted in this vein. Such studies tend to examine the emergence and historical conditions of possibility for a given form of government, by analyzing the related discursive corpora. My aim is rather to analyze the specific properties of one apparatus of government in practice (its forms of knowledge, techniques, instruments, alliances, types of resistance), as well as the conditions in which it is applied in a particular social context. In short, I suggest examining a Foucauldian question through a sociological and ethnographic lens rather than by drawing on a philosophical or historical approach. My scientific approach has much in common with Werth and Ballestero's ethnography 'of the governance of il/legality' (2017): they contend that ethnographic methods can shed light on the ambivalence, pivotal moments, and hybridization in play in complex contemporary forms of penal control, thus illuminating the contradictions underpinning the apparent coherency of discourses and laws. These methods allow renewed attention to be paid to the micro-level processes in play, while at the same time connecting them to mechanisms present at other societal levels, especially within the social macrostructure. Finally, ethnographic methods illuminate the unpredictable and unexpected effects of penal policies and fuel discussions about their (in)efficiency (Werth and Ballestero 2017).

An empirical ethnographic approach of this type is not, of course, incompatible with Foucault's intellectual endeavour – quite the contrary. According to Cohen, the fact that Foucault decided not to study practice but to focus solely on discourse about practice does not preclude interest in the latter (Cohen 2011, 49). Abélès goes further still, demonstrating the possible dialogue between Foucauldian thought and political anthropology, to the extent that he encourages 'conceiving of political anthropology as a pragmatics of governmentality' (Abélès 2007, 75). And indeed, there are evident similarities between Foucault's conception of power – described as a 'capillary' power (Michaud 2000, 12) deployed in an 'interweaving of practices' (Cohen 2011, 72) – and the realities observed by the ethnographer, which resemble a 'proliferation of relations' (Abélès 2007, 72).

My approach therefore shares the governmentalist perspective to analyzing public action, which focuses in particular on practices of government and not just on discourses relating to it. This approach, described in particular by Laborier and Lascoumes (2005), suggests making sense of the state via the 'actions through which the government of subjects and populations is operationalized' by studying the 'tools, procedures, and political rationalities underpinning it' (Laborier and Lascoumes 2005, 42). In their view, the tools used by apparatuses of government offer a prime way of understanding the conceptions of regulation underpinning them (Laborier and Lascoumes 2005, 62). The governmentalist approach thus aims to 'identify regimes of government by revealing how

the way in which power is exerted depends on specific modes of thinking and acting and of governing people, but also of objectivating individuals and producing subjectivity' (Cauchie and Chantraine 2005, 2). By displacing focus to how a project of government is actually implemented, it is possible to analyze the coexistence of several regimes of government, as well as 'the way actors handle different rationalities in their everyday practice, how they adopt them, circumvent them, and redefine them, or conversely, how they redefine them or resist them on the basis of ethics, values, pragmatism, routine, know-how, etc.' (Cauchie and Chantraine 2005, 11).

This general perspective on the government of conduct has guided my analyses in this book. However, it is important also to specify the other points of view on institutions and public action that informed my approach to examining the Brazilian LA measure. Indeed, my ethnographic approach required me to combine Foucauldian concepts and theories with other tools allowing more direct access to the complex empirical reality of institutional practices.

First, it is important to remember that a project of government, in its Foucauldian sense, is never entirely or automatically enacted in practice. Jobert and Muller (1987) have underlined the fundamental uncertainty that characterizes public action, which is the result of contradictory intentions producing unexpected results. In their view, three dimensions inform the actual implementation of public policies: professional forms of knowledge, organizational aspects, and legal regulations. Researchers must therefore take these into account in their analyses, while understanding that the public service workers implementing policy also have some latitude in how they apply these professional rules, codes, and forms of knowledge.

In his pioneering work, Lipsky (1980) showed that, in a context of contradictory requirements and limited resources, 'street-level bureaucrats' have substantial discretionary power in allocating public goods and sanctions. Indeed, this discretionary power carries such weight that these people on the front lines come to be the ones who actually *make* public policy, more so than legal texts and official directives (Lipsky 1980). In order to take into account this discretionary power, it is necessary to take seriously these public service workers and to consider them as reflexive professionals who act according to rationales that are specific to their position within their organization, to the knowledge they bring to bear on their work, and to the forms of interaction they engage in with citizens.

The latter aspect is particularly prevalent in all areas of public action, which is essentially based on relationships between state workers and public service users. Professional, organizational, and legal aspects alone cannot explain what these state workers do in the day-to-day because they are mutually dependent on public service users. As Valli, Martin, and Hertz (2002) have rightly underlined in their study of unemployment office counters in Switzerland, depending on how job seekers engage in their relationship with their advisers, they have the power to transform that person either into a bureaucrat or a trusted

confidant or even therapist. Given that the people working for the unemployment insurance system give more value to providing support and advice than completing bureaucratic tasks, they therefore need individual relationships with service users to give meaning to their work (Valli, Martin, and Hertz 2002).

Furthermore, institutions are embedded in a broader social environment to which they must adapt. Institutional action therefore also depends upon the other actors in play, for example when the intervention involves partnerships with other institutions. Contemporary public policy is increasingly defined by network action, decentralization, and public-private partnerships (Dubet 2002), thus reinforcing institutions' interdependency with their environment. Researchers must therefore examine the shifting and contingent nature of institutional boundaries, which imply constant redefinition of the power of institutional action.

Finally, state institutions are not monolithic entities that exercise a homogeneous and consensual form of power. They are themselves marked by various power relations, linked in particular to the autonomy of their actors (Jobert and Muller 1987). This results in institutional fragmentation and hybridization (Laforgue 2009), which must therefore be uncovered by research. Taking institutional hybridization into consideration also allows two specific pitfalls to be avoided: considering that an institution exercises an omnipotent and totalitarian form of power over individuals, or, conversely, concluding that because the institution's intended project is not entirely realized in practice, this means it has lost all agency (as suggested by the hypothesis of the decline of institutions).²⁸ Occupying a middle position between these two extreme points of view, I intend instead to demonstrate the contingent actualization of an institutional project (itself already made up of paradoxes). This actualization stems from the multiple processes through which institutional rules are re-appropriated, as well as from interactions between public and private actors and between state workers and public service users.

The government of juvenile delinquency in Brazil's Liberdade Assistida measure

My study of the 'Assisted Freedom' or LA measure in Brazil thus draws on the findings of existing literature on non-custodial sentences, and its general theoretical stance involves taking a bottom-up approach to understanding a penal institution. Within this framework, certain key questions shaped my inquiry and guided my analysis throughout my data collection and interpretation. They are each outlined in the following. In the empirical reality, however, the answers to these questions are not separate but rather always inextricably interconnected and mutually dependent. For this reason, the chapters of this book do not each address one single question but rather several at once. I do, however, return more specifically to each of these major analytical issues in turn in my conclusion.

What project of government underpins the LA measure?

On what forms of knowledge, categories, and referential framework is the LA measure based? What penal intentions underpin and legitimate this policy for juvenile offenders? And what role does this measure play in the broader landscape of the Brazilian socio-educational system? What conceptions of deviance, normality, and rehabilitation guide professionals in their work? On what theories and notions of human action do they draw in seeking to produce change among young offenders?

How is this project of government enacted in practice?

How are the institutional categories informing the LA measure's project of government enacted in practice? More specifically, what meaning is given, in concrete professional practices, to notions such as autonomy or responsibility? What key tools do professionals use in their work? What limitations do they encounter in trying to implement this project of government? What tensions and paradoxes must they contend with, and what strategies do they deploy to this effect? To what extent do professionals subscribe to the LA measure's project of government? In what ways do they make it their own or resist it?

What specific forms of control and surveillance are used in LA?

What are the consequences, in terms of control and surveillance, of the ways in which youths are governed, in practice, in LA? What tools can professionals use to constrain these young people when, by its very nature, the measure does not involve any direct physical constraint? In what ways does the freedom of the youths in LA shape the specific forms of control in play? What role does self-control and self-regulation play in LA?

How do the youths in LA experience penalty?

How do they comply with, resist, or negotiate penal control? How do the youths in LA interpret the meaning and function of their sentence? What place does LA occupy in their deviant and penal careers? To what extent does the government of young offenders in LA produce specific forms of social inequality? And finally what role does LA play in desistance processes?

What are the modes of hybridization of the penal and social spheres in the LA measure?

What are the main determining features of the relationships between the agencies responsible for implementing the LA measure (social services) and the bodies responsible for making judicial decisions (juvenile courts)? Does this

relationship involve collaboration, competition, distrust, or even indifference between the actors in question? Does it entail asymmetrical power relations or horizontal partnerships? Do the rationales in play speak to a colonization of the social sphere by the judicial sphere, or is the reverse true? And what consequences does the hybridization of these two spheres have on the concrete ways in which the adolescents are governed?

What modes and points of contact exist between the institution and its outside environment?

Who are the main public and private actors with whom professionals must collaborate in implementing the LA measure? What types of relationships do they have with these actors, and to what extent do these relationships shape the government of young offenders? Is the broader environment in which the LA measure is embedded a resource or, on the contrary, a constraint for the professionals on the ground? To what extent do the other actors involved in non-custodial settings (schools, professional training programmes, and so on) represent an extension of the government put in place by the LA measure's professionals? Finally, what effects does the non-custodial setting – in which youths circulate between different traditional institutions of socialization – have in terms of labelling and stigma?

Multi-sited ethnography of a penal apparatus

The 'bottom-up' analysis of state institutions, from which this book derives much of its inspiration, was pioneered by Lipsky (1980) in his now famous book on 'frontline' public service workers. As mentioned earlier, Lipsky contends that public policies are not the result of the automatic application of legal texts and institutional directives. According to him, the substantial discretionary power conferred upon street-level bureaucrats allows them to devise their own routines, develop coping strategies for the pressures they face, and utilize institutional rules in ways enabling them to pursue objectives not intended by their superiors. In short, it is the state workers themselves who *make* public policy in the day-to-day. Since Lipsky's seminal work, many authors have followed this approach and published research on the everyday activities of public service workers in the welfare state (Weller 1999; Dubois 2010; Serre 2009). In terms of penal policy, however, although there have been many studies on the discretionary power of the police (Lévy 1987; Monjardet 1996), this perspective has been used far less to analyze the workings of judicial power.²⁹

This methodological stance has implications for my relationship to what is known as 'critical' sociology: rather than hypothesizing from the outset that rationales of domination or social control are at work in the LA measure, I chose instead to 'take the actors seriously' in order to see 'what they do, how, and why.' Like other authors looking to understand concrete forms of hybridization

(Bonnet 2009), I believe that it is by taking a ‘bottom-up’ approach to the institution and thus by re-emphasizing the empirical grounding of my investigation that I can refine and complicate the dichotomous categories that shape juvenile justice policies (education versus repression, minors as subjects of rights versus minors as objects of an intervention, and so on).

My understanding of the everyday activities of professionals in the field would have remained incomplete, however, had I not also looked to more structural aspects of the institution. These include laws, coordination between judicial and executive power, and above all the place held by LA within the broader juvenile justice system in Brazil. For this reason, I also collected data about other socio-educational measures (through ad hoc interviews with professionals and visits to semi-open and confinement facilities). Additionally, I sought to grasp how the institutions in the socio-educational system framed themselves in official contexts (local seminars on non-custodial measures), and my analyses took into account both the grey literature and the relevant laws.

Moreover, the very nature of the LA measure – which takes place within the city as part of a network of partnerships between different institutions – meant that I could not restrict my focus to a single physical space. My methodology therefore drew on multi-sited ethnography (Marcus 1998), entailing more short-lived and mobile moments in the field – an approach that responds to the requirements of fieldwork in contemporary urban societies (Marcus 1998). Because of the diffuse configuration of the institutional apparatus I chose to study, I conducted observations and data collection in different spaces: the social services centres responsible for implementing LA, the juvenile court, and various professional training programmes. These different institutions are interconnected through their partnership in the LA measure and the actors are, to varying degrees, linked by mutual dependence and personal connections. My ethnographic study was therefore still clearly focused on one single institutional apparatus (as opposed to different autonomous organizations). Furthermore, following the classic precepts of ethnography, I also drew on different types of empirical material in order to cross-reference my sources (Beaud and Weber 2008; Charmaz 2010). Three types of empirical material thus form the basis of my study: interviews, observations on the ground (social services centres, court hearings, work meetings, and so on), and institutional documents about the youths on the measure (socio-judicial case files).

Data collection took place in two Brazilian cities. The first, Belo Horizonte, is viewed as pioneering in the non-custodial sector, as it has been running LA measures since 1998, whereas the second, Rio de Janeiro, only began local implementation in 2008. Analyzing these two cases therefore presents several advantages: first, it allows for a general reflection on LA within the country’s large cities that extends beyond specific local characteristics; second, it enables comparative analysis based on two distinct ‘models’ for implementing the policy; third, the Rio de Janeiro case study provided data on the issues at stake in putting the LA policy in place, whereas Belo Horizonte offered the

opportunity to examine a more ‘routinized’ and institutionalized instance of that same policy.

Ethnographic interviews

The interviews I conducted for my fieldwork can be described as ‘ethnographic interviews’ (Beaud and Weber 2008) insofar as they took place as part of an investigation, in a context where I knew the actors in the field and they knew each other. Of the 113 interviews recorded during my fieldwork (see the summary tables in the appendix), a little over half were conducted in Belo Horizonte (63). In total, 20 *técnicas*³⁰ from the LA measure were interviewed, some of them several times. I also interviewed 38 youths in very variable conditions and modes. Of these 38, 19 were contacted via their assigned LA *técnica* and were therefore serving their measure at the time of interview. I met ten through the professional training programmes, most of whom had now fulfilled their judicial obligations. I interviewed five youths in a semi-open facility in Belo Horizonte, most of whom had already been given an LA measure in the past. Finally, I interviewed four youths at the juvenile court in Belo Horizonte, just after they had appeared before the judge and been sentenced to a non-custodial measure. In all, eight youths were interviewed twice (at approximately one year’s interval).

Alongside the two ‘social groups’ at the heart of my research (the LA *técnicas* and the youths), I also conducted interviews with other more peripheral actors, whose perspectives were nevertheless necessary in order fully to grasp the more general context of the socio-educational system in Brazil (judges, lawyers, administrative managers in the juvenile criminal justice system, members of children’s rights’ NGOs, and so on).

I quickly established relationships of trust with the *técnicas*, no doubt because we shared many sociological traits in terms of gender, age, social background, and training (in the humanities, in its broadest sense). My interviews with the youths presented greater challenges and methodological difficulties. I gained access to the youths via the municipal social services centres or CREAS (*Centros de Referência Especializados de Assistência Social*, literally Specialized Social Assistance Reference Centres) handling their cases. This meant that I faced the same difficulties as the *técnicas* when it came to communicating with these teenagers: the better their relationship of trust with the institution and the *técnicas*, the easier it was for me to establish a similar relationship. I was not entirely free to meet whichever youths I chose, either, insofar as their *técnicas* sometimes considered there was ‘no point interviewing a youth who doesn’t talk’ or, on the contrary, decided that I ‘absolutely’ had to interview another youth whose case would be ‘very interesting’ for me. Moreover, those who had just begun their LA measure proved more reticent to talk than those at a later stage in their measure. For the former, the memories of the judge were perhaps still too fresh and the workings of the LA measure still too unclear for them to risk confiding

in yet another person. This explains why the few interviews I conducted at the juvenile court were short and somewhat laborious and why, conversely, those with youths on professional training programmes were particularly fruitful.

In conclusion, my methodological design, focused on socio-educational institutions rather than their 'clients,' had structural effects upon the relationships I created with the professionals and youths in my study. While the data I collected with the youths remains interesting and valid, I had to accept that I would not achieve any understanding of their experiences that was not in some way mediated by the socio-educational institution. That would have required ethnographic immersion in the *favelas*, rather than in the CREAS and courts. The asymmetrical nature of my relationships with, and sociological understanding of, the youths versus the *técnicas* was further reinforced by the empirical materials I collated in the institutional setting. While I was able systematically to cross-reference my interviews with the *técnicas* with data from observations and case file analysis, allowing discourse and practice to be triangulated, for the youths, I only had access to the more ad hoc discourse produced at the time of the interviews.

Analysis of case files

Case files and other written working documents are often included in the corpora of ethnographic studies on institutions (Béliard and Biland 2008; Lomba 2008; Serre 2009). They afford a prime way of accessing professional norms and practices, presented in a concentrated form (Altheide et al. 2010) that is easy for the researcher to examine, or so it initially seems at least. Analyzing case files does not require any particular relational skills and can easily be done in a closed space, out of sight of others, unlike the observation and interview phases, which require constant attention and reflexivity on the part of the researcher.

In the field, however, it soon becomes clear that there is no such thing as a *case file*, taken in the sense of a single identifiable and circumscribed entity. Instead, there are a myriad of written documents produced by separate institutional processes, located or archived in different places, providing the researcher with radically different forms of information. In the case of the present study, as an example, the CREAS case files included all the documents relating to the non-custodial measure (minutes of the hearing, questionnaire about the youth's situation at the start of the measure), reports sent to the judge, handwritten notes taken by the *técnica*, documents concerning steps taken in schools, professional training programmes, health-care centres, and so on). They did not, however, include any information about prior socio-educational measures. As for the court case files, these contained full histories of the youths' trajectories through the socio-educational system (judicial decisions, measures completed, and so on) but very little information about how the measures in question actually unfold. Given my research topic, I focused more on the CREAS case files, which provided more relevant material for a fine-grained understanding

of how non-custodial measures take place in practice. Finally, I ensured that my corpus included both ongoing and closed files, as each provided a different perspective on the LA measure. Analysis of ongoing files allowed me to observe the *técnicas*' practices 'on the fly,' as it were: during meetings, I sometimes heard a *técnica* referring to a report she needed to write, and a few days later, I was able to access its definitive version. I also systematically analyzed the files of the youths I interviewed in order to triangulate information as much as possible. As for the archived case files, these offered a more comprehensive view, providing information about the length of the measure and allowing me to examine cases of 'aborted' measures (when youths cease coming to the CREAS after a few appointments), a reality that cannot be accessed through observation or interviews. In this respect, analyzing the files allowed me to contextualize the situations I observed (Lomba 2008) and to 'become aware of the effects of selection, from which fieldwork is not exempt because it relies upon sustained relationships with certain respondents' (Béliard and Biland 2008, 108).

In total, 74 case files were analyzed. Of these, 32 concerned ongoing measures and 42 had been archived. The 'ongoing' files were mainly from Ana Leopoldina CREAS in Rio de Janeiro and Tupis CREAS in Belo Horizonte, whereas those that had been archived were mainly in Chiquinha Gonzago CREAS in Rio de Janeiro (see boxes 3 and 4 in Chapter 2).

Ethnographic observations

Most of my observations took place as part of the *técnicas*' professional routine within the CREAS (team meetings, discussions of cases, writing of reports, phone calls to families or to partners in the LA network, and so on) and beyond its walls (discussions of cases at schools, at the juvenile court, meetings at the municipal department for non-custodial measures, 'supervision' [*super-*visão**] meetings, 'control' meetings [*fiscalização*], and so on). During the different meetings, my presence was easily accepted and soon forgotten. However, the fairly chaotic routine of the CREAS did greatly complicate data collection, as planned meetings were often cancelled or rescheduled at the last minute, creating time-tabling conflicts with other data collection planned (interviews, observations at the court, and so on).

Moreover, while the *técnicas* were mostly extremely cooperative and quick to respond to my various requests, they were nevertheless inflexible regarding their appointments (*atendimentos*) with the youths. With only a few exceptions, I was not allowed to observe these face-to-face interactions between the *técnicas* and their charges, and this is undoubtedly one of the limitations of this study. The data available to me did not enable any detailed analysis of the verbal and non-verbal interactions between these two groups. Nevertheless, by triangulating and cross-referencing materials, I was still able to access the aspects of these *atendimentos* that were relevant to the research questions underpinning my study (and the few *atendimentos* I was able to observe as an exception – three in

total – confirm this). In addition to narratives about the *atendimentos*, collected during my interviews with youths and *técnicas* alike, the notes taken by the latter in the former's case files also provided invaluable information on how these meetings unfold.

My observations also extended beyond the *técnicas*' professional routine. I conducted observations at the juvenile court (76 hearings in total), in professional training programmes (during the selection process, the youths' working days, the meetings of the teams supervising them, and so on), and during different official events relating in some way to non-custodial socio-educational measures (e.g., the local seminars on non-custodial measures, the Forum on religious education in confinement facilities in Rio de Janeiro).

Translation and terminology issues

As mentioned in the introduction, this book is based on a PhD thesis that was written in French, itself based entirely on data collected in Portuguese. This therefore raised a range of translation issues, both when writing the initial thesis and when transforming it into a book in English. In translating interview excerpts, I have chosen to stick as closely as possible to what I took to be the respondents' intended meaning. Sometimes, I keep the original Portuguese terms in the text too, in brackets, especially when they reflect recurrent categories used by the actors themselves or when the language is colloquial or draws on specifically Portuguese idioms.

I have chosen not to translate the terms *técnico/técnica* (masculine/feminine form) and *atendimentos*, as both are key institutional categories in my study which have no satisfactory translation in English. In its pragmatic meaning, *atendimento* refers to an appointment, but the term also has connotations related to the notion of attention and care provided to public service users. As for *técnica/técnica*, which literally translates as 'specialist' as seen earlier, this refers to a specific status in the Brazilian public service sector. *Técnicos/técnicas* are public servants who hold a recognized qualification in their area of expertise, but the term does not designate any specific role or profession (e.g., social worker, psychologist, and so on). Given the vast majority of women working as *técnicas*, I systematically use the feminine form to refer to the position (as opposed to the masculine *técnico*), except when referring specifically to a particular man. This choice is borne out by the language used by the youths in the socio-educational system: they always refer to *técnicas* in the feminine and use the feminine term to refer to psychologists too, even when discussing professional supervision in juvenile justice in a more generic fashion and not referring to specific individuals. When I mention the *técnicas*, I provide various pieces of information in brackets: their fictional names, their initial training (Psych. for psychologist, SW for social worker, Educ. Spec. for educational specialist, Comm. Off. for community officer, and Superv. for supervisors), and the city in which they worked (RJ for Rio de Janeiro and BH for Belo Horizonte).

Concerning the youths, as a minimum, I provide their fictional name, and often other complementary information (age, offence, city) when relevant. Details of the youths' and *técnicas*' profiles are provided in the summary tables of the interviews, in the appendix. When information is drawn from case files, this is specified, with a reference to the youth in question and the *técnica* who wrote the report. Because of the small number of judges interviewed (four in total, two men and two women), I refer to judges in the masculine so as to avoid making it possible to identify them. I also refer to the *Liberdade Assistida* or 'Assisted Freedom' measure using the abbreviation LA, which is the term used in Brazil by youths and professionals alike to refer to the measure in the day-to-day.

As the reader will have surmised, the Brazilian socio-educational system has its own very specific vocabulary, which is deliberately euphemistic and designed to mark the difference between the juvenile and adult justice systems. 'Young offenders' are referred to as 'youths in conflict with the law' (*jovem em conflito com a lei*), the 'offences' they commit are 'infractions' (*atos infracionais*), and, as we have seen, they are given 'measures' (*medidas*) rather than 'sentences.' Throughout the book, this official institutional language is reproduced in the translation of direct quotes. In my own analyses, I use it when referring to specific apparatuses or institutions within the socio-educational system itself (e.g., the LA measure, 'semi-open measures,' 'confinement' rather than 'detention,' and so on) by way of emphasizing the specificity of the Brazilian context. However, when discussing phenomena that refer to broader social realities, on the contrary, I avoid taking up these euphemistic terms: I talk about young offenders, offences, and penal justice for example. This reflects a refusal to endorse the institutional vision at hand and a determination to maintain the critical distance from my object of study that is necessary for any sociologist.

Notes

- 1 Work by historians on this topic (Thomazeau 2007; Yvorel and Yvorel 2005) has shown that the major oppositions (punishing versus educating, incarcerating versus rehabilitating) have been structural and cyclical throughout the history of the management of young offenders.
- 2 According to Macallair (1993), these criticisms also led to the development of 'community programs' in the United States, avoiding 'institutionalization,' and advocating leaving youths in their home environment.
- 3 On this topic, see, for example, Dufresne and Hastings (2003) who show that public-private partnerships and risk management rationales tend to produce fragmented modes of intervention and lead to responsibility being passed along a chain.
- 4 This has gone counter to Foucault's predictions in a 1976 lecture transcribed by Brodeur (1993). Foucault believed that alternatives to incarceration that were able to exert more extensive and subtle forms of control would progressively replace prison, which was an institution in decline. On the contrary, in the decades that followed this lecture, incarceration rates rose exponentially alongside a parallel increase in alternatives to prison.
- 5 It should nevertheless be noted that the factors that might explain this punitive turn are subject to controversy: for some, the decline of the welfare state explains the rapid rise of the penal state as a new form of poverty management (Wacquant 2004), whereas, for

- others, we should look instead to the new relationships to crime and punishment that are specific to modern advanced societies (D. Garland 2001). See Carrier (2010) for an article on sociologies of the punitive turn offering a systematic (and critical) overview of these approaches.
- 6 The Brazilian juvenile justice system and the institutional rationales underpinning the implementation of the LA measure will be discussed in more depth in Chapter 2.
 - 7 These deaths are categorized by the Brazilian police as the result of 'acts of resistance' (*atos de resistência*) by civilians – a category that makes the use of force legitimate and is treated differently to other homicides by the judicial system (on this topic, see Misse, Grillo, and Néri 2015).
 - 8 Oliveira (2011) suggests that Brazil is an 'undisciplinary society' that has never known the generalization of typical social institutions of control, such as schools, prisons, and factories and that, therefore, it cannot be understood in light of Foucauldian theories. While the author's endeavour to put into perspective the relevance of such theories to the Brazilian context is interesting, it is regrettable that his conclusions are ultimately framed in terms of what is missing or lacking in the Brazilian as opposed to the European model.
 - 9 Caldeira and Holston (1999, 715) therefore talk of a 'disjunctive democracy,' while Machado and Leite (2007, 554) put forward the idea of a 'variable-geometry citizenship.'
 - 10 The data presented in this section were collated and summarized at the time of my fieldwork and provide an overview of the situation at that time, which is therefore relevant to the analyses that follow in this book. Any rigorous updating of these figures would require considerable work given the fragmented and uninformative nature of the statistics produced in Brazil on this subject. It is, however, worth mentioning that recourse to detention has begun to increase again since the time of my study (26,868 minors incarcerated in 2015, which is an increase of 58.6% in six years) (www.redebrasilatual.com.br/cidadania/2018/02/em-seis-anos-numero-de-jovens-cumprindo-pena-aumenta-em-58/, accessed 28.05.2019).
 - 11 Since 2008, the federal government has given funding to municipalities that do not yet have an apparatus for handling non-custodial measures, with a view to speeding up the implementation of these socio-educational policies across the country.
 - 12 The national reports by the Secretariat for Human Rights (SEDH) did not look at non-custodial measures before 2010, which makes any long-term comparative analysis of custodial versus non-custodial measures impossible. Moreover, while an initial report focusing solely on non-custodial settings was produced in 2007, it is hard fully to trust the data (the information was collected by telephone and through questionnaires, with different and sometimes contradictory sources; high rates of missing data are mentioned in the report).
 - 13 São Paulo has a rate of 17.8 adolescents incarcerated for every 10,000 in the general population, as opposed to 5.2 in Minas Gerais and 5.4 in Rio de Janeiro. The national average is 8.8 for every 10,000 (SDH 2011).
 - 14 I draw here on the report for custodial settings produced by the IPEA (Andrade Silva and Gueresi 2003), on the different annual reports by the Secretariat for Human Rights (SEDH), on the national mapping of non-custodial measures from 2007 (Miraglia 2007) and on research conducted in São Paulo on youths doing a non-custodial measure (Miraglia and Sposato 2008). While each of these sources provides slightly different results, they all concur on the recurring features of these adolescents' profiles. I therefore provide general trends here, without giving any specific figures as these vary according to the authors.
 - 15 See for example the studies by Gabriel Feltran (2008) and Carolina Grillo (2013) on the workings of criminal organizations in the suburbs of the large Brazilian cities.
 - 16 The authors of an annotated bibliography on issues of violence, public safety, and criminal justice in Brazil have suggested that Brazilian researchers failed to see the point in

- empirically studying penal institutions because they automatically viewed the latter as simple reflections of an oppressive and unjust ruling order (Kant de Lima, Misse, and Mendes de Miranda 2000, 51). These observations corroborate my arguments that follow, on Brazil's ambivalent relationship to the institutions of the constitutional state.
- 17 See in particular the studies by Neri (2009) on a confinement centre in Rio de Janeiro and by Vicentin (2005) on rebellions by youths detained in São Paulo.
 - 18 In this regard, the titles of certain books are very telling, for example, *Beyond Bars: Factors for Transforming the Socio-Educational System* (Zamora 2005) and *Young People in Conflict with the Law: The University's Contribution to the Socio-Educational System* (Brito 2000), a book resulting from a partnership between the university of Rio de Janeiro state and the Department of Socio-Educational Affairs (Degase).
 - 19 See in particular the classic critical texts in the analysis of social work, such as Verdès-Leroux (1978), Donzelot (1977), and Lascoumes (1977).
 - 20 On this topic, see in particular the dossier in *Déviance et Société* on a bottom-up analysis of the state edited by Gauthier et al. (2010).
 - 21 Several authors whose work has inspired my own approach have taken this perspective. See in particular Dufresne and Goupil (2010); Valli, Martin, and Hertz (2002); Gowan and Whetstone (2012), Chauvenet et al. (2001), and Werth (2011).
 - 22 Here, I adopt the Weberian perspective of causal pluralism.
 - 23 I use the term 'non-custodial' to refer to all sentences that do not take place in a carceral setting, both in the adult and juvenile justice systems. Different terms are used to refer to these sentences and programmes in different local contexts (probation, parole, rehabilitation, electronic monitoring, and so on), and they are implemented in different ways depending on the legal framework and the institutional context. These punishments and measures can be ordered in the pre-sentencing phase, as a sentence in and of themselves or as part of reduced sentencing after release from prison. They do all share one common feature, however: they are not based on constant physical constraint (i.e., prison walls), and it is on this basis that I identify the specific nature of the control they exert.
 - 24 On the French situation, see the article by de Larminat (2013) providing an overview of critical literature about probation.
 - 25 This is also true for carceral institutions: the fact they are 'closed' does not mean they can function as self-sufficient microcosms. However, it is reasonable to suggest that non-custodial settings are more dependent on the external environment.
 - 26 In addition to its useful dimension for my study, as described in the following, I also prefer the concept of government to that of 'social control,' which is too ambivalent and comes with too many negative connotations because of the critical approaches in force in the 1970s. Current debates on the notion of social control underline its extremely ambiguous and polysemic nature in the social sciences (Bodin 2012), which has led some authors to avoid using it altogether (Carrier 2006).
 - 27 The concept of government should therefore be distinguished from that of 'governance,' which is narrower in scope, as it mainly concerns relationships between leaders and their specific forms of action (Cohen 2011, 58) without paying attention to the individuals or populations that are targeted by practices of governance. Moreover, while the sociology of governance seeks to understand the rules structuring the relationships between actors, the notion of government presupposes uncovering a project, an intention, based on forms of knowledge and a regime of truth (Rose 1999, 19–21).
 - 28 This stance has been critiqued and qualified, especially by Darmon (2010).
 - 29 The studies available in this field mainly concern either judicial decisions (see, for example, Le Caisne 2008; Halliday et al. 2009) or institutions of incarceration (Chantraine et al. 2011).
 - 30 I was also careful to vary the profiles of the *técnicas* in terms of gender, initial training, and professional experience both within the LA measure itself and the social services

centres (CREAS) where they worked. As mentioned previously, I use the job title in its feminine form (*técnica*) in order to reflect the high overrepresentation of women in this professional field.

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A gamble on freedom

The *Liberdade Assistida* measure

This chapter looks at the legitimacy and controversies of the Brazilian juvenile justice system, with particular focus on the LA measure's place within that system. My intention is not to determine what is legitimate and what is not but instead to identify the processes of legitimation at play. I approach legitimacy here in its sociological sense, that is to say, considering the institutions' capacity to legitimate their existence and workings in the eyes of society. I build out from the proposition that all institutions seek to produce meaning in order to confer coherency and legitimacy upon their actions. While this institutional narrative – or 'referential' (Jobert and Muller 1987) – is not the only factor that can explain an institution's existence or enduring nature, it nevertheless has very real effects on the actors whose daily actions bring it into existence. What Jobert and Muller describe as a public policy 'referential' is a social construction representing both the policy and its role in society (Jobert and Muller 1987, 63). In order to do this, the referential is based on certain dominant values in a given social and historical context. We will see later, for example, that 'freedom' is a central value in the referential of the LA measure (which, it is important to remember, translates literally as 'Assisted Freedom'). However, public policy referentials are also informed by tensions and paradoxes due, in particular, to the variety of actors involved and the power relations that underpin their relationships. This chapter therefore also identifies and describes the controversies within the Brazilian socio-educational system.

The analyses in this chapter are based on information provided by actors in positions of responsibility in the juvenile justice systems of the two cities studied. I collated these statements and opinions through individual interviews and observation of public events and official meetings. I also draw on the available grey literature and, more occasionally, on other documentary sources (press articles, legal texts, and so on). This empirical corpus offers insight into how the institution 'stages' itself, the contextual validity of the different arguments used, and the potential conflicts arising between competing discourses.

It seemed important to me to begin this book by examining the legitimacy of the LA measure for one crucial reason: in juvenile justice, professionals do not just mechanically apply the law in their work on the ground. In order to

understand their practices, it is necessary to understand the things that shape them: controversies, logics of legitimation, and relationships between different institutional actors. This chapter therefore sheds light on this institutional and ideological framework, while the book's subsequent chapters go on to examine the practices themselves.

Legitimizing institutional frameworks imported from other contexts

In Brazil, as in many other former European colonies, the construction of the nation-state was informed by a constant tension between, on the one hand, importing and imitating legitimate European institutions (Badie 1995) and, on the other, trying to identify and then consolidate the specificities of a national identity. In Brazil, both the formation of the nation-state and its founding principles and institutions (democracy, equality before the law, and so on) have suffered from a lack of legitimacy. This has been the focus of much analysis and discussion in the Brazilian social sciences and is also a commonly held view among the general population. Schwartz (1977) contends that liberal ideology spread through Brazil at a time when slavery was still standard practice in the country and that there was therefore necessarily a glaring discrepancy between socio-political ideas and reality. In his view, while, in Europe, freedom, equality, and universalism also constitute an ideology, it is at least given concrete expression in social life. In Brazil, however, these ideals have only ever served as window-dressing to a society where privilege and clientelism prevail. In the same way, several authors (Fagnani 2005; Druck and Filgueiras 2007; Freitas 2007) show that Brazil has never had a universalist welfare state providing social protection to all its citizens, along the model of European welfare states during the post-World War II 30-year boom. At the end of the dictatorship, when rights were being formalized in a new constitution (in 1988), the same neoliberal policies that began dismantling these welfare states across Europe prevented their Brazilian iteration from emerging, leading Fagnani to describe the latter as 'still-born' (2005, 551).

According to Schwarz, this discrepancy between ideas and reality explains the prevailing scepticism in Brazilian society, which, still today, demonstrates a clear lack of faith in its democratic institutions (Moisés 2005). According to the data of the Latinobarometer between the years 2002 and 2004, 53.7% of Brazilians have an ambivalent attitude towards democracy (compared with 39.7% across Latin America as a whole) (Moisés 2008). This lack of trust is also the result of the dictatorships that have punctuated Brazilian political life since the advent of the First Brazilian Republic in 1889: between 1930 and 1945, Getúlio Vargas ruled the country on an authoritarian and populist basis; a 20-year period of democracy then ensued until 1964 when a coup d'état established a military dictatorship that only fell in 1985. Today, studies on institutional violence in Brazil (Caldeira 2002; Adorno 2005) explain this phenomenon in

terms of the violent and arbitrary logics that have persisted in state structures since the military regime, despite the semblance of ‘re-democratization.’ Once again, this points to a discrepancy between the formal concept and concrete reality of the rule of law.

My intention here is not to reach a verdict on how effective contemporary Brazilian democracy actually is. Instead, I want to draw attention to how the discourse produced by the Brazilian intelligentsia and widely taken up in politics, the media, and among the general population¹ affects the legitimacy of penal policies in general and juvenile justice in particular. I believe that Brazilians’ scepticism regarding the actual implementation of the founding principles of the democratic state explains, in part, the difficulties inherent to legitimating the juvenile justice system.

In legal terms, the Brazilian juvenile justice system is based on the Statute of the Child and the Adolescent (*Estatuto da criança et do adolescente*—ECA) adopted in 1990, five years after the end of the dictatorship and only two years after the new Brazilian constitution was established. In many respects, the ECA was inspired by principles promoted in the international arena of children’s rights, and both the academic and professional literature frames it as a turning point in Brazilian policies relating to children. After providing a brief overview of the history of juvenile justice in Brazil, I argue that, in several respects, the ECA serves as a symbol of human rights and civilization in contemporary Brazil, thus providing the basis for its legitimacy (within the international community, at least). However, this democratic and humanitarian ‘referential’ – which takes its inspiration from moral values seen as imported from ‘developed’ countries – leaves the system open to the same tensions as those described previously (i.e., to accusations of discrepancies between theory and practice).

Box I Legal aspects of the Brazilian socio-educational system

The ECA is a legal reference concerning minors in vulnerable situations, who require special protection from the state (in the form of ‘protective measures’), and minors who have broken criminal law and require a ‘socio-educational measure.’ Where ‘adolescents in conflict with the law’² are concerned, the ECA defines an *ato infracional* (‘infraction’) as any act committed by a minor that violates criminal law. The socio-educational measures applied in such cases are, however, reserved for youths aged between 12 and 18. When a child below the age of 12 commits an offence, the ECA only makes provision for the application of ‘protective measures.’

Under the ECA framework, juvenile judges have six distinct socio-educational measures at their disposal, ranked according to ‘severity.’ The

two lightest measures are applied directly by the judge during the hearing: warning (*advertência*) and reparation of damage (*obrigação de reparar o dano*). Two further ‘open’ measures (*medidas em meio aberto*) also exist: community service (*Prestação de Serviços à Comunidade*, commonly abbreviated as PSC) and ‘Assisted Freedom’ (*Liberdade Assistida*, abbreviated as LA). These two measures are applied to the vast majority of adolescents who have broken the law: according to the available data (SDH 2011), approximately 70% of these youths serve their ‘measures’ in non-custodial settings. Moreover, LA is applied almost twice as often as PSC: 41.8% of youths are in LA compared to only 24.5% doing PSC (the remaining 7.4% combine both) (Miraglia 2007). LA is the ‘strictest’ measure a judge can apply without depriving youths of their liberty. The measure lasts a minimum of six months and can be applied either immediately after an offence or after an initial custodial sentence, to recompense ‘good behaviour.’ The final two measures are custodial and represent the most severe sanctions a Brazilian judge can apply to a minor. The first is in fact a semi-open measure (*Semi-Liberdade* – which literally means ‘Semi-freedom’) and the second is confinement (*Internação*). The ECA specifies from the outset that complete incarceration should remain an exception and that priority should be given to non-custodial measures. It is important to note that the latter are run by local authorities, unlike custodial measures which are implemented at the level of each federal state.³ As mentioned in the introduction, one of the specificities of the Brazilian socio-educational system is that the duration of socio-educational measures is not stipulated from the outset: with the exception of community service, judges hand down measures and decide later when to end them, based on periodic evaluations by *técnicas*. The maximum duration of a socio-educational measure is set at three years.

The protective turn: the Statute of the Child and the Adolescent

The legal and institutional history of Brazilian juvenile justice begins with the first Code for Minors (*Código de Menores*) adopted in 1927 (Irma Rizzini 2009). Fourteen years later, the SAM (Service of Assistance for Minors) was established, an agency directly linked to the Ministry of Justice. This legal and institutional apparatus, described as a ‘doctrine of irregular situations,’ was principally based on a repressive correctional policy applied to any minors fitting the criteria of ‘irregularity.’ This applied not only to under-age offenders but also to abandoned minors (Andrade Silva and Guerresi 2003; Faleiros 2009). During this period, juvenile judges enjoyed considerable discretionary power and, in most cases, ‘irregular’ minors found themselves confined in an institution (Faleiros

2009). The priority was evidently protecting society from the threat they represented rather than considering their needs (Andrade Silva and Gueresi 2003).

At the end of the 1970s, a new conception of the child emerged on the international stage: children were viewed as subjects of rights rather than objects of action. In Brazil, social movements, in which religious organizations played a leading role, mobilized to defend the rights of poor children, invoking international regulations and conventions on the rights of the child (Faleiros 2009). In 1988, the new Brazilian constitution adopted after the dictatorship made provision for full protection of the child and the adolescent and also determined that children under 18 could not be held criminally responsible (Art. 227–28). The ECA was adopted two years later in 1990 and, the same year, Brazil ratified the International Convention on the Rights of the Child. This legislative reform, applauded by UNICEF, made Brazil the first Latin American country to adapt its national legislation to international standards in this area (Martin-Chenut 2008). The ECA was based on the new ‘doctrine of full protection’ making minors into ‘subjects of rights,’ prohibiting their confinement when they had committed no crime, and promoting the involvement of civil society. Moreover, it stipulated that juvenile judges should respect the letter of the law, thereby depriving them, theoretically at least, of some of their discretionary power.

Returning now to specific aspects of this historical overview, we shall see that certain salient points reveal not only the foundations of the ECA’s legitimacy but also its weaker and more controversial aspects. As emphasized previously, official discourse about the ECA – much like most academic articles retracing its history – present its enactment in 1990 as a ‘turning point’ heralding a fundamental paradigm shift from a repressive and interventionist assistance policy to a policy of ‘full protection’ based on the rights of the child and the adolescent (Andrade Silva and Gueresi 2003; Zamora 2005; Irene Rizzini and Pilotti 2009). With this new era in juvenile justice came a whole new vocabulary using deliberately euphemistic terms to refer to everything penal, as we have already seen: ‘infractions’ rather than ‘crimes’ or ‘offences,’ ‘children and adolescents’ rather than ‘minors,’ and ‘children’s judges’ rather than ‘juvenile judges.’ The ECA coincided with the end of the military dictatorship and, as such, became emblematic of a new respect for individual rights and even of ‘civilizational progress.’²⁴ In this way, a prosecutor at the juvenile court gave a public statement in which he recalled the predominantly arbitrary nature of the previous system (‘minors were imprisoned without even telling their families; today, deprivation of liberty requires legal procedures’) and described the ECA as ‘huge progress for a society that claims to be civilized.’

The ECA therefore symbolizes a turning point in Brazil’s national history, but, as we have already seen, it should also be understood within the broader context of the transnational circulation of juvenile justice models (Droux 2013). As mentioned earlier, Brazil was the first nation-state in Latin America to ratify the International Convention on the Rights of the Child, from which the ECA draws extensively. On an international level, the evolution of Brazilian

legislation in matters of juvenile justice differs considerably from the trajectory that can be charted in Europe: whereas European responses to juvenile delinquency have taken a much harder line over recent decades (Bailleau and Cartuyvels 2002; Bailleau, Cartuyvels, and De Fraene 2009), Brazil passed a law giving priority to non-custodial measures and setting the threshold for criminal responsibility at age 18 without exception. The juvenile justice system therefore stands in marked contrast to the adult criminal justice system, which has imported the 'zero tolerance' principle from the United States along with harsh and systematic repression (Wacquant 2008).

An ambiguous form of legitimacy

Paradoxically, the very things that legitimated the ECA and the socio-educational system have also generated the most consistent critique and controversy. First, while socio-educational actors view the ECA as an 'ideal' law based on international conventions in children's rights, it nevertheless receives the same criticism as that levied against Brazilian institutions as a whole: that there is a strong discrepancy between theory and practice. This criticism comes, in part, from academic research in social work and psychology (Gonçalves 2005; Costa and Assis 2006; Brito 2007; Fuchs 2009), two professions that are strongly involved in institutions working with young offenders. These authors underline the fact that the new standards and principles promoted by the ECA are in fact only applied partially if at all. However, criticism does not come from academia alone: it is also officially expressed by institutional actors in the socio-educational field. For example, during a forum on religious aid in confinement facilities, a judge in Rio de Janeiro stated that the socio-educational system was violent and did not correspond to the spirit of the law. The gulf between formal law and actual rights is therefore not simply a matter of consideration for social science academics; it is also a key part of Brazilian institutional discourse.

The second type of controversy, intrinsically linked to the first, concerns the 'democratic' bodies tasked by the ECA with devising directives for local implementation of the socio-educational system (by municipalities and states) and with monitoring its application. This mainly concerns the Municipal/State Councils for the Rights of the Child and the Adolescent (*Conselho municipal/estadual dos direitos da criança e do adolescente*) and Regulatory Councils (*Conselho tutelar*). Drawing on the model of participative democracy, these bodies are the visible and official face of democracy in the juvenile justice system. However, my observations reveal that providing the necessary democratic tools to run the socio-educational system is not a key political priority: on the contrary, the system's institutions lack the material means, legitimacy, and scope of action fully to accomplish the missions ascribed to them. In 2009, only 28% of Brazilian towns and cities had an action plan for socio-educational measures (IBGE 2010). In reality, public authorities continue to hold the main prerogatives when it comes to devising and implementing socio-educational policies.

In short, while the system's symbolic legitimacy is based on democracy as a 'referential,' democratic rationales are more of a façade than a reality.

Unlike the first two, the third type of controversy generated by the ECA does not come from the socio-educational field itself but rather from conservative sectors in Brazilian society whose opinions are widely disseminated by the media and shared by a large proportion of the population. This critique does not relate to the law being applied badly or to democratic principles being ineffective in the juvenile justice system; instead, it attacks the content of the ECA itself, perceived as excessively protective and lax towards young offenders. Proponents of this position point to the rise in juvenile violence in the country and the short sanctions applied to young offenders (a maximum of three years confinement, even for serious crimes such as homicide) and call for the law to be revised, particularly with regard to the age of criminal responsibility (Alvim and Paim 2004; Arantes 2005).

It is worth noting, of course, that this type of controversy is not specific to Brazil. Rising fears of juvenile delinquency in public opinion and debates about lowering the age of criminal responsibility are also central concerns in the United States and in many European countries, as we have seen. However, this criticism of the ECA and the demand for greater repression of young offenders must also be understood in light of the legitimacy of 'human rights' as a concept in Brazil. The various social movements that emerged with the country's return to democracy enjoyed considerable support from the population when it came to campaigning for the right to health care or education or for the rights of political prisoners. However, they met with strong resistance when they began to defend non-political prisoners and the 'humanization' of prisons: 'in defending criminals, it seems that the champions of human rights reached the limits of the acceptable' (Caldeira 1991, 171). According to Caldeira (1991), the whole concept of 'human rights' became progressively sullied by this criticism such that, today, many consider human rights to be synonymous with 'the privileges of criminals' (*privilégios de bandido*).

In conclusion, the Brazilian juvenile justice system is rooted in 'referentials' that promote democracy and the rights of the child, and, in the context described earlier, its legitimacy is therefore ambiguous. While Brazil's recent political history has framed the dictatorship as a repellent and democracy as an ideal to pursue, the more long-standing relationship between Brazilian society and its state institutions is characterized by distrust and even a certain cynicism that sees them as nothing but a façade or an artifice.

***Liberdade Assistida*: the jewel in the crown of the socio-educational system**

In this context, what socially acceptable arguments could be used to legitimate a measure advocating freedom for individuals perceived as posing a threat to public order? More generally, what role does the LA measure play within the socio-educational system, and what specific controversies does it generate?

Box 2 The LA measure in context

In the two cities where I conducted my study, LA was implemented by social services professionals in local CREAS distributed across the city according to zones. All these centres are located outside the *favelas* in which most of the youths completing LA measures live. The CREAS provide 'special social protection' for individuals 'in situations of personal or social risk' and 'whose rights have been violated or are under threat.'⁵ The LA measure is therefore just one of the CREAS's many responsibilities, along with programmes fighting child sex exploitation or supporting vulnerable elderly people. Each *técnica* tends to deal with approximately 20 case files for youths in LA.

In both cities, the statistics provided by local managers handling non-custodial measures indicated that, at the time of my study, around 900 youths were enrolled in LA (at any given moment). Proportionally, compared to the number of inhabitants, there were therefore far more youths in LA in Belo Horizonte because its population was three times smaller than Rio de Janeiro (2.4 million against 6.3 million in 2010, respectively).

Non-custodial measures were not delegated to social services from the outset in the founding legal texts; this is in fact a relatively recent political decision. It was the 2004 National Social Work Policy that stipulated that non-custodial socio-educational measures would henceforth be implemented by CREAS. Giving social services the responsibility for handling young offenders in non-custodial settings further emphasized that these youths should be considered above all as vulnerable rather than delinquent. This political decision was not implemented immediately however: in 2007, only 11.4% of Brazilian towns and cities had a programme for non-custodial socio-educational measures (Miraglia 2007). In this respect, the capital cities of the 27 Brazilian states were in advance compared to provincial towns: in 2007, all the capitals except one were already running non-custodial programmes (or working on a project of that nature).

In the towns and cities that have not yet implemented these measures, the situation varies. Sometimes, non-custodial measures simply do not exist, and juvenile judges are forced to apply other kinds of measures leading to a strong rise in confinement. In other contexts, non-custodial measures are implemented in ways that do not comply with the legislation. They are sometimes applied directly by the court or by NGOs.

My empirical observations indicate that the LA measure plays an important symbolic role within the socio-educational system, as it brings together all the different elements that serve to legitimate the ECA as described previously. First, it does not deprive the adolescents of their freedom, thereby respecting their 'rights' as minors. Above all, it avoids 'institutionalizing' them – a term that refers back both to the former juvenile justice system (where imprisoning minors in 'irregular situations' was the norm) and to the arbitrary detention practices that held sway under the dictatorship. In this way, during the first seminar on non-custodial socio-educational measures held in Rio de Janeiro in 2010, a representative from the National Secretariat for Human Rights reminded her audience that

the non-custodial setting provides the most guarantees and is the most appropriate from a legal point of view; of course, all socio-educational measures must be applied, but within the history of segregation, isolation, and social sequestration that characterized our former Code for Minors, the non-custodial setting is particularly important. . . . Non-custodial settings offer the possibility of dealing with infractions while still allowing youths to remain in their community. . . . Depriving people of their freedom always violates their rights.

This type of discourse is even more significant when considered in light of the fact that confinement facilities are regularly criticized by children's rights campaigners in Brazil, who accuse them of violence and ill treatment of various kinds. For example, in August 2013, the São Paulo Public Prosecutor's office opened an investigation into a case of alleged torture of youths held in a confinement facility.⁶ In most of the discussions about this event, the institutions were accused of perpetuating the 'culture of violence' that had prevailed under the former Code for Minors. As a member of parliament for the state of São Paulo said in an interview, it is not enough simply to change institutions' names; their deeper logic must also be altered.⁷ Certain particularly serious cases – including the death of a youth in a facility in Rio de Janeiro in 2008 after a mass beating⁸ – have even led to complaints being brought before the Inter-American Court of Human Rights.

Non-custodial measures are therefore considered legitimate in reference to – and are legitimated by – both discourse on human rights and Brazil's specific historical context. The rhetoric of 'innovation' in penal policy is also often used. For example, evaluative research in Belo Horizonte has underscored the 'novelty, in legislation relating to childhood and adolescence in Brazil, of defining a policy that combines justice, local public authorities, NGOs, and the community' (Vargas and Marinho 2008). This 'network' approach encouraging collaboration between public actors and NGOs, as well as 'civil society' participation,

corresponds to the discourse on democracy described earlier. Citizenship is also key: one of the people in charge of non-custodial measures in Belo Horizonte stated that when youths commit an offence, they limit their citizenship and that socio-educational measures aim to help them rebuild it, whereas, in his view, custodial measures (semi-open or confinement) tend instead to distance youths from that citizenship.

In fact, the principle of 'freedom' (as opposed to 'confinement') is the legitimating argument *par excellence* within the socio-educational system as a whole, beyond simply the question of non-custodial measures. While the *técnicas* assigned to LA or community service find it easy to defend the value of their work compared to their colleagues working in semi-open or confinement facilities, the *técnicas* working in semi-open facilities also state with pride that, unlike in confinement facilities, they 'work on freedom' with the youths. As for the staff in these confinement facilities, it is harder for them to value their work and they seem to have internalized the dominant rhetoric in favour of non-custodial settings: the director of a facility in Belo Horizonte openly stated in an interview that she was not in favour of detention and preferred non-custodial measures.

Of course, the LA measure also receives criticism, essentially focused on its limited capacity to effect tangible change on the life courses of the youths it manages. However, when all internal perspectives on the socio-educational system are taken into account, non-custodial measures nevertheless emerge as the 'ideal' with regard to respecting the rights of the child, applying democratic principles, and promoting citizenship. The LA measure enjoys such legitimacy that it was even cited as an example in a recent UN report celebrating key champions of human rights in Brazil.⁹ The document describes it as the 'most effective' socio-educational measure.

This 'humanist' conception of the LA measure, expressed by actors in the socio-educational system, results in an almost total denial of its penal, repressive, or simply constraining nature. This is particularly evident in the failure to respect certain aspects of due process during judicial proceedings. In Belo Horizonte, the LA measure tends to be handed down by the judge along with a 'remission' (*remissão* – a form of pardon). The prosecutor pronounces the 'remission' during the preliminary hearing, before the youth's guilt has in fact been proved. This 'shortcut' in the penal process requires youths to give their assent during the hearing, and no sentence involving loss of liberty can be applied in these cases. The juvenile judges I interviewed in Belo Horizonte justified this process by its speed: the immediate application of a non-custodial measure, without having to go through lengthy legal proceedings, can avoid giving the youths a sense of impunity. It clearly shows, though, that while loss of liberty requires due process (proof of guilt, presence of a defence lawyer, and so on), non-custodial measures can be applied in a far more flexible – and therefore arbitrary – manner.

Other practices also illustrate this denial of the penal nature of the LA measure. In Rio de Janeiro, youths in semi-open or confinement facilities attend a

court hearing in order to be notified that the judge has decided to end their measure, whereas youths in LA or PSC are simply told by their *técnica* after she receives a letter from the court. Moreover, at the juvenile court in Rio de Janeiro, the case files of youths assigned to a custodial measure are dealt with in priority, before those on non-custodial measures. As a result, LA measures often last much longer. In some cases, they can continue for several months after the *técnica* has sent a report to the judge recommending they be ended. Finally, the different NGOs active in the socio-educational field do not show much interest in non-custodial measures. Most of them offer recreational activities (sports and so on) in semi-open or confinement facilities, as well as legal aid in cases where children's rights have been violated in custodial settings. The fact that these NGOs do not consider non-custodial settings to be their concern clearly indicates that they believe youths' social rights are respected and that they receive sufficient attention in these measures but above all that they cannot be victims of abuse or institutional violence in these contexts.

In conclusion, as a penal policy, LA is essentially defined in humanist terms. This lends it particular legitimacy within the socio-educational system but also gives rise to more arbitrary practices with regard to legal protection given the assumption that the measure 'is good for' the teenagers to whom it is applied. Moreover, any allusions to repression, punishment, or control are banned from the outset in discourse surrounding LA, with obvious implications for the *técnicas*' professional values and practices.

Rio de Janeiro: a public policy in the making

The city of Rio de Janeiro is a 'latecomer' among Brazil's state capitals when it comes to implementing non-custodial measures at a local level. After an initial pilot programme set up in 2008, it was only in 2009 that the CREAS were officially assigned management of non-custodial measures. This was the year in which I began my field study. My data therefore focuses on a public policy still in the making, with fluctuating and hesitant modes of action. The case of Rio de Janeiro is therefore particularly salient when it comes to analyzing the stakes and controversies at play in the local implementation of the LA policy.

Two key questions are addressed in the analyses that follow, directly linked to the processes used to institutionalize non-custodial measures. First, I examine the struggles between different forms of professional knowledge trying to gain the monopoly on implementing LA. Second, I outline the ways in which an institutional network was put together around the LA measure involving four main actors: the CREAS, the juvenile court, the public education system, and professional training programmes. Analyzing this network reveals the specific configurations of LA in Rio de Janeiro, with regard to the autonomy of different institutional actors and the power relations between them. This specificity will then help explain, later in the book, the LA measure's particular government of juvenile delinquency.

Box 3 The Rio de Janeiro CREAS: multi-purpose centres with limited resources

Most of my observations took place in two CREAS in Rio de Janeiro, both located in central areas of the city. Ana Leopoldina CREAS¹⁰ is in the south zone, an area comprising both advantaged neighbourhoods and vast *favelas* spanning the region's many hills (*morros*). The largest of these, the Rocinha *favela*, has nearly 70,000 inhabitants, and most of the youths who are sent to Ana Leopoldina CREAS for a socio-educational measure live there.

Ana Leopoldina CREAS is responsible for running various social welfare programmes for vulnerable groups. During any given day, a range of public service users therefore come in and out of the centre, asking for information about the social welfare for which they might be eligible. Some homeless people are also present in the centre, having come in to ask for help on a one-off basis. The CREAS has a common room, a management office, a room reserved for *técnicas*, two small rooms devoted to interviews with the public, and a meeting room. The only computer with Internet access is located in the management office. The *técnicas'* room houses a computer and a few desks, usually insufficient for the number of *técnicas* who work there every day. The CREAS's only telephone is located in the common room, where the administrative team works. Faced with this lack of infrastructure, the *técnicas* often use their own private resources in the workplace (laptop computers, 3G Internet connections, and so on). At Ana Leopoldina CREAS, four people are assigned to socio-educational measures: a psychologist, a social worker, an educational specialist, and a community officer.¹¹ The team works with youths serving LA and PSC measures. The team members also have responsibilities in other areas handled by the CREAS. In Rio de Janeiro, there is therefore a low level of specialization, and the professionals' daily routines are highly variable. As well as attending relatively informal team meetings, the *técnicas* have to attend a monthly overview meeting (*fiscalização*) with the municipal department for socio-educational measures and representatives from the court, with a view to reviewing the cases currently underway.

Chiquinha Gonzaga CREAS is located in the heart of the city centre in a building essentially occupied by legal organizations. There is even less space available for the *técnicas* than in Ana Leopoldina: the staff share one common room (equipped with 2–3 computers and a telephone line), the management has a small office next door, and the *técnicas* see the public in two small rooms next to each other. The team responsible for socio-educational measures is made up of two people, one community officer and one social worker. And yet, according to its director, Chiquinha

Gonzaga deals with more youths on socio-educational measures than any other CREAS in the city of Rio de Janeiro. One explanation for this is the high concentration of offences in the city centre filled with shops and passersby. It should also be noted that drug gang bosses prohibit theft in the *favelas*, which therefore increases its frequency in more advantaged areas. The high concentration of offences recorded in the city centre can also be explained by the stronger police presence there (unlike in the *favelas*, where the police have more difficulty patrolling, often only through agreements with local traffickers).

Legitimate forms of knowledge and their controversies

Once the implementation of non-custodial measures was officially delegated to the Secretariat for Social Services, a series of controversies emerged concerning what form of professional knowledge was most legitimate for dealing with youths in LA. These debates focused in particular on the reports that have to be written, signed, and sent to the judge, providing an account of the youths' progress. The discord principally revolved around who could claim to provide expert knowledge about these youths to the judicial authorities. The ensuing struggle between different forms of professional knowledge took place in two stages. First, community officers were no longer authorized to write reports for the judge, despite the fact that, at least in the two CREAS I studied, they often had close relationships with the youths who came from similar social backgrounds to their own. An initial dividing line was therefore drawn between professionals with academic training (social workers, psychologists, educational specialists) and less qualified professionals with greater social proximity to the target population. The second stage saw policies for non-custodial measures in Rio de Janeiro progressively designate social workers as the key legitimate actors working with youths in these measures, with psychologists and educational specialists relegated to the sidelines. This progressive limitation of the prerogatives of educational specialists, psychologists, and community officers generated a strong sense of frustration, and, over time, these professionals disengaged from socio-educational measures. As a result, the practices of staff working with youths in LA and PSC became more homogeneous: theoretical knowledge and practical know-how drawn from the field of social work began to prevail over other approaches and perspectives.

The close monitoring of técnicas

In Rio de Janeiro, the relationship between the juvenile court (a component of the repressive arm of the law) and the CREAS (a component of the welfare state) involves substantial symbolic and practical distance. This distance is

coupled with an asymmetrical power structure: while the *técnicas* have to report to the court periodically and provide evidence of their ability to implement non-custodial measures in keeping with regulations, they have great difficulty obtaining any information in return and all share a sense of incomprehension regarding judicial decisions. In their reports to the judge, the *técnicas* never suggest that a socio-educational measure is inadequate, whereas this occurs regularly in Belo Horizonte, where the judges recognize the *técnicas*' roles as 'experts' in the field as we shall see later.

In Rio de Janeiro, the control exercised over the *técnicas* by the juvenile court and by the municipal department for non-custodial measures is in line with the new forms of public policy management discussed in Chapter 1. It focuses on the objective assessment of tasks accomplished and on the measurement of effectiveness. For example, the *técnicas* have to attend a monthly 'monitoring meeting' (*reunião de fiscalização*) during which any mistakes and deviations from the rules (e.g., reports sent in late or lacking precision, failure to report youths not complying with their measure, and so on) are explicitly pointed out in front of professionals from the court. The juvenile court's monitoring of the *técnicas*' work intensified over the three years of my study, and the relationship seemed increasingly to reflect a colonization of social welfare by the judicial sphere. For example, in 2011, the juvenile court decided to conduct regular 'visits' to the CREAS in order 'better to understand' the work done on the ground to implement non-custodial measures. In reality, however, these visits resulted in a report recording the number of youths serving (or failing to serve) their measure in each CREAS, the size of the premises available, the number of *técnicas* assigned to the measure, and so on. The increasing role of bureaucratic control in the relationship between the judiciary and the executive has resulted in the relegation to the background of issues considered fundamental by the *técnicas*. According to the *técnicas*, the municipal department for non-custodial measures is now more focused on reports being sent in a timely manner and on the database being updated than on the actual support being provided to youths in LA and PSC. Measures aimed at increasing the 'effectiveness' of socio-educational policy, similar to 'new public management' techniques, have also been put in place. For example, as of 2011, the *técnicas* receive a salary bonus if they manage to get at least 50% of the youths with whom they work to finish the LA measure.

Fragile institutional partnerships

In their work, the *técnicas* regularly have to contact the 'regional educational bureau' (*Coordenação regional de ensino*, CRE) to ask for help with (re)enrolling LA youths in school. Most youths in LA have dropped out of school, and their educational record, filled with failure and expulsions, is often an impediment to obtaining a place in the public education network. Moreover, the youths

are often connected to a criminal faction, either because of involvement in the drug trade or simply because of the location of their home, and, for this reason, they cannot attend a school located in the territory of a rival faction. Despite these various difficulties, the CRE have not deemed it necessary to set up any policy specific to the youths from the socio-educational system.¹² Although the CRE are key actors in the LA system (education is one of the measure's official priority objectives), the *técnicas* still often feel as though they are asking the CRE for a favour when they attempt to find a place for one of their charges.

The partnership between the CREAS and the two professional training programmes in Rio de Janeiro that could potentially give places to LA youths also suffers from a lack of cooperation and shared objectives. This is possibly due to the fact that neither of the programmes in question is run by the city: one falls under the remit of judicial authorities and the other is run by Rio de Janeiro state. Both display a level of distrust or even contempt for local endeavours to implement non-custodial measures. In return, the *técnicas* working in LA sometimes stop encouraging youths to apply to these programmes in order to avoid disappointment. This situation of mutual distrust is an obstacle to the youths being accepted onto these programmes, which therefore tend mainly to cater to youths on custodial measures.

In sum, the CREAS are therefore relatively isolated in Rio de Janeiro in running non-custodial measures. The *técnicas* often note with some bitterness that the LA policy's motto of 'working together as a network' is generally unilateral in reality: the CREAS strives to build connections with a range of different partners who, in return, show little real concern for the issues at stake in implementing LA. These various observations should, however, be tempered slightly by the fact that the LA policy remains relatively recent in Rio de Janeiro. It is probable that mutual trust and cooperation between actors will grow over time.

Belo Horizonte: a public policy deemed 'exemplary'

The situation in Belo Horizonte stands in marked contrast to that of Rio de Janeiro. Belo Horizonte (BH) is a pioneering city when it comes to implementing non-custodial measures at a local level; it is frequently presented as a national example and was awarded a UNICEF prize in 1999 for the excellence of its work in LA. The public policy I observed in my study therefore enjoyed substantial legitimacy and was strongly institutionalized and routinized. After briefly describing how the LA policy is organized at Belo Horizonte, I discuss in detail the discourse underpinning its legitimacy, identifying two main sources: the pioneering court model in place in the city and the psychoanalytical knowledge that forms the policy's ideological bedrock. I then analyze the relationships between the different actors in play, pointing to certain similarities and differences with the situation observed in Rio de Janeiro.

Box 4 Socio-educational measures in Belo Horizonte's CREAS: specialization and autonomy

Most of my observations were conducted in Tupis CREAS, located in the centre of Belo Horizonte. In Belo Horizonte, like many Brazilian cities, there is a high crime rate in the city centre, particularly concerning property offences (theft, damage). Tupis CREAS is responsible for an area that also includes several *favelas* (Aglomerado Santa Luzia, Serra) known for violent conflicts between rival drug gangs.¹³ In parallel, the centre's team of *técnicas* has access to a much more substantial network of partners (especially with regard to professional training possibilities) than their colleagues working in peripheral CREAS.

Tupis CREAS is located on the first floor of a commercial building in the city centre. The six *técnicas* working on the LA measure there (three psychologists and three social workers) share a large room with their colleagues working in PSC. Each *técnica* has a desk, and the team shares access to the three computers available, which all have an Internet connection. The LA team also has its own phone line. Meetings with youths are conducted in small rooms specially set aside for that purpose. The LA (and PSC) *técnicas* all work exclusively in the field of socio-educational measures, unlike their counterparts in the centres I observed in Rio de Janeiro. Their daily activities entail meeting with youths, writing reports, and attending various mandatory weekly meetings. One meeting takes place in the offices of the municipal department for non-custodial measures, with all the other LA *técnicas* in the city, and its agenda varies (professional training, listening to invited speakers, engaging in group discussion of specific cases, and so on). Another is a supervisory meeting (*supervisão*) for discussing particularly complicated cases. Finally, *técnicas* also attend an 'integration meeting' (*inserção*) for dividing up new LA cases among the teams in each CREAS.

In Belo Horizonte, each CREAS has a team of *técnicas* solely devoted to handling LA measures. All the *técnicas* are either social workers or psychologists by training. Although I do not have official statistics on this, my observations suggest the teams include a majority of psychologists.

In Belo Horizonte, the LA policy clearly enjoys significant prestige both within the local socio-educational system and beyond, in the federal bodies concerned by these issues. This prestige is manifest in the discourse of a range of actors: judges, prosecutors, *técnicas*, and people in charge of custodial measures alike all agree that non-custodial measures, and especially LA, are an example

to the rest of the country. During a 2010 seminar on non-custodial measures, the general secretary of the State Secretariat for Socio-educational Measures expressed his approval of the high rate of youths on non-custodial measures as compared to custodial settings, stating that, in this regard, the principles of the ECA were being 'correctly applied.' During the same seminar, the general secretary also referred to the low rate of recidivism among youths completing non-custodial measures and concluded by congratulating the coordinator of Belo Horizonte's non-custodial measures for making them a model for Brazil as a whole.

Given these overwhelmingly positive perspectives, it is important to examine exactly what lends the LA policy in Belo Horizonte so much legitimacy, above and beyond the reasons making LA a showcase for the socio-educational system more generally as discussed earlier. Two specificities of Belo Horizonte's socio-educational policy offer potential answers to this question. The first concerns the city's juvenile court, which has recently been reformed in line with a model that is presented as innovative in the field of juvenile justice: all the actors involved in the judicial process (police, prosecutors, lawyers, and judges) work in the same building, along with officials in charge of running custodial and non-custodial measures. The second concerns the professional knowledge used in implementing non-custodial measures. After their management was delegated to the local level, the department coordinating non-custodial measures adopted a 'psychoanalytical' approach, which has also contributed to consolidating the LA policy's legitimacy.

Accelerated judicial procedures

Since 2008, judicial procedures for minors have taken place in one physical space in Belo Horizonte called the CIA (*Centro integrado de atendimento ao adolescente autor de ato infracional* – Integrated centre for adolescents who have committed an offence). The geographical distribution of actors within the CIA offers a symbolic reflection of how juvenile justice itself is structured: the police are on the ground floor; the lawyers and prosecutors share the first floor; the judges' chambers are on the second and top floor; and the cells devoted to holding the adolescents during the procedure are in the basement.

For the juvenile judges working at the CIA during my study, the centre represented both innovation and progress within juvenile justice because it had considerably accelerated the time frame for judicial procedures. Youths are generally heard by the prosecutor (*promotor*) within around 12 hours, and the presence of all the different actors onsite allows for better coordination throughout the rest of the procedure. This concern with processing case files quickly can better be understood when considered in light of the CIA's caseload: 800 cases per month on average in 2009, 2010, and 2011 (de Melo Silva et al. 2012) for only five juvenile judges, who therefore each handle approximately 160 cases per month. This being said, the prevailing concern with efficiency is not just

about the risk of overloading the professionals in question. According to some authors, the urgency of the process is also ‘the main response to the crisis of legitimacy affecting the judicial institution and one of the driving forces regulating the reforms being implemented’ (Bastard, Mouhanna, and Ackermann 2005, 190).

This acceleration of the judicial process is particularly clear in the case of ‘remissions’ combined with a non-custodial measure. In 2010, this decision was applied to 15.5% of the CIA’s cases, concerning 1,225 youths in total (de Melo Silva et al. 2012). Applying a measure via the traditional procedure requires at least two hearings (one preliminary hearing, followed by a judgement), whereas remission allows the prosecutor to hand down a measure directly in the preliminary hearing. The youths leave the CIA just a few hours after being arrested, knowing what measure they have been assigned. According to Bastard and Mouhanna (2007), this new ‘paradigm of urgency’ results in the standardization of judicial decisions, as the actors do not have the time to take into account the complexity of the situations at hand. They also contend that it reduces judges’ autonomy, giving greater power to the public prosecutor’s office, which plays a central role in the early stages of the procedure.

The legitimating function of psychoanalysis

The legitimacy of the LA measure in Belo Horizonte also derives from the psychoanalytical orientation of the city’s non-custodial measures. This theoretical orientation permeates professional practices, and I address how it affects the ways youths are governed in a later chapter. My focus here is on how and why psychoanalysis lends legitimacy to the LA measure. After having placed psychoanalytical theory in the broader intellectual and academic landscape in Brazil, I explain how the academic recognition enjoyed by key LA policy actors within the field of psychoanalysis contributes to bolstering the reputation of the policy itself. I then show how psychoanalysis is imposed on all the *técnicas* by the local coordination department as the legitimate normative framework. Finally, I consider this psychoanalytical knowledge in terms of how it fits within the local socio-educational system in order to show, first, that other key actors (particularly at the court) share the same outlook, and, second, that the prestige of psychoanalysis in non-custodial measures has led to this outlook also spreading to custodial measures.

Psychoanalysis, and more specifically Jacques Lacan’s thinking, is extremely prevalent as a school of thought in Brazil, recognized both in the academic sphere and within mental health policy (Jesuino-Ferretto 2007; Braunstein 2008). According to Braunstein (2008), psychoanalysis spread throughout Latin America from two central sources: Argentina and Brazil. He underlines that

despite the undeniable advances made in cognitive and behavioural science. . . , many Latin American psychology schools teach ‘psychoanalytically

oriented' courses. This is not the case elsewhere: with the exception of France, Belgium, and perhaps Switzerland, psychoanalysis is always taught and discussed in literature, philosophy, or cultural studies departments.

(Braunstein 2008, 424)

This Latin American specificity is evident in the psychology programme at the Federal University of Minas Gerais, where psychoanalysis is the most prevalent clinical approach in the classes on offer to students.¹⁴

In the field of public policy, psychoanalysis first found its niche in Belo Horizonte within the field of mental health. Then, when the LA measure came under local control in 1998, the head of the municipal department at the time gave it a strongly psychoanalytical emphasis from the outset, which has been maintained ever since. This approach is not disconnected from academic knowledge or recognized psychoanalytical institutions, quite the contrary. Different managers and key actors involved in the LA policy actively contribute to reflection on the benefits of psychoanalysis in socio-educational measures, hold academic research and teaching positions, publish scientific articles on the topic,¹⁵ and engage actively in national and international psychoanalytical bodies.

Psychoanalysis is also the prevailing norm informing the *técnicas*' professional practices, as outlined in the local grey literature. For example, a section in the 'methodology' brochure for non-custodial measures published in 2010 reads,

although the programmes or departments implementing measures are part of the regulatory apparatus, it is important to create a space that is not identified in those terms, so that the youths can start to talk; this is where the psychoanalytical approach is very important. We work to create transference, that is to say the relationship of trust built with the *técnico*. . . . The psychoanalytical approach contributes to creating the conditions for the subject to question the basis of his/her actions, based on the idea of taking responsibility and creating a space in which he/she is fully implicated.

(p. 28)

Furthermore, psychoanalysis is constantly present as a reference in the different seminars and meetings that the *técnicas* have to attend. Invited speakers at these seminars include, for example, academics and psychoanalysts. The *técnicas* who volunteer to present case studies in front of their colleagues use a Lacanian interpretive frame to explain the situations of the youths (for example, one *técnico* concluded his presentation of the case of a young girl involved in drug trafficking by underlining: 'all my work with LA youths is guided by the assertion that, today, psychoanalysis has to be used to civilize the death drive'). Finally, the *técnicas* are required to attend weekly supervisory meetings in small groups. Each *técnica* brings one or more cases that she wishes to discuss. Once she has outlined her hesitations, questions, and interpretations regarding the case, the supervisor and other *técnicas* react with their own comments. These

weekly meetings are mandatory for the *técnicas* and confirm the importance of the symbolic role played by psychoanalytical theory in the ways that they are supervised by their superiors.

It is important also to note that, in Belo Horizonte, the psychoanalytical approach extends beyond the implementation of non-custodial measures. It is also present within the juvenile court itself and, over recent years, has spread through institutions running custodial measures. During my study, the juvenile judge responsible for non-custodial measures expressed unveiled interest in, and agreement with, psychoanalytical theories. Moreover, the exemplary reputation of non-custodial measures has led to some of their local staff then ‘migrating’ to high-level positions in management of custodial measures, which has also contributed further to disseminating the normative frames of psychoanalysis across the socio-educational system.

In short, this all shows that psychoanalysis operates much like an ideological frame (or a ‘referential’ or ‘paradigm’), providing a resource to maintain the balance of the system and legitimate institutional practices (Mériaux 1995).

This hegemony of psychoanalytical theory within Belo Horizonte’s socio-educational system also obviously gives rise to controversy. Critics point to the fact that the psychoanalytical approach fails to take into account social context and does not provide enough practical support for youths’ social insertion (at school, in employment), focusing instead on supporting them solely through verbal exchange. However, these voices of dissention nevertheless remain relatively hesitant. This may be due to the strong ideological control weighing on the Belo Horizonte *técnicas*, in marked contrast with the situation I observed in Rio de Janeiro, where the *técnicas* are mainly under bureaucratic control (having to respect procedures, deadlines, and so on).

Técnicas and their networks: autonomy and effectiveness

As with Rio de Janeiro, it is important to situate the department responsible for implementing the LA measure in Belo Horizonte within the broader system and to analyze its relationships with other institutional actors (the court, professional training programmes, and public education). Currently, this department incontrovertibly enjoys substantial freedom of action, no doubt due to its prestige and legitimacy. It has stronger relationships with the juvenile court than its counterparts in Rio de Janeiro, grounded on better personal connections between actors, and, above all, the power relations between the two institutions are far more balanced. The team at the municipal department for socio-educational measures meets regularly with court representatives to determine common ‘good practice,’ to pass on any grievances the *técnicas* have, and to take on board requests from judges and prosecutors. The *técnicas* can even challenge the validity of judicial decisions and suggest that judges apply different socio-educational measures. The court therefore recognizes the *técnicas*’ expertise and affords them high levels of autonomy in their work.

Where the partnership between the CREAS and the public education system is concerned, most of my observations about Rio de Janeiro are also applicable to Belo Horizonte. As far as the *técnicas* are concerned, the public education system excludes youths serving socio-educational measures through its moralizing stance and failure to take into account their life courses and substantial social disadvantages. Moreover, the *técnicas* frequently denounce the judicialization of school conflicts that makes issues of behaviour and discipline into ‘offences’ – a dynamic for which they hold the schools responsible.

Finally, where professional training programmes are concerned, one of the CREAS’s main partners for integrating LA youths into the employment market is the local social services association (which I have renamed BHAAS for the purposes of this book).¹⁶ This association prepares youths for professional life and then finds them work placements in various local public services for a two-year period. It accepts youths from the various social welfare programmes, respecting a quota system; each CREAS has two places reserved for youths in LA. The LA *técnicas*’ main partners also include two other professional training programmes: the Projeto Digitalizando, created in 2009 in partnership with the court, which principally offers digital training, and the APM, which helps youths find apprenticeships while preparing them for the world of work. However, according to the *técnicas* I interviewed, neither of these programmes is particularly suited to youths in socio-educational measures, and the BHAAS therefore remains their preferred partner.

Conclusion

This chapter has examined the judicial and institutional context of the *Liberdade Assistida* (or ‘assisted freedom’) socio-educational measure, trying to understand the combination of rationales that ensure or undermine its legitimacy. With regard to the national legal context, we have seen that the legitimacy of the ECA (and even more so that of the LA measure) is grounded on discourses of democracy and human rights and that it remains ambiguous in the Brazilian context. While the post-dictatorial context emphasized the values of freedom, democracy, and respecting individual rights, low levels of confidence in Brazilian state institutions discredited the ECA project from the outset. These remarks are in line with Deflem’s (1995) findings about the conditions of legitimation for penal control. He writes that ‘a theory of social control must keep one eye on the possible benefits of the democratization of penal law in order to increasingly shore up its claims to legitimacy’ (Deflem 1995, 332). While the democratic aim is clearly present in the relevant legislative texts, the process as a whole is undermined by low levels of confidence in institutions and a lack of means afforded to these democratic bodies.

This chapter has also shown the value of taking a process- and context-oriented approach to the legitimacy of public policies. Drawing on a combination of different levels of reality (legislation, referentials, and local institutional

context), it has unpacked the different forms of legitimation at work and identified points of tension and controversies. On a local level, this clearly showed that, in Rio de Janeiro, the LA policy seeks its legitimacy by rationalizing and homogenizing its procedures, whereas in Belo Horizonte, the policy's referential lies instead in psychoanalytical theory. In this regard, some intermediate actors in the LA policy in Belo Horizonte (judges, social services managers, supervisors) play a crucial role by disseminating psychoanalytical theories among people working in the field and by anchoring this referential within the broader academic and intellectual landscape. This configuration is, incidentally, very similar to that in France as described by Sallée, who shows how former educational specialists and psychologists from the Youth Judicial Protection Service (PJJ) contributed to disseminating a new 'pedagogy of responsabilization' based on 'pedagogical doctrines and psychological or even psychoanalytical theories which today have become inescapable as reference points for educators working at the PJJ' (Sallée 2010, 9). These local configurations obviously have effects on how the *técnicas* work with the youths in the day-to-day, and these will be addressed in more detail later in the book.

Finally, within these initial analyses, it is important to emphasize the extent to which the LA measure constantly holds the penal sphere at arm's length. This denial of the punitive and repressive dimension to the measure generates more arbitrary practices in the judicial treatment of the youths in question, based on the notion that the measure 'does them good.' However, the measure is nevertheless ordered by a judge, and failure to respect its obligations can have judicial consequences for the teenagers. Moreover, while, with regard to its referential, LA is based on educational penology – grounded in the ideal of rehabilitation and reintegrating offenders into society – other trends also run counter to this ideal. The LA *técnicas* are subject to increasing oversight and required to account for the system's effectiveness. This demand for accountability within the penal system, which has been described by analysts of new penology (Slingeneyer 2007), results in an increase in administrative work to the detriment of the time monitoring youths individually.

Notes

- 1 The common reaction among Brazilians with regard to my topic of study testifies to this. They tended to be taken aback, sometimes even amused: 'Juvenile justice? That doesn't work here!' On many occasions, people told me that the law in Brazil was 'good' but that it was never applied.
- 2 The expression 'adolescent/youth in conflict with the law' (*adolescente/jovem em conflito com a lei*) is the term used in Brazilian laws and official documents.
- 3 Brazil comprises 26 states and one Federal District where the capital, Brasília, is located.
- 4 In an open letter to the population of São Paulo, a bishop in the Youth Ministry denounced the recent acts of torture in a confinement facility for minors in the following terms: 'These practices recall the darkest periods in the history of our Nation, when human rights violations and torture were used as tools of punishment and intimidation' [<http://arquiidiocesedesapaulo.org.br/noticias/tortura-n%C3%A3o-surpreende-pastoral-do-menor>],

- accessed September 23, 2013. The memory of the military dictatorship is used as a repellent image by those defending the rights of youths subject to socio-educational measures.
- 5 See the website of the Brazilian Ministry for Social Development (MDS): [www.mds.gov.br/assistenciasocial/protecaoespecial], accessed on September 12, 2013.
 - 6 See the articles online in the Globo [http://g1.globo.com/fantastico/noticia/2013/08/imagens-mostram-funcionarios-da-fundacao-casa-espacando-menores.html], of the Folha of São Paulo. [http://www1.folha.uol.com.br/cotidiano/2013/08/1328463-diretor-e-afastado-apos-jovens-serem-espancados-na-fundacao-casa.shtml], accessed September 12, 2013.
 - 7 See [http://agenciabrasil.ebc.com.br/noticia/2013-09-03/presidenta-da-fundacao-casa-diz-que-espancamento-de-jovens-infratores-e-episodio-isolado], accessed September 12, 2013.
 - 8 See [http://oab-rj.jusbrasil.com.br/noticias/2138562/juiz-recebe-denuncia-de-tortura-contra-o-degase], accessed September 12, 2013.
 - 9 *Dez faces da luta pelos direitos humanos no Brasil* (Brasília: ONU, 2012).
 - 10 The CREAS names given here are fictional.
 - 11 Community officers (*agentes comunitários*) are employees of Rio de Janeiro city. They often have few qualifications (no higher education diploma), are generally hired to work in social institutions (creches, social services centres, and so on), and tend to be of working-class origin. As a point of comparison, in 2011, a community officer earned three times less than a *técnica*.
 - 12 This was confirmed by my own experience when I contacted a CRE with a view to conducting an interview there. After several failed attempts to speak to someone, I was told curtly on the telephone that the CRE 'considered LA youths like any other youths with a right to schooling' and that, consequently, the person saw 'no reason to justify granting [me] an interview.' It is worth noting that this was the only refusal I received during my fieldwork.
 - 13 For more detailed spatial analyses of criminality in Belo Horizonte, see Diniz, Nahas, and Moscovit (2003) and Peixoto, Moro, and Andrade (2004).
 - 14 See the programme for the academic year 2009, first semester.
 - 15 See for example, Antônio Morelli (2007) 'Psicanalise, políticas públicas e caso unico,' *Curinga* (25) and Carolina Nassau Ribeiro (2011) 'A contribuição do conceito de transferência para as medidas socioeducativas,' *CliniCAPS* (5)15.
 - 16 The names of the professional training programmes are fictional.

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Creating new narratives

Reframing youths and their trajectories

In many ways, the *técnicas*' work resembles an investigation into the young offenders, their family, and their life circumstances. Much like detectives, they collect clues, devise explanatory hypotheses, compare and contrast versions of events, and slowly construct a new narrative about the reality at hand.

This investigation corresponds to a long-standing imperative in policies dealing with juvenile delinquency. As discussed earlier, since the inception of youth justice in the early 20th century, penal responses have been founded on non-proportionality between the offence and the sentence and on taking into account the *personality* of the young person in question (Youf 2009; Milburn 2009). Although this kind of investigative work is widespread, internationally, in juvenile justice systems, the ways in which it takes place in practice depends on the contexts in which these systems are embedded.

In keeping with my aim of analyzing the modes of government applied to young offenders serving LA measures, this chapter shows how the *técnicas* go about their investigations, the types of narrative they produce about the youths, and the function of these narratives. I also demonstrate that the requirement to obtain information about the youths, their social backgrounds, and their life paths is profoundly conditioned 1) by the type of penal response in question (non-custodial) and 2) by the urban and institutional contexts in which these measures are embedded (cities with strong inequality and spatial segregation; organizations in both the penal and social spheres).

The interpretive narratives produced by the *técnicas* fall into two categories. First, there are the exhaustive narratives they devise progressively as they work with the youths and on which that work is based. Second, there are the more streamlined and formatted narratives produced for the reports they send to the judge, where the main aim is to provide relevant information for judicial decisions (whether the measure will be continued or ended). This chapter focuses on the first category; the second is addressed later in Chapter 6 because the reports for the judge shed more light on the collaboration between social workers and juvenile courts than on the interpretive schemes that the *técnicas* use in their daily work.

My analyses draw heavily on Erving Goffman's concept of 'frame.' In his book on the frames of experience (1974), Goffman defines frames as ways of accounting for social situations and experiences that allow the individuals involved in a given situation to reach a consensus. Frames therefore inform perceptions of a situation as well as individuals' behaviour in relation to that situation (Nizet and Rigaux 2005, 65). However, framing can prove inadequate, leading to the frame being ambiguous or breaking (Nizet and Rigaux 2005, 70–71). This perspective therefore presupposes that knowledge and interpretations of the social world should be understood in context. It is important, however, to distinguish this approach from radical relativism (Nizet and Rigaux 2005, 74) because it is not possible to apply just any frame to any situation: certain rules dictate how frames are adopted and must be identified.

In this approach, knowledge production is not simply the result of a rational individual accumulating 'objective' information; rather, it involves the selection of information according to socially rooted logics. This chapter therefore seeks to identify the 'rules of relevance' that regulate the production of these interpretive frames and reveal the 'grammar' (Goffman 1974) structuring the *técnicas*' daily cognitive activity. Put differently, the aim is to understand why the *técnicas* retain some pieces of information rather than others and how they then 'assemble' these pieces into a narrative making sense of the situation of the young people they are working with. In the first instance, these frames have a diagnostic function regarding a given social situation: it is a question of identifying the problem and explaining it.

Another important dimension to frames is that they are intrinsically linked to action because, by selecting relevant pieces of information, they identify 'where the problem lies' and then determine what will be done about it (Scott, Benford, and Snow 1994; Clark Miller 2004). This chapter therefore also establishes how the narratives produced about the young offenders connect to the *técnicas*' actual work in the LA measure.

While all interpretive frames are 'social' rather than individual in nature, those in question here should also be considered as 'organizational frames' (Evans 1997) insofar as they are produced, validated, and used within a bureaucratic organization. Even though, as we shall see, these frames are to a large extent the fruit of one individual's cognitive operations (the *técnica*), they are nevertheless also permeated by institutional logic. In this sense, my work is similar to Cicourel's investigation (1995) into the *ad hoc* categories used by police and probation officers in two Californian cities, in which he broaches these categories as practical theories of delinquency at the service of institutional action.

Finally, while Goffman does not focus on the effect of power relations on devising and validating interpretive frames, and might even be said to avoid this issue, I, on the contrary, emphasize the asymmetrical power relations between the different actors and institutions at hand. The *técnicas*' theoretical frames have far greater symbolic effects on the 'truth' established about youths with judges,

for example, than the frames suggested by the youths themselves or their families. Here, my perspective is in line with Becker's work (1963) highlighting the power relations underpinning norms and definitions of deviance.

This chapter therefore proceeds by first focusing on the processes through which these interpretive frames are constructed, looking at the *técnicas*' sources of information, how they reframe this information, and how their frames are then institutionally validated. Paying attention to the processes through which frames are constructed fills a gap in existing criticism, where studies tend more often to focus on the 'finished product' – the content of frames – than on how they are devised (Clark Miller 2004). It then moves on to the actual content of the frames, so as to reveal the singular rationales underpinning them.

Investigating youths' situations

The LA *técnicas* have few sources of information at their disposal about the youths they work with. First, social services have rarely dealt with them in the past¹ so they tend to come to LA with 'a clean slate' with regard to institutional narratives about their lives or the reasons for their social vulnerability or involvement in criminal activities. Documents circulate slowly, which means that the youths sometimes attend their first appointment long before the CREAS has even received a copy of the judge's decision about their case, leaving the *técnicas* without any information about the offence committed. To quote the director of a CREAS in Rio de Janeiro, 'when a youth first comes to the CREAS, he seems like a newborn.' Second, the *técnicas* can only obtain information about these young people's social and family environment from secondary sources. It is important to recall the urban reality in which these LA measures take place: the cities in question are both socially and spatially segregated. Most of the youths serving LA measures live in *favelas*, whereas all the CREAS are located on the *asfalto* (asphalt, tarmac) – an expression used particularly in Rio de Janeiro to refer to the urbanized, non-segregated, non-*favela* neighbourhoods where inhabitants have direct access to public services. This configuration has a series of consequences for the *técnicas*' work, particularly with regard to access to information about the youths. For example, home visits (*visita domiciliar*) are exceptional, due largely to the perceived risk inherent to a state employee entering the *favelas* and the difficulty of locating the youths' homes in the absence of any systematic address system. The *técnicas* also know little about the social reality of the *favelas* because of their own social backgrounds. The segregation of large Brazilian cities is such that middle-class Brazilians who dare enter these relegated zones are few and far between. This reinforces a collective vision of the *favelas*, denounced as reductive by some researchers (Valladares 2006), that is broadly constructed by academic, media, and political discourse and only views these spaces in terms of social disorder, insalubrity, and urban crime.

In the absence of institutional information and direct access to the youths' social environment, how, then, do the *técnicas* obtain information about them? First, their knowledge about the young offenders stems from what the latter tell them during face-to-face *atendimentos*. They are therefore highly dependent on the youths' willingness to cooperate and to provide information on the topics they address during these appointments. These topics sometimes fall under the officially defined remit of the measure (family relations, criminal activities, school, and professional life) but also often extend further and embrace all aspects of the youths' social and personal lives (friendships, health, sex life, and so on). According to the *técnicas*, most youths take an introverted and uncooperative stance at the beginning. The key issue is therefore finding a way to 'create a relationship of trust' with them such that they will willingly confide in their *técnica*. One of the *técnicas'* strategies to achieve this consists in presenting their work as independent from that of the juvenile court. This nevertheless has its limitations insofar as the youths are aware that their *técnicas* send regular reports to the judge about their case. My observations suggest that the youths' attitudes vary considerably: while some deny having committed an offence throughout the process or refuse to speak during their *atendimentos*, others, on the contrary, are happy to 'play along' with the relationship of trust and confide in their *técnicas* about substantial parts of their daily and family lives. This was the case for Emerson, for example, who regularly attended his *atendimentos* and spoke a great deal about his family:

Emerson is starting to talk about family lies in the *atendimentos*, because he's always accused of being a liar, and now he's starting to tell me that actually it's his mother and father who are the real liars. That his father lies at work to get free public transport tickets. . . . He told me that at one point he was studying in a school for children with learning difficulties . . . in these schools the pupils are labelled handicapped and as handicapped people they are allowed a season ticket for themselves and for someone accompanying them. So even though he doesn't go to that school anymore, the family uses that ticket, and not just the ticket, in fact, it's him that they're using.

(Carolina, Psych., BH, about Emerson)

Here, the source of information for the *técnica's* understanding of the family relationship is clearly based on what the young boy has to say ('Emerson's parents are exploitative and use their son's handicap'). In other situations, though, the *técnicas* have the impression they are progressively *unveiling* the truth about the youths' situations, according to the (sometimes contradictory) information the latter provide. One young man under Priscila's supervision (Comm. Off., RJ) claimed in his first appointment that he lived with his mother and his aunt. However, as the *atendimentos* unfolded over time, he confessed that he did not know what his mother did for a living and then stated that she had moved house; when probed by Priscila, he eventually admitted that he did not know

his aunt's phone number. Priscila therefore concluded that he was not telling the truth about his family situation. This logic of uncovering, investigating, and progressively constructing reality is a key feature in the *técnicas'* framing and interpretation. It is also reinforced by the Lacanian psychoanalytical approach adopted in Belo Horizonte, which ascribes substantial importance to language and its meanings. This is illustrated, for example, in the words of one supervisor speaking to the *técnicas* during a supervisory meeting:

Our job is to know without knowing; he [the youth] uses words with meanings that are not shared, so you have to understand the meaning that he is giving to words.

(Sonia, Superv., BH)

However, the fact remains that the information provided verbally by the youths in *atendimentos* can often be fragmentary, incomplete, and sometimes even incoherent as far as the *técnicas'* are concerned, in which case they will draw on alternative sources of information. The youths' bodies, physical appearance, clothing, and postures all offer a wealth of clues in this regard: a young girl considered too thin will be suspected of being anorexic or of taking excessive amounts of drugs; a young man's bleached hair will be taken as a sign that he is involved in drug trafficking; traces of violence on another youth's face will allow the *técnica* to explore the possibility of family violence. Here, the body is viewed as the symptom of a situation that has to be investigated to determine the appropriate course of action: the low weight of the young girl mentioned earlier, for example, was described as a 'thinness that is deliberately visible' and therefore became a sign guiding the *técnica* in her investigation. The situation of the youths is often described as 'obscure,' 'complex,' or 'hazy' – a series of adjectives that suggest the need to 'reveal' a hidden truth while also underscoring the 'deviant' nature of their circumstances.

Finally, the *técnicas* often draw together different types of information derived not only from the youths' attitudes and their appearance but also from external information such as their criminal record:

When João Vitor arrived, he was very involved [in drug trafficking], it was plain to see, both physically and in his behaviour. He'd come here with bags full of shopping and when you ask him if he works, he doesn't work right? He doesn't want to say anything about his infraction, he has this huge file of priors, and has even been the victim of attempted murder.

(Cristiana, SW, BH, about João Vitor)

Some youths deny the offence of which they were convicted right through to the very end of the LA measure, but the *técnicas* use other strategies to 'clarify the situation.' First, through their professional experience, they accrue sometimes extremely detailed knowledge about the 'criminal world' and particularly

about the organization of drug trafficking in the *favelas* (territorial borders, rival factions, alliances and conflicts, relationships with the police, and so on). Second, given that the CREAS are local organizations, the *técnicas* work with youths from the same ‘geographical pool,’ and it is not rare for the young people in LA to know one another, as Priscila emphasizes,

These boys think they’re really smart, right, but actually they aren’t, because they all live in the same place in the city centre² where there’s a high concentration of drug trafficking [she cites the street names in question]. In this area, it’s really complicated, they all know each other, and whether they want to or not, they end up denouncing each other.

(Priscila, Comm. Off., RJ)

The *técnicas* therefore compare and contrast the information provided by youths living in the same neighbourhood or belonging to the same gang, and then combine this with their own knowledge about the drug trade, allowing them to formulate hypotheses about the extent to which their charges are involved in the latter. The case of Fabiano, recounted by his *técnica*, Sofia, offers a good illustration of this process:

His infraction is an article 33, it’s drug trafficking, and in his file of priors, you can see that there’s only one thing. The impression he gave me at first was that he wasn’t very involved, that he just got caught for one infraction. But during the *atendimentos*, it emerged that he wanted to do his measure at the same times as another adolescent who was extremely involved and that caught my attention. . . . I’d fix an *atendimento* for this adolescent on Tuesday at 10 a.m. and Fabiano would say: ‘I want the same time as him.’ And the two of them lived in the same place. And that started to catch my attention. I said to myself: ‘One of them’s very involved and the other one’s really sticking close to him.’ . . . Until one day, the other adolescent said to me ‘I’m not going to leave this life, I’m going to carry on dealing, and actually Fabiano’s my manager.’³ And so then I started paying more attention and I started to understand why he had received death threats from the police; he was the manager, and usually the manager doesn’t get arrested, it’s the boys who work the sales points who get arrested, because the police officer catches and takes away the ones who are selling. But the manager just puts drugs in packages and passes them on, further away. . . . So there you go, it was completely logical that the police wanted to catch him and kill him, because the police couldn’t manage to catch him red-handed, right . . . sometimes you see boys with ten court cases, six, seven, eight court cases. If the boys have got that many court cases, it’s because they’re hanging around on the streets. When a boy has no court cases and is under threat, it’s because he’s a really smart boy and Fabiano was a really smart boy; he never got caught by the police. The police sent him a message: ‘If

we see you, we'll kill you!' Because for the police, it's an insult, not being able to catch him.

(Sofia, Psych., BH, about Fabiano)⁴

It is clear here that Sonia was able to deduce Fabiano's actual situation and the reason for the police threats against him by combining the information provided by the second youth with her own knowledge of relationships between police and drug traffickers. These observations also offer insight into one of the concrete effects of non-custodial measures falling under the remit of local social work policies in Brazil: because the CREAS is rooted in a specific local urban context, the *técnicas* are able to obtain increasingly detailed information about the area and its resident youth population. The situation is radically different in state-level custodial settings: semi-open and confinement facilities take on youths from across the whole city or even neighbouring towns. Moreover, the custodial facilities in Rio de Janeiro group together youths according to their drug factions (in order to avoid conflicts between rival gangs) rather than according to their original neighbourhood.

Finally, while the *técnicas* generally try to assess with precision the youths' form and degree of involvement in crime, their aim is not to 'denounce' them to the judge, quite the contrary. Rather, they consider this information necessary when it comes to deciding on a plan of action with the youths. When they write reports for the judge, the *técnicas* select the information they pass on and tend to downplay (or even hide) the youths' involvement in delinquency, choosing to focus their efforts solely on their 'rehabilitation' mission rather than letting the justice system act through repressive means.

Beyond the youths themselves, the *técnicas* also call on other actors to supplement the information they obtain during *atendimentos*. The youths' parents (most often their mothers) and sometimes also the boys' girlfriends can be important sources of information for the *técnicas*, to the extent that they often underline how difficult it can be to devise a plan of action when the family refuses to meet them or give them any information. For example, while Rodrigo was assuring his *técnica* that 'everything was fine,' his mother told her that he was in fact receiving continuous death threats from rival gangs. As for Kaio's mother, she told his *técnica* that her son was still taking drugs and spending his nights outside, probably stealing things. As for Wanderlei's⁵ girlfriend, also serving an LA measure, she informed his *técnica* that her boyfriend had left his parents' home and was dealing drugs in a different neighbourhood; she even promised the *técnica* she would get Wanderlei to come to his appointments after he had failed to return to the CREAS for a while.

In addition to the youths, their parents, and the people close to them, the *técnicas* also draw on one final source of information in their investigation into their charges' situations: institutional actors in contact with the youths and their families, such as teachers and other people from social services. It is important here to underscore the fragile nature of the institutional links between the

CREAS and other actors in the LA ‘network.’ As we have seen, the CREAS are fairly isolated from other professionals in implementing the LA measure (especially in Rio de Janeiro), and the *técnicas* tend to view the public education system with suspicion, accusing schools of reproducing a logic of exclusion with the LA youths. In this context, obtaining information from institutional partners can be an arduous task, and the circulation of information is more sporadic and haphazard than it is systematic and institutionalized.

Finally, institutional partners can also provide extended surveillance within the youth’s immediate environment. When *técnico* João Carlos suspected one boy of selling drugs (he would arrive exhausted at his *atendimentos* as though he had spent the night working a sales point), he contacted a social programme located in the boy’s neighbourhood to find out more about him. Having learnt through this programme that he did indeed live right next to a major sales point, João Carlos asked his interlocutors to observe the young man’s relationships within his community more carefully. Thanks to the information he was given, João Carlos deduced that the youth was very involved in the drug trade, which allowed him to broach the subject from a different angle during the *atendimentos* (without ever mentioning the information he had obtained).

Deconstructing competing interpretations

We have seen that the *técnicas* are forced to seek information about the youths from the latter but also from third parties (families, institutions) for two main reasons: the first relates to the particular configuration of the LA policy (CREAS are located outside the *favelas*; there are no home visits); the second relates rather to how social and penal institutions for children function more generally in Brazil (it is incredibly easy to slip through the social safety net; there is little circulation of information between courts, custodial measures, and non-custodial measures). The *técnicas* do not, however, content themselves with gathering and synthesizing the information provided by these third parties in order to produce a narrative about the youths they are working with. On the contrary, their interpretation of the case often implies challenging the narratives and interpretations produced by the youths, their families, and the other actors consulted.

The first claims challenged are those of the youths themselves: the *técnicas* often suspect them of downplaying or denying their involvement in criminal activities. The parents’ statements are also often viewed with suspicion. The *técnica* handling João Pedro’s case, for example, decided that the priority was for him to return to school (he had not attended school since the age of six), and she wanted to enrol him in a municipal school, particularly because these schools offer better support for children ‘in difficulty’ than state schools.⁶ However, João Pedro’s mother was against this decision, citing the fact that the municipal school in question would require her son to cross a zone that was dangerous for him, as it was run by a rival gang. As for the *técnica*, she believed that the mother

was creating obstacles simply because her other children attended a state school much closer to their home, and she did not want to make her life more complicated. In rarer cases, the *técnicas* challenge the parents' interpretive frame. For example, Priscila (Comm. Off., RJ) recounted that Jalmir's mother thought her son's thefts were the work of the devil and that she therefore took him to church (the family belonged to an evangelical community) to exorcise the demon within him. Priscila commented ironically that 'Jesus has enough on his plate as it is' and that they would do better to take seriously Jilmir's psychological problems and his nascent homosexuality. These different examples clearly show that the *técnicas* can impose new interpretive frames upon the youths' situations, because the balance of power between them and the families evident tips in their favour. Although the *técnicas* initially require the families' collaboration in obtaining information about the youths, ultimately they are the ones who select, (in)validate, and interpret this information, before then producing a new narrative that is the basis of the reports sent to the judge.

However, the youths and their parents are not the only ones whose words are challenged. The *técnicas* demonstrate the same distrust of teachers, for example. The *técnica* working with Emerson, a 13-year-old threatened with expulsion by his school because of behaviour qualified as either delinquent or sexually deranged, endeavoured to deconstruct this narrative during a meeting with the headteacher at the school in question. She suggested, in its place, a narrative framing Emerson's behaviour as commonplace – stating that masturbating in the toilets is normal behaviour for a 13-year-old – and emphasizing his capacities and desire to learn, despite apparent academic difficulties.

Institutional validation

Mandatory supervisory meetings are held once a week for all the LA *técnicas* in Belo Horizonte. Generally speaking, these meetings take place in small groups of four or five *técnicas* and are run by a supervisor. Each *técnica* attends the meeting with some specific cases to discuss. She chooses these cases for their particularly complex nature – for example, when she feels powerless or is unsure about the best strategy to adopt. When the *técnicas* believe an LA measure should be brought to an end, they also have to present the case in these meetings to obtain the supervisor's approval before writing the report for the judge. The *técnicas* do not, however, experience these supervisory meetings as an obligation imposed by their superiors; on the contrary, they often highlight how important and useful they are:

Sometimes, you only have the theory, or you only have the practice, or at a certain point you have to set the theory aside, and then I think the supervisory meeting helps a lot, you know, in both those situations, because sometimes you reach a stage, handling the case, where you're lost, you see so many situations . . . the supervisory meeting really helps, because

sometimes you're so stubborn, so involved in a case, that you lose sight of the interpretive lens.

(Cristiane, SW, BH)

By helping the *técnicas* to take some critical distance and to choose and consolidate an interpretive lens through which to view their cases, the supervisory meeting plays a key role in creating and validating interpretive frames in Belo Horizonte. In Rio de Janeiro, this role is played by peers instead, during more or less informal meetings between teams of *técnicas* within the CREAS. On these occasions, the *técnicas* share their impressions and hesitations about cases and get opinions and suggestions from their colleagues.

Two examples of case discussions during supervisory meetings illustrate how they operate and the role they play (see box 5).

Box 5 Supervisory meetings: two examples of case discussions

Case 1: going beyond the youths' words

TÉCNICA: This is a 15 year-old girl who doesn't come to her *atendimentos*.

She lives with her grandmother and complains about having to tidy the house and get up early to make coffee for the men. She says she goes to school, but she's lying to me. She's enrolled in the EJA (programme offering remedial classes for young people and adults).

SUPERVISOR: What year is she in? Can she read and write?

T: She's in *5a série* [fifth year of compulsory education, usually completed age 10–11].⁷ I suspect a problem with anorexia. She's extremely thin, and it's a thinness that is deliberately visible.

S: What makes you think that? Is it just because of her appearance? What does she say about this?

T: She doesn't talk about it. She says she eats properly, that she hasn't lost weight or put weight on. Then I thought it might be a drug problem. . .

S: You have to ask her family what they think about that.

OTHER TÉCNICA: It could also be a thyroid problem.

T: She didn't come last week, and it made no sense to call her mother because she doesn't live with her. So I sent a telegram; she came and said, 'How did you find my address?' And I answered, 'You gave it to me! I'll always find you. . .' Then we talked about her thinness and school. I had the impression she was just saying any old thing; she said that they hadn't given her [attendance] certificate to her.

Then she asked me, 'How much time is left until the end of my measure?' and I asked her, 'How long do you think you need to do the measure?' And she said, 'I'm only here because my mum called the police. I didn't do anything, she called the police because I didn't come home.' And I said, 'It had nothing to do with drugs?' She said, 'I wasn't even high when the police arrived, I'd taken something but the effects had already passed. It's unfair to arrest people, they should be given treatment, institutionalized.' And I said, 'Do you think you should be institutionalized and receive treatment?' And then she started crying, crying from anxiety, where you could just see the tears rolling down her cheek. She's already told me she's taken cocaine and later she spoke about cannabis. Then she thought she was pregnant and went to live with her boyfriend's mother. But she wasn't pregnant. Cannabis is very present in her life.'

S: So . . . there's a lot to deal with here. She brings up this business of her mother who called the police; you have to work on that.

T: I think she was pleased to receive the telegram at home.

ANOTHER *TÉCNICA*: Maybe when she talks about being institutionalized, she doesn't mean between four walls. Maybe LA is the place where she can be looked after.

[The *técnica* in charge of the case then says that she can't remember what infraction the young girl committed. As far as the girl is concerned, she hasn't committed any infraction. The supervisor reminds her that it's important to know what the infraction is].

T: The girl was living with her mother in a rented house where her uncle was going to live when he came out of prison. The uncle's famous in the region, he told the drug dealers not to sell anything to his niece. So, sometimes she had to go and buy in another neighbourhood. This girl's protected by her uncle, she earns respect thanks to him, she likes him. Maybe her uncle received treatment and that's why she wants it too?

S: You can't just make do with what she tells you, you have to find out why she's so thin and what infraction she committed.

Case 2: avoiding repeated exclusion

TÉCNICA: The school called me saying that the adolescent hadn't been to school for nearly two weeks now because he had stolen another pupil's test. We had a meeting with the family and the school and the school took the opportunity to come out with everything, right in front of the boy: they told him he was liar, they said he caused nothing but trouble. . . . The boy started crying; there was a horrible

scene. Then he went back to school very agitated, he masturbated in the toilets and they made a huge deal out of it, they made an appointment with a psychiatrist. Their line is that the boy can't stay at school. They even asked for a paternity test, they want to send him to a boarding school, it's mad! The end of the meeting was awful, the headteacher of the school made it very clear that she wasn't happy and would do everything she could to expel him.

SUPERVISOR: The two *técnicas* at the education bureau seem to have more common sense. Did they say that what happened at school was a discipline problem?

T: Not in so many words, no. And the education *técnica* also ended up thinking he should go to a boarding school.

S: What does the boy think about all this?

T: His dream is to have a family, he doesn't want to go to a boarding school, that's very clear. They also considered giving custody to his grandmother, but Emerson isn't an object that you can just put wherever you want.

S: The school's going to do everything it can to expel this boy. He's going to end up so excluded that he won't be able to cope. You have to unpack this with the school.

T: There's a teacher who was willing to work with Emerson, she taught him to read and write, but her school is too far away.

ANOTHER TÉCNICA: Couldn't it be a dynamic triggered by the boy himself, always putting himself in a situation where he ends up being rejected, always repeating this situation?

[The supervisor expresses his agreement with this interpretation.]

S: You have to explain to the school that they can't let this whole rejection thing repeat itself.

These excerpts, taken from two different supervisory meetings, offer a good illustration of how supervisors (re)define the priorities of the action plan, suggest strategies, and (in)validate the interpretive frames suggested by the *técnicas*. Certain points warrant further analysis in this regard. These two case discussions underline the ambiguous status of the youths' own words. In both cases, the supervisor underlined the importance of listening to their opinions, explanations, and desires; at the same time, however, it was made clear that their words also had to be deconstructed and could in no way be considered sufficient to establish the 'truth' about the situation. The youths' words were also constantly reinterpreted, as though the *técnicas* had to 'read between the lines' and reach further to find the true meaning intended. For example, the 'institutionalization' for addiction mentioned by the young girl was reinterpreted as a need for her

LA *técnica* to take care of her ('I think she was pleased to receive the telegram at home'). It is also worth noting that the *técnicas* are opposed to solutions that require placing the youths in an institution, in line with critical discourse about excessive institutionalization in the Brazilian socio-educational system. It is also interesting to note that, in both cases, the offences committed were entirely absent from the *técnicas*' narratives. While the offence is often not at the heart of the interpretive frame, it still cannot be entirely ignored, as the supervisor reminded the *técnica* in the first case. It is also clear that the interpretive frame is based, at least in part, on information provided by the youths in the *atendimentos*, following the model of co-constructed narratives mentioned earlier. Finally, the second case offers a good illustration of how certain interpretations are devised and validated collectively (for example, the idea that the youth himself was reproducing his situation of exclusion) and of how the *técnica* will then try to alter the way other institutional actors frame the situation ('You have to explain to the school that they can't let this whole rejection thing repeat itself').

Making sense of the offence

Progressively, thanks to information gleaned from the different people involved, the *técnicas* construct narratives about the youths with whom they are working and, unless new events or additional pieces of information radically call these narratives into question, they are consolidated through discussions with colleagues or during supervisory meetings. The new interpretive frame is progressively established as a valid and approved lens through which to view the case, which can then serve as the basis for their work with the youths. Turning now to the actual content of these frames, we shall see exactly how the youths' identities are progressively reduced to certain salient features in a categorization process, revealing an imbalance of power, in which the *técnicas* have the final say about what information is valid and which interpretive scheme is applied.

Although the *técnicas* rarely say this explicitly when discussing their work, the narratives they produce about the youths largely aim to make sense of the offence committed and to explain 'how the youth reached that point.' Given that the *técnicas* are embedded in the world of social work and that they are determined to distance themselves from judicial and penal rationales, they draw on interpretive elements other than the offence itself so as to frame the latter within a broader social and family context. In this sense, their approach to the offence is congruent with the wider conception that has prevailed in juvenile justice systems throughout the 20th century.

The following pages describe the four ideal-typical narratives that emerged from my data (crime as a way of life, the offence as a symptom, the offence as an accident and the non-existent offence). Each focuses on certain aspects or elements ('unstructured' family relationships, a high responsibility job in the drug trade, or drug addiction) and, as such, each implicitly explains the reason for the offence. As we shall see, the interpretive frame does not necessarily vary

according to objective factors: two identical offences can be interpreted in very different ways. The *técnicas* in fact produce these frames by selecting the information they deem relevant and by focusing on certain explanatory schemes rather than others. We will also see the impact of specific forms of professional knowledge (in psychoanalysis and social work) on these explanations. Finally, we will look at how each narrative is then connected with one or several specific strategies of action.

Crime as a way of life

The first type of narrative focuses on the youths' delinquent activities and identity, making deviance into a 'master status' (Hughes 1945; Becker 1963) for them. Their situation is often summarized in these few short words: 'This boy is very involved' ('*Este menino esta muito envolvido*'), a somewhat laconic expression referring to involvement in drug trafficking. Although some youths do make a 'career' out of armed robbery, involvement in 'professional' crime (on a daily basis, providing regular income, with possibilities for rising through the ranks of a criminal organization) mainly occurs within factions in the drug trade. The youths serving LA measures sometimes hold high-responsibility positions in the drug world (manager of a sales point, a boss's 'soldier',⁸ and so on). In the *técnicas*' narratives of this type, drug dealing becomes an all-encompassing social world structuring the youths' social relations, physical appearance (tattoos, bleached hair), language, schedule, and so on. The youths have often been immersed in the social world of drug trafficking for a long time already, sometimes through family members who are also dealers. The *técnicas*' narratives are filled with details about the internal logic of the drug world, specifying, for example, how different factions divide up territory in the *favela* where the youths live, as well as potential ongoing conflicts:

This is how it happened, he started to tell me that he had to be armed when he moved about, that he couldn't do anything stupid in the Santa Lucia area, and Santa Lucia is a place that's a kilometre wide, it's one square kilometre. . . . It's really small, and if you go out on the streets, the territory's marked out: you can't go past that post, if you go past it, you're invading a territory, so the delimitation is really restricted.

(Sofia, Psych., BH, about Fabiano)

One of the main stakes for the *técnicas*, in this kind of case, is identifying whether or not the young offenders in question are facing a death threat (from the police or, more often, from other drug dealers). This diagnosis will have a determining effect on how they approach their work with the youths.

The case of Rodrigo, who held a high-responsibility position in the drug world in the *favela* where he lived in Belo Horizonte, is in many ways a paradigmatic example of this type of frame based on deep involvement in crime.

The following narrative is drawn from an interview conducted with Carolina (Psych., BH) several months after the end of Rodrigo's LA measure:

His mother works as a cleaning lady and he has two sisters. This is his story: Rodrigo is the son of a former dealer, from the same *favela*; his parents split up when he was still small. Rodrigo was in contact with his father, he had lots of contact with his father. . . , his father lives in enemy territory because *Morro do Beija-Flor* is a *favela* that has lots of territories, it's astonishing, Rodrigo lives on *street Y* and *street Y* is a cul-de-sac, so the boys on *street Y* only stay on *street Y*, they can't go anywhere else because of the risks they run. And his father lives in *Beco da Lama*. [Place names are fictional.]

'Another territory?'

'Another territory, where the *Fica Vivo*⁹ premises are located, actually, and so Rodrigo's father would move around, he'd go and visit Rodrigo, and Rodrigo would come and visit him, because, even though they were apart, Rodrigo had always had lots of contact with his father . . . in reality, he identifies with his father a lot. His father limps because of a bullet he took, his father nearly died, his father has already killed a lot of people, there was even a time when one of the adolescents Sofia was working with – because we end up finding these things out – Rodrigo's father had killed this boy's father, so we'd deal with one case in one place, and the other in a different place, to make sure they didn't meet. But Rodrigo had always spent time at his father's house, his father went back to live with his mother, Rodrigo's grandmother, and so there was always this movement. So Rodrigo, until then, he moved around, he was considered neutral, and his mother explains that he's a great son, a great brother, he helps out at home, he's concerned about his family, about his mother, whether his mother's OK, whether his mother's eaten or not, whether they live in a comfortable house, whether his sisters are safe; for certain things he really *sticks* to the value of family, and when they threatened Rodrigo's father, that's when the thing. . . '

'What was the threat?'

'The boys on *street Y*. And so the boys from *Beco da Lama* started to threaten Rodrigo, saying they [Rodrigo and his father] were responsible for all this coming and going. So these boys Rodrigo was close to, they were friends, these are the same boys Rodrigo helped to kill, when it came to it, and who tried to kill Rodrigo, and there was a war where he lived. For a while, he moved around freely. After that, stuff happened in the [drug] trade and the father and son were held responsible.

(Carolina, Psych., BH, about Rodrigo)

This excerpt clearly shows the *técnica's* concern with reaching a detailed understanding of the drug trade's territorial logics, as well as of potential ongoing conflicts between the factions present. This information provided her with an explanation for the death threat that Rodrigo was facing while he was serving

his LA measure. This territorial logic is so structural in the youths' lives that it can also affect how the socio-educational system handles their cases: when two youths from rival gangs are both serving an LA measure, their respective *técnicas* have to ensure they do not cross paths in the CREAS lest a conflict arise. This situation occurred when I interviewed Rodrigo on the CREAS premises after he had finished his LA measure. Another *técnica* who did not know Rodrigo would be present that day had fixed an appointment with a teenager from a rival faction, and the two youths crossed paths in the CREAS. Even though they both assured their *técnicas* that they only dealt with their conflicts within the *favela* (and that they were not carrying weapons), I had to conduct the interview in a room further away, and the *técnicas* were visibly tense until both boys had left.

Even though the preceding narrative included considerable information about territories and the organization of drug trafficking, reading between the lines, Rodrigo's involvement was explained by the fact he 'identified strongly with his father,' a 'former dealer' who had 'almost died' and had 'killed people.' The narrative bears the imprint of the prevailing psychoanalytical perspective in Belo Horizonte, which ascribes a fundamental role to the father in explaining why young offenders 'act out.' Although the *técnica* did refer to his family, this was mainly to emphasize its positive aspects: his father's presence and Rodrigo's involvement in his family's daily life. Rodrigo therefore was not an 'abandoned' boy from an 'unstructured' family, in contrast with the second type of narrative that will be described shortly. Other explanatory schemes are also present in narratives about youths who are strongly involved in the world of crime. In particular, the *técnicas* often refer to the status and power (particularly purchasing power) that drug dealing offers these teenagers looking for recognition.

The type of narrative produced about the young offenders influences how they will be handled during their LA measure. When dealing with those who have made crime into a way of life, the *técnicas* believe that only a 'choice' made by the youths themselves, a decision to 'change their lives,' can lead to their desistance. The *técnicas* will therefore try to 'encourage' this decision by discussing the various risks linked to involvement in the drug trade during their appointments (and particularly the risk of death). In parallel, they try to suggest alternatives, particularly financial ones, by helping the youths to find jobs. According to most of the *técnicas* I interviewed, though, no action is possible until the youths have decided to 'change their lives.' Young people engaged in drug trafficking as a career are clearly a challenging population for socio-educational institutions¹⁰ because their crime is not the 'symptom' of malaise or a youthful 'mistake'; on the contrary, it is the very bedrock of their social and 'professional' lives.

The offence as a symptom

The second type of narrative making sense of the offence committed is probably the one most frequently used by the *técnicas*, both in Rio de Janeiro and in

Belo Horizonte. According to the ‘rules of relevance’ of this kind of narrative, they focus on all the information obtained about the youths’ family histories and the relationships between different family members. The recurrent local expression in this narrative is ‘this boy is very deprived of affection’ (*este menino é muito carente*), which underlines the fact that the youth is suffering from a lack of love, care, and attention. Soraia, for example, was described by Cristina (Comm. Off., RJ) as coming from an ‘unstructured’ family in which ‘she never received any affection.’ The narrative about Soraia also mentioned her father, who lives on the streets, a factor confirming the diagnosis of the family situation. In these types of narrative, the offence appears as the symptom of a lack of affection received by the youths. For example, Priscila (Comm. Off., RJ) explained one youth’s theft of a motorbike in terms of the fact that he felt abandoned and unfairly treated since his mother’s new boyfriend had moved into the family home. In Priscila’s words, this boyfriend ‘wanted to impose his own rules,’ and the boy had then started ‘spending more and more time in the streets.’ These two examples reflect a classic trope in the *técnicas*’ discourse. Paula’s narrative (Psych., BH) about Yuri’s situation offers a good illustration of this interpretive frame:

Yuri came to LA in June 2010 and when he was summoned, he came with his presumed father, presumed because he has not officially declared the boy, he’s the biological father, but he hasn’t declared him, and Yuri’s mother died a year and a half before he came to LA. The mother had a relationship with the father, with the presumed father, and this presumed father had a family, he’d been married for twenty years, and because of this relationship, he reached an agreement with Yuri’s mother. The agreement was the following: I’ll help you financially with everything you need and in exchange for that I want your silence because I don’t want to destroy my relationship. And the mother opted for silence and the money, and the boy wasn’t officially declared [as his son]. Then the mother dies, the boy has a brother and that brother is married, he’s older, and he doesn’t want to take responsibility for the boy, and nor does the presumed father, who, after the mother’s death, takes the boy, rents a house and has this 13-year-old boy live there alone. . . . The relationship he had with this boy was all about money you know, he would only turn up to give money: ‘Here, you need this.’ There was no affection and it was something he missed . . . very often his acts [his offences] were a way of attracting his father’s attention, because the only time that the father would turn up was when there was a problem.

(Paula, Psych., BH, about Yuri)

Once again, the father is centre stage in the narrative, but, this time, it is to underline his financial rapport with his son, devoid of affection, and the fact that, as far as the *técnica* was concerned, he is not taking responsibility for his role and is only the ‘presumed’ father. Later in the narrative, the *técnica* provided

a summary of her ‘diagnosis’ regarding Yuri’s delinquency: ‘Yuri’s problem is a problem of emotional abandonment, it’s not so much a problem of being involved in trafficking.’

While this kind of frame focusing on lack of affection and abandonment is very frequent, the nature of what the youths are ‘missing’ and the extent to which this is the case both vary considerably depending on the circumstances. When some youths begin LA, they have been entirely left to their own devices. This was the case for Bryan, who had been on the social services’ radar for years. Bryan was the oldest of four children and the only one not to have been taken in by close relatives or social services. As a child, he would stay home alone for several days at a time looking after his brothers and sisters while his mother, a sex-worker, was out on the streets. Bryan did not possess valid identity papers. As his *técnica* underlined, his family had abandoned him so completely that he was entirely dependent upon state services. Concerning his offence (theft, without violence), his *técnica* clearly emphasized his abandonment over other potential explanatory factors:

He’s only been up [in front of the justice system] once and from what we can see, he stole to meet his basic needs, to eat, because he didn’t come here with any features of drug addiction, he came with the features of abandonment.

(Cristiane, SW, BH)

This interpretive frame of abandonment and lack of affection can also be mobilized in less ‘extreme’ cases, however, to explain offences committed by youths from far less disadvantaged families than Bryan. This was the case, in particular, for Wanderlei, who, according to Priscila (Comm. Off., RJ), ‘had everything necessary to not become a delinquent,’ as his father was a state employee and had a university degree. Wanderlei himself did not present any features associated with delinquency in the *técnicas*’ representations (‘He doesn’t take any drugs, he doesn’t drink, doesn’t sniff’; ‘Even his Portuguese is excellent, he’s very well spoken’: ‘He doesn’t go to *baile funk*,¹¹ doesn’t chase after girls’). And yet, he left his family home and moved into a *favela* where he became involved in drug dealing. His *técnica* explained Wanderlei entering the world of crime as a function of his sense of revolt and powerlessness, having watched his mother being subjected to conjugal violence for years.

I think that this involvement [in dealing] was . . . I don’t know if it was to stand up to his father . . . to show his father ‘Look, I’m a man, see? I’m as much a man as you.’

(Priscila, Comm. Off., RJ)

In a way, therefore, explaining delinquency by emotional abandonment offers an interpretive frame that is versatile and can be applied to a range of situations,

irrespective of social background and socio-economic conditions. Although it is rare for the *técnicas* explicitly to discuss social class as a topic in and of itself, and rarer still for them to use social class as an explanation for criminal activities, they nevertheless do seem to take this factor into account when it comes to the degree of agency they ascribe to the youths. Whereas Bryan and Soraia, for example, were depicted as victims of a situation that was beyond them, the *técnicas* were more inclined to use the vocabulary of ‘revolt’ or ‘revenge’ concerning teenagers from more advantaged social backgrounds.

We have seen through these different examples that, in this interpretive frame, the offence is understood as symptomatic of a deeper problem, namely the lack of affection provided by the parents (and very often the father). Other modes of this same frame can also be observed in the *técnicas*’ narratives. The ‘problem’ masked by the offence can be psychological in nature or can relate to sexual ‘deviancy.’ Some youths are identified as psychologically ‘ill,’ and their offences are entirely understood in terms of this specific cause. In these cases, the *técnica* will work towards getting the youth to begin psychotherapy. In other cases, acting out is interpreted as the result of homosexuality that the youth and those around him are ‘dealing with badly.’

Most of the narratives using this second type of interpretive frame are, however, focused on family relationships and the lack of love, care, and attention provided by the parents. This interpretive lens paves the way for two, strongly contrasting, kinds of action: in some cases, the *técnicas* try to strengthen these weak or non-existent family ties; in others, they focus on helping the youths free themselves from any dependency on, or expectations of, the family that has failed to meet their needs. The first line of action seems more in keeping with the official definition of the aims of LA: ‘strengthening family ties’ is one of the measure’s three priority areas, alongside a focus on education and professionalization. For this reason, when the *técnicas* decide instead to focus on fostering independence from the family, they have to justify this decision.

I think that people work a lot along the lines of the family matrix: ‘Ah, I’m going to save these family ties.’ I think a bit differently: ‘Can these ties be worked upon, is there any chance of success? . . . Is it a good thing to reinforce these ties? Or would it be better to invest in the individual subject, in the subject’s independence?’ So, with my training, with what I know about adolescence, what I’ve considered thoroughly about it, I think it’s always worth investing in the person, because adolescence is the moment when that decision is made, where that break is made.

(Viviane, SW, BH)

This strategy of action aimed at fostering independence was implemented, for example, by Paula (Psych., BH) in dealing with Yuri (the reader will recall that Yuri lived alone in a house and received only financial support from his father). During her appointments with Yuri, Paula discussed the father-son relationship

with him and his constantly frustrated expectations, until Yuri ‘became aware’ of the situation:

And then, he started to realize, he started to see: ‘It’s no use wanting him to give me money every month, my allowance every month, because he’s not going to give me what I want, so I’m giving up on him.’ And the boy gave up on his father. So, during the *atendimentos*, the boy didn’t speak about his father anymore, about these issues to do with his father, and he followed his own path.

(Paula, Psych., BH, about Yuri)

Paula’s intervention clearly consisted in convincing Yuri to adopt the interpretive frame she had devised about his relationship with his father, so as to free him from all expectations in this regard. In parallel, Yuri’s *técnica* focused on his material living conditions and convinced him to go and live in a shelter (*abrigo*). This was the only way for him obtain access to certain public services, and particularly the only way he could enrol in school because the Brazilian authorities did not recognize his current situation (a 15-year-old is not allowed to live alone).

The offence as an ‘accident’

A third type of interpretive frame considers the offence as an accident or a ‘bump in the road.’ In these narratives, the offence is not part of a ‘way of life’ focused on crime, nor does it reflect a deeper problem. The family environment is usually described as ‘healthy,’ ‘structured,’ and without any ‘pathogenic’ factors that might justify delinquent behaviour. In these narratives, the offence seems ‘difficult to explain’; the notion of ‘keeping bad company’ (falling in with a bad crowd) becomes a credible hypothesis in the absence of any causes in the family environment. More generally, the *técnicas* tend to draw on a wider repertoire of notions concerning behaviour specific to teenagers: ‘need for immediate gratification,’ ‘impulsiveness,’ and ‘immaturity’ become the keys to understanding why the teenager acted out.

Patricia (SW, RJ), for example, considered that the theft committed by Enrique in the street with a group of friends was just a ‘bump in the road’ in the young man’s life, the result of his keeping ‘bad company.’ She perceived Enrique’s family as ‘poor but hard-working’ – both his mother and father worked, and his older brother was pursuing a career in the army. He lived in a working-class neighbourhood, but outside the *favelas*. She described Enrique himself as ‘nice and well-educated.’ The *técnica* therefore immediately directed him towards a professional training programme, explicitly placing a lot of hope in this boy whom she considered promising. This case reveals another factor considered relevant in devising interpretive frames: whether the youths belong to the relegated spaces of the *favelas*. The way Enrique’s urban context was taken

into account implicitly highlights the *técnicas*' shared representations of the potentially 'deviant' nature of social life in the *favelas*. In another similar example, Sofia (Psych., BH) specified that 'even though [Marcelo] lives in the *favela*, his family has a relatively structured socio-economic situation' (his mother was employed as a domestic worker).

In a variation on this third kind of narrative, the *técnica* considers the offence not so much as a 'one-off accident' but as 'teenage stupidity.' Sofia's narrative (Psych., BH) about Kaio, who had committed several thefts, offers a good illustration of this mode of interpretive frame:

But in this case it's just theft without violence (*furto*),¹² you can see that it's just theft without violence and so this is the situation: Kaio comes here, he's a really sweet boy, his thing is stealing, he doesn't go anywhere near anything more serious, his thing is this: if you stupidly leave a bag in a car, he'll break the window and take the bag, that's it, he only does that, sometimes he's with his friend . . . he's never alone, he's always with a friend, with someone, and they break. . . '

'Always inside cars?'

'Always inside cars. He never steals from people, he doesn't approach people, he's not armed, if you stupidly leave something he'll take it, but, you see, he messes around so much that instead of managing to run away, he gets caught, he's already been arrested several times, but you see, he's a boy who . . . he's going to turn 16, his mother's really strict with him, he has a really young brother, who's a year old, not even a year, and he lives with him, and the step-father's gone to Portugal to work as a builder and he sends money back to the mother. The mother's a cleaning lady, Kaio looks after his little brother quite a lot, he takes his brother to the crèche, picks him up from the crèche, he's capable of handling these tasks at home. During the first two months we were working with him, he had already got his worker's card, he had his identity card and his CPF [residency card], he was going to school. . . And then, the 27th December he started being more organized, more diligent, more involved [in the measure], he wasn't involved in stealing anymore. . . You can see this adolescent cycle a bit, you know, this inconsistency, he's organized, he's disorganized, organized, disorganized, and now he's starting committing infractions again, he's stopped coming [to the *atendimentos*].

(Sofia, Psych., BH, about Kaio)

The *técnica*'s tone was almost light-hearted during this narrative. It is obvious that for her Kaio's thefts were minor offences – the victims were in fact guilty of leaving their things in plain sight – and that Kaio did not have the profile of a hardened criminal because he did not use a weapon. Regarding his family environment, his mother's 'strictness,' his step-father's sense of responsibility (working to support the family), and Kaio's capacity to take on board family

tasks were all converging factors revealing an adequate family environment which could not be the cause of the offence committed. Kaio's delinquency was therefore put down to the 'adolescent cycle' composed of phases of 'organization' and 'disorganization.' Initially, the LA action seemed to be fruitful insofar as Kaio completed steps to obtain the necessary documents to enter the job market. However, he then progressively stopped coming to his *atendimentos*, and his *técnica* tried various strategies, in vain, to get him to comply with the measure. The teenager's to-ing and fro-ing in the LA context was not, however, interpreted as a sign that he was getting more deeply involved in delinquency (or as a symptom of family problems); instead, it was understood as the result of teenage 'inconsistency.'

In the *técnicas'* view of adolescence, inconsistency is linked to two other characteristics that are often combined in narratives explaining offences: a desire for immediate gratification and impulsiveness. This perspective focuses on adolescents' specific relationship to time: unlike adults, who are able to look to the future and take some distance from the present (particularly when it comes to assessing the consequences of their actions), adolescents are defined by what the *técnicas* call 'immediatism':

So this issue of immediate gratification, it has something to do with young people the world over, who are just as immediatistic as the young people we have in Brazil . . . they want Nike trainers . . . right away!

(Amelia, Psych., RJ)

However, 'immediatism' is not only the result of immaturity or going through a particular phase in life: it is also the mark of a specific social background, although it was rare for the *técnicas* to discuss the topic of social class quite as explicitly as Patricia does in the following:

The medium and the long term don't exist for them; they already don't exist for young people from the middle classes so imagine for these young people!

(Patricia, SW, RJ)

The *técnicas* use this 'immediatism' as a key for understanding why adolescents act out: the idea is that because they are not capable of imagining the future, and therefore of assessing the consequences of their actions, they commit offences without thinking, in order to achieve instant gratification:

It's very attractive, very quick, that kind of money, a lot of them don't even need it, they don't need it, they're not in a bad financial situation, they head off spontaneously like young people do, just seeing what happens, you know, out of immediatism, right? 'No, because I need this money now, at the end of the month there's no point, I want to go out now, tonight, I want

to buy those Bermudas now, they're in this shop I've just seen.' So their immediatism sometimes leads them to commit infractions, and they don't think it can have serious consequences for other people and for themselves.
(Priscila, Comm. Off., RJ)

For the *técnicas*, the adolescent relationship to time also involves considerable impulsiveness. According to Amélia (Psych., RJ), the adolescents she works with do not plan their offences in advance; they happen almost 'accidentally,' under the influence of a thoughtless impulse. To her mind, this means the youths find it hard to manipulate information and therefore remain fairly transparent in their actions.

'Immediatism,' impulsiveness, and inconsistency form a triptych that is regularly used to describe the actions of the youths in LA, particularly in situations where the offence does not indicate any deep involvement in delinquency and is not symptomatic of family problems.

While, in most cases, the offences committed in this third kind of interpretive frame are relatively minor, serious crimes can also sometimes be interpreted as accidents or 'bumps in the road' in the youth's life. Damião, for instance, was accused of having killed a boy during an argument in the small provincial town where he grew up with his family. According to Patricia (SW, RJ), Damião's family was 'traditional and conservative,' and the murder he committed was an 'accident.' The gun he used belonged to a friend 'who was not involved in the world of crime,' and Damião himself was described as having nothing to do with that world. However, in Damião's case, his action could not simply be ascribed to the vagaries of adolescence, and his *técnica* was examining the possibility of mental retardation, suggested by his sister.

When the *técnicas* apply this third type of interpretive frame, a more one-off action plan is required. There is no need to work on family ties or find strategies to set the youths on paths of identity conversion towards desistance. Mostly, the aim is to ensure that they 'take responsibility' for their offence – in other words, to make sure they recognize that their act was socially (and legally) unacceptable. This is measured by the ways in which they talk about what they have done but also by the degree to which they comply with the *técnicas'* suggestions (returning to school, enrolling in a professional training programme, and so on). The next chapter will look in more detail at these notions of responsabilization and compliance. The narratives cited as examples also show that the *técnicas* have higher expectations in these cases: from their perspective, there should be fewer obstacles to the youths returning to school or entering the job market than in situations where the young offenders are extremely involved in crime or have an 'unstructured' family life.

The non-existent offence

A fourth and final type of interpretive frame emerges from the *técnicas'* narratives and discourse about the youths with whom they work in LA. It concerns

situations where the *técnicas* consider that the youths have not, in fact, committed an offence, and that the socio-educational measure is unwarranted. This diagnosis is applied, first, in cases where the youths have admitted to offences they did not actually commit.

According to Francisco's *técnica* (when she presented his case in a supervisory meeting), Francisco had 'done nothing wrong.' One day after school, he went to smoke a joint with some friends, one of whom had stolen a pair of trainers, and so the police picked them all up. He was held at the police station in Contagem (a metropolitan area in Belo Horizonte) for ten days, and he was pressured to admit to the theft if he did not want to end up in prison. 'He admitted it out of fear,' claimed the *técnica*. His sister came to see his *técnica*, because she thought he had not committed the offence. However, his family wanted him to do his socio-educational measures (he was given an LA measure and a community service measure [PSC]) to 'keep him busy.' Francisco worked Monday to Friday, but on Saturdays, he would 'stay on the streets,' complained his parents. As far as the *técnica* was concerned, the situation was clear: this young man had not committed an offence, and nothing justified him serving a socio-educational measure. She therefore intended, first, to contact a lawyer at the juvenile court to have him cleared and, second, to try to convince the family that a socio-educational measure cannot simply be used to keep a youth busy. However, it was now too late to appeal the sentence, and so the *técnica* suggested to the supervisor that she try to have the LA and PSC changed into a warning (*advertência*) involving a one-off meeting with a judge. The supervisor rejected this solution, claiming that, symbolically, it would confirm Francisco's involvement in the offence. Instead, he proposed suggesting to the judge that the PSC be lifted (it was difficult for Francisco to comply with this measure given that he worked all week) and to request the end (*encerramento*) of the LA measure as soon as possible, in line with the principle that socio-educational measures should be brief. In order to still give some meaning to the few months spent in LA, the supervisor encouraged the *técnica* to 'make the most of this period to make the youth realize that he mustn't admit to an infraction just because someone orders him to.'

Francisco's case offers a prime example of the strategies that the *técnicas* deploy to 'rectify' what they consider to be a judicial error, with the resources at their disposal. It is also worth noting, in passing, the supervisor's somewhat contradictory position: on the one hand, he opined that no measure should be applied without there being an offence (and that the youth's parents should realize this), but, on the other hand, he wanted to use the LA measure to make the youth 'take responsibility' – not for having committed an offence but for having given in to police pressure.

While in Belo Horizonte, the *técnicas* can, at any point, suggest a more appropriate socio-educational measure to the judge – due, in particular, to the close relationship of mutual trust between the judiciary and the executive – the *técnicas* in Rio de Janeiro are much more powerless when faced with these

sorts of situations. Artur, for example, was arrested after having stolen some school T-shirts from the establishment's storerooms with several friends. Patricia (SW, RJ) agreed with the youth in describing this arrest and the application of a socio-educational measure as 'unfair' because he was the only one who appeared before the judge. According to the *técnica*, Artur was probably the victim of discrimination, as he was the only one of the pupils involved in the theft who lived in a *favela*. Although (unlike in Francisco's case) Patricia did not deny that Artur was involved in the actions held against him, she did consider the frame applied by the justice system to be invalid; to her mind, this was not an 'infraction,' punishable by socio-educational measures, but rather youthful 'stupidity' that should have been dealt with by the school. The unequal treatment applied to Artur and his friends reinforced this reframing of the situation. Furthermore, the *técnica* underlined that Artur presented no delinquent characteristics: 'this adolescent has absolutely nothing to do with criminal activities, he doesn't even drink alcohol!' According to Patricia, the boy was not in need of a socio-educational measure but rather of affection; he had recently lost both his mother and grandfather. She therefore planned to ask the judge for exceptional permission to speak at his hearing and argue in person for the measure to be brought to an end.

The *técnicas* often reframe offences committed at school. They all have the sense that school conflicts are increasingly judicialized, with the result that instances of 'unruly behaviour' are qualified as 'infractions' punishable by socio-educational measures. In these cases, when the measure cannot be ended more quickly, the *técnicas* tend to adapt it so that it affects the youths as little as possible. For example, Alexandre, a middle-class boy accused of having voluntarily injured a teammate during a football match, was forced to do community service, whereas he already had a very busy timetable, as he was preparing his university entrance exams. In the *técnicas'* opinion, Alexandre had no need for a socio-educational measure; they therefore decided to reduce his hours and adapt them to his timetable. This case should also be understood in light of the boy's advantaged social background; it is probable that the *técnicas* would not so forcefully have dismissed the role of the socio-educational measure had the boy come from an 'unstructured' family and lived in a *favela*.

At any rate, when the *técnicas* consider the measure unnecessary (because the offence is in fact only a discipline problem or because the youth gave himself or herself up instead of someone else), they find ways of adapting its constraints (less frequent or shorter *atendimentos*, requests to end the measure, and so on) in order to alleviate its effects on the youth's life as much as possible. These adjustments can be interpreted as acts of resistance performed by the actors in charge of implementing measures with a view to countering a judicial logic that they sometimes consider unfair. Chapter 6 will return in more detail to the different facets of this mediating role played by the *técnicas* between the youths and the juvenile court.

Conclusion

In conclusion, the *técnicas* construct a new *interpretive frame* which, by selecting relevant information and drawing on explanatory schemes validated by their professional experience, allows them to describe and understand the youths' situations but also to work to change them. Table 3.1 summarizes the four interpretive frames and the types of professional actions related to it. Although constructing a new 'truth' to the detriment of competing interpretations is not an original approach specific to these *técnicas* (Goffman has demonstrated how framing operations are part and parcel of everyday social life), this dimension to the *técnicas*' work remains central to understanding how the LA measure governs young offenders. As demonstrated, the main aims of the *técnicas*' action are inextricably linked to the guiding thread they create in their narratives explaining the youths' circumstances.

The processes through which these interpretive frames are constructed derive in large part from the institutional reality of non-custodial measures: the *técnicas* only have access to secondary sources of information, and, in Belo Horizonte

Table 3.1 Interpretive frames for the offence

	<i>Crime as a way of life</i>	<i>The offence as a symptom</i>	<i>The offence as an 'accident'</i>	<i>The non-existent offence</i>
Rules of relevance	Sustained relationships with the world of crime	Family history and relationships, psychological problems, sexual deviance	Isolated, accidental, or minor nature of the offence	Misinterpretation of the events, judicial error
Explanatory schemes	Criminal subculture	Emotional abandonment	Impulsiveness, 'immediatism,' and inconsistency	
Typical case	High responsibility position in drug trafficking	Youth who has been abandoned or rejected; street child	Theft without violence, committed in a group	Unruliness at school
Action	Suggest alternative ways of life, encourage the youth to make a choice	Strengthen family ties or promote the youth's independence	Encourage the youth to take responsibility for this one-off incident	Alleviate the effects of the measure

at least, these frames are then validated within hierarchically approved bodies (supervisory meetings). The freedom that young offenders enjoy in non-custodial settings means that the *técnicas* are, to some extent, dependent on the information that they (and their families) agree to share. This situation differs considerably in confinement facilities where young offenders are under the constant observation of various professionals. In a recently published study, Chantraine and his team contend that penitentiary institutions for minors are becoming 're-totalitarian' via a sharp increase in expert reports and diagnoses about youths based on daily surveillance of their actions and behaviour (Chantraine et al. 2011). This is very different from the situation in LA, where the *técnicas* have to count on the youths' compliance or try to obtain information from third parties (schools, NGOs, and so on) who do not necessarily share their priorities. However, the *técnicas'* dependence on the youths in constructing their interpretive frames is then compensated by a reversal of the power imbalance: they are the ones with the prerogative to produce 'valid' narratives about the youths' situations, to the detriment of sometimes conflicting interpretations from other actors. These narratives then form the basis both for the *técnicas'* work with the youths and for future judicial decisions.

It is also important to note that the asymmetrical relationship between the youths and the *técnicas* in this categorization process does not determine its result. It can give rise to either forms of stigmatization or forms of recognition, depending on the case (Ossipow, Lambelet, and Csupor 2008). For example, recognition can be achieved when the *técnicas* consider the measure to be unjustified given the offence (or lack of offence) or believe that the youths are more the victims of their family situation than the culprits of an offence.

Conflicts about interpretive frames are rare and perhaps even non-existent. The *técnicas'* perspective prevails over that of the youths, their families, and other institutional actors. It is also rarely challenged by colleagues – in Belo Horizonte, each youth is assigned to one *técnica* and in Rio de Janeiro, although the *técnicas* work as a team, the central role played by each individual *técnica* means she usually has the final say. The only authority that can challenge an interpretive frame is the supervisory meeting in Belo Horizonte. For their part, the judges tend to follow the *técnicas'* interpretations and suggestions, considering them to be the 'experts' in the youths' behaviour and believing that the decision to continue or end the measure should be delegated to them. In this regard, the LA measure is situated in a very different configuration from the institutions for juvenile delinquents in the United States studied by Wakeham (2012). Wakeham observes the simultaneous presence of a range of legitimate norms among different actors in the juvenile justice system, who nevertheless have to make decisions together regarding how to proceed with the youths. In order to avoid any conflict around these norms, the professionals involved prefer to relinquish any hope of reaching a consensus on interpretive frames and instead simply to try to agree on an appropriate course of action. As Wakeham summarizes, the actors know 'what to do, but not why' (Wakeham 2012, 150). The *técnicas* of the LA measure are

not confronted with this problem because they have the monopoly on how to understand the case. As we shall see in Chapter 6, the question of coordination between professionals becomes more salient when they have to write reports for the judge, because they are then obliged to defend their interpretation using a format and vocabulary that is intelligible in the legal sphere.

While the *técnicas*' initial training (either as social workers or as psychologists)¹³ and the local institutional context in Belo Horizonte and Rio de Janeiro no doubt have some impact on the construction of these interpretive frames, my data do not show any significant effect in this regard. The framing process seems, instead, to follow diverse, complicated, and often contingent rationales. The same offence can be explained in different ways: because the youth is vulnerable in material and symbolic terms, because the youth is immature and impulsive, or because the youth is looking for recognition or an adrenaline high. Similarly, it is not because a youth is heavily involved in delinquency that the 'crime as a way of life' frame will automatically be applied; sometimes, the *técnicas* consider this involvement to be the result of family problems and will focus on this aspect in their work.

In refusing to adopt a deterministic reading, the *técnicas* also justify their case-by-case approach described earlier: it becomes necessary, in each case, to piece together the individual and subjective reasons why the youth 'acted out.' Furthermore, the frame is chosen as a result of information about the youth's trajectory and attitude within the measure gleaned from various different people – and all of these parameters change over time. These interpretive frames are therefore also processual and dynamic (Cicourel 1995),¹⁴ even though, in the short term, the *técnicas* draw on one clearly defined frame to guide them in their work. The frames described in this chapter should therefore be understood as a repertoire of interpretive tools, which the *técnicas* use variably depending on the information they possess but also on the coherency of the narrative at any given moment.

My analysis therefore differs substantially from Clark Miller's (2004) point of view in his study on the interpretive frames used by probation officers working with young offenders in the United States. According to his study, two types of frame exist: those relating to 'good kids' and those relating to 'bad kids.' While each of these categories has its more specific variants ('angel, player, and victim' for the good kids, and 'punk, hardcore, and predator,' for the bad kids), to my mind, these categories are problematic because of their linear and binary nature. The 'good kids' have committed minor offences, are considered victims, and prove cooperative with probation officers, whereas the 'bad kids' have committed serious offences, are considered 'unsalvageable,' and are resistant to the probation officers' work (Clark Miller 2004). While certain aspects of these frames do resonate with my case studies (such as the figure of the 'victim of the system' or the 'professional delinquent'), my data presents a far less cut and dried correspondence between, for example, how serious the offence was and the degree to which the youth proved cooperative within the LA measure. A youth simply caught shoplifting can be entirely reticent, whereas a youth who has committed

murder can ‘comply’ with the measure. Moreover, the first youth’s offence might be interpreted as the result of a troubled family life or might, just as easily, be viewed as the result of teenage stupidity, while homicide could be framed as the result of deep involvement in drug trafficking or as an isolated incident.

Contrary to Clark Miller’s position, I would contend that interpretive frames are not the logical or mechanical result of objective facts (seriousness of the offence, attitude within the measure, and so on). Instead, they seem to result from a process involving the selection of information and the production of meaning that has to cohere with both the professional schemes in play and the modes of action considered legitimate. While these interpretive frames do contain explanations for the offence, they are first and foremost tools used to direct institutional action and they serve, in particular, to justify institutional actors’ decisions (Cicourel 1995, 53). The *técnicas*’ ultimate aim is not to explain or understand the deviant behaviour of the youths but rather to identify information that will allow them to improve the situation. The flagrant absence of any ‘sociological’ interpretive frame (relating to socioeconomic background, social inequalities, and so on) can probably be explained by the fact that the professionals’ level of agency would remain limited when approaching the situation from this perspective. Conversely, interpreting an offence as the symptom of family problems, with the attendant legitimating psychological theories, affords the *técnicas* more latitude. As for the conception of crime as a ‘way of life,’ this introduces the notion of ‘choice,’ which in turn allows the *técnicas* to place responsibility for change squarely on the youths’ shoulders. This conception of the delinquent as a rational actor, making decisions according to a cost-benefit calculation, has been given increasing emphasis over recent years as we saw in Chapter 1. Based on analysis of the French context, Youf (2009) shows that the ‘therapeutic model’ – which views the offence as a symptom and the juvenile delinquent as a ‘child in danger’ to be treated and rehabilitated – has progressively been replaced by a model focused on the offender’s rational thought and individual responsibility. In the case of LA in Brazil, these two models for interpreting offences in fact coexist and are used on an *ad hoc* basis by the *técnicas* depending on the information available to them and the priorities of their strategies of action. Nevertheless, the way the *técnicas* turn to the notion of ‘choice’ seems more to reflect their powerlessness when faced with youths who are making a career in drug trafficking than to serve as a real explanation for criminal activities. The *técnicas* do not completely ignore the impact of neighbourhoods or delinquent subcultures in their explanations, but, when it comes to envisaging their possible action, they all agree in presenting the adolescent’s ‘choice’ as the main catalyst for desistance from crime.

Notes

- 1 It is a plausible hypothesis that the ‘social safety net’ in Brazil is such that it is very easy for a considerable number of ‘socially vulnerable’ Brazilians to slip through it (it is

- important to recall here that social services are a relatively new fixture in the country and that public services remain lacking and have varying degrees of resources). This contrasts starkly with my observations in Switzerland and France, where youths (and their families) tend to have been monitored in a non-penal educational setting before going down the penal route and being dealt with by educators in a non-custodial setting, who then have access to case files and can draw on this information in their work.
- 2 In both Rio de Janeiro and Belo Horizonte, certain streets in the city centre are also drug sales points. Depending on the situation, some youths work for themselves on these streets (especially in Belo Horizonte, where they have often been excluded from organized drug networks because of their own drug addiction, for example), whereas others sell product provided by an established drug leader in the *favela* (especially in Rio de Janeiro). In all cases, the risk of being arrested is much higher in the city centre, where there is a much greater police presence. However, conversely, some youths in Rio de Janeiro underlined that there was a much lower risk of falling victim to police abuse in the city centre, as the police can act with far greater impunity in the *favelas*. For more details about the relationships between different territories and police control, see Bugnon and Duprez (2014).
 - 3 In the drug trafficking world, the manager (*gerente*) is in charge of a given sales point (*boca de fumo*).
 - 4 The gang leaders are protected by their subordinates, who hand themselves in to the police in their stead; they therefore often have a surprisingly clean criminal record; the police, who are frustrated by how powerless they are over these ‘untouchables,’ therefore often resort to extra-legal means (Bugnon and Duprez 2014).
 - 5 Wanderlei’s situation was reported to me by his *técnica*. I never interviewed this young boy and, for this reason, his name does not appear in the appendix. This is also true for several other young people, whose situation I describe through the eyes of their *técnicas*.
 - 6 Public education in Brazil is decentralized and organized at local, state, and federal levels, depending on the type of education in question. Where compulsory education is concerned, schools are either run by municipalities or states.
 - 7 At the time of my study, compulsory education in Brazil lasted for 12 years and was divided into two levels: *ensino fundamental*, usually completed between the ages of 6 and 15, and *ensino médio*, usually completed between the ages of 15 and 18.
 - 8 ‘Soldiers’ (*soldados*) are in charge of ensuring the close security of the ‘bosses’ (*patrões*). They are armed and have to cover the ‘boss’ when enemy factions or police approach.
 - 9 *Fica Vivo* (literally: ‘Stay alive’) is a homicide prevention programme set up by the Secretary for Social Defence in Minas Gerais state. The programme involves two separate lines of action, one dedicated to strategic intervention (coordinating and planning police and legal action) and one dedicated to social welfare, which offers activities to youths living in the most violent areas of the city of Belo Horizonte.
 - 10 A recent study conducted by a former coordinator of non-custodial measures in Belo Horizonte testifies to this. She examines the socio-educational action possible in the face of the substantial rise in youths involved in drug dealing (Brandão 2013).
 - 11 The *baile funk* are festive events typical of the *favelas* in Rio de Janeiro. At these events, the young people in the *favelas* dance to electronic music called *funk carioca* (which is different to North American funk). These events have strong links with the factions of organized drug dealing; see, in particular, Grillo and Neri (2013).
 - 12 Brazilian criminal law makes a distinction between larceny, or theft without violence (*furto*), relative to article 155 of the Penal Code, and robbery, or theft with the threat or use of violence (*roubo*), described in article 157 of the Penal Code. The youths completing socio-educational measures often refer to the article for which they were sentenced to identify themselves (‘I’m a 157!’).

- 13 Social worker *técnicas* told me, for example, that they paid more attention to social context and the influence of social background than their psychologist colleagues, who tend rather to consider the youths in terms of their personal histories.
- 14 Cicourel (1995) has also shown the processual dimension of how institutional categories are developed in juvenile justice. Because an interpretive category is applied as a result of interactions and negotiations, the use of one or another of these categories cannot be predicted in advance, even when the people in question draw on a relatively stable repertoire.

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Governing through speech

Normalization, surveillance, and control

The sociology of social work places great emphasis on the central role of speech in professionals' daily activities (Autès 2013; Ion and Ravon 2002). Autès reminds us that social work functions 'above all in the register of speech and words. Talking, listening, answering, negotiating, communicating, and exchanging: this kind of work not only uses language as its main tool, but is also completely embedded in language' (Autès 2013, 242).

Far fewer studies, however, focus specifically on describing and understanding how speech actually functions in interactions between state employees and public service users. In her work on the regulation of abortion and euthanasia, Memmi (2000, 2003) proposes a framework that views speech as the object of institutional control. She describes the rise of what she calls 'government through speech,' which takes the form of surveillance of what individuals say to justify their decisions (wanting an abortion, wanting to die). This observation also leads Memmi (2000) to suggest that the 'policing of bodies' described by Foucault has been replaced by a 'policing of narratives' in the shape of an 'apparatus of discursive self-control': individuals are required to develop a capacity 'voluntarily' to produce discourse explaining that their decisions are based on 'good reasons' (i.e., reasons considered legitimate by institutions).

These ideas offer interesting avenues for understanding institutional uses of speech within the LA context. While custodial facilities can create a form of communal life within their walls, and thereby try to 'correct' the young offenders' behaviour on a daily basis, in the LA context, socio-educational action is limited to a single weekly verbal interaction between youths and *técnicas*. Speech is therefore one of the only tools available to the *técnicas*, unlike their counterparts in custodial settings, who have various means at their disposal, from the material structure of the confinement facility itself to the activities that take place within its walls (school, sports, and so on).¹ Given that speech is such an essential part of the *técnicas*' professional toolkit – and perhaps even their only tool – it necessarily fulfils many different functions. First, it is a condition of possibility for their work with the youths (if the latter refuse to talk, there is very little the *técnicas* can do); second, it is the basis of their intervention with the youths (they use words to make them think, take responsibility for

their actions, or accept certain norms and values); finally, speech is also one of the aims of the process itself: the degree to which the youths have been ‘responsibilized’ is assessed in light of the things they say (about their offence, their life goals, and so on).

This chapter identifies the purpose of the *técnicas*’ words – what they are trying to change in the young offenders – and examines the modes of constraint deployed by this government through speech. While state power is clearly more visible, violent, and authoritarian in custodial facilities, this does not mean that the more subtle and intangible modes of constraint specific to the non-custodial environment lack effectiveness. By analyzing the tools, aims, and modes of constraint involved in governing through speech in LA, my aim is also to identify the kind of individual that the institution seeks to produce and, more broadly, the conceptions of the norm and of social integration that underpin these models of action.

Finally, although this government through speech operates within an asymmetrical power relation between state employees and young offenders, I do not only look at its constraining effects of domination but also examine its more empowering aspects. As Demailly (2008) suggests, social work is based on listening to others and combines types of domination and types of emancipation of the subject. While being forced to put one’s private thoughts and self-identity into words can, in some contexts, take the form of a violent intrusion, in others, speaking out can be a ‘technology of the self’²² (Foucault 1988) – a source of subjectivation that allows a new relation to self to emerge.

This chapter comprises three sections. The first describes the various ways in which the *técnicas* use speech to transform and normalize the behaviour and subjectivities of the youths they deal with. The second section then focuses on the modes of constraint produced by this form of government. The third and final section builds on these analyses to identify the three ideal-typical models underpinning the verbal interactions that take place between youths and *técnicas*: model 1 seeks to produce reflexive individuals, capable of generating meaning on their own; model 2, based on the idea of a contract, perceives individuals as rational and seeks to encourage cost-benefit analysis; model 3 emphasizes the shaping of moral individuals by instilling behavioural norms and fostering a sense of guilt. The chapter concludes by demonstrating how these models converge in making the young offenders *take responsibility* for their actions and lives but also how all three models combine and overlap in the *técnicas*’ daily work.

Speech as a normalizing tool

Eliciting reflection and reconstructing meaning

The *técnicas* establish a dialogue with the youths in order to try to transform their subjectivities. During the *atendimentos*, they use the words they believe will be most likely to influence the youths’ perceptions of events, in order to foster

reflection (about their actions, about their lives) and so lead them to modify their behaviour accordingly. Although the ultimate aim is this objective shift in behaviour, it is supposed to result from a change that first takes place at a subjective level. Underpinning this use of speech is a theory about the impact of words which is inspired by psychoanalysis, a field of knowledge with widespread influence in social and health-care policies in Brazil (Jesuino-Ferretto 2007; Braunstein 2008). As we have seen, in Belo Horizonte, psychoanalysis is the official ideological foundation for the LA system. The words that the youths use to tell their stories or simply to talk about their daily lives are considered to be very telling about their relationship to the world; similarly, within these verbal interactions, the *técnicas* choose words designed to have an impact on the youths, whose capacity for reflexive thinking is then supposed progressively to transform that relationship to the world. Questioning, criticism, and reflexivity are key notions in this conception of speech as a catalyst for change. The aim is to bring the youths to question the meaning they formerly gave to their delinquent practices but also to their family relationships, school, and the professional world. This transformation is not supposed to happen because someone else has imposed the 'correct' or 'normal' conception of the world upon them from outside; rather, it has to proceed from the youths themselves, through a reflexive and dialogical process in which they produce their own new and singular vision of the world around them. This approach is clearly designed to move away from social policies considered 'paternalistic' and instead to place individual subjects at the heart of the process of transformation. This can be a long-term process, which is why patience is of the essence when faced with teenagers who do not immediately demonstrate the necessary reflexive capacities, as the following excerpt from a report sent to the judge illustrates:

This adolescent can't manage to adopt a critical perspective on the choices he makes, but we still believe that the measure can have effects on this adolescent's life.

(Antonio's file)

The focus on potential future progress means that the *técnicas* listen to the youths without imposing restrictions, whatever the topics they choose to broach. Carolina (Psych., BH), for example, listened to Alex complaining about the presence of his aunt, a crack user, in the family home; Alex found it unacceptable that he had to hide his belongings for fear that his aunt would sell them to buy drugs and couldn't understand why his mother accepted this extra burden when she already had many mouths to feed. Most of the *atendimento* revolved around these issues, and Alex made almost no reference to the professional training programme he had just attended. Although, in Carolina's eyes, Alex's aunt's addiction was not a key issue, or even relevant, when it came to his progress in LA, her willingness to listen is perfectly compatible with the *técnicas'* conception of how to relate to their charges. In another example, Cristiane

(SW, BH) spent several *atendimentos* talking to one boy about his jealousy with regard to his girlfriend, as well as discussing various coping mechanisms to deal with this. She took the opportunity to suggest that he go to a family planning clinic to find out more about relationship issues (which he refused to do). These two examples show that the *atendimentos* in the LA measure can constitute spaces of dialogue for topics that are sometimes far removed from the causes and modalities of delinquency or its possible ‘remedies.’

However, listening attentively in this way is not as aimless as it might seem. The objective is to encourage the youths to think in new ways, to deconstruct what previously seemed normal or unproblematic to them – in short to foster reflexivity. Thus, when Alex told Carolina (Psych., BH) that he loved buying brand-name clothes and shoes and that he always spent the money he earned, she spoke to him about the risk of incurring debt and the need to ‘spend according to one’s income.’ Carolina’s intervention resembles in many ways the classic endeavour, in social work, to normalize the working classes’ relationship to saving money. However, the relatively horizontal form taken by the dialogue allowed the young man to go on to explain that, when he did have savings, he would be forced to make loans to friends or neighbours in financial difficulty, which would never subsequently be returned:

And then he started to say something really interesting, that for him saving money wasn’t a good thing, because when he saves money, there’s always someone who comes and asks him to lend them some. He said, for example, that a neighbour comes and says ‘Oh Alex, there’s no gas left at home to cook’ and he feels bad so he lends some [money].

(Carolina, Psych., BH, about Alex)

In order to avoid this sort of situation, Alex had therefore decided to spend the money he earned immediately on the consumer goods of his choice:

So he said this to me: ‘You know what, I prefer spending on myself . . . because if I keep my money, someone asks me for some. . . , I lend it and the person doesn’t give it back to me and so I’m spending it on them . . . so, there you go, my money, I’m going to spend it all on myself, I’m going to buy things for me, I want nice things.’

(Carolina, Psych., BH, about Alex)

By giving Alex the chance to explain his spending, Carolina’s support focused on meaning-making and his reflexivity rather than on inducing him mechanically to internalize a behavioural norm. As we have seen, this approach can apply to specific social norms (related to money, to relationships), but it can also aim to foster more general reflection about concepts such as citizenship or the rule of law. Amelia (Psych., RJ), for example, took the opportunity presented by one young man’s concerns about approaching the age of 18 (he was worried

about encountering problems with the adult justice system, which is far more repressive than juvenile justice in Brazil) to encourage him to rethink his freedoms and duties as an adult:

We live in a society, under the rule of law; if you're wearing nice trainers, would you like it if someone came up to you and said 'You've lost, I like them too.'³ And he said: 'No, of course not.' Well yes, no one wants that. The state protects you too, you think it only protects the lady with her mobile phone? It protects you too, otherwise I could take your trainers! And then they just sit there, like . . . I think it gives them an opportunity to think.
(Amelia, Psych., RJ)

While the dialogue established here by the *técnica* clearly aimed to get the youth to 'play' the citizenship 'game' by drawing on arguments about equality before the law, she was not under any illusions about the vast inequalities in access to consumer goods in Brazil that motivate some youths to commit offences. For this reason, she stated that she also encourages youths, in *atendimentos*, to think about the 'world of crime' in which it is possible to earn in a day what legal workers earn in a month. Once again, the aim here is not to censure or condemn out of hand the youths' involvement in criminal activities but instead to encourage them to think reflexively, making sense of these practices and their consequences, in the hope that this new reflexivity might prompt them to change direction.

The topics broached in these discussions all aim to stimulate the youths' reflexive thinking, but they also depend upon the interpretive frame the *técnica* applies to the offence (as described in Chapter 3). Amelia's words in the preceding quote, for example, relate to an interpretive frame focusing on 'crime as a way of life.' However, when the *técnicas* view the offence as a 'symptom' of problematic family circumstances, they will try instead to get the youths to question their representations of their family relationships. Carolina (Psych., BH) worked in this sense with Emerson, for example, in his *atendimentos*. In her view, he was the victim of ill-treatment by his adoptive parents, and it was therefore necessary for him to stop finding excuses for their behaviour and to realize that he did not deserve to be treated that way. Emerson's parents began preventing their son from attending his *atendimentos*, whereas he was always happy to come, which seemed to confirm that Carolina's approach had had the desired effect. According to her, Emerson's parents began to boycott the LA measure when they realized their son had started to take a critical view of his family environment.

In Belo Horizonte,⁴ the *técnicas* employ several internal categories that reflect their professional knowledge and experience of how best to transform young offenders' subjectivities. They use the term *gancho* (hook, as in a fish hook) to refer to something that will allow them to 'reel the youths in' – something offered up by the youths themselves and providing a foundation on which to build their work; they employ the verb *vacilar* (to sway, to falter) to refer to

the way in which they would like the youths to question things, as a catalyst for change; and they use the term *revivavolta* (an about-turn, an upheaval) to describe the total identity conversion that is the *técnicas*' ultimate objective.

The *ganchos* or 'hooks' are aspects of the youths' lives which, when broached by the *técnicas* during the *atendimentos*, have an 'impact.' This impact then becomes the starting point for a series of reflections by the youths, which lead to a change in attitude and 'stance.' The *técnicas* use the *gancho* deliberately as part of a strategy to destabilize the youths and challenge their habitual representations of themselves and of the world. When youths begin their LA measure, the *técnicas* do not yet know how they will 'reel' them in, what 'hook' will work in each specific case. They therefore try different things and observe the reactions as the *atendimentos* unfold, until they have identified the *gancho* that proves fruitful. While the *técnicas* do not begin with any absolute certainty that their *ganchos* will be effective, they do not choose them at random either: *ganchos* are selected according to certain explanatory schemes about individuals, based in particular on psychoanalytical theory. For example, Carolina reminded Rodrigo of his new role as a father and tried to spark a reaction from him by mentioning his relationship to his own father, also a drug dealer: 'Is that what you want for your son, what do you think your son needs, do you think he needs a dealer for a father, a criminal for a father, is that what you want? . . . What father would you have wanted? You tell me your father was a dealer too, that he shot people, that your father killed lots of people. . .' (Carolina, Psych., BH about Rodrigo). Her intention here was to bring Rodrigo's different roles and social identities into perspective and to make his identity as a drug trafficker progressively less central and fundamental than his identity as a father or a boyfriend. Carolina's scope of action nevertheless remained extremely limited: she could only talk with Rodrigo once a week. The extent to which he identified with the drug world, reinforced by his recent promotion to the status of 'boss,' ultimately determined his decision to continue dealing.

In other cases, the *ganchos* eventually make the youths 'sway' (*vacilar*) sufficiently to turn their backs on their criminal activities. They can also be prompted to come to this realization by something outside the *atendimentos*. In Fabiano's case, this occurred when, on his *técnica*'s advice, he went to obtain his national identity card. At the age of 15, his only official paperwork was his birth certificate (unusually in Brazil, where someone of his age would typically have other documents). His *técnica* convinced him to enter the system officially, as this would allow him to find work on the formal job market:

It made him think, he said: 'now I have an identity, I can't be just anyone anymore, I can't do just anything anymore, they've taken my fingerprints.' It had an impact on him, something that told him that he was now Fabiano, that he was marked, identified as a citizen, right, that now he has an identity, he can no longer be just anyone.

(Sofia, Psych., BH, about Fabiano)

While the trigger event here was the obtaining of an identity card (rather than speech), the *técnica's* narrative once again highlights the central role played by 'verbalization,' as this is what gave substance to Fabiano's realization. It is also worth noting the discrepancy between the *técnica's* interpretation of the event, understood in terms of civic inclusion, and Fabiano's perspective, more focused on the possibility of being controlled.

Making a pact

A second use of speech emerges from the interactions between the youths and their *técnicas*. In this case, the aim is not to transform subjectivities through reflexivity but rather to make a pact with the young offenders. The pact in question generally focuses on getting them to agree to make an effort at school, to enter professional life, or to complete certain administrative procedures, as illustrated by the following handwritten notes made by Patricia (SW, RJ) after an *atendimento* with Artur:

Artur came with his uncle. He's not enrolled at school, but his uncle said he is going to do it. Artur is doing an IT course in Copacabana, which costs 139 reals, on Saturdays from 1.40 p.m. to 4 p.m. He's learning to use Windows. I asked him about the course and he said he wasn't very motivated because it was fee-paying (!). We offered to sign him up for selection for the Young Apprentice programme at the Post Office and Artur seemed interested. For this reason, we made the following pact:

- 1) Look up the application process on the Post Office website today
- 2) Tomorrow: speak on the phone to fix an appointment to prepare for the application process
- 3) Send the documents to the national employment service (his uncle said he would deal with this today)

The aim of this contractual use of speech is, first and foremost, to work on changing the youth's objective circumstances rather than his subjectivity. During the *atendimento*, the *técnica* questioned him about his current situation, what he wanted to do, and what his plans were, while also informing him about existing possibilities, particularly in terms of entering the job market. It was not so much about 'bringing out' his 'desire' to do something as it was about offering him different options within the framework determined by public policy (focusing on school, professional pathways, and reinforcing family ties). While the relationship between the youths and their *técnicas* remains relatively horizontal in this context, because it is based on the idea of a contract between two parties, norms nevertheless play a bigger role here: they are defined from the outset by the institution rather than being devised by the youths through reflexive thinking. This use of speech is more frequent, or at least presents in a more ideal-typical fashion, in Rio de Janeiro given the central role played by

social workers in implementing the LA policy there. Using contractual techniques is also strongly encouraged both by juvenile courts and the most recent legislative reforms,⁵ which require *técnicas* to produce an ‘individual assistance plan’ signed by the *técnica*, the youth, and the youth’s parents. This plan has to include the different objectives the youth is supposed to achieve while in the measure, which all parties agree to respect by signing the document.

In order to determine the terms of these pacts, the *técnicas* must first of all arrive at their diagnosis of the youths’ situations and their needs and options. This diagnosis takes an objective, bureaucratic form: in the course of the first meeting, they use two documents entitled ‘initial interview with the adolescent’ (*entrevista inicial do adolescente*) and ‘socio-educational investigation’ (*pesquisa socio-educativa*). The *técnicas* write down information about the youths’ family, school, and professional circumstances; their favourite hobbies; or their health problems. While these initial interviews are framed by the official objectives of the LA policy, the *técnicas* can still be seen (albeit tentatively) trying to engage in dialogue with the youths and to understand their view of the situation, their hopes and dreams, their priorities. The following information from Evandro’s file testifies to this:

Initial interview with the adolescent

He lives with his father, who is 41 and illiterate, and with his 14-year-old sister who goes to school. He works as a builder on the informal job market. His mother is 31 and went to school up until 4^a série [fourth year of school, usually completed age 9–10], she’s unemployed. His maternal grandmother is 51 and has a pension of 40 reais.

Evandro has already worked in a bakery in Rocinha, at the counter, and as a delivery boy.

He went to school until 2006, in 3^a série [third year of school, usually completed age 8–9]. He stopped because he didn’t like anyone at school.

Aptitudes: playing football.

Community/institutional references: football club on São Conrado beach.

He came to the CREAS with his mother.

Analysis of the situation: the adolescent is serving his first measure; it is urgent that he enrol at school; low income family; his father and mother must be called in for social assistance.

Basic ways forward: enrolment at school, social centre for the family, health monitoring.

Socio-cultural investigation

What do you know about socio-educational measures? ‘LA means you go home again.’

Health problems? Has already had an STI.

Living conditions: rented house, 3 rooms.

What do you like doing for fun? Football, swimming, beach.

He's already been to the cinema, the theatre, and the planetarium with his school.

It is immediately clear that, in this plan of action, the youth's objective social circumstances are more important than how he makes sense of his situation. Following the initial diagnosis, the *atendimentos* will then allow the *técnicas* to find out about any steps the youths have completed and any difficulties they have encountered. At this stage, the relationship takes the form of a horizontal dialogue, in which the youths and *técnicas* express their points of view symmetrically:

He came to the appointment we made. He said the school was too far away, he'd like to find another one. As for the school bus pass, he said his uncle wasn't doing anything. I said he didn't need his uncle to solve this problem. He continues to feel frustrated about having been placed under his uncle's guardianship. He says his uncle doesn't give him any money.

(Artur's file)

In the context of this dialogue with his *técnica*, Artur was therefore able legitimately to express his discontent with his school and family situation. The *técnica* listened to the young man's complaints, above all with a view to ensuring he would be able to fulfil the different commitments made in the 'pact.' The main aim of her work here was not to make the young man think reflexively and produce meaning but rather to lead him to complete certain steps that, in her view, would reduce his social vulnerability and therefore his risk of committing another offence. These steps were not presented as obligations, however, but instead negotiated with the youth during his *atendimentos*. Returning to school or entering a professional training programme have to make sense to the youths and strike them as necessary or important for their future lives. These issues will be addressed in more detail in the following chapter, where we will see that institutional objectives regarding school and work fail fully to take into account the youths' objective circumstances or their subjective relationships to education and the job market.

It should also be noted that this contractual and symmetrical relationship is not unrelated to the limited power of constraint that the *técnicas* actually possess (and we will come back to this). They cannot punish the youths who fail to respect their side of the contract and therefore need to be flexible and use their powers of persuasion instead.

Bringing youths back to 'reality'

We have seen that the *técnicas* try to make the youths *think* in order to change their subjectivities and that they also try to make the youths *act* by creating

contractual agreements. A third typical use of speech in the *atendimentos* consists in *instilling norms* in them. This approach is not concerned with allowing the youths' 'desires' to 'emerge' or with negotiating a contract; it seeks, instead, to bring them in line with the 'norm,' understood in concrete terms and imposed in a top-down fashion by the institution.

These practices are plainly embedded in a more paternalistic conception of how to deal with young offenders. Priscila (Comm. Off., RJ), for example, called one boy who had not come to his *atendimento*, and his sister answered. Priscila questioned her, 'Is Roberto there? He had an *atendimento* today, and he didn't come! Where is he? When will he be back? I'll call him at 4:00 p.m. Tell him to stay by the phone OK?' She hung up and muttered, 'We really have to babysit these boys.'

These normalizing practices target the youths' everyday behaviour (how they dress, whether they are on time, how they speak), as well as any behaviour considered 'rebellious' or 'irresponsible.' The *técnicas* pass on these norms in the form of 'good advice,' explaining how the world works and reminding the youths of their status as immature teenagers.

The *técnicas*' normalizing practices often focus on another aspect: the LA teenagers' tendency 'not to conform' to the world as it is, which the former consider to be a sign of immaturity. This ties in with the 'reality principle,' an educational tool also used by social workers in homes and juvenile detention centres in Europe (Frauenfelder, Nada, and Bugnon 2018; Ossipow, Berthod, and Aeby 2014). Priscila (Comm. Off., RJ), for example, emphasized the need to 'bring Joana back to reality.' This young girl, who had recently turned 18, expressed a desire to free herself from her family environment. She was also unhappy at school and critical of the professional training programme to which she had been directed (and which had rejected her application). Priscila intended to counter this anti-conformist attitude by reminding Joana that she would have to adapt to the reality of the world and play by the rules of the game and that she would not always be able to get what she wanted. When Joana lost her identity papers, which her *técnica* had only just helped her obtain, this accident was clearly framed in terms of the girl's deviant lifestyle:

I said to her: 'Listen, you came here in February without any documents, your father dealt with it, and you've already lost your ID card? I don't understand how that can happen' [Joana answers]. 'Ah, these things happen, you know.' I said to her: 'No, I don't know that people lose their documents in less than a month. Explain it to me, were they stolen?' [Joana:] 'No, I was at a friend's, I sat down and I forgot it, when I got up it must have fallen and when I went back, it wasn't there anymore.' She tells me this as though it were the most normal thing in the world.

(Priscila, Comm. Off., RJ)

The ‘reality’ that Priscila wanted Joana to recognize is not neutral; it is rooted in norms and moral principles that are hidden behind the use of the term ‘reality principle.’ There was no room here for the young girl’s explanations, and she was immediately suspected of living a life that did not meet accepted standards.

In sum, alongside modes of support where reflexivity or contractual agreements are at the heart of the plan of action, other practices also exist, based on more vertical, moralizing, and paternalistic approaches.

Speech as a tool of surveillance and constraint

Institutions draw on various modes of constraint in creating subjects who conform to social expectations, depending on the context. Although techniques for normalizing subjects and techniques of constraint are inextricably linked within the same system of government, separating these two aspects seems analytically productive.

At first glance, constraint is not immediately obvious in the LA measure. There are no walls keeping the youths inside, no obligatory activities punctuating their daily lives, no immediate punishment if they fail to respect institutional rules. It is not immediately obvious, either, how to ensure that the youths respect these rules when they spend most of their time out of their *técnicas*’ sight. I therefore asked myself whether speech, as the *técnicas*’ central tool, could in fact serve as a tool of surveillance and constraint – and if so, how?

In this context, I understand constraint to mean the different techniques that the institution uses, via both *técnicas* and judges, to *force* the youths to comply with expectations when they have transgressed rules or are suspected of having done so. As we shall see, because of the type of relationship created between youths and their *técnicas*, this constraint is mainly based on the youths’ compliance and self-control. Furthermore, my analyses show that while the LA measure cannot exercise repression in and of itself, it does constantly showcase the possibility of repression, in the form of threats and warnings.

It should also be noted that surveillance, constraint, and threats are not present in any official discourse pertaining to the socio-educational system overall and much less to the LA measure itself. The legitimacy of LA is based on principles of freedom and human rights, meaning that actors across the socio-educational system explicitly deny any control and repression. However, constraint-oriented practices can nevertheless be seen in their daily professional activities. I will show, in particular, how the most tangible threats and forms of constraint appear when the youths refuse to play by the rules of the LA measure. Paradoxically, though, those who do comply with LA’s mode of management are in fact subject to a more constant, subtle, and ‘negotiated’ form of surveillance. Constraint in LA therefore takes highly individualized forms.

Demanding justifications

In LA, constraint and surveillance can first be seen in the range of ways in which the youths are required to justify themselves. These justifications concern the key components of the LA assistance plan: is the youth attending school regularly and if not, why not? If so, where is his or her report card? Has the youth enrolled in a professional training programme as agreed? Why has she or he not brought proof of this enrolment? and so on. It is interesting to note here that the youths' word, which is key in the processes of realization described earlier, does not have much weight when it comes to justifying concrete actions. Any administrative procedures completed must be proved by presenting an official document to the *técnica*. The holistic conception of their work shared by all the *técnicas* (as discussed in an earlier publication, Bugnon 2011) also enables them to demand explanations about different areas of the young offenders' social and private lives (friendships, family life, sexuality, and so on). As one *técnico* explained,

Sometimes, he arrives with lots of visible injuries. I ask him: 'What happened?' 'Oh, I fell off my bicycle, I fell off my scooter.' Then I ask his mother and she tells me: 'No, it's trouble with the guys at the top [of the *favela*], the guys catch him because he's part of a different faction.'

(Pedro, SW, BH)

Sometimes, the demands for justification extend to the youths' families. In one case, for example, when a boy's mother also attended his *atendimento*, his *técnica* took the opportunity to try to understand why the family lived in a rented flat; the mother answered that they had twice been offered aid to purchase a property⁶ but that she had refused, because the homes in question were located far outside the city centre. The *técnica's* handwritten notes recounting this *atendimento* in the boy's file clearly indicated that she disapproved of the mother's choice.

The conversations between youths and *técnicas* during the *atendimentos* therefore also serve as a tool for monitoring behaviour: that of the youths but also that of their families. In their files, which comprise handwritten notes taken by the *técnicas* and reports sent to the judge, the expressions 'he justified himself' (*justificou-se*) or 'he clarified' (*esclareceu-se*) are recurrent. While the *técnicas* cannot directly observe the youths' behaviour in the day-to-day, they can compare and contrast different sources of information to try to uncover any lies or omissions. For example, Joana's *técnica* learnt from another girl she was working with in LA that Joana had been distracted and badly behaved during the selection day for a professional training programme. When the *técnica* next saw Joana, she asked her to explain herself.

These practices of surveillance are not incompatible with conceptions of individual autonomy and agency; on the contrary, the two are sometimes

complementary within the measure. For example, even though Cristiane (SW, BH) believed that João Vitor had ‘chosen’ to get out of trafficking and to start working with his father as a carpenter, she nevertheless checked to make sure he was telling her the truth by phoning his grandmother during his working hours:

I saw that he was really going to work, because when I called his grandmother, his grandmother replied ‘He’s not here at the moment, he’s at work, call back at this time, he’ll be back.’

(Cristiane, SW, BH)

Another dimension to this use of speech for surveillance purposes resides in the *técnicas*’ conviction that the youths cannot manage to keep up a lie for very long. According to several *técnicas* I interviewed, although the youths often arrive with a pre-rehearsed speech about the fact they ‘want to make good’ and disengage from the world of crime, as the *atendimentos* unfold, contradictions emerge, and they progressively become more transparent. A judge from the juvenile court in Belo Horizonte also asserted, in this regard, that only a small minority of young offenders manage to meet the requirements of the LA measure while continuing to maintain their involvement in a delinquent lifestyle. In the judge’s experience, most youths are incapable of playing this ‘double game’ and eventually tell their *técnicas* the truth, stop their criminal activities (even just temporarily), or no longer attend their *atendimentos* to avoid having to lie. This judge also believed that the youths capable of playing a double game were particularly worrying because of their ability to deceive the institution without any qualms.

The youths’ ability to produce acceptable verbal justifications for their behaviour appears to be a key component in how constraint functions in the LA setting. The ‘justification hearings’ (*audiências de justificação*) that take place at the juvenile court in Belo Horizonte further support this hypothesis. In this city, the closer collaboration between the courts and the CREAS means that this ‘government by justification’ also extends to the courtroom. When youths fail to complete their non-custodial measures (LA or community service), the judges can summon them to what is known as a ‘justification hearing.’ Officially, the objective of these hearings is to hear from the youths themselves why they are failing to meet the obligations of their measures. However, being summoned in this way also has the implicit function of holding a judicial threat over them. Some of them attend voluntarily, but others are brought in by force through use of an arrest warrant (*mandado de busca e apreensão*). Judges issue warrants when they consider it necessary to make a more explicit display of repressive power to the youths, who are usually accompanied by a legally responsible adult. The judges ask a series of questions about whether they are attending school, whether they are working, and whether they are taking drugs. They also ask the parent or guardian present to corroborate the youths’ claims.

My observations in the courtrooms allowed me to identify two types of arguments used by the youths to justify their behaviour: first, they often stated they could not physically go to the CREAS or the location of their community service because of territorial conflicts or threats. One 13-year-old girl attended a justification hearing because she was not complying with her LA measure. She explained that she faced death threats in La Pedreira (one of the most violent *favelas* in Belo Horizonte) because she had stolen money from a drug trafficker. She had therefore taken refuge in her aunt's home. Having spoken with the girl and assessed the degree of the threat, the judge decided that she should continue her LA measure but in a CREAS far away from La Pedreira. Once she had left the room, the judge explained to me that this young girl's situation was complicated because the youths threatening her were also serving LA measures and if the information circulated through the socio-educational system, she might indeed be killed. The second argument often used by youths was the impossibility of completing the measure because of their working hours. Sometimes, the birth of a child was also mentioned to underline the importance of remaining employed. Both kinds of arguments generally met with favourable responses from judges, who usually agreed to move them to a different CREAS (to escape death threats) or to replace community service with LA so that the obligations involved would no longer infringe on working hours.

The justification hearing functions as a 'last warning' before the imposition of a more drastic sanction (for example, three months' disciplinary confinement (*internação-sanção*) or another arrest for recidivism. Even when the youths do not manage to convince the judge that they are sincere, harsher sentences are not handed down on this occasion. They are instead simply warned about the potential consequences of their actions. One judge, for example, said the following to a young man who already had three offences on his record (two arrests for drug trafficking and one for carrying a weapon) and was not serving his community service properly:

We applied this measure to avoid depriving you of your liberty, so there's no negotiation possible; this is serious, it's your last chance.

However, after this warning, the judge nevertheless decided to change the community service into LA. In sum, when the youths manage effectively to communicate the reasons behind their *descumprimento* (failure to serve their measure), judges sometimes decide to replace one non-custodial measure with another or to change the terms of the measure. In some cases, when they see the youths have not re-offended and seem to be in a stable situation (in terms of employment and family), they even decide to end the socio-educational measure.

Here, we can clearly see a mode of justice that is both flexible and horizontal (the judges often repeat that the youths can 'come and see them if there's a problem' and wish them 'good luck' at the end of the hearings). In this context,

the repressive powers of the justice system seem to be ‘showcased’ (through warnings, the use of arrest warrants, and so on) more than they are actually implemented.

In short, the ‘constraint by justification’ I observed in the LA measure is very similar to Memmi’s (2000) ‘government through speech.’ First, it is based on the self-control of the subject being governed: the youths must comply ‘freely’ with demands for justification and must prove attentive to providing coherent and intelligible narratives. Second, no clearly defined criteria determine whether or not the justification is considered acceptable, and those who fail to respect the rules do not face direct sanctions. The modes in which constraint is exercised vary depending on the youth in question. Constraint and surveillance are diffuse, transient, and flexible, in marked contrast to the use of threats, which functions in a more vertical fashion, as described in the following.

Making threats

Indeed, the *técnicas* also use speech to issue threats or warnings, although this function is less legitimate in the eyes of the institution than the mechanisms described earlier. Threats revolve largely around notifying the judge about *descumprimento* (failure to serve the measure) through an official report.⁷ The *técnicas* also warn the young offenders that they might be given a more severe measure (semi-open or confinement) if they fail to do their LA properly or commit new offences. More drastically, the *técnicas* sometimes remind youths who are almost 18 that they could end up in an overcrowded, dirty adult prison should they persist in their criminal activities:

I said to him: ‘Listen, Wanderlei, now my lad it won’t be Padre Severino anymore [provisional confinement facility for minors in Rio de Janeiro], right? . . . Now it’ll be Polinter, Bangu [adult prisons in Rio de Janeiro]. There’s no point calling Mrs. Priscila here anymore, my lad, you’re 18, what you do want me to do? . . . If you thought Padre [Severino] was bad, it’ll be ten times worse there.’

(Priscila, Comm. Off., RJ about Wanderlei)

Finally, the warnings sometimes relate directly to the risk of dying at the hands of the police or a rival gang.

The *técnicas*’ threats therefore focus both on punishments they can apply themselves (sending a report to the judge) and on those dealt out by others (a juvenile judge or a judge in an adult criminal court), as well as on the more general consequences of being involved in crime (the risk of dying). In the latter case, this is more advice than a threat as such.

In all cases, though, these threats are presented as benevolent warnings; the *técnicas* are careful to show that the issue at stake is not their exercising repressive

control over the youths but rather that the youths' actions may lead them down dead ends. In this way, when youths miss *atendimentos* too frequently, the *técnicas* explain they 'will have to send a *descumprimento* report if they don't prove more cooperative.' Similarly, when Sofia (Psych., BH) realized that Fabiano was heavily involved in trafficking, she warned him that she would be forced to send his case back to the judge if he did not choose to put a stop to his criminal activities:

I said to him: 'Listen, you're going to be able to think for a while, and otherwise, I'll have to send your case back, the judge is asking – I always talk to them about the judge – the judge is asking for news about you, and I'm paid to do this job, I'm going to have to send your case back, I have to do something.' And he said to me: 'Wait until I've paid my bills and I promise you I'll get out [of dealing] before the end of the year.'

(Sofia, Psych., BH, about Fabiano)

In reality, the *técnicas* enjoy substantial leeway when it comes to the information they pass on to the judge, both in terms of content and time frame: some wait several months, rather than the officially stipulated month, before informing the judge of a *descumprimento*, for example.

This 'government by threat' also extends to the juvenile court. In Belo Horizonte, one young man was arrested for drug trafficking while already in LA and referred back to that measure by the judge. During an interview with a *técnica* working at the court, he was told,

Ideally, you'd make the most of this opportunity. If you don't comply with it [the measure], you'll end up in confinement. No one wants that, right. . . . Don't stay outside at night, if the police arrest you, you'll be detained. If, in a month, you've not heard anything, you can go to the CREAS, otherwise there'll be an arrest warrant.

In the courtroom, when juvenile judges decide to apply an LA measure, they constantly repeat that 'this conversation will take a much more serious tone next time.' At the juvenile court in Rio de Janeiro, one judge let two teenagers remain free while their court proceedings were ongoing but warned their parents, 'They have to come to the hearings; otherwise it'll be an arrest warrant and straight to confinement.' The LA measure is consistently presented as an 'opportunity' and a 'last chance,' and the warnings sometimes take on a dramatic tone. One judge in Rio de Janeiro, for example, told a boy, 'If you don't stop this lifestyle, your mother will be weeping over your grave' and 'your mother had a turn when you were arrested; imagine if she dies, you'll carry that responsibility with you all your life.' The judge's strategy here consisted not only in scaring the youth but also in making him feel guilty. In a later interview, the same judge claimed that when youths expressed 'genuine remorse,' his decisions were more

lenient. These uses of speech seem to presuppose that fear and guilt can function as effective levers for action.

This use of guilt in the courtroom, consisting in showcasing parents' distress, has been observed in other contexts, both in Brazilian and French courts (Coutant 2005; Miraglia 2005). Similarly, the threat of repression exercised by judicial power is a classic tool of constraint in non-custodial settings. The constant references to the dramatic consequences of a life of crime, however, seem more specific to this particular social context. The professionals working in the socio-educational system do not content themselves with threats they themselves might carry out but also call on the violence of the outside world to try to spark some form of realization. Unlike the French judges studied by Coutant – who gave priority to 'a pedagogical endeavour to explain the law' (2005, 79) aimed at making people internalize the legitimacy of legal norms – the *técnicas* and Brazilian judges seem instead to rely on the effects of confronting them with the suffering that the real world can inflict.

Following an ethnographic study in juvenile courts in São Paulo, Miraglia (2005) also highlighted the profoundly theatrical and emotional aspects to the hearings. The judge's main aim is clearly to admonish young offenders, to 'teach them a lesson' such that they become aware of the error of their ways. Miraglia also contends that the judges take on a pedagogical role, with socialization dimensions, in an attempt to compensate for failures in the socio-educational system, which they believe is incapable of setting these teenagers back on the straight and narrow. These moralizing mechanisms are even more prevalent in cases where youths have been given a lenient measure, as though it were imperative to prevent them from acquiring any sense of impunity.

My analyses, however, suggest that this use of warnings and threats and attempts to induce guilt in court hearings is not in fact about compensating for the failings of the socio-educational system as suggested by Miraglia (2005). Instead, they seem to fall in line with the work done by the system more broadly. As the youths pass through the juvenile justice system, they are faced with a range of different actors who, one after another, alternate between giving them benevolent (and moralizing) warnings, using surveillance tactics, and encouraging reflexive thinking and 'responsibilization.'

But what punishments do the LA youths actually face after these threats and warnings? In reality, those who fail to fulfil the terms of their LA measure (by not attending *atendimentos* or refusing to comply with their *técnicas*' expectations) are unlikely to be punished by the socio-educational system. While, in theory, the judge can order an arrest warrant for young offenders who refuse to complete a non-custodial measure, it is rare for such drastic action to be taken, if only because it would require mobilizing the police to force the youths to appear in court. According to one juvenile judge in Rio de Janeiro, arrest warrants tend mainly to be reserved for cases where juveniles have escaped from

semi-open or confinement facilities, for those who have committed extremely serious offences, or for situations in which their lives are in immediate danger (death threats, compulsive drug use, and so on). Usually, therefore, youths who fail to complete their LA measure will not be arrested unless they reoffend. It is important to note that in the case of routine police checks, the only information present on the centralized computer system (in Rio de Janeiro, at any rate) is the fact that the youth is serving an LA measure; a police officer cannot, therefore, know whether that youth is complying with that measure satisfactorily. According to one *técnica*, the LA measure even functions as a form of protection for youths when they are checked by police, as the latter seem to believe that the socio-educational measure means that the youths are 'being watched' by the justice system.

The only truly repressive sanction that can be taken against youths who fail to serve their LA measure is disciplinary confinement – a fixed period of three months spent in a confinement facility. This action is only taken in cases considered particularly difficult (frequent recidivism, increasingly serious offences, and so on). Outside these relatively rare exceptions, the penal consequences of failure to fulfil the requirements of LA are mainly indirect and occur further down the line; for example, in the case of recidivism, when judges believe the youth did not take a previous LA measure seriously, they will be more inclined to hand down a more repressive sentence (a semi-open measure or confinement). In these cases, the judges often say something of this nature to the young offenders: 'We gave you a chance, and you didn't want to take it.' Once again, speech and responsibility play a central role in handling the young people who are serving an LA measure. Even when standing before the judge, being able to use speech to justify their actions remains both a requirement and a resource for the youths.

Individualized constraint

When we examine the different modes of constraint deployed by the LA system – engaging in surveillance, demanding justifications, making threats – we can see that this constraint is exercised in highly individualized ways. The *técnicas* have substantial leeway when it comes, for example, to the frequency of *atendimentos* or the reports they send notifying the judge of a youth's failure to do the measure (*relatório de descumprimento*). The youths who show signs of complying with the measure enjoy a more flexible, more negotiated form of control. Paula (Psych., BH), for example, told me that she became more flexible about Yuri's *atendimento* times once he obtained employment. He was less available and, above all, in her view, was 'managing to move forward on his own.' Viviane (SW, BH) was working with a young girl who came very sporadically to her *atendimentos* but given that she nevertheless cooperated when she did attend ('she's a very interesting young girl, she talks, she explains things, she says "I messed up,

I've got to get back to it," sometimes she calls me'), Viviane decided that her repeated absences did not warrant sending a report to the judge:

As I understand it, she needs to keep going with the measure. It's not necessary to send the case back to the judge, because she has a 'hook' (*gancho*) here, she feels comfortable, she likes it, and when you tell her to come, she manages to think about things.

(Viviane, SW, BH)

In other cases, the *técnicas* decide to space out the *atendimentos* so as not to 'lose the youth':

Actually it varies a lot . . . for example, the first month of Felipe's measure, he came once a week. Afterwards, we had to space it out more or else he'd have been fed up with seeing us . . . and so coming here has no meaning in the end . . . so actually, there are cases where we think they should only come back in a month. And we call the mother, we never stay a month without contact with the family.

(Patricia, SW, RJ)

As far as the *técnicas*' are concerned, some youths 'don't need' the LA measure – for example, those they believe did not commit an offence justifying a penal response and also those from more advantaged backgrounds. For example, Mayra (Educ. Spec., RJ), discussing Alexandre, who lived in a nice neighbourhood in Rio de Janeiro and was preparing to go to university, stated,

He's lovely, very well-educated, we don't want to turn his life upside down. It's better to monitor closely those who really need it.

(Mayra, Educ. Spec., RJ)

The *técnicas* could not see what use LA or community service might be to Alexandre (he had been given both), so they therefore decided to reduce his community service hours and proved entirely flexible where his absences were concerned. In their view, his English lessons and classes preparing him for university entrance exams were more important.

Within the LA measure, it is clear that control is highly individualized. This is a result, first, of the *técnicas*' high degree of autonomy (due, particularly, to the distance separating them from judicial power) and, second, of their professional conception of how support in LA should function. Some youths go through several stages before their failure to come to their *atendimentos* is reported to the judge (phone calls, letters summoning them, longer periods between appointments), whereas others face immediate sanctions:

There are cases where we know he has to keep on the straight and narrow . . . because we have information about the fact he's committing

infractions, and when he comes here, he says he's working . . . he says what he thinks we want to hear, and it is what we want to hear. And, through other channels, we learn that it's not true, that he's hiding the truth, so the strategy is to be firm, the *atendimentos* are fixed and he has to come. We have to put pressure on to show we're not just a bunch of sweet ladies. So I think that . . . each case is a case in itself. And I think it's important that we are able to individualize [our approach].

(Patricia, SW, RJ)

In sum, the constraint exercised by the institution varies depending on how convincing the youths manage to be in demonstrating their compliance with the socio-educational measure: while certain actions or types of behaviour can contribute to this process (returning to school, attending *atendimentos* regularly, and so on), it seems to depend above all on their ability to communicate verbally with the judges or *técnicas* and justify their behaviour.

Producing reflexivity, rationality, or conformity?

The different ways in which speech is used in interactions between youths and *técnicas*, analyzed in detail earlier, are rooted in different conceptions of a) the remit of institutional action (transforming subjectivities, instilling norms, and so on) and b) the relationship between the individual and the institution (horizontal, vertical, charged with affect, contractual, and so on). These uses of speech also provide insight into institutional theories about norms, deviance, and how individuals function more broadly (whether they are viewed as capable of reflexivity or, on the contrary, as needing to be taught moral values and to be admonished).

Analyzing the empirically diverse ways in which speech is used in this context reveals three distinct models. These models can be taken as productive analytical tools for identifying the structural tensions present in the process of working with youths in LA. They are therefore 'ideal-types' in the Weberian sense of the term, insofar as no individual model is ever perfectly applied in the *técnicas'* daily practice. This section describes the three models in question, before then turning to both the complementarity and points of friction that characterize their application in professional practice. Finally, we will see how each model, in its own specific way, gives substance to the institutional aim of 'responsibilizing' young offenders in LA.

The first model aims at transforming subjectivities and is based on a conception of youths as emerging individuals, capable of reflexivity. The very particular relationship between the youths and their *técnicas* (which is not unlike the 'transference' of the psychoanalytical relationship) leads to the youths' looking at things differently. This new perspective, which proceeds from their own reflexivity rather than being imposed by the institution, then goes on to guide their future actions. In this framework, individuals are 'normalized' in ways that relate less to values and behaviour than to their relationship to self: put

differently, the aim is to create ‘conformity of subjective capacities’ rather than ‘moral conformity’ (Cantelli and Genard 2007, 26). In many ways, this model is very similar to the new forms of public action described by Cantelli and Genard, which ask people ‘to govern themselves, to be the subjects of their own lives, but often by following a learning process, with support from “professionals of subjectivity”’ (Cantelli and Genard 2007, 20). Within this first model, the conception of the norm is both plural and relational: the youths are supposed to prove capable of devising their own individual life plans and of thinking reflexively about their behaviour.

The counterpart to the reflexive individual that this first model of government seeks to produce is an individual who is capable of producing discourse justifying his or her actions and making sense of his or her behaviour. Within this first ideal-typical model, surveillance and control therefore operate via a requirement to express valid reasons justifying actions.

This initial model – which appears in an ideal-typical fashion in the LA measure in Belo Horizonte – presents clear similarities with psychoanalytical schools of thought. However, the *técnicas*’ daily practices show that they take up these theories in their own way and modify them on an ad hoc basis. Traditional theories, particularly those derived from Lacan’s work, tend to be used in academic studies on the topic and at institutional events. In these contexts, psychoanalysis functions as a body of knowledge that legitimizes public policy. As we have seen, in the *técnicas*’ actual practices, this conceptual foundation is embodied in certain notions that they use to describe their work (*gancho*, *vacilar*), in some of their explanatory schemes (the absent father, for example), and also in some of their conceptions of human beings and human action (the individual as singular, the fact that time is required to come to certain realizations, and so on).

One of the central presuppositions underpinning these conceptions is that youths commit offences because of a lack of critical thinking, a lack of awareness of their actions and their consequences. By listening to them and engaging in dialogue, the *técnicas* hope to create this awareness thereby leading them to ‘choose alternative paths.’ The idea is that this verbalization will allow the youths to discover the meaning of their actions and then to ‘take responsibility’ for themselves, within society. This conception of change is largely based on awareness and realization being driving forces for change and ignores social positions and inequalities, as though awareness of the risks inherent to drug trafficking, the importance of school qualifications, or the good working conditions available on the formal job market might suffice for the youths to change direction.

The second model is based on the notion of a contract. The relationship between the youths and their *técnicas* remains horizontal but is more objective, less charged with affect, and less focused on the subject’s internal processes than the first model. The terms of the contract focus on concrete steps (returning to school, completing administrative procedures, and so on) and the degree to which the youths fulfil their commitments, as well as their progress along the

path traced out for them by their *técnicas*, which can be measured over time. This model is less about creating awareness than about presenting the youths with the different options available to them and encouraging them to make the 'right' choice. This appeal to reason is based on a conception of rational individuals, who must prove capable of grasping the opportunities afforded to them and of anticipating the consequences of their actions. In this model, surveillance takes the shape of requiring the youths to provide evidence of the steps they have taken and the progress they have made. With the more recalcitrant among them, the institution offers a reminder of the possible consequences of their actions (reports sent to the judge, application of more severe measures, and so on), positing that a rational cost-benefit calculation will lead the youths to change their behaviour.

I observed this type of contractual agreement more frequently in Rio de Janeiro, where knowledge and theories from the field of social work held a central and legitimate place. The sociology of social work has shown that this form of contractual action is increasingly prevalent in public policy. Interestingly, using contracts offers a way of addressing both 'left-wing' criticisms accusing social work of paternalism (the horizontal relationship repositions the individual as a subject with rights) and 'right-wing' criticisms levied against excessive leniency in social work (the contract forces the person benefitting from the institution to provide something in return).

According to Crawford (2003), contractual forms of governance spread through the penal justice system in response to criticisms about the ineffectiveness of prison. The notion of consent has therefore become 'encircled by coercion' (Crawford 2003, 500) because it is deployed in social spaces where vertical and repressive forms of constraint continue to weigh on individuals. Crawford's analyses show that this contractual form of control focuses more on consent than on coercion. However, he contends that while this type of control may be less punitive in the strictest sense of the term, it can also prove more intrusive (Crawford 2003, 502).

Finally, a **third model** of practices co-exists with the first two, this time based on a more traditional conception of social work. In this framework, the relationship between the *técnicas* and the youths is more asymmetrical and more vertical, because the former believe that the latter have to learn the rules of societal life. This idea of the norm is more univocal and substantive and less relational than in the previous two cases. The model aims to instil in the youths a set of norms that have been pre-defined by the institution (wearing appropriate clothes, expressing themselves politely) and that they have so far failed to internalize correctly, either because of inadequate family socialization or because they are involved in marginal social worlds. These norms cannot be challenged or negotiated because they are presented as the only way to conform to the 'reality' of the social world; behind the apparently neutral word *reality*, however, lies a set of normative beliefs about the type of social worlds into which the youths must learn to fit (school, work, and so on) and the ones

from which they should take their distance (their neighbourhood, the world of crime).

The actions of the *técnicas* and judges therefore resemble in many ways an endeavour to teach moral standards. The aim is to make the youths regret their actions by creating a sense of guilt (about the suffering caused to their families or to the victims of their actions). This relationship is not free from affect, quite the contrary: the *técnicas* intervene in the youths' lives to get them back 'on the straight and narrow' because they want to help the young offenders 'make good' – much as a mother helps and protects her children. Because the youths are considered too 'immature' or too 'rebellious' to respect the terms of a horizontal, trust-based relationship, the *técnicas* feel justified to call on third parties to monitor them and check that they are telling the truth.

The three models do not enjoy equal legitimacy in the field of public action: working on subjectivities and contractual forms of action both lie at the heart of contemporary institutional programmes, whereas the attempt to instil values and behavioural norms has been strongly challenged by critiques of welfare state 'paternalism.' Because of this lack of legitimacy, the third model is harder to identify in the discourse of the various professionals working in the socio-educational system in Brazil. It nevertheless remains clearly present in practice, albeit in combination with the other ideal-typical models.

It should also be noted that the three models do not ascribe equal importance to verbal exchange during the *atendimentos*. While verbalization is the cornerstone of conceptions of change in the first model, in the other two, social inclusion is conceived more as pertaining to integration in school or professional environments. In the latter cases, during the *atendimentos*, the *técnicas* will therefore above all try to assess what possibilities there might be for the youths to enter education or employment and try to prepare them for the entrance examinations to professional training programmes (telling them how to dress or helping them practise writing essays about their 'life plans,' for example).

Finally, while the first model is clearly predominant in Belo Horizonte and the latter two in Rio de Janeiro, the prevailing models all face some degree of criticism in both contexts. Certain *técnicas* in Belo Horizonte criticize the excesses of psychoanalytical conceptions of the subject, explaining that rather than waiting to see the youths' 'desire emerge,' it might also be useful to create new tangible opportunities for their social insertion. Conversely, the *técnicas* in Rio de Janeiro sometimes call into question the standardized normative expectations of the youths serving the measure.

Complementary models of action

While it is useful to distinguish between these three models for the purposes of analytical clarity, as shown in Table 4.1, it is nevertheless important also to consider how, in their practical application, they prove hybrid and imbricated. Lafargue (2009) suggests accounting for the plural nature of institutional modes

Table 4.1 The three models of government through speech

	<i>Model 1</i> <i>Transforming</i> <i>subjectivities</i>	<i>Model 2</i> <i>Drawing up a</i> <i>contract</i>	<i>Model 3</i> <i>Instilling norms</i>
Conception of the individual	Reflexive individual	Rational individual	Individual requiring socialization
Tools of action	Verbalization	Contract	Moral lessons
Conception of norms	Relational	Relational	Substantive
Relationship between individual and institution	Horizontal and charged with affect	Horizontal and contractual	Vertical and charged with affect
Driving forces for change	Realization, new meaning	Cost-benefit calculation	Regret, guilt

of action by identifying their points of friction, connection, and complementarity. This hybridity can be observed in interactions between state employees and public service users but also within institutional systems when different actors draw on different modes of action (Laforgue 2009). Laforgue also draws our attention to the fact that ‘things do not change as quickly as it is suggested within public institutions’ (2009, 12). Traditional modes of action – which normalize behaviour and thought and are embedded in an asymmetrical relationship between the individual and the institution – in fact remain prevalent. They have not been replaced by the new modes of public action, based on negotiation with and participation from users, but instead coexist with them in both contradictory and complementary ways (Laforgue 2009).

It is important to state from the outset that while the three models identified previously cannot be systematically tied to a specific local context (Belo Horizonte or Rio de Janeiro) nor to the *técnicas*’ initial training (as psychologists or social workers), they are not applied in random or arbitrary ways either. The models are activated according to a complex combination of rationales (the *técnicas*’ need to legitimize their actions, the practical requirements of those actions, the frames through which the youths’ situations are interpreted, and so on).

In order to understand how the three models underpinning support in LA coexist, combine, and complement one another, I look at four mechanisms. First, I describe a hybrid approach in an *atendimento* that combines instilling morals (model 3) and taking the youth’s perspective into account (model 1), showing how more horizontal forms of management are superficially injected into moral instruction. Second, I show how contractual relationships and practices of surveillance – negotiated control and imposed control – prove

complementary. Third, I examine the social determinants of horizontal management based on reflexive dialogue. Finally, I suggest that the frame of reference focused on the youths' autonomy and choices can also be used by the institution to mask its own impotence.

Moral lessons or meaning-making

The following dialogue took place during an *atendimento* between Sandro and his *técnica*, Viviane (SW, BH). Sandro was already serving an LA measure with Viviane when he was arrested for another offence (stealing a handbag). He then spent 47 days in Belo Horizonte's provisional confinement facility (CEIP) before the judge ordered him to return to his LA measure. Sandro missed his first three appointments. On this particular day, Viviane was seeing him again for the first time after these events. She immediately noted (for my benefit) that Sandro's mother was not present, a warning sign with regard to her involvement in her son's measure.

- VIVIANE: So, today is a return to the measure. You have to bring me your school certificate. What are your hours?
- SANDRO: 1.30 p.m. to 4.30 p.m.
- V: OK, so we can say Tuesday at 5.30 p.m. with me. How was it at the CEIP, what happened?
- S: I stole from the woman, I pulled at her bag.
- V: Were you on your own?
- S: No, with another boy.
- V: Did you both go to the CEIP?
- S: No, it was his first time, they let him go.
- V: What did you think of the CEIP?
- S: It was awful there, I don't like being in prison.
- V: But tell me how you felt. . . what did you think about?
- S: I thought about . . . changing.
- V: After the month in the CEIP, what did you do?
- S: I went back to school.
- V: What year are you in?
- S: I'm doing accelerated *6a*, *7a*, *8a* [programme aimed at pupils who are substantially behind, allowing them to finish the last three years of *ensino fundamental* in one year].
- V: Is your mother working?
- S: Yes, at Bradesco bank.
- V: What made you steal?
- S: I messed up. . . [he gives an embarrassed smile].
- V: And you have brothers and sisters? They don't do this kind of thing, right?
- S: No.
- V: How old are you?

- S: 15. Since February.
- V: Were you scared in the CEIP?
- S: Yes, I was scared.
- V: But was it a good thing that you went there?
- S: Yes, to learn not to do this kind of thing again.
- V: I remember one day you left angry because there weren't any transport vouchers, you said you wouldn't come back. But this kind of thing happens, that's life, you can't get annoyed like that, things don't always go the way we want them to. . . . So, are you willing to do your measure properly?
- S: Yeah, yeah. . .
- V: And you know, the judge has given you a chance, you could have gone into confinement. Have you committed a lot of infractions? This was a 157? [theft with use of violence].
- S: Yes, because she got hurt.
- V: And how did you feel when she got hurt? Did you regret it?
- S: I regretted it.
- V: If you keep racking up infractions, you'll go into confinement. And confinement is between six months and three years. . . . I don't think you need that, right. And how did you feel when your friend was released? You see, he's older, but he was released. And the situation's getting more complicated for you. Right, we'll fix the appointment for next week.
- S: Tuesday, yeah. . .
- V: The transport vouchers might not have arrived, so ask your grandmother to give you some money for the return journey too.

This account of Sandro's *atendimento* offers a choice illustration of the tension between a model based on moral discourse and the 'reality principle,' and a model concerned with taking into account how the youth understands his own experiences. The *técnica* reminded Sandro that he could not get annoyed every time he did not get what he wanted ('that's life') and that he had to learn to deal with reality. Paradoxically, she did not at all take into account the fact that the reality in question here was an institutional failure (youths in LA are supposed to receive transport vouchers for their journeys). Sandro was clearly being directed to act submissively in the face of events that might seem unfair, leaving no room for criticism. Indeed, this normalizing stance seems to have then driven the boy to offer some fairly conventional thoughts: he stated he regretted his actions thanks to his confinement period, which supposedly taught him 'not to do this kind of thing again' (although he did not say this with much conviction). His *técnica* turned this experience into the basis for the *atendimento*, focusing on his feelings during his temporary confinement – thereby illustrating the 'educational' function ascribed to imprisonment. Whereas Sandro and his friend had both committed the same crime, Sandro was detained (for 47 days) because he had already committed an offence. The young man himself seemed aware of this rule ('No, it was his first time, they let him go'). In the

eyes of both judges and *técnicas*, these periods of provisional confinement clearly serve to ‘make the youths think,’ including (or perhaps especially) those who then return to a non-custodial measure. This reveals a degree of interdependency between non-custodial and custodial settings that calls into question, in part at least, the principle of ‘freedom’ present in official discourse about managing youths in LA.

Although the *técnica*’s words mainly served a normalizing function in this case – in a top-down form of regulation – she nevertheless still asked the young man a series of questions aimed at understanding his point of view (‘What made you steal?’) and his feelings (‘tell me how you felt . . . what did you think about?’). In this case, the intertwining of the two registers can be explained by Viviane’s specific status in Belo Horizonte: she had a diploma in social work, had worked in confinement facilities for many years, and often expressed a critical view of overly psychoanalytical approaches in non-custodial settings. However, no doubt on account of the strong ideological control exercised by her superiors, she seemed also to have internalized some institutional principles about the importance of establishing horizontal relationships.

From negotiated to imposed control

While consent and ‘compliance’ lie at the heart of the government of youths in LA, other forms of control are also exercised. My analyses show an alternation between negotiated forms of control, based on the youths’ collaboration, and more forced, external forms of control. For example, a *técnica* might ‘make a pact’ with a youth that he will enrol at school. However, if he breaks that pact, she will then threaten him with extending the LA measure for so long as he fails to attend classes (while ascribing the responsibility for this decision to the judge). Similarly, *técnicas* try to build relationships of trust with the young offenders so that they will talk freely about their criminal activities and ‘think about’ their actions. Equally, the *técnicas* do not hesitate to check whether the youths are in fact telling them the truth by turning to third parties (local NGOs, other youths, parents, and so on). Negotiated control and forced control are therefore two sides to the same coin when it comes to governing young people in LA, where they can be treated as responsible and trustworthy individuals in a horizontal dialogue but at the same time as deviant individuals subjected to the constraining power of an institution in a vertical power relation.

In its concrete application, the LA measure therefore functions along a continuum of sorts: at one end of the spectrum, youths are encouraged to think reflexively and to take responsibility; in the middle ground, they are instructed to respect contractual commitments; and at the other end of the spectrum, they come under surveillance and are threatened with punishments that are often applied in other spaces and by other people. A certain division of labour can also be observed between the *técnicas* and the juvenile court: the former tend to draw more on horizontal modes for managing the youths (models 1 and 2),

while the courtroom seems to be the main locus for making threats, imparting moral lessons, and inducing guilt.

This therefore highlights the functional interdependency between non-custodial and custodial measures. On the one hand, the threat of confinement, as a potential lever for the youths' submission to institutional expectations, is integral to how youths are managed in non-custodial settings; on the other, custodial measures are justified by the fact that these youths failed 'to take the opportunity that they were given.' Contractual forms of penal justice therefore derive their effectiveness from the coercive possibilities offered by more repressive forms of justice. As Crawford puts it, they operate 'in the long shadows of the penal sanction' (Crawford 2003, 503). The contractual form can even reinforce traditional sanctions because the language of choice and autonomy implies that when individuals fail to fulfil their commitments, they alone are fully responsible. To quote Crawford again, 'failure to honour an agreement serves to legitimate more fundamental interventions into people's lives' (2003, 503).

Subjectivation and its social determinants

The mode of action applied in each case does not depend solely on the institution, its frame of reference, or the priorities of its staff. Intervention is based on interaction with the youths: the stance they take towards the institution, along with their skills and resources, all have an impact on how issues are broached. The type of subjectivation that reflexive dialogue tries to bring into play (model 1) depends strongly on the youths' linguistic resources and capacity for reflexivity (or at least on how these are evaluated) as one *técnica* in Belo Horizonte explained,

With Bryan, subjectivation is more complicated, because subjectivation, I don't know if it's also because of his precarious situation, you know . . . you have to be more present, in the reality, right, because he won't get moving [*se movimentar*]⁸ as much, whereas João Vitor, no, he's more clear-sighted, the *atendimentos* produced a lot more subjectivation, Joao Vitor gets moving, he had the right conditions to get moving, he had the right conditions to be autonomous, right, to understand that other choices were possible, whereas in Bryan's case, he needs more . . . taking care of, you know? He requires more. . . [for him] to get moving, you have to ask him for a lot more, ask him to do concrete things, say to him: 'I'm waiting for you there, go there.' Something much more educational'

(Cristiane, SW, BH)

It is clear here that, depending on the extent of this capacity for subjectivation, the *técnica* will either rely on the youth's autonomy or, conversely, take a more protective and paternalistic approach.

It seems complicated, at first glance, to provide a conclusive definition of what the social determinants of this ‘capacity for subjectivation’ might be, insofar as they are necessarily multifactorial (academic ability, age, relationship to language, interactions with the *técnicas*, and so on). Based on the data collected in my study, however, two contrasting figures did emerge: on the one hand, street children seemed particularly at a loss when required to use speech in ways that fulfilled the expectations of the reflexive model; on the other, those engaged in a rising career in the drug trade seemed, on the contrary, fairly comfortable expressing themselves verbally. Recent studies on the drug trafficking world (Malvasi 2011; Grillo 2013) corroborate this hypothesis. As these authors underline, verbal communication is a precious skill for dealers, particularly when it comes to resolving conflicts:

One has to show *mental* abilities and/or *vision* – in other words, discernment and eloquence in terms of ethics and the language of *Crime* – to know how to position oneself appropriately and produce coherent discourse that will be understood as *right* in the context.

(Grillo 2013, 133)

While this skill, acquired within the drug world, obviously does not entirely determine the relationship the youths will have with their *técnicas*, and particularly how much they will trust them, I would nevertheless argue that this socialization to verbal expression in trafficking does play a role in the reflexive abilities the youths demonstrate while serving their LA measures.

The ‘adolescent’s choice’ or institutional impotence?

In the course of my investigation, the *técnicas* regularly drew on the notion of ‘choice’ to describe and explain the teenagers’ trajectories both within and beyond delinquency. The youths ‘choose’ to get out of drug trafficking just as they ‘choose’ to comply with their LA measure and take the opportunity they are being given:

I think that LA is just a tool, the work has to be done by the adolescent . . . because I’ve already monitored an adolescent for a month, every day, and this adolescent killed someone and then died. I tried to make him understand by every possible means . . . he came and he said: ‘I’ve killed someone!’ And so I said: ‘Get out [of drug trafficking] otherwise you’re going to die.’ He said: ‘I’ll die in it.’ And he died in it, because it was his choice, it’s very clear when the adolescent chooses death. . . . In Fabiano’s case, though, it’s very clear that there’s been a realization in his life, and he’s saying to himself: ‘I’m going to use LA to get out [of trafficking].’ But he made that move, he’s using LA to get things moving, to get out of these activities.

(Sofia, Psych., BH)

Priscila (Comm. Off., RJ) always made a point of telling the youths she worked with that they were privileged to be serving an LA measure because ‘lots of others don’t even end up in front of the judge; they end up dead in a gutter, or are forgotten about in a semi-open or confinement facility.’ She then continued by referring to the question of life choices, describing the two paths the youths could take (a life of crime, easy money, and suffering or a life of honest hard work), concluding with the following prototypical illustration of the increasing imperative of self-control within the civilizing process (Elias 2001):

Listen, it’s not me who’s going to stop you doing it again, it’s not the judge, it’s not your mother, it’s not anyone else, it’s you, you have to be your own police officer, you have to know what you want for your life.

(Priscila, Comm. Off., RJ)

This rhetoric of choice, opportunity, and compliance fits perfectly with the first two models of action in LA: the youths can make a choice either because they have given new meaning to their lives (model 1) or because they have rationally considered the different available options (model 2). However, I would further like to suggest that this rhetoric also plays an important discursive role for the institution too: transferring responsibility for the success of the measure to the youths allows the institution to conceal the extent to which it is powerless when it comes to influencing their circumstances.

This hypothesis is confirmed by the fact that the *técnicas* draw on this idea more systematically when discussing the youths who are most involved in drug trafficking. As discussed earlier, with regard to the interpretive frames used to understand offences, when delinquent practices are at the heart of the youths’ social lives, the *técnicas*’ actions try to trigger a ‘decision’ by which the youths ‘choose to change their lives.’ With this in mind, the *técnicas* often build up an argument based on the risks inherent to drug dealing: police violence, multiple arrests, confinement in squalid and over-populated prisons once they are over 18, and the very strong possibility of dying young, either assassinated for betraying a faction, during a war with a rival gang, or at the hands of the police. By underlining these different aspects to the ‘life of a drug dealer,’ the *técnicas* hope to counterbalance the attractive aspects of trafficking in terms of financial gain and symbolic power. As Veronica (SW, BH) puts it, the aim is for the youths to ‘be really able to make a more informed choice.’ It is interesting to note the lack of moral arguments used in these attempts to influence the teenagers’ life choices; the *técnicas* focus on the risks the youths face rather than on the harm drugs cause in society more generally or the immoral nature of wars between organized crime gangs.

In the interpretive models the *técnicas* use to try to understand the youths’ trajectories in drug trafficking, the notion of ‘choice’ remains central even when they obtain information clearly showing that powerful social determinants are at play. Youths involved in a long career in the drug trade and who have risen

through the ranks of crime factions often come from a family background that is also firmly embedded in this world. The following excerpt from an interview with Paula (Psych., BH) illustrates this tension:

‘I have an adolescent who’s extremely involved in drug trafficking, whose uncle is also heavily involved in the region, and he uses that, and he’s an adolescent who, up until now, has chosen crime, unfortunately [. . .]’

‘Does he say to you “I don’t want to get out” or is that something you understand implicitly?’

‘He expresses that, he says that, he says crime is in his blood. His father was [a criminal], his grandfather was, and he will be too.’

‘His grandfather too?’

‘Yes, he says he doesn’t have much choice in life, that where he lives, in the alleys where he lives, everyone is involved in crime, that there’s a criminal organization where people give each other mutual protection; if one of them is arrested, another will give all his support to that family, he comes here a lot with this kind of discourse, focused on crime.’

(Paula, Psych., BH)

In this example, despite the boy explaining to his *técnica* that his involvement in trafficking was the result of both a ‘family tradition’ and the social reality of his neighbourhood, she remained unshaken in her belief that he had ‘chosen crime.’ She reinterpreted the social reality he described in terms of his ‘discourse focused on crime’ as though the social context in which he was embedded only existed in terms of his subjectivity and his words. My hypothesis here is that the cases of youths with a quasi-professional⁹ delinquent profile undermine the institution’s agency and that the notion of choice therefore offers a way of making this impotence palatable to the *técnicas* by effacing their responsibility. If desistance from crime depends on individual choice, then the *técnicas* can, in all good conscience, send cases back to the judge whenever youths explicitly confirm that they will not renounce crime:

It’s a choice. It’s very tricky, because if the youth tells me it’s his choice, I can tell him it’s his choice. . . . I hope he won’t come back again, because I don’t want to take any risks, I don’t want to be visited by a dealer. It’s a sensitive space here, I can’t denounce a youth who’s dealing, because I see others [other youths] who are there in that community. Youths in trafficking know me, I work with youths who are there, at the drug sales points. People know Veronica from LA. I don’t do any home visits so as not to take any risks, because I’m here saying, in a way, to these boys ‘What role are you choosing?’ When the boy tells me he’s chosen to carry on trafficking, there’s nothing left to do. . . . I send the case back to the court, because the LA measure won’t have any impact on that case.

(Veronica, SW, BH)

Veronica's words offer a glimpse into the *técnicas*' sense of powerlessness when faced with these youths who, moreover, pose a potential threat to professionals working in the socio-educational system. Faced with the impossibility of 'denouncing' them to the judge (for fear of reprisals), the *técnicas* 'send the case back' so as to divest themselves of all responsibility and, implicitly, signal that the youth's involvement in delinquency leaves them with no room for manoeuvre.

In sum, these observations indicate that modes of institutional action based on the autonomy and free will of youths serving LA measures are used in situations where the *técnicas*' have the least opportunity for action; by explaining the youths' situation as the result of a choice, the institution seems to be admitting its own powerlessness to influence the most all-encompassing and professionalized forms of involvement in delinquent life.

Responsibilization: a polymorphous concept

'Responsibilization' is a concept that is central to socio-educational work (Milburn 2009; Sallée 2010; Roux 2012) and more generally to contemporary forms of public action. Analyses focusing on the historical evolution of social policy discourse and frames of reference have clearly shown the rise of this notion and its progressive hegemony within different systems of state action, both in the penal and social spheres.

The Brazilian juvenile justice system is no exception to this rule: responsabilization is also at the heart of the institutional project for dealing with young offenders. This is clearly evidenced in the following refrain repeated by all the *técnicas* when asked what the main objective of the LA measure was: 'making the adolescent take responsibility for the infraction committed.'

It seems necessary, however, to go beyond this initial level of interpretation and examine what specific meanings the *técnicas* give to the notion of responsabilization and what techniques they use to encourage this process. Empirical studies focusing on the notion of responsabilization have shown that the term's semantic vagueness allows professionals to take it up in different ways (Roux 2012). As we shall see, the *técnicas* use the notion of 'responsibility' in shifting and polysemic ways: sometimes, the term refers to the youths' awareness of the transgressive nature of their actions (*regretting their actions*); at other times, it describes the youths' capacity to fulfil their commitments (*contractual relationship*); finally, sometimes it refers to their aptitude for judging what is good for them and in taking initiatives (*autonomy*). Clearly, these three ways of understanding responsibility are underpinned by the three ideal-typical models described earlier.

Regretting past actions

'Responsible' youths are, first and foremost, those who admit they made a mistake and caused harm to society. They must not only express regret about the

offence but also accept and respect the legitimacy of the justice system. Paula (Psych., BH) spoke, for example, about one of the youths she was working with saying he had ‘no respect for the measure’ and was ‘using his status as victim [his mother had died recently] to avoid taking responsibility.’ When taking responsibility is understood from this first perspective, the strategies used to foster it consist in using the justice system symbolically as a threat, reasserting both its repressive power and the legitimacy of the law. For example, when Soraia failed to attend her *atendimentos* for several weeks, her *técnica* decided to send a *descumprimento* report to the judge, notifying him of the young girl’s absence and mentioning her hope that this would ‘responsibilize her.’ Sometimes, the *técnicas* consider it necessary to responsibilize the parents instead. For example, Carolina (Psych., BH) decided to call Emerson’s parents in for a tripartite meeting with a *técnica* from the court in the hope that the symbolic power of the building itself would make the family ‘take responsibility’ for the situation (Emerson’s parents were preventing him from attending his LA meetings and, in the *técnica*’s view, were not taking the judicial decision seriously enough). This initial understanding of the notion of ‘responsibility’ is clearly very close to the third model of action, which is based on a vertical relationship between individual and institution and which draws on moral arguments to generate guilt.

Fulfilling new commitments

The second way in which ‘responsibility’ is understood relates to the ideal-typical model of the contractual relationship and concerns the youths’ ability to fulfil their commitments, to keep their word, and to prove themselves worthy of trust. The *técnicas* identify and observe this form of responsibility in things such as the youths’ attending their *atendimentos* diligently and on time or respecting their obligations at school. In this case, the strategy for responsibilizing the youths consists in getting them to make commitments and then assessing their ability to keep their word. For example, rather than presenting school attendance as a requirement of the LA measure, the *técnica* might ‘disguise’ it as the teenager’s own initiative:

When the youth goes back to school, I’ll go with him to see the head-teacher and it’s the youth who explains why he wants to go back, it’s what he says that counts. . . . When I do that, things go differently, because I can say to him: ‘I was there, and you said that, and you’re not going to follow through? What about your word?’

(Veronica, SW, BH)

Demonstrating autonomy

Finally, a third *ad hoc* meaning is given to the term ‘responsibility.’ In this case, the term is almost synonymous with autonomy: the youths’ responsibility is

measured in terms of their capacity to act independently and to engage in endeavours that further their own plans and interests. This ties in with the first model of action, where the aim is to wait for ‘desires’ and future plans to emerge from the youths themselves. Viviane (SW, BH), for example, felt she would only be able to end one young girl’s LA measure when she had managed to ‘do something for herself.’ The girl in question claimed she wanted to work but had not completed the necessary administrative procedures to obtain her ‘worker’s card,’ which, as far as her *técnica* was concerned, proved her lack of autonomy. It is harder to identify the responsabilization techniques used in this third context because autonomy is, by definition, something that comes from within the individual (whereas respecting the norm/institutions and fulfilling inter-personal commitments can be more directly mediated, instilled, and sanctioned by others).

In the daily management of youths in LA, the notion of ‘responsibility’ is therefore polysemic in its applications, in line with the three models described earlier. Furthermore, it is interesting to note that this responsibility is ‘no longer simply the desired result of educational action, it is also the driving force behind it’ (Sallée 2010, 9) and perhaps even a skill required of youths in LA from the outset. In court, for example, judges tell the teenagers that they have decided to give them an LA measure because they have faith in their ability to be responsible and autonomous. Similarly, in Belo Horizonte, the municipal department for non-custodial measures advises *técnicas* not to go and fetch recalcitrant youths from their homes because they are supposed to prove that they are responsible enough to come to their *atendimentos* alone.

In sum, the range of ways in which the notion of responsibility is applied in practice gives the *técnicas* considerable leeway in how they understand the responsabilization process itself. They can decide that youths have become responsabilized because they have recognized the serious nature of their offence, because they are attending their *atendimentos* on time, or because they have expressed interest in a professional training programme without being prompted. This multi-faceted requirement for responsabilization also allows the institution to avoid questioning the efficiency of the system of government in place: ultimately, the youths will always be held responsible for any lack of impact that the socio-educational measure might have, either because they proved incapable of ‘taking that opportunity’ or because they were not sufficiently ‘autonomous’ to act in ways that furthered their own interests.

Conclusion

In sum, speech, as we have seen, is the central tool in the government of young offenders in LA. For the *técnicas*, it is a tool for working with the youths, and for the youths, it is a resource allowing them to convince the *técnicas* and judges that they are complying with the measure. Speech is the condition of possibility for action (without verbal exchange, it is impossible to work with youths in LA),

but it is also both a tool for the *técnicas* (to stimulate reflexivity, demand justifications, or issue warnings) and one of the aims of the measure itself (developing the capacity to reflect verbally on actions). Sometimes, speech lies at the heart of the *técnicas*' conception of transforming the subject (using *ganchos*, making use of their words to produce a 'realization,' and so on), while, in other situations, it is simply a channel through which to pass on values or issue warnings.

Speech is not only used to change subjects, but it is also a tool of surveillance and control. The youths' discursive skills are a key factor in the *técnicas*' assessments, and their ability to produce discourse that meets institutional expectations has concrete effects on the control exercised by socio-educational institutions. Detailed and systematic analysis of the uses and functions of speech also implicitly reveals the different conceptions involved in the management of youths in LA. These conceptions are based on different visions of the individual, the driving forces that underpin individual change, and the objectives of the measure in terms of normalization.

The three ideal-typical models of action identified in this chapter offer a way of understanding the different tensions present in the LA measure, as shown in Figure 4.1. The first tension lies in the contrast between, on the one hand, listening to the youths and providing them with support and rehabilitation

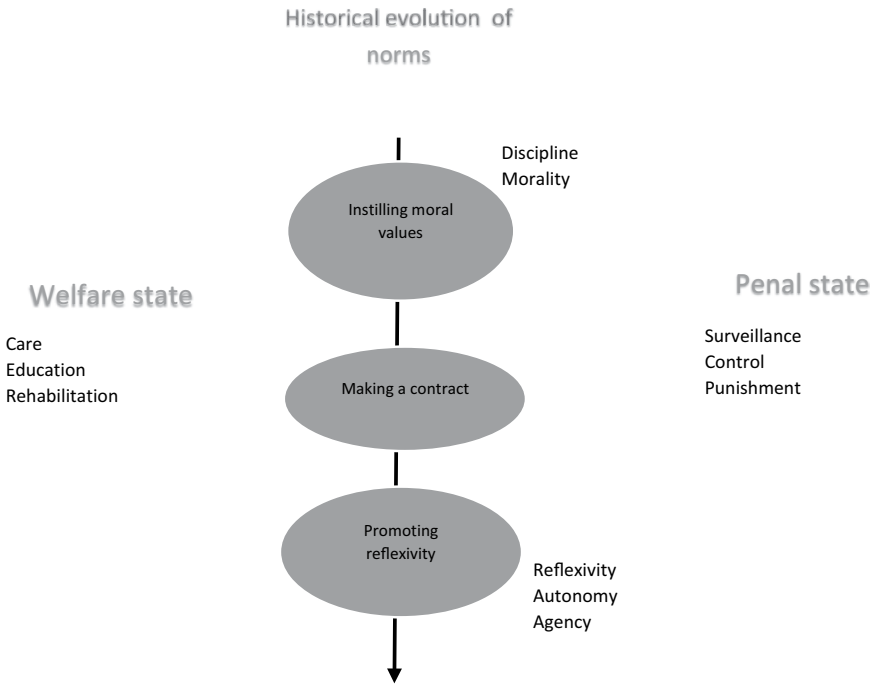


Figure 4.1 Evolving norms in LA: between the welfare state and the penal state

and, on the other, exercising surveillance and control; put differently, this is an opposition between a social approach and a penal approach. The second tension is the result of historical changes in social work more broadly: on the one hand, there is the more traditional aim of bringing individuals in line with the norm through the use of discipline and moral lessons; on the other, there is the more contemporary aim of achieving this through individual responsibility and by promoting autonomy and agency. The latter approach is more prevalent in official discourse and frames of reference, as it enjoys greater legitimacy today than more vertical and disciplinary approaches. In practice, though, these seem to be complementary and not competing methods: when horizontal dialogue and trust are undermined, the *técnicas* use techniques of surveillance and try to bring the youths back to principles of 'reality.' Unlike the findings of Roux's analysis (2012) of reparation measures in France, inducing guilt does not seem to be of central importance in LA. Moral lessons are reserved for the courtroom or for one-off offences, interpreted by the *técnicas* as 'accidents.' When dealing with youths who are, on the contrary, deeply involved in criminal careers, the *técnicas* try to make them aware of the risks they face in the world of crime rather than of the immoral nature of their delinquent activities.

The *técnicas* have substantial leeway when it comes to navigating between these three models and using the techniques and expertise they deem most appropriate, depending on the situation at hand. Although we have seen that professional socialization and local frames of reference play an important role in determining the choice of tools, the profiles of individual youths and the relationships established with them are also important factors. These relationships cannot just be viewed reductively as forms of unilateral subjugation, whereby *técnicas* ascribe identities to their charges as either 'irresponsible' or 'autonomous' youths. On the contrary, it is clear that the youths themselves contribute to defining which mode of action will apply in their particular case. With especially vulnerable youths, for example, the *técnicas* will work more to provide support than to encourage verbalization and reflexivity. Similarly, the youths agree to play along with dialogue and reflexivity as long as their *técnicas* also meet their needs and respond to their concrete requests. When this does not happen, they can disrupt the meaning that the *técnicas* give to the relationship by refusing to speak or by repeatedly failing to attend appointments. This fits in with Valli, Martin, and Hertz's (2002) observation that the meaning of institutional action is coproduced by public service users and state employees.

This analysis of uses of speech also raises the question of the psychological theories underpinning different strategies of action, and particularly the role of psychoanalysis. Beyond the legitimizing function that psychoanalytical theories have in Belo Horizonte, they clearly also have an impact on the LA measure's professional practices more broadly. Psychoanalysis seems to undermine cognitive psychology's voluntarist conception of the subject. Indeed, Dufresne and Goupil have shown that the recent spread of cognitive psychology within the field of social work has led to the subject being considered as rational and

capable of change when sufficiently determined (Dufresne and Goupil 2010, 137). However, the dominant conception of change in LA remains based on the long term, on individual singularity, and on introspective analysis of life courses. This approach therefore takes some measure of distance from the voluntarist and standardized notions of conversion specific to cognitive theories.¹⁰

Only certain borderline situations seem to prompt a more voluntarist viewpoint among the *técnicas*. The notion of the 'adolescent's choice' primarily arises in situations where the youths in question have engaged in a proper career in the criminal world. This empirical observation offers a heuristic lens through which to view the effects that the increased professionalization of juvenile delinquency in the Brazilian drug trade has had on the tools and objectives of non-custodial measures. When the offences committed are not symptomatic of a problematic life trajectory or the result of a lack of either reflexive thinking or socialization to dominant norms, then the usual management models (responsibilizing youths, behavioural socialization, and so on) are undermined. The notion of 'choice' therefore becomes central to the *técnicas*' discourse, as they find themselves powerless in the face of these youths whose delinquent behaviour is in fact a structural principle in both their social lives and their identities. Nevertheless, even in these situations, this voluntarist prism seems to serve as a way of compensating for institutional impotence rather than as a genuine theoretical foundation for action.

To conclude, my analysis of the modalities of surveillance and punishment within the LA measure has revealed a diffuse and flexible type of control, adjusted according to the youths' level of cooperation. This individualized form of control is possible because of the considerable leeway afforded to the *técnicas* in how they monitor the youths, and it is exercised in ways that depend strongly on the youths' ability to convince the *técnicas* (or judges) that they are complying with the measure. In order to do so, the youths therefore have to master the repertoire of arguments deemed socially acceptable by socio-judicial institutions. As we have seen, in the courtroom, judges place particular value on dialogue and collaboration; furthermore, in justification hearings, having a job or facing death threats are acceptable and legitimate reasons for failing to fulfil obligations linked to the measure.¹¹ This form of control corresponds perfectly to what Memmi describes as the result of the individualization process specific to the contemporary period: 'social agents internalize state discourse rather than being subjected to it through judicial sanctions imposed on deviant practices. And they can content themselves with minimum, purely discursive, compliance allowing them to produce this discourse whenever necessary' (Memmi 2000, 15). However, the control exercised by the Brazilian socio-educational system cannot be reduced to the horizontal, discursive, and minimalist form observed in the LA context. Youths are also deprived of liberty in semi-open or confinement facilities, which in many ways reproduce the reality of incarceration. There is therefore a division of labour in how control is exercised. On the one

hand, the *técnicas* rely on a horizontal relationship with little repression; on the other, they act as intermediaries for more repressive authorities by threatening the youths with the possibility of confinement should they fail to comply with their non-custodial measure.

Notes

- 1 Solini and Basson (2012) have shown, for example, that one of the new forms of control in juvenile detention centres in France involves 'forced hyperactivity,' in which the youths' daily schedules take a frenetic pace with activity after activity, leaving no free time whatsoever.
- 2 Technologies of the self 'permit individuals to effect by their own means or with the help of others a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being, so as to transform themselves in order to attain a certain state of happiness, purity, wisdom, perfection, or immortality (Foucault 1988, 42).
- 3 'You've lost' (*perdeu*) is the expression used in Brazil when approaching someone with a view to stealing something from them.
- 4 While this first use of speech appears in its more ideal-typical form in Belo Horizonte, it does not apply to all the *técnicas* there. Conversely, some *técnicas* in Rio de Janeiro, particularly those who have had training in psychoanalysis, also believe their role consists in helping the youths to 'look at their own trajectories' and 'resignify' their relationships to work, school, or family.
- 5 The law on the implementation of socio-educational measures, which came into effect in January 2012.
- 6 In Brazil, programmes exist to help disadvantaged families buy property.
- 7 I do not have statistical data about *descumprimento* rates, which are difficult to calculate, as they can relate to very different situations: sometimes the youths never present themselves at the CREAS to begin the measure, sometimes they stop attending their *atendimentos* for several months before returning, and sometimes they come to the CREAS sporadically (once a month for example) without ever completely ending the measure. According to the *técnicas* I questioned, approximately six out of ten youths complete LA. Of the four remaining youths, one or two never come to the CREAS in the first place, and the others stop coming over time. These estimations are in line with the information contained in the files I analyzed: out of 30 files archived at Chiquinha Gonzaga, seven reported a *descumprimento* situation.
- 8 *Se movimentar* literally means 'to move oneself.' The *técnicas* in Belo Horizonte often use this term to describe the concrete actions and reflexive processes in which the youths engage during their measures. It always has a positive connotation and refers to the youth's capacity for autonomy.
- 9 According to the *técnicas*, there has been a constant increase in the number of cases such as this over the past decade.
- 10 Gowan and Whetstone's (2012) work on rehab centres for criminal addicts provides a striking illustration of these mechanisms of conversion through effort and willpower.
- 11 According to Berger and Luckmann (2011), legitimation implies a cognitive and normative dimension. The youths in LA must therefore make legitimate (i.e., socially acceptable) their aptitude to behave as citizens by demonstrating they have mastered shared social values and knowledge. Additionally, it should be noted that forms of legitimation depend on the institutional context in which the interaction takes place: death threats and questions of territorial conflicts would probably not be legitimate excuses in other contexts of juvenile justice, where violence and organized crime are less prevalent.

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The outside world

Rehabilitation or harm reduction?

The government of young offenders in LA is based on interpretive frames explaining their offence, as discussed in Chapter 3, and draws on speech as its central tool, as we have just seen in Chapter 4. As a non-custodial measure, the very nature of LA also means that this government also involves a third salient feature: enrolling youths in traditional institutions of socialization outside the juvenile justice system, namely school and employment.¹

Over the past decade, the sociology of prison and of total institutions more broadly has started to reconsider the hermetic nature of these establishments, focusing increasingly on the exchanges that take place between the inside and the outside (Chantraine 2004; Aeby and Berthod 2011; Touraut 2012; Darley, Lancelevée, and Michalon 2013). Looking at the management of offenders in non-custodial settings necessarily raises the question of the porous nature of institutional boundaries. In such contexts, the penal system has to work beyond the borders of its institutional spaces and function in social contexts that in many ways escape its control. Examining non-custodial measures is therefore a useful way of addressing how institutions are embedded in a social world to which they are forced to adapt.

This chapter therefore ventures beyond the walls of the CREAS and its face-to-face interactions between youths and their *técnicas*, endeavouring to understand the issues at stake when it comes to integrating these youths in general institutional provision. For the *técnicas*, governing youths in LA within the broader context of the city means adapting to the realities of the Brazilian school system and employment market but also working around the regular incursions of rationales specific to the drug world. As we saw in Chapter 2, the *técnicas* in Belo Horizonte have a stronger and denser network with regard to education and professionalization than those in Rio de Janeiro. However, both contexts throw up identical issues when it comes to how the LA system is embedded in the broader social world. For this reason, this chapter does not engage in comparative analysis but addresses both contexts together.

When the *técnicas* facilitate the youths' enrolment in education and work, they 'pass on the torch' to other institutional bodies and delegate – or at least share – their responsibility for regulating these young offenders (in terms of

behavioural socialization and control but also in terms of their responsabilization). One of the guiding principles of non-custodial measures underpins this approach: only general institutional provision, with its universalist features, can truly contribute to the social inclusion of young offenders. This conception of rehabilitation is also prevalent, for example, in Switzerland (Frauenfelder, Nada, and Bugnon 2018), among professionals working in juvenile detention centres. These professionals believe that the institution is incapable of reproducing the social reality of the outside world and that youths will only be able to prove themselves 'responsible' and 'autonomous' once they have left its walls.

This chapter examines two of the key issues that result from the government of youths in LA being embedded in the institution's broader social context. The first relates to the youths' social identities (Goffman 1963), which are marked by the fact they belong to the world of the *favelas* and, in some cases, have strong connections with the organized drug trade. While these affiliations do not always produce visible stigma, they do, nevertheless, often produce forms of stigmatization, excluding the youths from certain educational and professional spaces. Additionally, the juvenile justice system itself produces a further labelling effect: the very fact that these young people are serving a socio-educational measure (whatever offence they have committed and even when they have not committed one) assigns them a 'delinquent' identity, which can appear at any time in the different social worlds they have to navigate. As Goffman (1963) has shown, stigma can be more or less visible and, above all, various strategies can be used to conceal it in given social contexts. This chapter begins by analyzing stigma within the LA measure and looking at the strategies *técnicas* can use to counter labelling effects (Becker 1963) and enrol youths in school and professional training programmes.

The second issue relates to the extremely unequal, stratified, and segregated nature of contemporary Brazilian society. The youths in LA measures tend mainly to come from the most disadvantaged segments of society. And yet the government of youths in LA aims to enrol them in school and in the professional world according to standards that are, in fact, specific to the middle and upper classes, without taking into account the actual conditions of possibility for their inclusion in school or employment. As 'street-level bureaucrats,' to use Lipsky's term (1980), the *técnicas* bear the brunt of this institutional hypocrisy (Brunsson 1986). The second section of this chapter therefore sheds light on the constant gap between public policy expectations and the youths' actual horizons of possibility, describing how the *técnicas* adapt to this lack of institutional pragmatism.

Moreover, following on from the work of authors who have tried to understand the modalities at play when people from the world of crime reinvent themselves in the world of work (Mauger 2001; Coutant 2008, 2011), the chapter also identifies the skills and resources that prove necessary for admission to professional training programmes.

The youths' citizenship (both as a reality and as an institutional ideal) is also a central question running throughout this chapter. Within the LA policy's referential, there is the aim of embedding these youths in the city – especially by allowing them to achieve a new social status (as students, as workers). For the institution, this process is a positive extension of the youths' existing social identities, which were previously restricted to delinquency and the ghetto life of the *favela*. In short, LA seeks to promote a broader form of citizenship for them. In reality, however, we shall see that access to such citizenship is mainly predicated on normalizing the youths and 'shaping' them such that they meet the expectations of the middle classes rather than on any institutional recognition of their diverse profiles and identities.

Box 6 Professional training programmes in Rio de Janeiro and Belo Horizonte

My study examined four professional training programmes: two in Rio de Janeiro (Promovendo Justiça and Firmando Vidas) and two in Belo Horizonte (BHAAS and Projeto Digitalizando).² Both cities do have other similar programmes, but it seemed relevant to focus on these four because they take on board the majority of LA youths sent to professional training programmes. This is probably because, to differing degrees, they all target youths in the socio-educational system and adapt their selection criteria and procedures to this public. From a legal perspective, the programmes fall under the Brazilian law on young apprentices (*jovem aprendiz*) aimed at young people between the ages of 14 and 24 doing professional apprenticeships. While the programmes take different formats, they all require youths to pursue education alongside their professional training. The salary of a 'young apprentice' corresponds to the Brazilian minimum wage (545 reals in 2011).

The Promovendo Justiça programme takes place within the Rio de Janeiro Court of Justice. The programme takes on approximately 100 youths serving an LA measure. These young people work in various sectors of the court as 'auxiliary administrative assistants' (*auxiliar administrativo*). The contract lasts for two years and the working day is six hours. In parallel to work and study, participants can enrol in remedial education or IT classes, and they are also eligible for cultural excursions organized by the programme's team of *técnicas*. This team is composed of a psychologist, a social worker, and several interns, and together they provide support to the youths and monitor their behaviour in the workplace, trying to resolve any conflicts that arise with managers. In order to qualify for the programme, the youths must be enrolled in school in *ensino médio*

(the last three years of compulsory education in Brazil, usually completed between the ages of 15 and 18). They are also not allowed to repeat the school year during their apprenticeship. The programme has a stringent selection process: in one of the application rounds in early 2011, 35 places were available for 92 applicants. Each month, the 'best young worker' is selected, imitating the contemporary management techniques used in large American corporations.

The Firmando Vidas programme was set up by a state-run charity in Rio de Janeiro and is aimed at vulnerable youths, increasingly those from the socio-educational system. The programme defines itself as a gradual initiation into the professional world, with a view to then channelling its participants towards more stable but also more demanding 'youth apprentice' contracts. They work in Detran offices (the Rio de Janeiro automobile department), and their job consists, in particular, in changing car number plates, for which they are paid 450 reais per month.³ The most 'deserving' of them are then redirected towards the competitive entrance exam that selects youth apprentices for the CEDAE (Rio de Janeiro state's water and sewage company), where they can obtain a two-year contract. According to the director, Firmando Vidas provides an initial experience of professionalization with greater educational support and more tolerance for transgression than traditional youth apprentice schemes. A team of interns monitors all the youths in their workplace and conducts regular visits in the Detran offices.

The BHAAS programme recruits youths from the different agencies of the Secretariat for Social Services in Belo Horizonte. Participants must be aged around 15 and a half and be enrolled in school. While LA youths do not make up the majority of the participants targeted by the programme, a certain number of places are nevertheless reserved for them. Each CREAS can send two LA youths at each new round of applications. The youths accepted begin by following a two-month class preparing them for the job market and are then assigned to a post in one of the city's public institutions for two years. During the two-month class, participants alternate between more typically academic activities and cultural or 'citizen' excursions (visiting the Town Council, attending a debate on drug trafficking, and so on). Assignments to these posts are personalized and depend on the youths' skills and personal characteristics, as observed during the two months of preparatory training. Once the youths are working, a *técnica* assigned to BHAAS continues to monitor them via monthly assessment reports sent by their manager.

The Projeto Digitalizando programme takes on youths sent by the *técnicas* working at the juvenile court in Belo Horizonte. The programme lasts three months (three hours per day, four days per week)

during which approximately 20 youths aged 15 to 17 receive IT classes (Linux, Office, Firefox) and support with accessing employment. At the end of the training programme, participants who have successfully passed their exam (around 40%) receive a certificate of aptitude that is recognized in the job market (it is accredited by a national professional training institution); the others simply receive an attendance certificate. This programme can also be a way of moving on to the youth apprenticeships run by the BHAAS and the APM (an organization similar to BHAAS but not specifically aimed at LA youths), as these organizations take a minimum of four students from each Projeto Digitalizando group. No *técnicas* are specifically assigned to this programme, and so the coordinator asks the *técnica* handling the youths' non-custodial measures to deal with any conflicts.

Labelling strategies

At the foundation of the LA measure, there is an obvious tension between, on the one hand, protection and social welfare and on the other, repression and the penal system. This paradox is particularly evident when the *técnicas* attempt to (re)enrol the youths in school or secure their admission to professional training programmes. On the one hand, education and professionalization are clearly legal obligations connected to the socio-educational measure: as a consequence of having been labelled 'delinquent' by the juvenile justice system, the youths must return to school and engage in professionalization. On the other hand, the fact that non-custodial measures are assigned to the Secretariat for Social Services is the result of a desire to emphasize the identities of these young people as 'vulnerable' rather than as 'delinquents,' just like the target public of social services more broadly.

As a result of this tension, the *técnicas* use various strategies to 'include youths without stigmatizing them.' This consists in emphasizing certain facets of their social identity while hiding others and working around certain unavoidable 'labels.'

While socio-educational institutions are one of the sources of the 'young deviant' label, it is also important to underline that even before these young people are assigned to an LA measure, they often already carry the stigma of being 'difficult,' 'violent,' or 'problematic' youths. They have often already been labelled 'deviant pupils' by the educational system. The school records of most youths in LA include repeated years, times when they have dropped out, and expulsions.⁴

Being labelled a 'deviant pupil' significantly lowers a young person's chances of returning to school. For example, when Felipe's *técnica* found a place for him, she received a phone call from the headteacher, who explained that his

enrolment had in fact been refused. When she had seen his full name, she had realized that he had previously stolen from a teacher in the school. In addition to this status as a 'deviant' pupil, an additional label is sometimes applied that also predates the LA measure. In this instance, it does not derive from a public institution but from the social world of drug trafficking. Youths living in *favelas* are almost systematically affiliated with the criminal territories and factions of their neighbourhood, even when they are not directly involved in the drug trade (Grillo 2013, 56–57). This 'label' determines their horizon of possibility with regard to social relations and presence in the *favela* territories.⁵ In certain extreme examples, such as Rodrigo's case discussed in earlier chapters, this affiliation to the drug world prevents any return to school. Rodrigo was 'at war' with several rival gangs, and his responsibilities in the drug trade made him a public persona who could only move around safely within the perimeter of his own gang's territory (which was so small that it did not include a school). Socio-educational institutions take these territorial conflicts very seriously because they can have fatal consequences for the youths involved. Schools also use – or exploit, in the *técnicas*' view – the notion of 'wars' between rival gangs to justify refusing to enrol a youth because of the dangers involved.

In addition to taking the youths' prior labels and social statuses into account, the *técnicas* also have to adapt to the stigmatizing effects of the LA measure itself. Schools, professional training programmes, and employers alike are reticent about taking on youths who have been labelled delinquent by a juvenile judge. To reduce the risk of stigmatization, the *técnicas* draw on their affiliation with social services to remain vague about the youths' identities. They say to the schools that a young person 'being handled by the CREAS' needs a place to continue his or her education, without mentioning the LA measure itself. Afterwards, they avoid contacting the school directly about the youths in questions and instead ask their parents for information about how their schooling is going. Sometimes, when schools do find out that youths are serving a socio-educational measure, they then put pressure on the *técnicas* to find out what the offence in question was. This happened to Carolina (Psych., BH), for example, who was forced to explain that Emerson was only guilty of non-violent theft in order to counter the ever more paranoid hypotheses formulated by his teachers (drug trafficking, murder, and so on). When the label 'LA youth' becomes visible in the school context, the youth's identity is reduced to that of a delinquent – a 'master status' in Becker's sense of the term (1963) – and, according to the *técnicas*, the schools tend to invest less energy in these children, whom they consider to be problematic and who are already being handled by social services anyway.

When schools know the boys are in LA, the boy stops being a citizen with rights in their minds and becomes a boy from LA. So they say to us: 'Your boys.'

(Carolina, Psych., BH)

Paradoxically, although the *técnicas* generally do everything in their power to prevent schools from identifying their youths as ‘boys from LA,’ they do sometimes draw on judicial rhetoric as a way of applying pressure on these establishments when all other efforts have failed. Keeping youths in LA at school (or getting them to return to school) is an officially defined key objective of the public policy; the *técnicas* therefore inform reluctant schools that educating these youths is a legal mandate that they cannot refuse. For example, Mayra (Educ. Spec., RJ) decided to write a letter to the Regional Educational Bureau (CRE), signed by the head of the CREAS, in order to obtain a place for one of her charges. The letter began by thanking the CRE for their collaboration with the CREAS and ended by mentioning that education is a legal obligation and that the CREAS was accountable to the juvenile court in this regard. Mayra explained to me,

I tried to use a friendly and not too legalistic tone, to see if the case moves forward; but if nothing happens, we’ll have to go via the judge.

(Mayra, Educ. Spec., RJ)

In order further to reinforce the symbolic impact of the criminal justice system on the letter’s addressees, Mayra stamped ‘confidential’ on the envelope. ‘That will set the tone!’ she said mischievously. Suddenly, the status of ‘youth serving a judicial measure’ becomes a factor facilitating educational inclusion and a means through which the *técnicas* can apply pressure on establishments. This strategy calls on legal power to force schools to collaborate, given that, despite theoretically being part of the LA ‘network,’ they in fact tend to leave all the responsibility of handling these youths to the CREAS.

Box 7 Use of labelling strategies in re-enrolling youths in school

Felipe’s case offers a prototypical example illustrating the difficulties facing the *técnicas* with regard to getting youths re-enrolled in school. Felipe was 14 years old and not enrolled anywhere. He had the academic level of a child of 10. His *técnica* therefore asked the CRE for a place for him in a school. Twice, the CRE suggested solutions that were not appropriate for his situation: the first was a special class for young adults returning to their studies but legally reserved for youths aged over 15; the second was a place in a school located in a *favela* run by a rival faction to the gang running the *favela* where Felipe lived. His *técnica* therefore decided to write a letter to the CRE emphasizing the need to find a solution suited to Felipe’s needs and profile. However, she had to omit certain

pieces of information (the fact the headteacher at Felipe's former school refused to take him back and the issue of rival criminal factions) so as to avoid emphasizing his 'deviant' profile. The letter ended by mentioning the court, stating that educating Felipe was part of a judicial decision and that she would have to report back to the judge about this. Following this letter, the CRE eventually found Felipe a place in a school in his neighbourhood, where he would be taught with children four years younger than he was. His *técnica* decided that this was better than the other available options but was unsure how she would manage to convince Felipe and his family of the merits of this solution.

These labelling strategies play out very differently when it comes to enrolling youths in professional training programmes. In this context, the youths' 'deviant' identities are made visible to different degrees depending on the admission criteria for each programme. Some are open to the general public and, in these instances, the youths in LA tend to be presented 'anonymously' (however, they rarely succeed in these competitive entrance exams because of a combination of social handicaps, as we shall see). Other programmes, however, specifically target youths from the socio-educational system. While they have more flexible admission criteria, which are better suited to the profiles of young people in LA, they also entail a risk of further stigmatization, as the youths are immediately considered 'potential delinquents.' A corruption scandal at the Rio de Janeiro court in 2010 clearly confirmed this. Some lawyers were accused of having bribed staff at the court to speed up the processing of their clients' cases, and, although various staff members appear to have been involved, media attacks about this scandal mainly focused on the youths from the Promovendo Justiça scheme.⁶ Following these events, the young people on this programme were removed from the department applying criminal sentences (and assigned only to civil and administrative jurisdictions) and were also prohibited from having any contact with lawyers.

Between these two extremes (a completely anonymous youth versus a youth in LA), there is also a third type of case, which, for example, I observed with the BHAAS programme in Belo Horizonte. This programme is aimed at all the young people being dealt with by social services and functions according to a quota system: each CREAS can send two youths in LA. As soon as they begin the class preparing them for the working world, the LA youths are mixed with youths from other programmes run by social services and become 'vulnerable youths' like the others. This dual process (positive discrimination through the quota system and then blending into the 'vulnerable youth' category) allows the LA youths to be included without then facing stigmatization linked to their deviant identity. Moreover, on an administrative level, youths in LA are more

easily included in the BHAAS programme because of the fact non-custodial measures are run by the municipal Social Services department. This is one of the concrete effects of the Brazilian juvenile justice system and its organization of non-custodial measures, which places emphasis on the youths' 'vulnerable' as opposed to 'delinquent' identities.

If youths in LA return to school or begin a professional training programme, these new social roles have a positive labelling effect: they acquire new identities as students (*estudantes*) or workers (*trabalhadores*), which protects them from the socially deviant labels of drug dealer (*tráficoante*) or criminal (*bandido*). Indeed, in Brazil, social representations of people living in the *favelas* are structured according to a dichotomy opposing two figures: the worker and the criminal (Zaluar 1985). Diogo, a young man who had completed his LA measure and was working at the Rio de Janeiro court as part of the Promovendo Justiça programme, explained to me that when he went through a police check (relatively common in the *favela* where he lived), he always rushed to show his worker's card (*carteira de trabalho*) from the court, shouting, 'I'm a worker!' This assertion functioned as a protective ritual when faced with the police, who were no longer suspicious of him. Diogo's worker's card not only confirmed his identity as a worker but also gave him the status of 'formal worker' with all its associated rights. According to Oliveira and Iriat, in Brazil, it is probably workers' cards more than national identity cards that guarantee citizenship to those who carry them, relegating those who do not have them to the status of 'second-class citizens' (Oliveira and Iriat 2008, 443).

In sum, we have seen that some of the youths' social identities predating their LA measure are an impediment when it comes to enrolling or re-enrolling in school or in the working world. It is also clear that the LA measure itself produces the label of 'juvenile delinquent' and the *técnicas* have to work around this to try to reduce stigmatization both at school and in the workplace.

The literature on prisons has regularly addressed the labelling effects of the carceral system when prisoners return to society, as well as the ways in which detention can reinforce deviant identities.⁷ In social representations, prison is also sometimes compared to a 'school of crime,' in which individuals who have committed minor offences are then socialized to more 'professionalized' forms of delinquency and construct an ideological foundation allowing them to justify criminal activities. Given the individual monitoring of youths in LA, this system does not, at first glance, seem to accentuate deviant identities through the same kinds of social connections as those established between incarcerated individuals. However, the particular configuration of non-custodial measures, which take place 'in the city,' does raise other kinds of labelling issues: the actors in the socio-educational system have to manage the labelling effects generated by the justice system in order successfully to do their jobs. This requires them to 'play' with labels in order to mask the youths' 'delinquent' identities and emphasize their status as 'vulnerable youths' instead. Paradoxically, though, they do sometimes foreground the 'young offender' label as a last resort in order to

overcome resistance from the public education system when it comes to enrolling these youths who are considered problematic.

These reflections also invite a new perspective on the tension between more universalist public policies for social inclusion and those targeting a specific social group. While the former present the advantage of having less stigma attached to them, they also enact a more subtle form of discrimination against the social groups that possess the least capital. As for the latter, they are more inclusive but run the risk of reinforcing labels. The professional training programmes I studied are all positioned at different points on a continuum, where the label 'youth in LA' is a more or less salient category. As for the Brazilian school system, by refusing to consider the youths from the socio-educational system as a social group requiring particular attention, it produces more latent forms of discrimination. It therefore falls to the people working in the field (the *técnicas*) to manage this discrimination, which is not explicitly recognized as such, and to find ad hoc solutions on a case-by-case basis.

Negotiating institutional hypocrisy

Promoting the inclusion of youths in LA in school or in the job market requires the *técnicas* to work around, on the one hand, the youths' profiles (particularly regarding educational capital) and, on the other, the realities of public education and the job market in Brazil. These young people combine several social handicaps and belong to the most disadvantaged segments of Brazilian society. Although robust quantitative data are lacking, those available suggest that the LA population are substantially behind their peers academically (with huge discrepancies between their age and their level of education) and a high proportion of them no longer attend school at all.⁸ A national study conducted on the profiles of youths assigned to non-custodial measures (Miraglia 2007) indicated that 51.8% of them had a level of education corresponding to *ensino fundamental* (usually completed between the ages of 6 and 15) and only 6.5% had reached *ensino médio* (the final three years of compulsory education, usually completed between the ages of 15 and 18).⁹ According to a study carried out in Minas Gerais state (of which Belo Horizonte is the capital city), 60% of youths on a non-custodial measure (N=405) stated they were not at school (Couto Marinho 2009). Another study in São Paulo state with 491 youths on a non-custodial measure indicated that, at the start of their measures, 33% were no longer enrolled at school (and had not been for 2.4 years on average) (Instituto UNIEMP 2006). Given these figures, students who have dropped out of school or are significantly behind their peers are strongly overrepresented among the socio-educational population as compared with the general population of the same age (16.6% of youths aged 15 to 17 do not attend school, and 11.6% have not completed *ensino fundamental* (IPEA 2008).

The official expectations of the socio-educational system (as expressed in the legal texts and by the juvenile court) exacerbate this gap between the youths'

actual horizon of possibility and institutional ideals about rehabilitation. The LA measure aims to get youths to complete their compulsory education and to enter the formal employment market. However, both the Brazilian high school diploma (at the end of *ensino médio*) and access to the job market are privileges reserved for the most advantaged segments of society; only 43.5% of Brazilian workers are employed on the formal job market (Hallak, Namir, and Kozovits 2012), and only 47% of youths aged 15–17 are enrolled in *ensino médio* (IPEA 2008). Many obstacles stand in the way of youths returning to school (the stigma of being ‘deviant pupils’ but also the fact that they are significantly behind their peers, that there are not enough places available, and so on). Furthermore, the *técnicas* cannot force them to attend school but instead have to convince them of the merits of this choice. They therefore have to find ways to cope with this ‘organizational hypocrisy’ (Brunsson 1986), and they do so by employing a range of strategies, as we shall now see.

According to Brunsson, organizations adapt to the contradictory norms and injunctions of their environment by establishing forms of organizational hypocrisy (1986, 167). This can result in concrete action being dissociated from official discourse or in different types of discourse being produced depending on the interlocutor / the point in time (Brunsson 1986, 171). This does not mean that the actors themselves are hypocritical; the hypocrisy in question is produced rather by the way in which the discourse and actions of different groups of actors come together within the organization (Brunsson 1986, 167).

In the context of the present study, this hypocrisy is the result of the discrepancy between official expectations with regard to rehabilitating youths and the actual possibilities available to the *técnicas* in their work. Continued schooling, even beyond so-called compulsory education, is an injunction from the juvenile court and sometimes posited as a necessary condition for ending the measure. It is important to note here that, in Brazil, there are few alternatives to traditional *colégio* (secondary schools) dispensing the three years of *ensino médio* after the nine years of *ensino fundamental* and preparing students to go to university. More vocational options are rare and usually fee-paying, which makes them inaccessible to youths in LA. Schwartzman (2011) argues that the Brazilian education system is marked by what he calls an ‘academic drift’ characterized by the increasing homogenization of school institutions that all seek to imitate the most prestigious teaching models. The result of this academic drift is that the school and training system is incapable of offering differentiated alternatives and therefore rejects pupils who do not correspond to the elitist expectations of the curriculum in place.

Before analyzing these inconsistencies in more detail, it is important to recall some contextual information: the *técnicas* working on the LA measure all agree that it should act as a bridge towards the general institutional provision of public services (school, social services, and so on) that should in turn take up the mantle when it comes to ensuring the youths’ social inclusion and establishing their citizenship. However, the network of actors liable to foster this inclusion is

in fact extremely fragile and institutional partners (schools, professional training programmes) do not consider themselves responsible for rehabilitating these 'problematic' youths. I observed this situation in both cities, but the relationships between actors in the network were clearly more fragile in Rio de Janeiro because of the recent inception of the public policy surrounding LA. At the time of my field study, at least, there was no genuine 'institutional network' in place in the city, only personal connections between staff in different institutions developed at the *técnicas'* own initiative.

School: an 'uphill struggle'

Broadly speaking, my qualitative data confirm the statistical trends described previously concerning the education of youths on socio-educational measures: of the 38 youths in LA in April 2010 at the Ana Leopoldina CREAS in Rio de Janeiro, only two were enrolled in *ensino médio*. The cases handled by the *técnicas* also included many examples of youths who had entirely dropped out of school. Bryan, for example, had not attended school since his fourth year of primary education. Following a disciplinary issue, his school had demanded to see a legal guardian, and because no one came (Bryan lived practically alone and looked after his younger brothers while his mother was making money as a sex worker in the city centre), he was forced to leave. In other cases, teachers and other students mocked them for being behind, and they ultimately dropped out in order to escape this stigmatization. This was the case, for example, for Wilson who was only able to start school at the age of 10 because of his family constantly moving home and who was mocked for his difficulties learning to read and write (Wilson's case file). This was also Viviane's experience: she explained to her *técnica* that she had stopped attending school because she 'was too embarrassed about being the oldest in the class' (Viviane's case file). Finally, for others, the fatigue resulting from long nights spent working in drug trafficking prevented them from being able to continue their education (youths generally work 12-hour daily 'shifts' at the sales points).

In a comparative study on the reality of schooling in France and Brazil, Moignard (2008) argues that school violence is more prevalent and intense in France than it is in Brazil because Brazilian schools 'belong to their neighbourhoods,' that is, they are integrated into their urban environment, whereas French schools are only 'located in their neighbourhoods' while at the same time rejecting and remaining separate from them. Although Moignard's study presents interesting results in many respects, the author does not address the fact that the most 'difficult' students are simply excluded from the Brazilian school system from an early age.¹⁰ Other authors have criticized culturalist explanations for school drop-out, underlining that obtaining qualifications is just as important as a value in working-class families as in middle- or upper-class families (Abramovay and Rua 2002). In their view, school drop-out can better be explained by looking at factors internal to the school system itself: 'It is the

process of destruction of these pupils' self-esteem that usually propels them out of school, even when they and their parents recognize its value'¹¹ (Camarano et al. 2004).

In order to address the 'problem' of school drop-out (*evasão escolar*) and illiteracy among the adult population, the Brazilian government has set up a series of alternative study programmes for pupils who have stopped attending school. The national programme for youth and adult education (EJA) runs a range of local projects. They aim to lower the number of years' study required to obtain a qualification, so that pupils who are behind can catch up quickly (completing two years in one or, in the case of the end of *ensino fundamental*, completing four years in one). They also adapt to the requirements of the target population (running evening classes allowing for day-time employment) and provide support with accessing the job market. When youths in LA have not attended school for a long time, the *técnicas* generally try to enrol them in one of these programmes. However, this endeavour is not always successful, as these special classes are not available in all establishments and are sometimes full. The school calendar also means it is not possible to enrol youths at all times of the year. Wilson (a 19-year-old in LA in Rio de Janeiro), who worked full-time in the family business (informal public transport),¹² had to wait for a long time before he found a place in a class close enough to his home and with a timetable that was compatible with his work.

Finally, in addition to the lack of places in schools,¹³ a further problem lies in the fact that youths in LA sometimes do not correspond to the special categories of alternative education programmes. The latter are aimed at over-15s, so, for example, a youth aged 14 who is substantially behind at school would not be eligible. And yet, the *técnicas* are very regularly confronted with such cases (as evidenced by the example of Felipe, cited earlier).

In addition to this series of material and administrative obstacles, there is the question of the youths' relationship to education, after a school career made up of breaks, failures, and repeated humiliation:

Lots of them have already been expelled from school, they feel they're the victims of injustice . . . and today they really have difficulties at school, which have become learning difficulties. . . . I see these things as being completely outside their context, most of them have no expectations about education, it's really not part of their context . . . they don't see themselves as students.

(Amelia, Psych., RJ)

By 'context,' the *técnica* is mainly referring to the youths' family environment, in which work is valued far more than education. Moreover, the extremely unequal two-tier access to higher education in Brazil means that any attempt to obtain a high school diploma in a public school makes little sense: at secondary level, private schools offer expensive education but of a much higher standard.

In higher education, however, the situation is reversed, and public universities are much more prestigious than their private counterparts. As access to university is based on a competitive entrance exam, the youths who are privileged enough to have attended a private secondary school have far more chance of being accepted into free public universities, whereas youths from working-class backgrounds not only have to pay for remedial classes before sitting the entrance exam but often also ultimately have to study at a fee-paying private university.

In short, the high school diploma (*ensino médio*) does not afford access to the job market (because it is in no way vocational) or to higher education, unless substantial financial resources are also available. Moreover, as Paula (2011) has underscored, the legal obligation to return to school reminds the youths of their prior experiences of exclusion. And, of course, the school timetable means education often has to compete with paid employment in informal jobs (Paula 2011). (Re-)enrolling youths in school as part of the LA measure is therefore a major challenge for the *técnicas*, who describe it as ‘an uphill struggle’:

It’s contradictory, because the boy doesn’t want to go to school, in theory . . . if he’s not at school, it’s very probably because he doesn’t want to go to school . . . he’s super behind . . . and he doesn’t even have any interest in school. And we’re going to fight to get him a place, in April, in May, when school has its own calendar! . . . But we have to integrate this youth . . . and that’s exactly what he doesn’t want! And so we have to put him in school, out of synch with the calendar . . . as far as I’m concerned it’s really an uphill struggle! And it’s the *técnica* who’s in the difficult position here, faced with the school administration where they don’t want to give him a place because their calendar is already sorted, they don’t have any places, they’ve already organized all the classes and everything . . . and faced with a youth who doesn’t want to go! So, in the end, who is it that wants this youth to study, at this stage in the game? It’s the judge! And, in this case, school can become a punishment too. School isn’t preventive, here, it’s punitive, you know. . . . So, well, I have my opinion . . . it’s never been a problem for me, I’ve never pushed youths into school.

(Amelia, Psych., RJ)

School: a pragmatic approach

Faced with so many objective and subjective obstacles to (re)enrolling the youths in school, and given that the *técnicas* have no actual means to force them to attend, the question arises as to why some of the young people in LA do in fact take the necessary steps in this regard. Simply to give an indication (these non-representative data do not allow for reliable quantitative analysis), out of 37 LA case files archived at Chiquinha Gonzaga CREAS (Rio de Janeiro) and Tupis CREAS (Belo Horizonte), 18 youths were already enrolled in school

when they began their measure, eight more returned to school during their measure, and the final 13 did not attend school at all right up to the end of their measure.

My hypothesis in this regard is that, within the LA measure, attending school can be a pragmatic decision and can be exploited in two ways. First, school attendance is a strong argument when asking the judge to end the measure. Artur's case offers a salient example of the importance of returning to school. In his *técnica's* view, Artur was a victim of the system and his offence did not justify the application of a socio-educational measure. He was aged 15 and no longer at school when he began LA. His *técnica*, who wanted to free him from his obligations as soon as possible, was afraid that the judge might refuse the suggestion to end his measure as evidenced by her notes in his case file:

I showed the adolescent the last report written, repeating my point of view [that the measure should be ended]. However, I underlined that given that he does not attend school and has no regular activity, the justice system will have difficulty accepting my recommendation for his socio-educational measure to be ended. Additionally, there is the fact that the adolescent is only aged 15.
(Artur's case file, notes written by Patricia, SW, RJ)

Faced with this pressure from his *técnica*, Artur eventually re-enrolled in school just 14 days before the hearing, during which the judge decided to end his measure.

Second, all the professional training programmes accessible to youths in LA require them to attend school in parallel. Rather than arguing about the merits of returning to school, which, as we have seen, make little sense to this population, the *técnicas* adopt a more pragmatic strategy, emphasizing that they will not be able to help with admission to a professional training programme until they take the necessary steps in this regard:

Generally, the question of school arises when the guy asks for work. Lots of the youths who arrive here ask for work without being enrolled in school. . . . And you see, sometimes I use a different kind of language, calmer, more informal, and I say to them: 'Listen, right, what are you asking for, work? Of course work's a good thing but, you see, to get work, you've got to be at school, and if you're not at school, I can't send you to the court [on the Promovendo Justiça programme] or to Detran [on the Firmando Vidas programme] or anywhere else.'

(Bruno, Psych., RJ)

This broadly pragmatic approach to returning to school was also evident in the words and trajectories of the youths I interviewed who had been accepted onto professional training programmes: most of them explained that they had gone back to school solely to gain admission to these schemes. Furthermore, the

técnicas also observed that some youths returned to school during their measure, in the hope of being freed from its obligations more quickly, and left again as soon as it was over.

Elitist professionalization

The fact that some youths were prepared to return to school in order to obtain a job says a lot about how much they value work. However, once again, official expectations regarding professionalization are entirely disconnected from the actual possibilities available to these young people; they and their families tend predominantly to be employed on the informal job market, and yet they are expected to apply for their ‘worker’s card’ (*carteira de trabalho*) and to look for employment on the formal job market.

The factors described earlier, especially the youths’ low level of education and socially deviant identity, create a range of obstacles preventing them from accessing professional training and the formal employment market. Both in Rio de Janeiro and in Belo Horizonte, the vast majority of youths in LA are excluded from the outset from existing training schemes because of their level of education (most of these schemes require participants to have at least begun *ensino médio*). In addition to this initial constraint, further obstacles also exist such as the stigma attached to visible signs of affiliation to the ‘world of crime’ (shaved eyebrows, tattoos, linguistic expressions), the difficulty of moving around certain spaces, as mentioned earlier, and in some cases excessive substance use, as well as simply the difficulty of imagining legal employment for those whose families mainly make their living from illicit activities.¹⁴ In short, the youths in LA combine so many different social handicaps that they are at a disadvantage from the outset even within schemes specially set up for so-called ‘vulnerable’ youths. Only a few professional training programmes specifically targeted at youths from the socio-educational system are truly accessible to them.

However, even in the case of these schemes, only some of the youths actually meet the necessary criteria and have the requisite skills to be accepted, and the *técnicas* are responsible for identifying those who might succeed and for preparing them for the admission exam:

We work a lot with the boys so they can tackle the application process for ‘youth apprentices’ [*jovem aprendiz*], there’ve already been times when we thought none of the boys could apply. At one point, the Post Office opened up a competitive entrance exam but we thought that only Artur met all the conditions to subject himself to all of its rules, with the risk that the others would apply simply to fail, and then there’s huge frustration.

(Patricia, SW, RJ)

With the exception of BHAAS, all the professional training programmes require participants to have at least finished *ensino fundamental* and sometimes to

be enrolled in *ensino médio*. While these criteria are not specified in the law on apprenticeships (the only legal requirement is that participants still be enrolled in school), the associative actors implementing the programmes establish more selective criteria which, in their opinion, better correspond to the demands of the employment market:

When I called these institutions, I challenged these criteria, and I mentioned the law: 'The law mentions *ensino fundamental*. But you're using a level of education that doesn't correspond to the reality of boys from poor backgrounds.' The answer I was given in a lot of institutions was the following: 'but companies demand this!' Because the young apprentice law is a partnership between NGOs providing professional training and companies, and the companies demand *ensino médio*.

(Mayra, Educ. Spec., RJ)

In order to enrol in a professional training programme, another formal requirement is possession of a series of documents: identity card, CPF (resident's card), and worker's card. Applicants over 18 also have to prove that their military service requirement has been waived. Some youths in LA have none of these documents, and the numerous administrative procedures necessary to obtain them can prove an insurmountable obstacle. The increasing computerization of administrative procedures also adds a further level of complexity, as many of the youths do not have a computer at home and only go to 'Internet cafés' (*Lan house*) for entertainment purposes. The *técnicas* try to compensate for this shortfall in 'digital citizenship' by using the CREAS computers for the youths' enrolments or even doing this from their own homes, when they do not have access to the Internet at the CREAS.

All these observations show that the youths in LA suffer from a 'shortfall in citizenship' (Castel 2006) on different levels within their own society: on a social level, because they are excluded from school and from employment, but also on a purely formal level, because they do not have the necessary documents fully to exist in administrative terms.

While these different formal obstacles can be overcome, the *técnicas* still have to ensure that the youths stand some chance of meeting the more informal criteria of these professional training programmes and of getting through the different stages of the application process.

In this regard, the *técnicas*' role consists, first of all, in advising the youths on how to dress and behave on the day of the entrance exam. The socio-cultural codes of the *favela* youth are clearly a counter model here - for example, the mini-shorts worn by the girls to go to *baile funk*, the linguistic expressions specific to the drug trade, and so on. Indeed, the *técnicas* tend to be more optimistic about the youths' chances of admission to a professional training programme when they live outside the *favelas*. However, behaviour does not suffice to obtain a place on a scheme: the competitive application process for the

Promovendo Justiça programme, for example, entails a series of tests, some more typically academic (maths, Portuguese language) and others aimed at assessing the youths' knowledge of norms in the working world or at finding out more about their 'personalities.' In a multiple-choice questionnaire, youths must, for example, decide what attitude is most appropriate in certain problematic situations in the workplace (a colleague wearing body piercings to work; they find 50 reais on the floor; a friend discusses criminal factions in the workplace; and so on). The aim here is not to test the extent to which they have internalized the norms of the working world but rather their knowledge of these norms and their capacity – in theory, at least – to differentiate between two social worlds: the world of crime and the world of legal employment. Further tests aim to understand the youths as individuals; they have to write about their likes, dislikes, and fears, or how they behave in a group faced with people they do not know. Such tests require them to be honest – by revealing certain sides to their personality – but also to show that they correspond to the programme's values.

The same application process can be found in the BHAAS programme in Belo Horizonte. During a face-to-face interview, the youths have to answer a series of questions about their personal and family lives and thereby show their ability to put their social and personal identities 'into words.' The following is an excerpt of the report written after an interview with Marcio, a young boy I later interviewed myself:

He says his strength is patience; he wasn't able to give a weakness. He said that his family complains that he always stays in his room, but he answers that it's better than staying on the streets. In terms of his aptitudes, he knows how to cook and he likes to travel. The young man presents well, but he often seemed to be in doubt about his replies, as though he wanted to hide things. He reads well and writes reasonably well.

Finally, the application process for these programmes requires the youths to be capable of stating their desire to 'change their lives' and of expressing their future aspirations in the expected terms. One of the key tests in the admission process for Promovendo Justiça consists in writing a 'life plan.' For this test, the *técnicas* encourage the youths to outline objectives that are considered commendable (buying a house, building a family) and to mask other less legitimate goals (wearing brand-name clothes, having a motorbike, and so on). Indeed, the essays of those selected by the head of the programme all show that the youths produce and reproduce extremely standardized discourse, expressing their desire for 'rehabilitation' in stereotypical terms ('I want to keep to the straight and narrow,' 'I want to become someone with dignity, who walks with his head held high'), and that foreground individual motivation and perseverance ('it's going to be hard, but with my willpower, I'll get there') and sometimes even wildly improbable objectives given their socioeconomic conditions ('my biggest dream is to study medicine at university').

The youths who obtain a place on the Promovendo Justiça are therefore, to some extent, the ‘elite’ of the LA population (see box 12). Not only have they been selected by their *técnicas* as ‘promising youths,’ but they have also successfully passed the different stages of the programme’s application process. They also tend to have a higher level of education and to be older than the average: in 2011, most of the youths enrolled in this programme were enrolled in *ensino médio* and of 61 youths in the project, only 19 were under-18.

The Firmando Vidas professional training programme promotes a very similar vision of these youths’ integration into the professional world. According to the director, admission to the programme should be a real ‘conquest’ (*conquista*) for the young people in question, proving that they have shown enough ‘willpower’ (*garrá*). In his view, it is important to ‘start making the youths take responsibility’ for themselves. ‘Being nice, diligent, playing the victim is no use in the application process; you have to be strong-willed, be engaged,’ he stated. The director also deplored the fact that, in his eyes, the youths were poorly prepared by the *técnicas*, which explained the high drop-out rates on his programme (around 20%). Once again, we can see here that the normative endeavour of bringing the youths in line with the expectations of the working world falls largely on the *técnicas*’ shoulders and that even institutions specifically targeting youths from the socio-educational system are not necessarily prepared to adapt to the specific profiles of this population. During the same interview, the programme director explained to me that the aim of his project was to socialize the youths as soon as possible to respect the norms of the professional world, as these norms would not change. He contended that the biggest challenge was the youths’ attitudes as ‘victims,’ suggesting that they interpreted each of these norms as a form of discrimination against them. When criticized, he stated, they always justified themselves by blaming someone else:

We tell them that the working world is full of prejudice but the question is: do you want to play along? If you play along, then you can fight to change the rules, but refusing it all out of hand won’t achieve anything. We have to explain to them that there are different social spaces, with different norms. That they can behave as they like amongst friends, but that they have to respect certain rules at work. I give them the example of one of my nieces who has loads of body piercings and dresses like a punk, but to go to work, she puts on a suit and takes out her body piercings . . . and then she changes again when she leaves.

(Director of the Firmando Vidas programme)

In short, in the director’s vision, professional integration involves learning dominant norms (in the highly cognitivist sense of the term: explaining norms suffices for them to be internalized) and only requires ‘willpower’ and a ‘desire to win.’ An interpretation of this kind masks the impact of social structures:

the ability to navigate different social contexts and adapt to dominant norms requires forms of capital that youths in LA typically do not possess.

These analyses also reveal that professional training programmes take up several features of government in LA, albeit in a different context. First, the responsibility for succeeding on the programme lies (almost solely) with the youths. As we have seen, if 20% of them drop out of the Firmando Vidas programme, it is purportedly because they are not strong-willed enough. Second, in all these programmes, the youths' decision to 'change their lives' is the theoretical foundation that allows them to move on from delinquency. For example, during a workshop organized by the BHAAS, one young man stated that people living in a *favela* have limited options. The *técnica* running the workshop replied that one could 'always make a choice' and, to support her point of view, gave the example of an entire family involved in the drug trade and in which only the youngest son decided to stay out of it. Finally, verbal communication skills are also invaluable in the application process for these programmes. Priscila (Comm. Off., RJ) advised the youths she sent to Promovendo Justiça to talk 'not too little and not too much.' They had to be sufficiently at ease to express themselves without coming across as pretentious. Priscila stated that she had to work more on this with one particular young man who had just failed the programme's tests because 'If João cannot manage to talk about himself, no one will know João's potential, no one will know who João is.' Conversely, Mateus was a young 'chatterbox' who 'captivate[d] attention' and had 'the gift of the gab,' and, according to Priscila, this is why he was easily accepted onto the programme.

Box 8 The exemplary youths of the socio-educational system: tales from professional training programmes

As part of my fieldwork, I conducted a series of interviews with some of the youths who had been accepted onto a professional training programme. In a sense, they were the socio-educational system's exemplary youths: they had stuck to their LA measure, proved sufficiently 'motivated' and 'promising' to be put forward for the scheme's application processes, and had then been successful. For the socio-educational system's actors, these youths provide examples of exemplary trajectories, in which the 'desire to change their lives' leads to desistance from crime and a new life in the world of legal employment. As such, they were often cited as examples for their more recalcitrant counterparts. When they spoke about their own trajectories, they regularly mentioned their 'exemplary' status. Obviously, the fact they took up institutional categories in this

way could be seen as a way of projecting themselves while speaking to a researcher, but nevertheless, it also seemed to me that they had in fact internalized – to some extent, at least – institutional categories and interpretive frames and therefore taken on the identity of ‘exemplary youths’ that the socio-educational system ascribed to them. In their narratives, access to a professional training programme was also the main benefit afforded by the LA measure:

This LA has been great for me, great also because I found a job thanks to it; if I’d been given the CRIAM [semi-open facility] I wouldn’t have managed. . . . I think I’d have carried on stealing, doing silly things, but I was given an LA, and I got a job . . . and look at what job! At the Court of Justice!

(Roberto)

Despite the often subaltern tasks the youths are asked to complete at work, they all emphasize the pride and recognition they derive from their professional activity:

Well, yeah, the Court of Justice . . . I’ve already worked in a bank, and now the court, it’s not bad, right? People say to me: ‘things are alright for you, you worked in a bank, and now at the court, after having committed all that [all these offences]. Sometimes people ask me ‘How did you do it?’

(Roberto)

Wanderson, who worked at the Regional Council of Engineering and Agronomy in Belo Horizonte, explained that he had discovered a world he did not know existed and had learnt many useful things for finding his bearings in the professional world. Diogo, who worked at the Court of Justice, emphasized the responsibility given to him in his work handling legal documents. This initial professional experience had even made him want to become a lawyer:

My tasks are very *responsa*.¹⁵ . . . you have to be very responsible. Because I deal with court cases . . . we all deal with court cases, but . . . I take a lawyer’s petition, where there’s the petition number, and I . . . I insert the petition, . . . It seems simple, but it isn’t. Do you see what I mean? You take one of these pieces of paper, and you insert it in the case . . . they are organized by number.

(Diogo)

In some ways, the prestige associated with the organizations where the youths are employed seems broadly to compensate for the subaltern tasks they complete. It is even possible that the simplicity of these tasks allows them instead to channel their energy into learning the relational norms specific to socio-professional worlds that are extremely distant from their original social backgrounds.

In this sense, the professional programmes function as a kind of transitional space between one social world and another. The youths' own perspectives seem to suggest that this transition is further facilitated by the presence of colleagues from the same social background. Marcio, for example, underlined the fact that he had enjoyed the BHAAS class because several young people from his neighbourhood also attended it. Alex liked the atmosphere in the class 'because there [were] also other young offenders there.' Roberto considered that the youths on the *Promovendo Justiça* programme had good relationships with the permanent staff at the court but above all that the young people on the programme, who lived in the same *favelas*, got on very well together; they had even started going out together at night at the weekend.

These professional training programmes therefore seem to constitute a relatively protected space in which youths can take their first steps in the formal employment world (providing a certain continuity with regard to sociability and involving relatively simple professional tasks), while at the same time providing them with all-important recognition. This recognition results from both the professional contexts in which they are employed and the fact these positions give access to a worker's card (*carteira de trabalho*) – a document affording them a privileged status in Brazilian society (Oliveira and Iriart 2008). In this respect, these legal professional experiences therefore differ substantially from those of the New York crack dealers described by Bourgois; these dealers, who cultivate a virile and agonistic ethos in the drug trade, experience subaltern employment in the service sector as degrading (Bourgois 2003).

However, accessing these programmes and remaining in them means playing along with the rules in place and especially accepting different types of control (from their boss and from *técnicas*), in a context where, implicitly, all the supervisors expect these 'problematic' youths to step out of line.¹⁶ Based on what the youths told me, I would suggest that the 'exemplary' young people who manage to stay on the programmes tend to give a different, more positive, meaning to this control. For example, by fully engaging in his role as an exemplary youth, Wanderson managed to transform control into a source of recognition: as the regular assessments completed by his boss and his designated *técnica* were always positive, he

would proudly show them to his family. As for Diogo, he stated he felt protected rather than controlled by the team of *técnicos* at the court; they always interceded in his favour when his boss required him to work overtime and helped him manage any conflicts that arose in his workplace.

Their tales of the application process also confirm the programme's capacity to exclude those who do not fully meet their requirements. Diogo stated, for example, that the youths who are not chosen are those who 'only want to earn money' and who 'don't have their ideas in place.' Reading between the lines, Diogo was asserting that earning money is not a sufficient or legitimate motivation and that the logic of a personal life plan and self-realization should prevail. As for Roberto, he explained how hard he found it to express himself during the application process and, above all, to speak in front of everyone, given his shyness. However, he seemed to realize that this skill was a necessary condition in order to be accepted onto the programme.

Youth apprentice contracts, which last two years, do not automatically lead to job contracts. While some youths are lucky enough to be offered a job by their employer, and while this experience is incontrovertibly an advantage for their future professional life, for most of them, that future remains uncertain. Several of the youths I interviewed admitted that if they could not find work after their two-year contract, they would be forced to go back to drug dealing. Even though access to the professional training programme and a youth apprentice contract is, for most of these young people, a powerful driving force in their (often gradual) desistance from crime, their narratives and life courses show that this disengagement remains fragile and can always be called into question.

Informal work: testing the limits of institutional guidelines

Ultimately, only a small proportion of the youths in LA manage to gain admission to a professional training programme, such as Promovendo Justiça, Firmando Vidas, and BHAAS. Instead, for most of them, their first professional experiences are on the informal job market, where they work as labourers or wash cars, for example. It is not rare for youths to alternate between, or combine, informal and illegal work (see box 9). Wanderson, for example, worked in a snack bar (*lancho-nete*) and, throughout the whole period, also sold drugs in his neighbourhood. This job, along with regular school attendance, provided him with an alibi with the local police officers. In other cases, losing an informal job (or failing to earn enough from it) can contribute to involvement in drug dealing; Alex, for example, began selling drugs after losing his job in a butcher's shop.¹⁷

Although, from a moral standpoint, informal employment places the youths in the category of ‘workers’ rather than ‘delinquents,’ these jobs nevertheless are also entirely marginal with regard to the institutional guidelines for professionalization. Whether the *técnicas* deem these activities acceptable depends considerably on whether the youths are able to convince them of their legitimacy. Wilson and Cleber were both in very similar positions: neither boy attended school and both were employed on the informal job market (Wilson as a ticket inspector in the informal public transport sector and Cleber as a hairdresser in his *favela*). However, these two situations were described very differently in the reports sent to the judge. Cleber’s *técnica* condemned his choices:

He shows no interest in professional training classes, he only values accessing the job market . . . he likes working as a hairdresser in his community and has no other ambitions.

(Cleber’s case file)

As for Wilson, he received a much more ‘understanding’ report, seeking to explain his professional choices to the judge:

Wilson felt very proud to become a worker, principally because he works in the same field as his family. He often talks about the need to contribute at home because, as his mother often repeats, ‘someone who doesn’t work doesn’t eat.’ . . . When he came out of the semi-open facility, he left school, which is something we’ve talked about a lot in our LA meetings, and that was important to him; but his excessive working hours prevented him from going back to school, the priority was work, in keeping with his family’s culture.

(Wilson’s case file)

Wilson’s informal job was presented as both a financial necessity and a positive espousal of a ‘family culture’ of work. Cleber, in contrast, simply lacked ‘interest’ and ‘ambition.’ This different treatment can be explained by the two boys’ attitudes within the LA measure: while Wilson proved cooperative and open to discussion, Cleber did not try to justify himself verbally and clearly expressed his discontent with the constraints of LA.

Fabiano’s case, already discussed several times, illustrates the compromises that can be made with regard to education and employment on the margins of official institutional rehabilitation guidelines. Fabiano left the drug world progressively during his LA measure; he moved away from the neighbourhood where he was the ‘manager’ of a sales point to the same neighbourhood as his mother. He found work as a labourer and then in a petrol station washing cars. He explained to his *técnica* that working at the petrol station was not as physically taxing as the labourer’s job and that the working hours were more comfortable (8:00 a.m. to 6:00 p.m. every day).

Despite repeated encouragement from his *técnica*, Fabiano refused to go back to school (he had left school in the second year of *ensino fundamental* and was practically illiterate). He did not show any interest in the professional training programme set up by a team of educational specialists at the Federal University of Minas Gerais, which, contrary to most programmes, accepted youths with a very low level of education.

Fabiano earned 200 reals per week washing cars (i.e. 800 reals per month). This was far more than the minimum wage in Brazil (545 reals in 2011), which he would have earned in a professional training programme. His job at the petrol station was entirely informal and broke child labour laws. Fabiano was only 16 at the time and, according to the law, was only supposed to be employed as a 'young apprentice' while pursuing his education. However, many small businesses circumvent the law and employ teenagers on a weekly basis, avoiding bureaucratic procedures that are costly in terms of time and money.

On the one hand, Fabiano's *técnica* offered him modes of social inclusion congruent with the public policy's ideal (and with the laws in place in Brazil) but which he systematically refused. On the other hand, Fabiano took the necessary steps himself to find work on the informal job market.

This process shows both that Fabiano had the necessary resources to be included in certain sectors of employment and that his *técnica*'s suggestions made little sense to him or seemed too difficult to achieve. It seems likely that Fabiano gave priority to the higher salary offered by the petrol station and to a job that did not require him to prove that he was changing his identity in keeping with the ideals of the professional training programmes for young offenders. Fabiano would not only have had to produce discourse about wanting to 'change his life' and to agree to be monitored by a team of *técnicas* at work (the LA *técnicas* correspond with *técnicas* on the programmes, who receive regular reports from the youths' managers) but also to face the demands of school, which he had not attended for many years. Some teenagers therefore prefer to find employment through their own means in order to avoid these heightened institutional requirements and forms of control.

As for his *técnica*, she turned a blind eye because, according to her, 'it's better for him to work anywhere other than in drug dealing.' However, this posed a problem when it came to sending her regular report to the judge: she could not pass on information breaking the law on child labour. In such cases, the *técnicas* therefore use various strategies to inform the judge of youths' 'progress' while referring euphemistically to the work in question (for example, a young man working as a labourer on a building site will be referred to as 'currently on a work placement in the construction sector'). The coordinator for non-custodial measures in Belo Horizonte admitted in a meeting with the *técnicas* that they were always 'walking a tightrope' [*fio de navalha*, on a razor's edge] because they could not prevent a youth from gaining professional experience but could not lie in their reports to the judge. The struggle against child labour, especially in large urban centres, is a sensitive issue and by turning a blind eye in certain

situations, the *técnicas* run the risk of provoking angry responses from NGOs defending children's rights.

These considerations point us to the relationships and issues at stake in cooperation between social services and the juvenile court, especially through the *técnicas'* reports, which will be addressed in the following chapter.

**Box 9 'Minors have to earn money too':
practical continuity and moral contrast
between legal work and lucrative
illegal activities**

In the lives of youths in LA, experiences of legal work (whether formal or informal) are strongly intertwined with experiences of lucrative illegal practices, and this invites us to consider the relationships they have with these two worlds.

On the one hand, as we have seen, the youths take up moral discourse about work and delinquency, broadly based on dominant social representations in this regard. In this discourse, the figures of the worker (*traballador*) and the criminal (*bandido*) are irreconcilable opposites. Similarly, 'dirty money' (*dinheiro sujo*) sullies those who possess it and then disappears immediately, whereas money earned through blood, sweat, and tears (*dinheiro suado*, literally 'sweat money') allows them to acquire things that are legitimate and that last.

On the other hand, the youths also provide a more economic or even sociological analysis of their criminal activities, in which the two types of lucrative activities – legal and illegal – are equivalent and interchangeable. This discourse also deconstructs the immoral nature of drug trafficking by underlining the aspects resembling any other commercial activity: clients come freely to acquire goods, and the drug trade is organized like a company, within which career progression is possible.¹⁸

This second discourse builds out from the premise that 'everyone needs money' and that it is normal to try to obtain it in one way or another. Unanimously, the youths also emphasize the fact that their status as minors does not exempt them from these financial needs, quite the contrary:

Ah, if I were a judge, what I'd do is I'd free everyone from age 15, we'd already be of age, we could have our things, we'd buy, we'd work. That's why there are lots of young offenders, because a minor doesn't work . . . what's he going to live off? Off his father, you're mad . . . picking up trash, no one wants to live like that, that's why you have to steal, deal.

(Marcio)

These statements have to be understood in the context of the youths' socio-economic situations. Often, their parents barely have the means to ensure their basic needs and can therefore in no way provide them with the clothes or leisure activities to which they aspire. And of course there are also the families who cannot even provide the bare minimum for survival and whose children are therefore forced to become financially independent from a very young age. Marcio's assertion should therefore not be understood as a demand to become an 'adult before his time' but rather as a pragmatic recognition of this need to find his own way of making ends meet.

In short, the youths fully subscribe to work as a value, insofar as it provides a means of support and access to consumer goods.¹⁹ But in the face of the many obstacles they encounter when trying to enter the job market (due to their age, low level of education, and so on), lucrative criminal activities become an alternative option.

Harm reduction

In some cases, though, issues relating to education and employment are the least of the *técnicas*' concerns despite the juvenile court's instructions in this regard. This happens when youths are in particularly vulnerable situations, meaning that the main issue for the *técnicas* working with them on their LA measure is reducing harm to their health or life as far as possible. This vulnerability can be due to excessive drug consumption (most often crack), to the fact that they live on the streets, or to death threats from dealers or police. In addition to these factors, their families often live in extreme poverty.

The police, especially in Rio de Janeiro (Bugnon and Duprez 2014), frequently resort to threats, violence, and other extra-judicial means, above all when neither legal channels nor corruption allow them to achieve their goals. As for threats from dealers, they can arise from conflicts between rival factions or in situations where the local drug trade rules have been broken (when someone has failed to pay a dealer, is accused of reporting a dealer to the police, has committed a theft in the *favela*, and so on). When *técnicas* identify such threats, they can enrol the youths in a Programme for the Protection of Children and Adolescents facing Death Threats (PPCAAM), which will try to remove them from the environment in which they are in danger and place them in a safe place (home or foster home in another neighbourhood, city, or state). This was the strategy adopted by one *técnica* in Belo Horizonte for a young man facing threats in two different parts of the city (the neighbourhoods where his mother and his grandmother lived). According to her, he was in serious danger and had

already been grazed by bullets aimed at him. He was currently hiding in a house that he could not leave. The teenager in question was over 18 and had returned to his LA measure after a short stint in an adult prison for a further offence. The *técnica* was pleased with the judge's decision to send the youth back to LA because this made it easier to enrol him in a programme for protection against death threats. In the meantime, she intended to contact his grandmother and try to find a bodyguard to get him out of the house with the help of the *técnicas* working at the juvenile court.

The PPCAAM nevertheless remains a last resort, in cases where all other strategies have failed. The *técnicas* underline several obstacles to implementing the PPCAAM. First, it requires the youths to tell no one where they have moved, forcing them to cut all ties with their home neighbourhood. It also makes provision for their families to follow them, but this is not always possible depending on the parents' professional situations (the PPCAAM does offer financial support to families, but only for a limited period of a few months). Finally, in emergencies, when no other alternative is available, the PPCAAM sometimes places the youths in institutions that appear inappropriate to the *técnicas* (for example, a shelter for drug addicts, even when the young person in question does not take drugs). Owing to all these constraints, many youths refuse to be registered with the PPCAAM and the *técnicas* are therefore forced to find 'makeshift' solutions with more limited resources. This was the case, for example, for Fabiano, who faced threats from the police as mentioned earlier. After a discussion with Fabiano's *técnica*, Fabiano's mother told her that she could move with her son to a different neighbourhood in the city.

Dealing with street children also often entails focusing on harm reduction. In her work with Bryan, Cristiane's priority (SW, BH) was for the boy to undergo medical tests, as his mother was HIV+ and also had tuberculosis, as well as to get his lost birth certificate re-issued. Without any legal guardian available, the *técnica* had to call on the regulatory council, which signed the necessary documents. Given his extreme material poverty, Cristiane also intended to enrol him in the Bolsa familia programme, which usually offers financial aid to mothers but can, in exceptional circumstances, be allocated to minors who are considered the 'head of the family.' While Cristiane's endeavours were mainly related to child protection, in which the question of the offence was completely effaced, the ideal of promoting autonomy nevertheless remained present: Cristiane recounted that, she 'unfortunately had to hold [Bryan's] hand' (*infelizmente tive que dar o braço*) for him to dare collect his test results at the hospital. Ideally, in her view, he should have been capable of facing this alone.

Very often, one teenager will combine several problems of this type, and the *técnicas* have to deal with the situation as a matter of urgency without being able to devise a proper strategy. Soraia's case, described in box 10, is emblematic of these sorts of situations involving several forms of vulnerability.

Box 10 Crack, life on the streets, and death threats: dealing with intertwining forms of vulnerability

Soraia's family had been known to the Rio de Janeiro social services for over a decade²⁰ when the young girl arrived in LA aged 16 after having stolen someone's mobile phone in the street. During her childhood, Soraia had juggled on street corners to earn money; her father, who had been left handicapped by a car accident, was a homeless alcoholic who was violent towards her mother. Soraia's *técnicas* noted that she regularly spent several days on the streets in order to take crack, cocaine, and solvents. She had, in fact, explained her theft to the judge as motivated by wanting to buy drugs. Moreover, the *técnicas* suspected she was the victim of sexual abuse, although they had not been able to clarify the situation. Soraia asked to be committed to a clinic for addiction treatment, and her LA *técnicas* sent her request for assessment to a psychosocial counselling centre. Soraia then spent three months in a rehab clinic. When she left, her *técnicas* emphasized how important it was for her to continue treatment as an outpatient, but she did not attend her appointments. Soraia was then arrested for a further offence and spent 22 days in a provisional confinement facility (she could have left after 7 days, but no legal guardian came forward for 22 days). The judge sent her back to a non-custodial measure, adding a PSC measure (which she did not comply with) to her LA measure. Soraia came to her *atendimentos* very irregularly, and her *técnica* eventually gave up and stopped moving heaven and earth in order to see the girl. However, Soraia then returned of her own accord, asking for help, stating that she was failing to regulate her crack consumption and was in danger in the *favela* where she lived (probably for having broken the local rules, for example by stealing from a *favela* inhabitant). After discussing her case, the *técnicas* decided to place her in a shelter (*abrigo*) to get her away from the *favela*, to find a clinic that could treat her drug problem, and to contact the PPCAAM. However, Soraia ran away from the shelter 15 days later, before returning once more to the CREAS and saying that she wanted to be at home during the Christmas holidays. The CREAS *técnicas* set up a meeting with Soraia, her mother, the head of the shelter, and the psychologist from the outpatient addiction clinic: it was decided that, during the week, Soraia would live in the shelter and continue treatment, and at the weekends, she would return home to her family. At this point (in December 2010), Soraia stopped attending her LA *atendimentos* (she had been serving her measure for two years by then). She turned 18 a month later, and the court ended her measure.

Regarding the *técnicas*' role, Soraia's experiences within the LA measure reveal very different dynamics to those described earlier. In this case, the *técnica* was no longer a relay between her charge and school or employment, working towards social inclusion and rehabilitation; instead, she was striving, as a matter of urgency, to reduce the risks of harm facing the young girl, trying to ensure her physical and psychological safety. The usual categories in play in LA management, such as creating a sense of responsibility or fostering autonomy, are relegated to the background in such cases, and the child's welfare takes precedence. While Soraia did not 'comply with' any of the measure's official expectations (she did not even attend her *atendimentos*), she did use it as a means of protecting herself by coming to the CREAS when she felt in danger or when she wanted help to obtain treatment for her addiction.

The fact that non-custodial measures are run by the CREAS plays an important role in determining the potential welfare aspects of LA measures. Given the *técnicas*' position, they can use their network in the field of 'social work' to achieve certain goals (getting social welfare for families, obtaining places in shelters for youths living on the streets, and so on), but they can also call on their contacts at the juvenile court (for example, to enrol youths receiving death threats in the PPCAAM).

Conclusion

Examining the inclusion of youths in LA at school and on the job market has pointed to the issue of the labelling effects that non-custodial penal measures, such as LA, can have. Not only do youths on socio-educational measures carry prior stigma, excluding them from certain social spaces, but the LA measure itself also produces labelling effects, albeit more subtle and easier to hide than those resulting from confinement. The *técnicas* can play on different administrative categories to emphasize their charges' identities as 'vulnerable youths' taken on board by social services rather than as 'young offenders' convicted by the criminal justice system. All reference to the justice system is therefore kept at bay, except when absolutely necessary, for example when the *técnica*'s resources prove insufficient to obtain a school place for one of the adolescents and the figure of the judge is used as a way of putting pressure on the school.

In a study conducted on two 'deinstitutionalization' programmes for young offenders in the United States, Van Dusen (1981) examined the determinants of 'net widening' and 'relabeling' in the penal system. Despite using an approach that was perhaps too mechanistic, she nevertheless convincingly demonstrated that the first programme was strongly resonant with the ideals of penal policy, gave discretionary power to practitioners, and was afforded substantial material and financial means, which together resulted in the juvenile justice net widening. The practitioners' enthusiasm for implementing this policy meant they included as many youths as possible. In the second programme she analyzed, however, the non-custodial approach was dissonant with the practitioners'

philosophy and the latter had no discretionary power (they were forced systematically to apply a policy with which they did not agree). As a reaction, they tended to 'relabel' the youths they dealt with such that they became congruent with the categories of the population likely to be subjected to incarceration.

The situation is very different in LA. Generally speaking, the *técnicas* tend to share the penal philosophy of the socio-educational measure, namely handling young offenders without incarcerating them and in ways that emphasize including them in provision available to the general population (school, employment, and so on). Neither the judges²¹ nor the *técnicas*' practices seem to run the risk of widening the juvenile justice net. Schools, however, do increasingly tend to judicialize the conflicts that take place within their walls. The *técnicas* are extremely critical of this trend and endeavour to mitigate the effects of any measures they consider unfair.²²

The *técnicas*' 'relabeling' is not about further penal repression but on the contrary about hiding the youths' status as delinquents with a view to making it easier for them to enrol in school or enter the professional world. Some differences are nevertheless evident between the *técnicas* and the judicial authorities when it comes to the concrete application of the measure and particularly the systematic requirement for youths to be schooled or brought into the formal job market. However, the *técnicas*' discretionary power in their daily professional practice is such that they are able to implement the measure in line with their priorities and professional values, while then providing the judge with information about the youths' situations in terms that are intelligible and legitimate in the eyes of the justice system.

One final remark is necessary concerning the effects of labelling in the LA measure: the fact that this penal measure produces quite weak labels sometimes backfires: as the youths are not in confinement, they can sometimes be perceived as 'normal' citizens with full rights (and enjoying support from social services), whereas they do still face many different types of stigma and social handicaps. Actors in the child protection sector tend to give priority to youths in confinement, and the same is true for organizations providing professionalization opportunities to marginal youths.

My analysis also led me to consider the discrepancy between, on the one hand, the official institutional objectives to reenrol youths in LA in school and help them enter employment and, on the other hand, the actual possibilities and ambitions of these young people. In this context, school is often something they attend in return for a shorter LA measure or a place on a professional training programme. While work makes more sense than studying to these youths (who all want to 'earn money,' either out of necessity or with a view to achieving social success), the professional training programmes on offer often resemble a luxury beyond their reach. They tend instead to be employed in subaltern positions in the informal economy, which require fewer school qualifications and often pay them a better wage. Some of them simply refuse to accept an extension of the government to which they are subjected in LA in their professional

lives; they do not wish to be forced once again to express themselves using the requisite vocabulary with another team of *técnicas* and then to be periodically assessed. For youths in LA to enter the formal job market, a normalization process is also required – their clothes, language, and behaviour must be altered so that they correspond to the demands of the professional world. However, alongside these behavioural aspects, the youths are also expected to show a ‘sense of initiative’ and a ‘desire to win and succeed socially.’

These considerations raise the question of the modes of transition between the ‘world of crime’ and the ‘world of work.’ Are certain skills transferable from one world to the other? What resources are necessary to make this transition? In research conducted in France, Mauger (2001) showed the elective affinities in the 1960s and 1970s between youth subcultures and the world of factories or workshops:

belonging to the world of gangs (from the ‘*blousons noirs*’ of the 1960s [the French iteration of rockers or greasers] to the ‘*loubards*’ [hooligans] of the 1970s) was almost always temporary, usually leading to a ‘normal’ reinvention (i.e. both ‘approved’ and ‘ordinary’): when the gang member entered the world of work, combative uses of physical strength were transformed into productive uses.

(Mauger 2001, 85)

With fewer traditional labouring jobs available, a decline in the value of virility, and the increasing value of education as the only path to social success, these marginal youths began to remain in ‘street culture’ for longer and longer periods of time (Mauger 2001). As opportunities narrowed, new types of ‘reinvention’ have taken shape, leading young people to move from the world of subcultures to the world of professional delinquency. While both worlds draw on physical strength as a resource, these reinventions require the youths to internalize a new culture (for economic gain as opposed to success in combat) and to respect the specific codes and rules of this more rationalized world (Mauger 2001).

Bourgois (2003) comes to similar conclusions, showing that young people of Puerto Rican origin selling crack in New York find it impossible to see working in subaltern service sector positions in a positive light, as it would mean losing their ‘personal dignity’:

Obedience to the norms of high-rise, office-corridors culture is in direct contradiction to street culture’s definitions of personal dignity – especially for males who are socialized not to accept public subordination.

(Bourgois 2003, 115)

The Brazilian world of drug trafficking resembles in many ways the ‘professional delinquency’ described by Mauger: with its division of labour, formal hierarchies, working hours, and rules about how profit is shared, the drug world

is very similar to the business world (Grillo 2013, 59). In this context, the values of virility and honour seem to be replaced by reliability, discretion, and a willingness to follow orders from above: a range of qualities that are also valued on the formal job market. My observations, confirmed by a *técnica* working at BHAAS,²³ suggest that the youths involved in drug dealing can be successful in reinventing themselves and making the transition to the jobs offered by professional training programmes, especially when they also offer a certain social prestige (for example working at the court in the Promovendo Justiça programme). Additionally, the symbolic importance of having a worker's card also makes these professional training programmes attractive to the youths. Unlike in Bourgois's observations, then, these professional training programmes do not generate a sense of social *déclassement* or humiliation; on the contrary, they offer a social space that is conducive to the transition from the world of crime to the world of work.

The analyses presented in this chapter also lead us to reconsider the question of the citizenship of these Brazilian youths who, having committed an offence, are then taken on board by the socio-educational system. As with Castel's analyses concerning youths from disadvantaged neighbourhoods in France (Castel 2006), the young Brazilians in LA are 'neither included nor excluded' but suffer from a 'shortfall in their assumption of citizenship.'²⁴ Paradoxically, it is left to a judicial measure that lies halfway between the welfare state and the penal state to fill this gap by providing access to new urban spaces (in the city, outside the *favela*) and to new social statuses (as students or workers). The professional training programmes specially aimed at youths from the socio-educational system function as a sort of transitional space ensuring they can pass from one social world to another. For a few months, the youths receive intensive socialization to the working world, during which they must prove their capacity to internalize and apply its specific codes, accept various forms of surveillance, and above all convince others of their unshakeable desire to 'change their lives.' The high drop-out rates in the different programmes speak to the considerable difficulty that youths have in making this transition.

For the remaining youths in LA, who do not take the 'royal path' of these professional training programmes, the socio-educational system cannot provide effective support in entering the job market because, as an institution, it refuses to approve employment in the informal economy. The youths can therefore only rely on their own resources and on the tacit and complicit approval of their LA *técnicas*, who can try to emphasize the value of these endeavours in their reports to the judge by using euphemistic language.

Finally, for some of these young people, who are in situations of extreme vulnerability when they begin their LA measure, the institution's role is no longer considered in terms of control, normalization, or citizenship but becomes about emergency action to reduce harm. Paradoxically, here penal 'labelling' results in the Brazilian welfare state providing care and attention to the most vulnerable segments of the population.

In short, despite their best efforts, the *técnicas* find themselves at the centre of an ‘institutional hypocrisy’ (Brunsson 1986) and are forced to deploy strategies to mitigate the contradictory imperatives of their functions. Although one of these strategies consists in manipulating information passed on to the judge – thereby allowing them to protect both the youths and their professional selves from the justice system – they tend also to pass on responsibility to the youths themselves for any failure in their rehabilitation attempts. This is particularly true when the youths fail to convince their *técnicas*, by means of intelligible and institutionally acceptable discourse, that they have ‘good reasons’ for refusing to comply with the official rehabilitation plan.

Notes

- 1 Some of the analyses in this chapter have already been published in an edited volume on the control of deviant youths in a chapter entitled ‘Une liberté assistée. Les pratiques de réinsertion des jeunes délinquants au Brésil.’ [Assisted Freedom. Rehabilitation practices with young offenders in Brazil] (Bugnon 2015).
- 2 The names of these professional training programmes are fictional but inspired by the original names: ‘Promovendo Justiça’ means ‘Promoting Justice,’ ‘Firmando Vidas’ means ‘Stabilizing Lives,’ BHAAS is an acronym, and ‘Projeto Digitalizando’ means ‘Project Digitalization.’
- 3 This is less than the minimum wage, which was 545 reals in 2011.
- 4 In theory, schools cannot expel a pupil definitively, but, according to the *técnicas*, they nevertheless use various strategies to ‘get rid of’ undesirable pupils. For example, they call in a pupil’s parents every day for the slightest disciplinary problem until the parents give in and remove their child, or they stipulate that a pupil can only return to class (after a suspension, for example) after an appointment with a legal guardian, when they know that the child is being raised by a single mother who works every day during the week.
- 5 These territorial divisions only concern the *favelas*; the youths can move around the rest of the city safely.
- 6 An article in the magazine *Veja* dated September 8, 2010, questioned the decision to have juvenile delinquents working in such a sensitive space and cleared the court’s staff of any blame. The article also downplayed the punishments handed out to these youths, stating that they could have been prosecuted for passive corruption, but that, because they were minors, this crime would only be considered as an ‘infraction’ (reflecting the type of media discourse that fuels impressions that ‘delinquent youths go unpunished’ in Brazil). According to the information I obtained, proceedings were not pursued because they might have implicated staff at the court.
- 7 See in particular Combessie’s work (2004), which argues that prison has a sacrificial function. Similarly, in a more empirical vein, see Chantraine’s book (2004) focusing on the social trajectories of prisoners in France and their experience of incarceration.
- 8 More systematic studies have been carried out among youths in confinement. Only 34% of youths in confinement were at school before being imprisoned, and 89.6% of them had not completed *ensino fundamental* (the first nine years of compulsory education) (Andrade Silva and Guerresi 2003).
- 9 These data should be treated with caution because in 37.8% of cases, the information is not available.
- 10 See my review of this book published 2012 in the journal *Champ Pénal / Penal Field* [<http://champpenal.revues.org/8363>].

- 11 Original quote: 'É o processo de destruição da auto-estima desses alunos que os expulsa com maior frequência da escola, ainda que ela seja reconhecida e valorizada por eles e por seus pais.'
- 12 In Rio de Janeiro, public transport inside the *favelas* and between the *favelas* and the city centre is run by small informal businesses (tolerated by the public authorities).
- 13 This lack of school infrastructure was mainly observed in Rio de Janeiro and did not seem to pose as many problems in Belo Horizonte.
- 14 A quantitative study (N=491) conducted in São Paulo state noted that 35% of young people on non-custodial measures had a member of their family (most often a brother, father, uncle, or cousin) who had already been convicted by the criminal justice system (Instituto UNIEMP 2006).
- 15 The term *responsa* is used, in particular, within criminal gangs to refer to trustworthy people to whom the *favela* boss can entrust important tasks.
- 16 Lots of youths are excluded from professional training programmes because of persistent absence or tardiness but also because of offences committed at work. Among the stories I was told, there was the case of a youth who had taken cocaine in the toilets at the court and that of another youth who tried to enter the court with a rucksack full of guns.
- 17 Obviously, the processes through which youths become involved in delinquency cannot be reduced to this. Many other factors play a role, combining with and reinforcing one another (networks of sociability in the world of crime, identifying with the moral values of drug dealing, and so on). For example, in Alex's case, his cousin ran a sales point, and his reputation and support immediately allowed Alex to rise in the drug world.
- 18 In the same vein, some youths are vehemently critical of theft (and those who steal), underlining how immoral it is to use force to obtain goods that someone else has acquired legitimately.
- 19 For this reason, the youths to whom I spoke unanimously considered community service (PSC) a useless and humiliating measure insofar as it forced them to work without receiving any salary in return.
- 20 The information about Soraia's story is drawn from reports by social services, the minutes of court hearings, and her LA case file. She refused to answer any of my questions in an interview.
- 21 My observations in the courtroom suggest that the judges and even the prosecutors (*promotores*, representatives of the public prosecution office) are mindful of the possible excesses of judicializing social conflicts and try to avoid this. For example, in one case between teenagers who had exchanged insults on social media, the prosecutor admonished the adolescents and their parents, saying they were 'wasting the justice system's time.' Similarly, school conflicts usually only result in a warning in court. More broadly, my data indicate that, even in non-custodial settings, the offences committed do not generally relate to simple acts of 'incivility' or 'poor discipline' but are mainly criminal offences in the strictest sense of the term (theft, drug sales, and so on).
- 22 During one meeting with representatives from the public school system in Belo Horizonte, the LA *técnicas* described schools as 'dehumanized' because of the huge increase in security measures within their walls. They also criticized several cases in which school conflicts have been judicialized (for example, municipal guards handcuffing youths in schools, the police arresting youths for taking drugs, and so on).
- 23 Indeed, this *técnica* emphasized the successful integration of those youths who had previously held a position of responsibility within the drugs trade: in her eyes, they showed themselves to be more 'responsible' and 'punctual' than the others.
- 24 The gap between theoretical and practical citizenship, observed in France by Castel in the context of youths from the *banlieue* [deprived suburbs], is greatly exacerbated in Brazil. Some Brazilian sociologists (Machado and Leite 2007), borrowing this term from Bruno Lautier, have qualified citizenship in Brazil as 'geometrically variable citizenship.' According to them, the univocal and universal quality of citizenship across a given national territory makes no sense in a Brazilian context.

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Cooperation, division, and hybridization

Social services and the juvenile court

Every three months, approximately, the *técnicas* working on the LA measure have to send a report to the juvenile court about each young person whose case they are handling. The reports describe the youths' situations and progress in light of the work done with them. At the end of the document, the *técnicas* recommend the measure either be continued or ended. Examining the social uses of these documents, from production to reception, tells us more about how two state institutions – social services and the juvenile court – work together. This aspect to the *técnicas*' work requires cooperation with the juvenile judge, thus raising the question of the hybridization of the social and the penal spheres, as we shall see. This chapter focuses in particular on how the *técnicas* translate the youths' social reality into language that can be understood by the judicial system, while still preserving their own point of view and interpretive frame as far as possible. Habermas's theory (1985) about the relationships between systems and lifeworlds offers an apposite starting point for this reflection. Indeed, the judicial system functions according to its own rationality – with the ultimate aim of judging individuals – and the same is true of social services, which, for their part, seek to provide support, protection, and rehabilitation to vulnerable individuals. These two systems have to cooperate in implementing the LA measure, despite the fact they do not share the same aims or interpretive frames of reality. As for the youths, they live in a 'lifeworld' – a social, cultural, and subjective environment – in which the *técnicas* then intervene and which they interpret and assess for the legal system. This chapter shows the different tensions that emerge between judicial and social logics, as well as the ways in which the violence of the youths' lifeworld can spill over into the institutional sphere and inform the *técnicas*' approaches to their work.

The reports that the *técnicas* write for the judge serve as expertise insofar as they provide the basis for the legal decision to extend or, conversely, end the socio-educational measure. An LA measure lasts a minimum of six months and can stretch to three years depending on the youths' 'progress.' Official guidelines are relatively vague about the 'progress' expected, and the *técnicas* have a lot of room for manoeuvre in writing these reports. Castel (1991) invites us to rethink the way we conceptualize expertise, viewing it as more than simply

impartial technical know-how at the service of a decision-making body. To Castel's mind, an expert report is an act that produces norms and provides the basis for decisions, thereby becoming 'instituting expertise' (Castel 1991, 178). Again, according to Castel, the normative dimension of expertise can be seen even more clearly in fields relating to the human (for example in psychiatry), where expert knowledge often provides the basis for formally adopted legal norms. I take a similar approach in my analyses, examining the types and forms of knowledge produced about the young people in these reports, as well as the norms conveyed by this knowledge.

The decision to end an LA measure is the result of an encounter between two very different 'institutional worlds': the justice system and social services. Interaction between these two worlds principally occurs through the reports exchanged about the youths' progress in the measure. While, in the final instance, it is the judges who have the power to end or extend this measure, as one judge in Belo Horizonte emphasized, they can only base this decision on the information in the reports provided by the *técnicas*:

The report carries a huge amount of weight in the execution [of the measure] . . . the judge is practically out of the picture, he's an agent of control and surveillance, but the executive agent takes his place . . . the report is a point of reference for the judge, it is fully taken into account.

Thanks both to their professional training and to their experience, the *técnicas* have their own values and ideas regarding juvenile delinquency, as well as their own strategies of *resocialization*, all of which can differ from the perspective taken by the judicial system. They clearly demonstrate a desire to retain some autonomy in their professional practices, and this is particularly evident in their refusal to bureaucratize their work with the teenagers.

Furthermore, the *técnicas* act as intermediaries or even mediators between the judges and youths: in particular, their role consists in translating into a language that can be understood by the judicial institution various aspects of the teenagers' life circumstances and trajectories that help to explain their current situation. Owing to this position, the *técnicas* often find themselves torn between a desire to 'cover' for the youths when they fail to meet the judges' expectations – as a way of compensating for the organizational hypocrisy described in the previous chapter – and a need to prove that they are effective in implementing the measure's official objectives. The *técnicas*' written reports are also a way for them to obtain esteem and recognition from their institutional partners (Serre 2008; Halliday et al. 2009) in a context where, in both the cities in my study, they face increasing pressure to meet standards of efficiency through objective results.

The last point also invites consideration of the issues of power underpinning written acts (Delcambre 1990). Although the judges depend entirely upon the information provided by the *técnicas* to make their decisions, the power relations between the two institutions nevertheless position the *técnicas* in a subordinate

position in relation to the judges. The *técnicas* have to prove to them, through their reports, that they are implementing socio-educational measures in accordance with the spirit of the law. The reports therefore also serve to legitimate the *técnicas*' work. According to the coordinator for non-custodial measures in Belo Horizonte, they could even be considered 'the calling cards of the *técnico* and the LA department as a whole.' These reports crystallize many of the key issues involved in the relations between the judicial and executive organizations that implement socio-educational measures.

While these documents obviously reflect the interpretive frames and values at the heart of non-custodial management (responsibility, autonomy), in this chapter, I broach them as a formal, bureaucratic means of communication between social services (responsible for implementing the measures) and the court (responsible for making decisions). This approach reveals certain tensions between these two systems concerning the management of these youths and also highlights the *técnicas*' strategies to address these tensions. Moreover, while verbal and written forms of communication are constantly intertwined in social workers' daily practices (Delcambre 1990, 1992), the written word cannot simply be reduced to the mechanical transcription of verbal thinking; the written act produces specific and lasting effects on modes of thinking and categorization (Goody 1977). My aim is therefore also to identify the codes and constraints that weigh upon this written act and the issues of responsibility and individual/institutional credibility that it raises (Léglise 2004).

This chapter therefore seeks to understand the hybridization of the social and penal spheres within the LA system, looking at the coordination efforts involved in the writing of these reports. In order to do this, some basic knowledge of the workings of the juvenile court is necessary. I therefore begin by outlining very briefly the judges' logic of action, focusing on the criteria for applying LA measures and the criteria for extending or ending them (referred to as *extinção* or 'extinguishment' in Rio de Janeiro and *encerramento* or 'closure' in Belo Horizonte). This first section also addresses how the youths themselves understand, experience, and appraise the socio-educational system as a whole (see box 11). The youths' specific experience of the LA measure itself is discussed in depth in the following chapter.

After this outline, I go on to show how two main issues determine how these reports for the judge are written: on the one hand, proving efficiency, and, on the other, upholding the professional values of social work. In all cases, to make their points intelligible to the judges, the *técnicas* have to respect the modes of communication imposed by the judicial system (structure of the reports, vocabulary, and so on).

Finally, the chapter ends by examining the impact that the local configurations described in Chapter 2 have on the actual cooperation between the judicial and executive powers. In Rio de Janeiro, there is considerable distance between the two branches, marked by suspicion and incomprehension, while the relationships in Belo Horizonte are more trusting and routine. I show that

the relationship between the CREAS and the court has an impact not only on how the *técnicas* write their reports but also on the type of control they exercise over the youths during the LA measure.

Judicial logic and language

The stages of judicial procedures

The stages in the penal procedure do not differ much between Rio de Janeiro and Belo Horizonte; the main variation is that, in Belo Horizonte, all the stages take place in the same building (the CIA) – from police interrogations to hearings with the judge – whereas the police station that specializes in handling minors and the juvenile court are located in different places in Rio de Janeiro.

After being arrested by the police, usually after being caught red-handed, young offenders are taken to a special police station where they are questioned and an initial statement of the incident is drawn up. They are then immediately taken to a representative of the prosecution department (a *promotor*) for a preliminary hearing. The prosecutor then has three options: dismissing the case, giving a ‘remission’ (with or without an associated non-custodial measure), or beginning proceedings against the youth. In Belo Horizonte, approximately 40% of cases are dismissed during the preliminary hearing and 20% result in a ‘remission’ in combination with a non-custodial socio-educational measure. This decision is only possible when the teenager admits the offence and agrees to a non-custodial measure with no further court proceedings. In Belo Horizonte, the vast majority of non-custodial measures are applied during the preliminary hearing after a ‘remission.’

In the 40% of remaining cases, the proceedings continue and the youths are either released until the next hearing or remanded to a ‘provisional confinement facility’ (*centro de internação provisória*). They are then summoned to a ‘presentation hearing’ (*audiência de apresentação*) with a judge, a prosecutor (*promotor*) and a court-appointed lawyer (*defensor público*). During this hearing, in Belo Horizonte, the judge decides (after debate with the prosecutor and defence lawyer) which socio-educational measure to apply.¹ In Rio de Janeiro, this initial hearing is followed by a ‘continuation hearing’ (*audiência de continuação*) at which a definitive judgement is reached.

The criteria for judicial decisions

It is extremely difficult to summarize and compare the logics of action in the juvenile courts in Rio de Janeiro and Belo Horizonte for several reasons: first, there are no reliable statistics available in Rio de Janeiro, and the data available for Belo Horizonte only concern decisions made in preliminary hearings; second, analyses based on observations conducted with only three judges²

cannot provide the basis for a more general overview, as the autonomy of juvenile judges is such that practices differ substantially from one courtroom to the next.

In general, my data established that non-custodial measures (LA and PSC) tend to be applied when one or more of the following parameters is applicable: 1) it is a first offence; 2) the offence is not very serious and did not involve the use of violence; 3) the youth seems to come from a 'structured' background (parents who work, no criminal convictions in the family) or the family is present during the hearing. The measures depriving youths of liberty (semi-open and confinement measures) are applied when 1) the youth is a repeat offender; 2) the youth is failing to complete a non-custodial measure; 3) the acts in question are considered serious (use of violence, use of a gun).³

Based on these overall criteria, armed robbery can result in community service (if the youth is not already known to the justice system and only played a secondary role in the robbery, for example) or in confinement (if the youth escaped from a semi-open facility to commit the crime and held a gun to the victim, for example).

Distinct penal philosophies

Nevertheless, the available data suggests that judges' practices in Belo Horizonte are less repressive than those of their counterparts in Rio de Janeiro. This can be seen, firstly, in the proportion of non-custodial measures handed down in each state: in 2010, 79.2% of youths in Minas Gerais state socio-educational system were serving a non-custodial measure against only 55.8% of those in Rio de Janeiro state (SDH 2011). Furthermore, the viewpoints of the judges I interviewed, along with the arguments put forward in the legal case files I examined, also revealed two distinct penal philosophies. One judge in Belo Horizonte spoke of a justice model that 'emphasize[d] freedom':

It's a model that emphasizes freedom and, by following that model, we won't only persist in giving the youth freedom, we'll see whether he manages to wake up, whether he ends up becoming more self-aware.

The aim is to work with youths in non-custodial settings, several times if necessary, until they 'wake up.' Another judge in Belo Horizonte stated, in the same vein,

I can only hand down a measure depriving an adolescent involved in drug dealing of his freedom after his third arrest; before that I have to apply non-custodial measures, to see if he responds.

João Pedro's case, already mentioned, illustrates this determination to apply non-custodial measures. The young boy was 13 years old and, according to his

file, spent a lot of time on the streets, was illiterate, took drugs, and had psychological problems. He had been arrested for stealing a car radio and this was his fourth hearing before the juvenile court (he had already been arrested for two non-violent thefts and one theft with the use of violence). During his previous court hearings, he had received a 'remission' with either a warning or an LA measure. In the minutes of the hearing, the judge justified his decision to apply another LA measure as follows:

It is not viable to apply a warning because this has already been applied and he committed a further infraction. He has a long list of prior infractions and this measure has not proved sufficient to resocialize this adolescent, who persists in defying the justice system. . . . I cannot see how to apply a measure other than LA either, given that there is nothing in the multi-disciplinary report to justify a more severe measure. Moreover, the adolescent began his LA measure in October 2010 and the infraction in question was committed in May 2010, so before he began that measure. . . . Given these explanations, and given that the infraction was a low-level offence, I consider an LA socio-educational measure appropriate for the process of rebuilding this adolescent's life plan and providing him with the conditions to live in society.

João Pedro's situation was a fairly classic one: he had committed several offences in a row and was now being judged for something he had done before beginning an LA measure for an earlier offence. The judge therefore simply decided to send him back to the LA measure already in place. Often, judges alternate between different non-custodial measures to test which one will have a greater 'impact' on the teenager. This was the case for Marcelo, for example, who was also appearing before the juvenile court for the fourth time for offences linked to drug trafficking. During his previous hearing, the judge had given him community service; this time, he therefore decided instead to apply an LA measure (on the advice of the *técnica* dealing with him in his PSC measure).

The judge I interviewed in Rio de Janeiro defended a much more restrictive use of non-custodial measures, limited to 'one-off' offences.⁴

LA is appropriate for an adolescent when the infraction is a one-off event in his life . . . he can find himself committing an infraction and that doesn't mean he's an offender, in the broader sense of the term, a person who lives his life that way. He has a structured family, an education, he studies or he works, he's an adolescent who's integrated in society, he's not on the margins of society, he's integrated, but he had a moment of weakness, so we give him the opportunity to answer for his crime while remaining free, so that he doesn't lose his ties with society, because he's a fit person in this society, he's not bad for this society.

The following excerpts from legal case files⁵ confirm this restricted use of non-custodial measures in Rio de Janeiro (the same type of argument, taking an almost standardized form, was present in most files):

This was the adolescent's first court appearance; he has support from his family, and the LA measure is therefore the most appropriate to consolidate family ties that were undermined and therefore led the adolescent to make choices that resulted in this trial.

Or

The public prosecutor's office is right to request an LA measure because the infraction was not very serious and it was a first court appearance. . . . It is important to underline that the aim of the justice system for children and adolescents is to protect the young offender, by encouraging him to stop committing infractions, by preventing him from committing new infractions, by removing him from the street and from marginal life. For that reason, a socio-educational measure is not a sentence but a measure aimed at resocializing and integrating the adolescent into society.

The use made of provisional confinement also offers a way of determining how 'repressive' judicial practices might be in each city. Provisional confinement, in juvenile justice, is theoretically justified in the same way as in the adult penal system: if the youth in question represents a serious threat to public order, if his or her release could affect the due process of the trial, or if there is a serious flight risk, then the youth can be placed in a provisional confinement facility (for a maximum of 45 days). In practice, judges also use this resource for 'pedagogical' reasons to make the teenager 'realize' the repressive potential of the justice system, as this judge from Belo Horizonte explained:

Well, there are a few exceptions, I won't pretend it doesn't happen. For example, sometimes it's the adolescent's first hearing, or second, for example for a drugs case, but with substantial quantities, there's clearly involvement [in trafficking], and I think that if you apply a measure you trivialize what he's done too much. So even when we know, after the interrogation, that he'll receive a [non-custodial] measure, pedagogically, we keep him in confinement for ten days, so that he realizes that his actions can lead to him being removed from society.

Provisional confinement facilities have an extremely 'carceral' infrastructure, and conditions are often difficult: the youths spend most of their time in cells, and opportunities for activities (education, workshops, sport) are almost non-existent. For youths who spend time in provisional confinement and are then released and given a non-custodial measure, the experience is often a 'shock'

or even quite traumatic, and this comes out in all their narratives. Professionals in the socio-educational system hope to use this experience to build ‘awareness’ following the philosophy of the ‘incarceration shock’ that is still broadly prevalent in these sorts of institutions (Frauenfelder, Nada, and Bugnon 2018).

Although there are no statistics on this matter for Rio de Janeiro, it seems that the judges use provisional confinement more systematically there than in Belo Horizonte. In Belo Horizonte, provisional confinement rates were 23% in 2010 (de Melo Silva et al. 2012). It is plausible to hypothesize that, overall, these cases correspond to youths who are then sentenced to a confinement measure.⁶ Given that, additionally, the vast majority of non-custodial measures (approximately two out of three) are applied after a ‘remission,’ in the context of a contractual justice framework that cannot lead to confinement, we can conclude that very few youths who are given non-custodial measures spent time in provisional confinement. In Rio de Janeiro, the only data available is qualitative data drawn from the Chiquinha Gonzaga CREAS. Out of 30 case files for youths in LA, nine came to LA as part of ‘measure progression’ from a semi-open or confinement facility. Of the 21 remaining cases, where an LA measure was handed down directly after arrest, 12 first spent time in provisional confinement (i.e., more than half). These youths included Micael, for example, who was arrested for the first time by police and charged with drug trafficking (even though the police found no drugs on him but some hidden nearby on the street). Although the teenager denied everything, he was nevertheless held for 21 days in provisional confinement before being sent to LA.

The role of the judges in implementing *Liberdade Assistida*

Having identified the judicial logics presiding over the first stages of the trial through to sentencing and the application of a socio-educational measure, we can now turn more specifically to the role of the judge while the LA measure is actually implemented. This measure lasts a minimum of six months and is regularly reassessed by the judge,⁷ who decides either to extend or end it. In Rio de Janeiro and Belo Horizonte alike, a specific judge is designated to follow ongoing measures. In theory, the judges base their assessment on the three central pillars of the measure (education, professionalization, family) to determine the ‘progress’ made by the youth and assess the probability of a repeat offence. In reality, though, in most cases, the judges follow the *técnicas*’ suggestions as evidenced by the following reasoning outlined by a judge in Rio de Janeiro:

The arguments considered favourable to ending a measure or applying a softer measure are that the adolescent studies regularly, has a structured family, and, sometimes, that he has a stable job. . . . Thus, despite the laconic observation that the adolescent is attending school, we have no information about either how frequently he does so or what his grades are, and we know nothing about his professionalization. . . . In the present case, in

addition to the fact that all, or almost all, the factors mentioned do not allow for a change of measure, the social report presented explicitly states that it is necessary to continue the measure in order to consolidate and reinforce the work currently being done.

That being said, in some cases, the judges end the measure even when the *técnica* has not recommended it, especially when the youths turn 18 because while the ECA does make provision for keeping over-18s in the socio-educational system, this overloads the system, and the judges prefer to keep room for under-age youths instead. Moreover, one judge in Belo Horizonte opined that a socio-educational measure is no longer effective after 18 months because the potential for socio-educational intervention wears off. This judge therefore stated that he ended measures after that time period. In Rio de Janeiro, this practice does not seem to be systematic, especially not for youths who go from confinement facilities to semi-open facilities to LA and who therefore often remain in the socio-educational system for over two years. However, the case files I analyzed in the different CREAS in Rio de Janeiro and Belo Horizonte suggest that most LA measures last, on average, between nine and 16 months. The judges also seem to consider the minimal length stipulated by law (six months) insufficient because it is rare for an LA measure to be that short. The *técnicas* anticipate this expectation and do not suggest ending the measure ‘too quickly’ even when the youth’s situation might warrant it.

Box 11 ‘I was a minor, nothing could happen to me’: knowledge, opinions, and experiences among youths in the socio-educational system

The youths on the LA measure often have knowledge and experience of the socio-educational system that extends beyond this specific measure. They have, of course, appeared before a judge, sometimes several times. Some of them have been assigned to other non-custodial measures (particularly PSC) or even to custodial measures, whether in the form of provisional confinement or of confinement in cases when LA has been applied as ‘measure progression.’

What knowledge and conceptions do these youths have of the socio-educational system? What are their stances towards it, and what experiences have they had of its different measures? This box examines these questions and offers a complementary overview to that of the judicial perspective provided earlier; it does so briefly, however, as the next chapter discusses in detail the youths’ experiences of the LA measure itself, which is my main focus.

Learning the rules of the game

When recounting their first arrest, the youths often stated, 'I was a minor; nothing could happen to me.' They therefore seem to take up the dominant view of the ECA in Brazil – namely, that young offenders are treated with a certain leniency. This idea is widespread within the drug trade, and adult dealers expect minors to give themselves up to the police in their stead, given that, in theory at least, they risk far less severe sentences.⁸ The youths are also aware that a first arrest generally results in a non-custodial measure:

When I was arrested, I said to myself, I knew I was going to be released . . . because it was the first time, and on top of that, I was a minor.

(Wanderson)

The degree of the youths' knowledge of the system depends on their offence, however: those involved in the drug trade seem to be much better informed than those who have just committed a one-off offence, as they have been socialized by their peers. Similarly, information about the system is passed on among peers in provisional confinement facilities. This common perception of a first arrest not being particularly risky leads to some very bad surprises for youths who commit offences that are considered particularly serious. Diogo, for example, who was arrested during a bank robbery, assumed he would be released, but the judge sent him to a provisional confinement facility and then to a confinement facility, where he spent 14 months.

In their narratives, youths who had been given different socio-educational measures showed solid knowledge of the criteria on which judicial decisions are based: they knew that a more serious measure would be applied for a repeat offence and that family presence / school attendance were positive factors in the judge's eyes. Kaio, for example, told the judge he was only eleven and a half because he knew that socio-educational measures could only be applied to youths over the age of 12. Micael, for his part, claimed he had nothing to do with the drug trade and that this was a trumped-up charge (*forjado*), referring to a common practice among police officers in Brazil consisting in charging an innocent person in order to prove their efficiency to their superiors. The youths also developed knowledge and strategies in relation to how measures are implemented. Joana explained to me, for example, that the second time she was in provisional confinement, she played by the institution's rules to avoid the many punishments she received for unruly behaviour the first time round. She also advised friends who were considering running

away from a semi-open facility to stick to their measure until the end, as she knew that an arrest warrant for an escape would be valid until they reached the age of 21.

Youths with long experience of the socio-educational system therefore clearly acquire a fine-grained knowledge of its workings and, over time, become increasingly capable of devising elaborate strategies to mitigate its impact on their lives.

Provisional confinement: the real penal sanction?

While the youths generally agreed that the LA measure was ‘much better than prison’ (*melhor do que ser preso*), they tended to have little to say about this non-custodial measure. I was only able to obtain some sense of their experiences in LA through repetitive questioning. It is plausible that the transient and sporadic nature of LA does not produce the same kind of ‘dense’ experience as provisional confinement or longer-term confinement, both of which gave rise to detailed spontaneous narratives in my interviews. I will focus mainly on provisional confinement here, as it has a strong impact on the youths who then go on to complete non-custodial measures. In order to address experiences in semi-open and confinement facilities, further in-depth analysis would be necessary, and this falls beyond the remit of this book.

In talking about their experiences of detention, the youths used carceral vocabulary that differs radically from the politically correct language of the socio-educational system. They referred to having been ‘imprisoned’ (*preso*) in a ‘prison for minors’ (*presídio, cadeia de menor*) and almost never used the word ‘confinement’ (*internação*). They always remembered in detail exactly how many days they had spent in provisional confinement: Vando, for example, stated in an interview that his first provisional confinement had lasted 21 days and his second 53 days. In contrast, they rarely remembered the length of their LA measure or even the different offences for which they had been judged. It could reasonably be suggested that this degree of precision results from the extremely affecting and often traumatizing nature of the provisional confinement experience. Detention conditions in these facilities are very difficult. Roberto recounted that he was often hungry at night before going to sleep, as the last meal was at 5:30 p.m. and that, due to a lack of beds, the youths had to share them, sleeping ‘top and tail.’ Violence from the centre’s wardens was also omnipresent in the tales they told.⁹

The Padre [provisional confinement facility in Rio de Janeiro], it’s super strict there. . . . The guys think it’s like being in the army.

Getting up at 5 a.m. for breakfast, taking ice-cold showers. . . . Lights out at 10 p.m., no one can talk, everyone has to sleep. If they hear any noise, they open the cell, kick everyone out, everyone gets beaten. . . . The staff beat you with a huge lump of wood, about this size.

(Micael)

The uncertainty about what measure will eventually be applied by the judge also adds to the tension during provisional confinement:

The first time, I thought I'd never . . . that I'd stay three years . . . that I wouldn't see my mother anymore.

(Vando)

While some youths are indeed transferred directly from provisional confinement facilities to long-term confinement facilities, where they can remain up to three years, others are released after their provisional confinement and given a non-custodial measure. In these cases, we can see provisional confinement being used as a 'pedagogical sanction.' This was clearly demonstrated by what Natasha, who had experience of this, had to say. Natasha had been in confinement aged 14 before receiving an LA measure:

I cried for the first three days. There, a day lasts a month, it's awful. And I went to the first hearing and the judge said 'Do you like it there?' I said no and he said to me: 'Well, you're going to stay there for a month.'

(Natasha)

The youths come to internalize the punitive function that judges ascribe to provisional confinement: Wanderson considered it normal that his friend, who was arrested for the same offence as he was, should spend more time in provisional confinement than he did because it was already his third appearance before the juvenile court. As for Marcelo, he did not understand why he should still have to serve a PSC measure upon leaving provisional confinement because, in his mind, he had already been punished by the criminal justice system by means of the 23 days he had spent in the facility.

Sense of justice

At the end of each interview, I systematically asked the youths what judicial solution they would have used, if they were a judge, in the case of someone in the same situation as they were and, more generally, whether

they felt that the socio-educational system had been fair towards them. Overall, the youths were not especially critical of the workings of the system and its rationale of 'reward-punishment' depending on their behaviour, illustrating how difficult it is to envisage a penal system without punitive logic. Fabiano, for example, considered the escalation from non-custodial measures to custodial measures with each repeat offence to be justified. He even defended a more punitive approach than that of the judges in Belo Horizonte, who wait for several repeat offences before applying more severe measures:

The first time, I'd give an LA, right, because the person would go and talk with her [the *técnica*] you see, to understand, to see what could be done. Then if he ended up in prison again [in provisional confinement], I'd call the *técnica* and I'd ask: 'So, how did it go?' 'Ah it wasn't good, he didn't want anything, he didn't show any willpower.' [Imitating the judge]: So you're going to go to prison, you'll stay a year, or six months so that you learn, at least, so that you see, so that when you get out, you want to change.

(Fabiano)

Several of the youths I interviewed made similar points to Fabiano's, independently of their own representations and experiences of confinement (some of them, for example, underlined how much they had suffered in confinement and framed this as the catalyst for their desire to 'change their lives'). This conception of criminal justice 'giving offenders a chance' and then punishing them if they refuse to cooperate is in fact very similar to the conception promoted by the system's professionals, showing the extent to which the youths have internalized institutional discourse. Some youths did also state, however, that without support and without family, desistance from crime was impossible, putting into perspective the weight of willpower and rational choice in most of their narratives about delinquent trajectories.

While, in general, the youths' discourse about the socio-educational system was largely congruent with institutional discourse, three types of criticism did nevertheless emerge. First was police corruption and the labelling of juvenile delinquents by local police patrols, which result in innocent youths being arrested. Indeed, police officers have to provide guilty parties to the judicial institution and go so far as to fabricate offences entirely.

Second, they looked ahead to their impending adulthood (age 18, in legal terms) and discussed the enormous difference in the treatment of juvenile and adult offenders in Brazil. Rodrigo, who had spent time in

an adult prison just after turning 18, stated he was in favour of a single justice system for juveniles and adults because adults were treated far too cruelly, and he saw this as immensely unfair to young people who had only just turned 18. Alex also expressed this point of view, arguing that the (relative) leniency of the socio-educational system left minors more exposed to exploitation by drug bosses, who recruited minors because of the lower probability that they would face extended incarceration.

Finally, while the youths did not often call into question the 'fairness' of the socio-educational system, they were more prone to questioning its efficacy (i.e., its ability to promote desistance from crime). Several of them specified that neither non-custodial nor custodial measures were of any use – in the first, there was no point talking with a *técnica*, while the second simply fostered suffering and feelings of revolt. Marcio, for example, believed that the only effective measure would be to give young offenders a job and allow minors to work, whatever their age, because, in his view, economic necessity generally explained involvement in delinquency.

Competing imperatives: maintaining professional ethics and meeting managerial standards

The decision to extend or end an LA measure is the result of an encounter between two separate institutional worlds: social services and the criminal justice system. These institutions function according to distinct logics and time frames, and their actors have different motivations and priorities. However, implementing non-custodial measures requires a minimum level of cooperation between both institutions.

The *técnicas* enjoy substantial discretionary power in how they implement the measure and write their reports. The multiple ways in which 'responsibilizing' the youths is understood within the socio-educational system, combined with the wide range of complicated situations in which the youths find themselves, result in a broad range of possible justifications for ending an LA measure. Moreover, the *técnica* implementing the measure has far more information about her charge than the judge, allowing her to select which information she chooses to pass on to the judicial authorities. Fabiano, for example, had only been convicted once for drug trafficking and received a remission in combination with an LA measure. However, his *técnica*, Sofia (Psych., BH), then realized that he was actually the manager of a drug sales point and had probably been involved in homicides. She did not, however, pass on this information to the judge (both to protect the boy and, as we shall see later, to protect herself from him).

The reports are the result of a process in which the *técnicas* select information from everything they know about the youths and produce a coherent

narrative. Sofia's handwritten notes about Fabiano contained a lot of information about his family's financial and material circumstances (nine people lived in the house, but only two were employed), about his excessive drug consumption, and about family conflicts (his step-father took crack and was violent), as well as the family's repeated relocations. Based on this information, and after an initial selection process, Sofia constructed the interpretive frame that would guide her work with Fabiano and that she outlined in her supervisory meetings: Fabiano's involvement in the drug trade was understood as a quest for 'reputation and power,' and everything connected with material poverty was set aside. She emphasized the effects of her work with him that were congruent with this dominant ideological frame (particularly the things she said to him that went on to produce a new form of self-awareness). The reports she sent to the judge provided a filtered and euphemistic version of this interpretive frame. Sofia mentioned for example that 'Fabiano ha[d] decided to live alone due to conflicts in his family' and that there were 'signs that the adolescent [was] involved in infractions.'

Moreover, in general, the *técnicas* tend to delay sending the reports as long as possible when they have to inform the judge of cases of *descumprimento* (failure to comply with the measure). They first try every other possible strategy (calling the youths and their parents, sending a telegram, summoning the parents, and so on) to try to get the youths to return without involving the judiciary. Here again, the *técnicas* have the power to delay a judicial decision (justification hearing, disciplinary sanction, and so on).

In short, the *técnicas* have the practical competence to determine whether the youths are freed from the obligations linked to their measure. This decisional capacity of professionals in the field recalls certain sociologists' observations concerning new trends in the welfare state – namely increased decentralization and autonomy of local actors – offering a way of addressing the increasing complexity of social problems (Cattacin and Lucas 1999).

However, the *técnicas*' autonomy is constrained and restricted by some of the requirements of the judiciary, which determine the presentation and content of their reports. While the *técnicas* clearly exercise some measure of power over judicial decisions, they must also submit to expectations and criteria dictated by the justice system in writing their reports, lest their assessment be discounted.

Regarding structure, the reports follow a very standardized form: they begin by outlining the youths' overall situation regarding the measure (when it began, the extent of their compliance, and so on). Regular attendance at *atendimentos*, punctuality,¹⁰ and assiduity are systematically listed, for example in the following terms:

After several *atendimentos*, Viviane understood the importance of the LA measure for her. From that point on, she drew closer to the centre's team and started doing her measure with more regularity and more interest.

(Report by Raquel, SW, RJ, about Viviane)

The reports are then divided into three parts, focusing on the measure's three priority areas: family, education, and professionalization.

Concerning family circumstances, the reports first outline the youths' relationships with their families and the strength of these ties (for example: 'Wilson has strong family role models and is very concerned about his family's survival' – Report by Rafael, SW, RJ about Wilson); second, they determine how involved the youths' legal guardians are in the LA measure:

Everton's mother has come several times to his *atendimentos* at the centre and has proved to be fully involved in him serving his measure and in her son's life plans.

(Report by Raquel, SW, RJ, on Everton)

However, the parents' commitment to the measure must not replace that of the youths themselves; otherwise, the *técnicas* comment ironically on the measure being 'served by the mother' (or father).

Concerning education and professionalization, discussed in detail in the previous chapter, the reports not only identify the youths' objective situation (whether they are enrolled in school or not, for example) but also their motivation and interest in the *técnicas*' suggestions and advice. Positive judgements ('the boy shows motivation, principally regarding his training. . . . He has matured considerably,' – Report by Raquel, SW, RJ, about Everton) are easy to differentiate from negative assessments ('Sarah stopped studying in 5^a série [fifth year of compulsory education, usually completed age 10/11] and is currently not attending school, claiming a "lack of interest" in education' – Report by Alice, Psych., RJ, about Sarah).

Finally, the reports also underline the youths' capacity to achieve their own goals, a sign of their degree of 'autonomy':

He shows concern with doing his measure satisfactorily, demonstrates lots of commitment to his personal and professional development, and is capable of devising strategies to achieve this.

(Report by Rafael, SW, RJ, about Wilson)

The report then ends with a short conclusion that, for example, suggests ending the measure or, conversely, emphasizes the importance of continuing to work with the youth despite the poor results obtained thus far.

The increasing influence of 'new public management' in judicial institutions, visible in Brazil but also in North America and Europe (Slingeneyer 2007; Rothmayr Allison 2013), has led to greater bureaucratic control being exerted over the *técnicas*' work. Ever more objective results are sought from penal policies with a view to measuring their efficiency. In 2011, one prosecutor in Belo Horizonte explained to the *técnicas* that their reports had to be 'objective,' 'clear,' and 'faithful to the facts.' All the *técnicas*' activities in Belo Horizonte are noted

in a computer database, which can be consulted at any time in order objectively to assess the work accomplished and potentially to alter policies determining how the measure is implemented.¹¹

We can clearly see a tension between, on the one hand, the discretionary power wielded by the *técnicas* – like the ‘street-level bureaucrats’ described by Lipsky (1980), they conduct their work according to their own schemas, values, and priorities – and, on the other hand, the judiciary’s desire to control them and measure their results objectively. This structural tension takes concrete form in the reports, where the *técnicas* seek to maintain their own logics of action and professional values, while also proving their efficiency to the judge.

Técnicas protecting the youths from the justice system

The LA *técnicas* in both Rio de Janeiro and Belo Horizonte all believe (albeit to differing degrees) that their mission is to keep youths away from the judicial authorities and protect them from the judge’s repressive power. They often specified that they ‘weren’t police officers’ and were therefore not there to denounce youths to the justice system. They also often mentioned the need to maintain the ‘relationships of trust’ they had patiently built up with their charges. In their reports, the *técnicas* therefore often use euphemistic language to refer to any involvement in delinquency or even simply fail to mention it. For a boy involved in drug trafficking, for example, they might write that ‘due to territorial conflicts, it is uncertain that he will return to school.’ Euphemistic terms are also systematically used to refer to death threats, especially from the police, as otherwise the youths in question might face reprisals.

The *técnicas* do not just keep the judiciary at bay because their professional ethics preclude them from denouncing their charges; it is also a way of establishing their professional autonomy. For example, although the *técnicas* in Belo Horizonte had been explicitly instructed by their management to hand back to the judge any cases where the youths were heavily involved in delinquency or facing death threats, Carolina (Psych., BH) made the most of the leeway available to her to keep Rodrigo in the LA measure as long as possible, despite knowing that he was highly placed in the drug trade and facing death threats both from the police and from enemy dealers:

In the end, that’s how it went down, because, in the end, it broke my heart, to have to send that case back . . . and I was a bit scared to be honest, because the supervisor was telling me: ‘He’s going to die, he’s going to die while you’re looking after him, he’s going to die.’ One day the supervisor looked at me and he said: ‘Listen, if this boy dies and you’re still looking after him, you’ll be allowed to cry for half an hour during your working hours, and if you tell me you’re having nightmares about him, you’ll see.’

(Carolina, Psych., BH)

Although the supervisor did not force Carolina to hand the case back to the judge, because of the principle of the *técnicas*' professional autonomy, she eventually conceded and agreed to do so, for fear of being held accountable in the case of an 'accident':

If the boy died and the court asked me questions . . . because that can happen, that the judge finds out a boy is dead and summons the *técnico* to ask him to explain himself, to say what he knows. And if the case reached the ears of the department [municipal department for non-custodial measures] the first thing he [the supervisor] would say is 'I told her to send the case back and she didn't want to.'

(Carolina, Psych., BH)

By 'handing the case back' to the judge, the *técnicas* are therefore confronted with their own powerlessness when it comes to getting the youths to desist from crime. Carolina told me in the same interview that she had kept hoping until the very end that Rodrigo would decide to walk away from drug trafficking. In the end, the pressure from her supervisor along with Rodrigo himself telling her she could no longer do anything for him made her decide to let go.

The *técnicas*' tendency to 'protect' the youths from the judicial authorities is not limited to criminal activities they might know about. The *técnicas* are also careful to provide the judge with a narrative about the youths that is in keeping with their professional values and interpretive frames. These narratives are similar to the strategies Halliday et al. studied among social workers, trying to influence legal decisions by producing 'welfarist narratives of redeemability' (Halliday et al. 2009, 414). One of the discursive strategies used consists in 'putting the adolescents back in context' to make sense of their difficulties:

We can't just say 'we told the boy to get his [identity] papers sorted and he didn't do it' . . . there's something beyond that, the fear, the embarrassment, the difficulty, and we'll put all that in the report.

(Bruno, Psych., RJ)

In other cases, it is about explaining why the youths are not attending school, while avoiding laying the blame on them:

He works at night, which makes returning to school difficult. . . . He recently asked to be sent to a school in the public system as his working hours had changed, but at the same time his mother fell ill and so he decided to find a new job in the afternoons to supplement the family's income. It should be noted that his mother works in the informal economy and therefore does not have any health insurance.

(Report by Rafael, SW, RJ, about Wilson)

This discourse is clearly constructed with a view to justifying the young boy's failure to return to school and to absolve him of blame by offering contextual information about his circumstances.

In addition to this contextualization, a further discursive strategy used by the *técnicas* consists in underlining the youths' 'determination' to comply with the measure's objectives despite these not being achieved. In some cases, for example, although the youths' return to school does not appear imminent (or even likely), the *técnicas* emphasize the adolescents' awareness of the value of education in their reports:

He does not show much interest in studying but recognizes that, if he had spent more time at school, he would have had better opportunities in his life.

(Report by Rafael, SW, RJ, about Wilson)

The intention here was to demonstrate to the judge that the young man had accepted the values of the LA measure. During an informal discussion, though, talking about the same boy, the *técnicas* told me that returning to school would make no sense in his case because of his age (he was 20) and because he was independent both financially (he worked on the informal job market) and from his family (he lived with his partner).

The *técnicas* frequently used the same strategy concerning integration in the job market: when youths were employed on the informal job market, the *técnicas* hastened to add that this was a temporary situation while they awaited employment on the formal job market:

At the moment, the young boy is working informally as a waiter and helping out as a builder's assistant. Marcelo is in the process of obtaining the necessary documents to enter the formal job market.

(Report by Sofia, Psych., BH, about Marcelo)

In the following case, also, despite the lack of actual prospects on the formal job market, the *técnico* made sure to emphasize the boy's 'goodwill' in this regard:

He continues to work in the alternative transport trade without a worker's card and with no social insurance. However, finding work on the formal job market remains his greatest ambition.

(Report by Rafael, SW, RJ, about Wilson)

The information selected and included in the report also depends on the *técnicas*' objectives at the time of writing. Patricia (SW, RJ), for example, wanted the judge to end Artur's measure. For this reason, she failed to mention his grandmother's alcohol problem in her report. It is probable that, in another context,

his grandmother's alcohol addiction would have been mentioned to explain the difficulties he was facing in his daily life.

It would be inaccurate to conclude, however, that the *técnicas* seek systematically to provide an 'improved' image of the circumstances and progress of their charges within the measure. The youths who cannot convince their *técnicas* that they are 'complying' with the measure (those who refuse to talk, who do not use the right arguments, or who simply do not attend their *atendimentos*) receive negative reports informing the judge of their 'immaturity,' 'lack of interest,' 'inconsistency,' and so on.

In general, though, my data suggest that the LA *técnicas*' professional culture contributes to keeping the youths at a safe distance from the repressive power of the judicial authorities. The *técnicas* tend to prefer to deal with the 'problems' they identify within social services, allowing them to control how they go about their work with the youths and to establish their professional autonomy.

Técnicas protecting themselves from the youths

When *técnicas* withhold information from the judge, this is not only about protecting the youths from potential judicial consequences; sometimes, it can be about needing to protect themselves from the youths. Young people who are strongly implicated in drug trafficking represent a potential threat to the *técnicas*, who can sometimes face reprisals. The youths in question have the armed backup of their faction, and, in the organized drug trade, death threats are a common method of conflict resolution.

In Belo Horizonte, one *técnica* requested a transfer to a different CREAS following death threats from one young man whose case she was handling. Another *técnica* changed jobs for the same reason. In Rio de Janeiro, certain *técnicas* were glad they were not present at the court hearings, as it avoided the risk of having to say negative things about the youths in front of them and the judge.

Finally, the youths involved in highly professionalized forms of drug trafficking also have defence lawyers paid for by the criminal faction in question. In these cases, the *técnicas* are especially careful, as the youths sometimes ask their lawyer to read the reports written about them.

Fabiano's case, handled by Sofia (Psych., BH), combines all the issues mentioned here concerning communicating information to the judge. On the one hand, Sofia was responsible for avoiding further deaths:

When the adolescent is very involved [in trafficking], when he says he's going to put his life or other people's lives in danger, you have to say this in one form or another in the report because this boy may die or kill [someone].

(Sofia, Psych., BH)

However, she also had to protect herself from potential reprisals:

His case was serious, he'd say 'I'm involved in shoot-outs.' So it seemed important to me to include the fact that there were signs of involvement [in trafficking] but if I explained the whole context, what's the judge going to do, he's going to take the report and read it to the boy: 'Listen, the *técnica* working with you says you're involved in shoot-outs.' So I can't write what he tells me.

(Sofia, Psych., BH)

Finally, Sofia did not believe in the justice system's ability to offer an appropriate response to Fabiano's situation:

If there were overall policies, maybe the adolescent could get some benefit from my report, but if I say that, he'll get no benefit, on the contrary, it will harm him.

(Sofia, Psych., BH)

To sum up, in addition to the factors mentioned earlier (ethics of non-denunciation, maintaining professional autonomy), the fear of reprisals is an additional reason confirming the *técnicas*' need to keep the judicial system 'at a distance' and to reassert their independence from it.

Técnicas proving their effectiveness

Despite their considerable autonomy, as state workers responsible for implementing socio-educational measures ordered by a juvenile judge, the LA *técnicas* nevertheless remain accountable to the judicial authorities. Reading their reports, judges seek to identify the results obtained during the socio-educational measure, and the *técnicas* are concerned with avoiding being held responsible for any lack of results, as evidenced by Mayra's point of view:

We can't put all the difficulties in the report, but we have to point to them, because if this boy, after an initial report, starts to pose a series of problems, if we think he's going to pose a problem, we've already referred to it, so we can talk about it in the second report. . . . [If] we've already identified the problem, we have to talk about it, because it also shows that we've done our job, even if it's had no effect, so the report is also a tool to show the work that's been done.

(Mayra, Educ. Spec., RJ)

Anticipating future criticism, the *técnicas* explain in detail in their reports all the efforts they have made to obtain results in the three priority areas defined by the measure.

These efforts can be seen, in particular, in the *técnicas*' repeated attempts to 'convince' the teenagers of the importance of engaging in education and professionalization (illustrating the pervasiveness of 'government through speech'). Fabiano, whose circumstances have already been discussed several times, had the educational level of a seven-year-old and refused to return to school or to participate in a professional training programme. In all the reports sent to the judge, his *técnica* mentioned her attempts to enrol him in school ('I sent the youth to the school administration but he did not want to enrol,' 'the adolescent did not want to go back to school, but I'm continuing to raise his awareness of this issue').

Sometimes, other actors are held responsible for the fact that the measure has had little impact on the teenager. Viviane (SW, BH), for example, included in one of her reports a letter from the public education system refusing to give a place to the youth. In other situations, the youths' parents are framed as the main obstacle to the different courses of action undertaken.

In many cases, though, the *técnicas*' discursive strategy entails placing responsibility for the measure's failure squarely on the youths' shoulders, due to their non-compliance. This strategy is at odds with the logic of protecting youths and keeping the judicial sphere at arm's length, as described earlier.

In conclusion, the *técnicas* act as translators and mediators between the youths and the court. Throughout the LA measures, the *técnicas* translate their charges' situations into language that is intelligible to the judicial authorities while, as we have seen, also responding in their reports to the various requirements outlined previously (protecting the youths, protecting themselves from the youths, and proving their own efficiency to the judge). The *técnicas*' considerable professional autonomy allows them strategically to select the information they pass on to the judge, but also to circumvent organizational rules – for example, delaying sending a *descumprimento* report (reporting failure to comply with a measure).

These reports reflect all the tensions at play between the objectives imposed by the judiciary (especially concerning education), the professionals' values, and their actual possibilities for action: to mitigate these contradictions, the *técnicas* construct an argument aimed either at exonerating the youths from blame (by underscoring their goodwill) or at holding them responsible for the measure's lack of impact, and, in all cases, at demonstrating that they themselves have done their work properly, despite the absence of visible results.

Moreover, by contextualizing the cases they present (referring to family circumstances, the youths' personalities, their past, and so on), the *técnicas* seem to want to lead the judge to a more individualized and protective interpretation of these young people's situations, to the detriment of the strict application of the objectives outlined in the official texts.

The impact of local institutional configurations

The competing requirements that come to bear on the writing of these reports, described previously, can be seen in Rio de Janeiro and Belo Horizonte alike,

as they are the result of several structural factors that are identical in both cities: the ‘protective’ professional cultures of the social services *técnicas*, the use of death threats for conflict resolution in the drug world, and the discrepancy between the measure’s official objectives and the *técnicas*’ actual possibilities of action.

However, at a local level, there are important differences in the relationships between the CREAS that implement measures and the juvenile court that orders them. As discussed in Chapter 2, in Rio de Janeiro, this relationship involves greater distance and strongly asymmetrical power relations, generating a lack of trust and considerable incomprehension on the part of the *técnicas* with regard to the judicial sphere. Conversely, in Belo Horizonte the municipal department for non-custodial measures enjoys a more horizontal relationship with the juvenile court (CIA), with closer collaboration between the two institutions based on better personal connections between actors than in Rio de Janeiro.

These specific local configurations have an impact on how cooperation between *técnicas* and judges actually takes place and, thus, indirectly, on the mode of government of youths in LA.

Welfarist approaches and discretionary decisions in Rio de Janeiro

Communication between the *técnicas* and the juvenile judge is generally quite intermittent in Rio de Janeiro. The *técnicas* send their first report six months into the LA measure, and then the following reports are sent every four months (in Belo Horizonte, reports are sent every two or three months approximately). Similarly, it is difficult for the CREAS to obtain information from the court, and the *técnicas* often complain about how slow judicial decision-making processes are:

I think that the judge doesn’t always read the reports, and while we have deadlines for sending [them], he doesn’t have any for answering, I’ve noticed that.

(Mayra, Educ. Spec., RJ)

This erratic communication has direct consequences on how the LA measures unfold. Silvio’s LA, for example, continued for two months after the judge had ended it because the CREAS *técnicas* had not been informed of this; the judge’s decision was dated February 2, 2010, whereas the information was only passed on informally by the court’s *técnicas* at the end of March 2010. As for the official report, it only arrived at the CREAS in June – a full four months after the judicial decision was made. For a while, the *técnicas* circumvented these difficulties by directly consulting judicial decisions on the court’s intranet; however, they ceased this practice after an ‘accident’ (erroneous information passed on to

one young man). Instead, they encourage the youths to follow their own cases online and let them take the decision to stop coming to *atendimentos* once the judge has decreed the end of the measure. The vagueness that surrounds the decision to end an LA measure has a direct impact on the youths. Enrique, for example, told me in an interview that he was never officially informed of the legal decision to end his measure; he simply noted, 'I stopped being summoned to the CREAS.'

The slow speed at which information circulates between the CREAS and the court also leads to absurd situations, making a mockery of the *técnicas*' supposed role as experts consulted by the judge. Dayane's report, for example, was sent by her *técnica* to the judge in November 2010 but only arrived on the judge's desk in January 2011. The judge then made his decision (to extend the measure) in March 2011, a time at which the *técnica* was already supposed to be producing another report on Dayane's 'progress' without yet knowing whether or not the judge had decided to extend or end the measure.¹²

This type of situation makes the LA measure meaningless to the youths in question. Several of them explained to me in an interview that they had done their measure for the first six months, and then, once they realized that their 'good behaviour' produced no results, they became discouraged and stopped coming to their *atendimentos*. When they begin their measure, they are told from the outset that its duration will be a direct result of their behaviour (according to the *técnicas*' oft-repeated motto: 'You're the one who'll determine the length' – '*O tempo, é você quem vai fazer*'). The youths are then generally informed by their *técnicas* when a report has been submitted about their case, and they wait impatiently for a decision from the judge, which sometimes takes months to arrive.

Everton, who came to LA after nine months spent in confinement and six months in a semi-open facility, expressed his anger with regard to a system that 'forgets about' young people on their measures:

I'm so mad, it's super unfair. . . . I came here [to LA] enrolled in school, with a job, doing a class! I left my job but I found an even better one at the court . . . no-one sees anything! No-one sees anything! It's because they forget about us. . . . 'Ah, he's a former inmate,¹³ screw him!' They forget about us.

(Everton)

And indeed, despite Everton's exemplary situation when he arrived in LA, he spent another 13 months in that measure, bringing him to a total of two years and four months spent in the socio-educational system.

Finally, the various difficulties involved in communicating efficiently with the judge also go hand-in-hand with the *técnicas*' feeling of incomprehension regarding the criteria on which judicial decisions are based. One judge ended a measure when Rafael (SW, RJ) had just told him that the youth in question

was failing to meet the requirements of the measure; another judge, on the contrary, decided to prolong a measure, whereas Mayra (Educ. Spec., RJ) had suggested ending it.

Of course, all these elements have to be put into their proper context: at the time of my study, this public policy was new and involved cooperation between two organizations with no prior connections. Nevertheless, this particular configuration of the relationships between the CREAS and the juvenile court only served to radicalize the *técnicas*' lack of trust in the judicial system and the degree to which they kept it at bay. In their interviews, they mentioned the need to 'subvert judicial logic' or to prove to the youths that the CREAS was entirely different from the court or custodial measures. The court's requests were systematically interpreted by the *técnica* as a desire to control their work or to control the youths and as something to be resisted. Patricia (SW, RJ) refused, for example, to provide the court with certain pieces of information they requested about the youths she was working with (for example their 'nick-names' and their drug consumption), stating that she refused to be complicit in police control over these young people.

This raises the question of the consequences of this particular configuration on how youths are managed when serving the measure. First, the radical distancing of the court results in a form of supervision that is even more confined within the boundaries of social work. Given that the *técnicas* do not want to rely on the judge as a partner and, indeed, do not feel that it is possible to do so, they prefer to 'deal with the youths' problems' within their own organization, using their own resources, rather than provide information to the judge that could then be used against them or the youths. This is far more the case in Rio de Janeiro than in Belo Horizonte. As far as the youths themselves are concerned, this means their cases are handled in more fragmented ways: the court and the CREAS seem to operate according to entirely separate or even contradictory logics. The youths assigned to an LA measure also face greater arbitrariness within the penal process itself. It is hard for them to make sense of the judicial decisions – and especially the length of their measures – when even the *técnicas* cannot fully comprehend the judicial logic at work. In some cases, the *técnicas*' lack of power over the partnership with the court places even more responsibility on the youths, who, for example, have to follow their own court proceedings online and decide themselves whether or not to continue coming to their *atendimentos*. In such cases, the *técnicas* essentially cease to act as mediators between the youths and the judge.

Continuous control and judicial guarantees in Belo Horizonte

The relationship between the juvenile court (CIA) and the CREAS is very different in Belo Horizonte. Less asymmetrical power relations and closer daily cooperation allow the two organizations mutually to adjust their practices in a

more consensual fashion. For example, the lengthy judicial process was identified as a problem in 2011. It was then discussed by the main parties involved (the municipal department for non-custodial measures, the *técnicas*, and representatives from the court) with a view to producing new practices, collectively, that would speed up the processes. During this meeting, the different actors agreed on a target time frame for receiving a response from the judge about either extending or ending a measure within two weeks of the report being sent (which was already the case for 50% of reports).

The different actors in the system also often know each other personally in Belo Horizonte or at least have the possibility of meeting each other to deal with problems if necessary. Carolina (Psych., BH), for example, contacted the CIA prosecutor directly in order to clarify Rodrigo's situation as a matter of urgency given that he was facing death threats.

Furthermore, the modalities of communication in place between the two organizations are more institutionalized than in Rio de Janeiro. The euphemistic expressions used by the *técnicas* to pass on the fact that the youths are still involved in criminal activities ('there are signs of involvement in infractions' or to refer to employment in the informal job market ('he is doing an apprenticeship in the field of. . .')) were discussed and approved by the municipal department and had the tacit agreement of the judicial authorities:

[Reading an excerpt from a report]. 'He's gaining experience in civil construction by doing an apprenticeship close to his home.' That's to avoid saying he's working. . . . But the judge understands perfectly well. . . . If the public prosecutor sees that, or one of the organizations for the protection of children and adolescents, they'll come down on us like a ton of bricks, but the LA coordinator said in a meeting that that's just how it is, that's our reality . . . and we have to say that that's our reality.

(Sofia, Psych., BH)

Finally, the *técnicas'* function as experts is more extensive and effective in Belo Horizonte than in Rio de Janeiro. The judge in charge of monitoring the implementation of non-custodial measures explained, in an interview, that it was necessary to allow the *técnicas* substantial autonomy because they knew the youths better than he did and could 'sense' when the time was right to pass on information. That same judge expected the *técnicas* to notify him when a measure was not appropriate (by suggesting replacing a PSC measure with an LA measure for example) or even to inform him when a measure was 'needless':

It does happen and every time I talk with the *técnicos*, I emphasize this issue: 'I don't want any adolescent to be doing a socio-educational measure needlessly, and you're the ones who have to tell me that, I don't talk to them in the day-to-day, and the conversation he'll have with me isn't the same one that he'll have with you.'

In return, the judge can be a genuine partner for the *técnicas* in their socio-educational work with the youths, for example when they feel they have exhausted all the means of intervention available to them. Pedro (SW, BH), for example, had been working with one boy since June 2008. The youth had been arrested for drug dealing, was 16 years old at the start of his measure, and already had a long list of prior offences (with four ongoing trials). He enrolled in school at the beginning of his measure but stopped attending after a semester. From December 2008 onwards, his attendance of his *atendimentos* was erratic, and Pedro indicated in the report for the judge that 'there were signs of involvement in infractions.' The youth then re-enrolled in school in February 2009, but the *técnico* continued to suspect he was involved in trafficking. He was then arrested again in the summer of 2009 (for assaulting a security guard at the school), and the judge decided simply to send him back to his LA measure. In October 2009, the *técnico* suggested extending the measure in a report to the judge. Shortly afterwards, the young man left school again and stopped coming to his *atendimentos*. Pedro was increasingly concerned about him because he was about to turn 18 and would then have to contend with the adult criminal justice system. He therefore wrote to the judge, asking him to summon the young man to a justification hearing.

This example provides a good illustration of the *técnico*'s faith in the judicial authorities and his recognition of their legitimacy. Not only did he inform the judge that the boy was continuing to commit offences, but he also suggested extending the measure and asked the judge to intervene through a justification hearing in the hope that this might, *in extremis*, prompt the boy to return to the 'straight and narrow' before he turned 18.

Again, it is important to examine the effect that this organizational configuration has on the actual government of youths in LA in Belo Horizonte. The close cooperation between the judicial authorities and the people responsible for implementing measures results in a much more continuous form of control being exercised over the young people. The actors communicate with one another, the *técnicas* call on the judge when necessary, and the youths are more speedily and more frequently made to feel the judge's repressive power than in Rio de Janeiro. This more continuous control is therefore also more coherent and less arbitrary than in Rio de Janeiro. Judicial decisions are more congruent with the actual time frame of the measure and the *técnicas* are better equipped to explain the judges' decisions to the youths.

Finally, the proximity between the judge and the CREAS *técnicas* has the knock-on effect of creating greater proximity between the judges and the youths in LA. The judge in charge of implementing non-custodial measures frequently repeats to the teenagers during their hearings that they can come and 'talk to him' if they have a problem. This offer, which might seem a bit 'naïve' on some level, nevertheless seems to mean something to the youths. For example, one girl aged 13 came to the court alone and asked to see the judge to tell him that she had decided to start complying with her measure again.

In sum, this comparative analysis has shown that, in Rio de Janeiro, the *técnicas*' discretionary power is exercised 'behind the back' of the judiciary, whereas in Belo Horizonte the *técnicas*' autonomy is officially supported by the judges. The distance, lack of trust, and incomprehension that characterize the relationships between the *técnicas* in Rio de Janeiro and the court prevent the former from viewing the judge as a partner in their socio-educational management of LA youths. They tend instead to keep their charges away from the judges so as to protect them from repression and arbitrary decisions. This situation therefore creates a more intermittent form of control over the youths. In Belo Horizonte, communication between *técnicas* and judges is more institutionalized, more predictable, and more intelligible for all concerned. This close cooperation between the CREAS and the judicial authorities creates a more continuous form of control: the court intervenes when the *técnicas* sense the need for a more repressive approach and becomes an extension of the government exercised by the *técnicas* in the CREAS.

Conclusion

What salient points should be retained from this analysis of the content and function of the *técnicas*' reports about the youths in LA? Considering these reports as 'acts of expertise' (Castel 1991), I have shown the types of knowledge that prevail in these documents: knowledge from the field of social work and linked to a welfarist conception of the management of young offenders. The *técnicas* therefore act as translators and mediators between the youth's lifeworlds and the judicial sphere¹⁴ by drawing on referentials from a welfare culture aimed at countering – or at least at mitigating or reconfiguring – strictly judicial forms of judgement. In writing their reports, the *técnicas* establish a 'truth discourse' about the youths, but they also contribute to explaining their reality by offering the judge an *ad hoc* interpretive frame through which to understand the youths' situations and the progress they have made within the measure. In this sense, the expert opinion does not just shape reality; 'it is also an explanatory discourse that deploys demonstrations and causal schemata capable of shedding light on reality, on making it comprehensible' (Dumoulin 2000, 216).

Although the *técnicas* wield little power over how their reports are interpreted or the impact they have on judicial decisions (given that they cannot defend them in person before the judge), my analysis of the workings of the juvenile court has nevertheless shown that these documents do play a determining role in decisions to extend or end LA measures. One possible explanation lies in the considerable workload facing the judges who handle LA measures; another, however, is the total lack of other available sources of information about the youths' circumstances. In some ways, the judges have no choice but to fall in line with the *técnicas*' opinion. In other contexts, judges can decide whether or not to follow expert recommendations, depending on the legitimacy they ascribe to the expert in question but also according

to other interests in play (Dumoulin 2000). With the LA measure, this is not the case, and the reports are therefore a precious resource when it comes to informing judicial decisions.

In parallel to issues relating to the contextual knowledge and interpretive frames used to understand the youths' situations and decide on the next step in the judicial process, my analysis also reveals the strong prevalence of purely organizational issues. As well as controversies over the 'right' way to understand the youths and to work with them, institutional relationships between the judicial and executive agents are also at play. The *técnicas* strive to prove their efficiency to the judge so as to maintain their credibility, both as professionals and as staff employed by one of the judiciary's partner institutions. This requirement is at odds with the desire to maintain a 'welfarist' approach in their reports, because the *técnicas* have to provide objective indicators of the results obtained. However, the institutional hypocrisy analyzed in the previous chapter also affects two of the LA measure's objectives: education and professionalization. Given the impossibility of reducing the discrepancy between the judges' expectations and their actual possibilities for action, the *técnicas* can be tempted to place responsibility for failure on the youths' shoulders. Halliday et al. (2009) have also identified a constant concern among social workers serving as experts for juvenile judges about the credibility of their perspectives. These social workers are worried about seeming too lenient or too naïve to the judges, especially as they do not have as much information as the latter about the proceedings underway. In order to compensate for this, they tend to introduce more 'repressive' elements into their arguments – recalling prior offences for example – and suggest sentences that they consider realistic from the point of view of the judge who will read the report: two strategies aimed at demonstrating to the judge that they have their feet firmly on the ground (Halliday et al. 2009).

The LA *técnicas* have different causes for concern than these social workers – the former in fact have more information at their disposal than the judges – stemming directly from the institutional hypocrisy weighing on the measure's official objectives. Moreover, the *técnicas*' strategy for mitigating these concerns also differs insofar as it consists in placing responsibility on the youths. In both cases, though, organizational issues combine to restrict the social workers' welfarist approach to their work.

These points also feed into broader considerations about the forms of hybridization of the penal sphere and the social sphere within the LA measure. Halliday et al. (2009) rightly ask for whom social workers produce their expert opinions – judges or young offenders? Despite the fact that from an organizational and formal standpoint the *técnicas* are subjected to the juvenile judge's expectations and requirements, one could argue in the light of my analyses that, when it comes to the reports, their content serves the youths more than the judiciary. The substantial institutional and geographical distance between the *técnicas* and the judges allows the former to retain considerable discretionary

power when it comes to choosing what information they pass on to the latter and thereby to impose their way of understanding the youths' circumstances.

In this regard, specific local configurations have a considerable impact on the forms of hybridization at work. In the city of Rio de Janeiro, penal and social logics are deployed in parallel, in two distinct and distant worlds, exchanging the minimum information necessary to allow the measure to function. While the *técnicas* are, to some extent, forced to conform to the judges' expectations and demands, the judges refuse to take on board and include in their own logic of action the ways in which social services approach and read the social world:

I think that these [socio-educational] measures come to us [in social services] but they also go back to the justice system too, so . . . in a way, the justice system is going to have to reposition itself, faced with these social changes . . . they're going to have to come to a different reading of the social context . . . so that it's not just 'I want this, I want that,' but rather we can have a dialogue through these reports.

(Amelia, Psych., RJ)

In Belo Horizonte, however, the hybridization is both more evident and more effective: the judges entrust the *técnicas* with providing the grounds for their decisions, based on their own professional referentials; in return, they know that these *técnicas* will act as effective intermediaries between the youths and the justice system (as they understand its logic of action) and that they will not hesitate to call on judicial power when necessary as an extension of their own work with the youths.

Notes

- 1 The literature shows the judge's supremacy when it comes to judicial decision-making and the very minor role played by the prosecution and the defence (Miraglia 2005). It should also be noted that civil courts and criminal courts for juveniles are separate in Brazil; the judges I refer to here only deal with cases of delinquency.
- 2 I interviewed four judges in total but only observed three of them in the courtroom.
- 3 Different ethnographic studies have looked at judicial decisions and offer a more in-depth perspective on issues that are not discussed in detail in this book: Miraglia (2005) has shown the importance of youths and their families expressing guilt when it comes to 'softening' the sentence applied; Israël (1999) suggests considering the hearing as an endeavour to 'frame' the young offender's situation and personality, thereby legitimating the action taken; Le Caisne (2008) explains decisions to incarcerate minors as the result of a power struggle between the judge (who is more protective) and the prosecutor (who is more repressive) and underscores the importance of the youths' attitude during the hearing (arrogance, rebelliousness) for the legal decision.
- 4 Two other specificities of the socio-educational system in Rio de Janeiro are worth mentioning here: the LA measure is often used as 'measure progression' (*progressão de medida*) to reward the 'good behaviour' of youths in confinement or semi-open facilities. This practice is very rare in Belo Horizonte. The two cities also differ in that the judges

- in Rio de Janeiro often combine LA and PSC measures, whereas, in Belo Horizonte, the judges are against the idea of combining several socio-educational measures.
- 5 Some of the cases of youths I interviewed also confirm this more repressive penal philosophy in Rio de Janeiro. Enrique, for example, received a semi-open measure for his second arrest, for theft without use of violence committed as part of a group. After his semi-open measure, he was then sent on to LA as part of 'measure progression.' In total, he spent 12 months in the socio-educational system.
 - 6 I do not have any data for the city of Belo Horizonte specifically, but, as a reminder, in 2010, in the state of Minas Gerais, 79.2% of youths in the socio-educational system were serving a non-custodial measure and 20.8% were serving a custodial measure.
 - 7 Before arriving on the judge's desk, the report also goes through the prosecutor and the court-appointed lawyer, who both give their opinion on whether the measure should be extended or ended.
 - 8 In reality, given the substantially reduced sentences that exist in the adult penal system and the undetermined length of confinement as a measure for minors, sometimes a young offender will in fact spend more time incarcerated than an adult involved in the same case. On this topic, see Bugnon and Duprez (2014).
 - 9 It is important to note that these narratives mainly concern the provisional confinement facilities in Rio de Janeiro because few of the youths in LA in Belo Horizonte had been through provisional confinement.
 - 10 This requirement for punctuality is not specific to the Brazilian context or to juvenile justice: many studies have underlined that this, often implicit, expectation is present in other social services contexts, in Switzerland, for example (Maeder and Nadai 2004).
 - 11 In 2011, the department in charge of non-custodial measures at Belo Horizonte court used this data to declare that the *técnicas* were sending cases back to judges 'too soon' and that they should, instead, continue trying to get youths to do their LA measures for longer periods of time.
 - 12 This delay can be explained in part by the circuitous stages through which the report passes before arriving on the judge's desk (it is first sent to a regional social services office and then to the municipal department for non-custodial measures, which passes it on to the judge). Another factor is that, at the time of my study, case files relating to non-custodial measures were not dealt with as a priority by the Rio de Janeiro juvenile court.
 - 13 Everton used the term 'inmate' (*presidiário*) to refer to his experience of semi-open and confinement facilities, revealing, once again, the discrepancy between the politically correct language of the socio-educational system and the local categories used by the youths.
 - 14 Conversely, albeit to a lesser extent, the *técnicas* also have to translate the workings of the judicial world for the youths and their families, for example, explaining to one boy's mother how the judicial proceedings would work after his arrest or suggesting to another young man that he bring proof of his admission to a professional training programme to his next hearing, so that his sentence might be reduced. While this aspect of the *técnicas*' work is not central to my own arguments here, it would, of course, warrant further investigation.

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Forced to be free

Non-custodial penal control and dynamics of desistance

In sociology, deviance and its regulation have historically been studied within a constructivist paradigm concentrating on penal actors and institutions (Robert 1973; Sallée and Jaspard 2017; Bugnon and Frauenfelder 2018). However, in recent years, there has been a rise in research focusing instead on the populations subject to penal institutions, with a view to examining *experiences of criminal punishment* (Sallée and Jaspard 2017). The premise underpinning this research is that penal regulation cannot properly be understood without looking at the experiences of the populations in question, the impact penal control has on their daily lives (Goffman 2014), and how they themselves contribute to defining the contours of institutional action (Werth 2011).

In this spirit, this final chapter offers a shift in perspective.¹ Having outlined and analyzed the institutional instruments, procedures, and rationales (Laborier and Lascoumes 2005) making up the government of youths in LA, I will now consider how these young people themselves experience it in the day-to-day. Their ‘freedom’ lends legitimacy to the LA measure within the socio-educational system and is consistently presented to them as an ‘opportunity’ by the professionals they encounter. However, it is also worth examining the effects that this ‘forced freedom’ has on them. For Rose (1999), ‘regulated freedom’ is the emblematic mode in which behaviour is governed in contemporary societies, and it frames the individual as a free, responsible, and autonomous subject. Nevertheless, one cannot ignore the considerable socio-economic constraints weighing upon these youths or the relatively narrow possibilities open to them. To what extent does this freedom become a trap for these youths left facing their inability to enjoy the privilege of being treated as free and responsible individuals?

Moreover, as with the parole conditions examined by Turnbull and Hannah-Moffat (2009) and Werth (2017), youths in LA find themselves in a paradoxical position: they are enjoined to prove their autonomy while at the same time being subjected to disciplinary techniques. If they fail to respect the rules (by not attending their *atendimentos*, not attending school regularly, and so on), they are then called to order in different ways: the *técnicas* phone their homes, then send them letters by recorded delivery, and finally have them

summoned – sometimes with a warrant – to a ‘justification hearing’ at the court, where they must explain their conduct to the judge. As we saw earlier, according to my data, judges only resort to more repressive measures (sending youths to a semi-open or confinement facility) when they have reoffended, in addition to having failed to respect institutional rules. However, the judges remain deliberately vague about the rationales behind their actions and regularly remind ‘recalcitrant’ youths that they run the risk of being incarcerated at any time if they do not change their behaviour.

This chapter is divided into three sections. The first examines the various ways in which the youths resist or conform to the ‘government through speech’ prevailing in these measures. It asks how the youths handle the requirement to produce coherent and appropriate discourse about their identities and their trajectories and also considers the role played by trust, lies, and reflexivity in the dialogue between youths and professionals.

The second section explores the hypothesis that the discontinuous, individualized, and contractual control specific to the LA measure produces particular forms of inequality. Depending on the youths’ resources and prior trajectories, they are more or less capable of producing coherent discourse about themselves and of handling the diffuse forms of surveillance used by the institution. This capacity to meet institutional expectation then affects their ‘progress’ in the measure and consequently the time they spend caught in the net of penal control.

Finally, the third section examines the desistance dynamics at work in the trajectories of 12 young people who were at one time deeply involved in criminal activities but had completely (or partly) disengaged from them at the time of my interviews. My analysis, which I present as a typology, underlines how the desistance process is shaped by the youths’ experiences of delinquency, on the one hand, and of the penal system, on the other.

Being governed through speech: compliance and resistance

I begin by examining the modes of compliance and resistance deployed by youths in the face of the ‘government through speech’ analyzed in Chapter 4. In that chapter, I described how speech was both a necessary condition and tool for the *técnicas*’ work with the youths, while also being one of its objectives: fostering the youths’ ability to think about their actions by putting them into words. Their verbal skills are therefore central in the *técnicas*’ assessments, and their ability to produce speech that meets institutional expectations has concrete effects on how socio-educational institutions exercise control over them.

Speech as a relational or strategic resource

Analysis of the interviews I conducted with the youths revealed two main scenarios among those who had agreed to comply with the rules of this

government through speech. Some viewed their relationship with their *técnica* as a relational and emotional resource; others chose to meet institutional expectations for more instrumental reasons, with a view to accessing a professional training programme for example.

In the first case, they described their meetings with their *técnicas* as special moments of dialogue, allowing them to reflect upon their situation and gain confidence in themselves:

I went each time [to the appointments that had been set], I liked having someone to talk to about everything, because my mother and I . . . I wasn't very open with my mother . . . so, I've even talked about romantic relationships there before, which was nothing to do with it [LA], this woman and I, we had a good relationship.

(Wanderson)

This closely resembles the *técnicas*' official discourse, according to which their main aim is to use dialogue to build trust-based relationships with their charges. However, this does not necessarily mean that the youths have automatically internalized institutional categories or that they say these things strategically to please the institution or even the sociologist interviewing them. As Werth (2011) has emphasized, it is difficult to separate individuals from institutions, the former being partly a result of the latter; however, by taking up institutional categories in ways that make sense to them, individuals also contribute to shaping institutions. In this way, some of the youths I interviewed diverted the official aim of the LA's constraints and gave them new meaning. Alex, for example, told me that he liked to come to his appointments early so as to talk with people in the waiting room and meet new people (as mentioned in earlier chapters, the CREAS are frequented by a range of different people for different reasons). In Emerson's case, as he lived on the outskirts of the city, he saw his appointments as an opportunity to go into the centre and wander around a bit because his public transport ticket was paid for.

Nevertheless, youths who viewed relationships with *técnicas* as a relational resource were in the minority. Most of those who complied with government through speech stated that they mainly saw it as a means to an end: accessing a professional training programme, for example, or shortening the length of their LA. Everton, a very sociable young man who was liked by all the professionals he encountered, had understood that his *técnicas* could give him efficient support providing he built up good relationships with them. In the confinement facility, his *técnica* had supported him and argued for his measure to be ended; later, once he began LA as a measure progression, he asked directly for his *técnica*'s help in obtaining a place on a professional training programme. In general, the youths' viewpoints suggested that the LA measure made sense to them when their *técnicas* met their needs and responded to their concrete requests (concerning school, health care, work, or administrative procedures). Miguel,

who had stopped coming to his *atendimentos* because they seemed pointless to him, agreed to respond to his *técnica*'s summons when she offered to enrol him in a professional training programme:

I did the LA for four or five months, and it was pointless, you know. After she told me she was going to find me a job, I could breathe again. And when I saw that she'd enrolled me on the BHAAS [professional programme], then I started to stop selling drugs.

(Miguel)

Resisting government through speech: silence and lies

The youths do not all collaborate with the various requirements of government through speech. The demand for constant reflexivity and the requirement to conform to certain institutional rules – especially regular school attendance – both meet with resistance of various types and for a variety of reasons. Youths sometimes refuse to attend appointments or remain silent or lie when they do.

The young people I questioned often stated that the LA measure was a 'pain in the neck,' that they were fed up with it, or that they were 'tired' of doing it. One of the things behind this discontent, also observed in other research on minors constrained by non-custodial measures (Saldombide 2013), is certainly the burden of the constant requirement for discursive compliance:

LA is such a chore. It's a real pain in the neck, coming here; because here you've got to say that you like studying, that you want to study; I'll come one day and they'll fix an appointment for two weeks later, but I'll only come back months later. It's been like that from the start. I only come back when I receive the official summons at home, because my mother says I'll go to prison [otherwise].

(Natasha)

In addition to refusing to produce discourse that meets expectations, some youths also perceive LA as an intrusion into their private lives. Marcio, for example, noted that his *técnica* had asked his mother for information about family issues that he refused to discuss and that he considered this to be unacceptable. It fuelled his distrust of his *técnica* and reinforced his decision either to lie or to remain mute.

Finally, the youths' silence with their *técnicas* was sometimes a result of the latter's failure to establish a proper dialogue. Ezequiel, for example, told me that he hated the current psychologist in the semi-open facility because she only ever gave the automatic answer 'but why?' to everything he said. In his eyes, this ridiculously stereotypical way of trying to elicit introspection made the conversation absurd, especially when he raised the topic of wanting the

judge to end his semi-open measure. ('Why am I thinking about the end of my measure? Because I want to get out of here!') he exclaimed, mocking the psychologist.)

However, my data suggest that what the youths find problematic is not the fact that speech is central to exchanges between the institution and its population but rather the form that it takes. Ezequiel, cited earlier, had liked the previous psychologist and was happy to talk to her because she answered his concrete questions. The requirement for reflexivity seems to generate resistance when it becomes the sole purpose of the appointments. Moreover, the youths also refuse to play along when the institution fails to keep its promises: by side-stepping Marcio and obtaining information from a third party, the young man's *técnica* signalled to him that, contrary to her initial claims, they were not in a symmetrical trust-based relationship in which he could express himself as a responsible subject.

As Werth (2011) has underlined, when the institution's rules are broken, this should not necessarily be understood as a refusal to comply with the institutional plan in general. Some of the young people I encountered genuinely wanted to desist from delinquency and find a job but still failed to meet institutional expectations (either because these made no sense to them or because they did not have the necessary resources). Others attended their appointments every week and talked with their *técnicas* – because they enjoyed these discussions or because they did not want to draw attention to themselves with the judges – while nevertheless continuing their criminal activities.

This last point invites us to examine the role of speech in non-custodial and custodial settings. In detention centres, both in Brazil and in Europe, professionals also expect youths to produce reflexive discourse about their trajectories and to state their intention to 'change their lives' (Jaspart 2015). However, in these cases, the issue at stake is future rehabilitation, which can only take place once they have left the institution: for as long as they are still deprived of their freedom, they cannot prove that they are capable of no longer offending. In non-custodial settings, although institutional control appears more relaxed, 'rehabilitation' has to occur during the measure itself, and if it does not, the youths must either lie to their *técnicas* or stop attending their appointments.² Furthermore, the LA measure extends over several months or even years, unlike other non-custodial measures, for example reparation measures which simply require the youths to express regret about their actions (Roux 2012). The question of lying, or at least of dissimulation, seems more salient in LA than in other more short-term or more constraining measures.

Unequal trajectories: the variable impact of individualized and contractual control

The youths' relationships to institutional rules do not emerge in a 'social vacuum.' On the contrary, they are shaped by social, deviant, and penal trajectories

and depend strongly upon the types of capital these young people have at their disposal. Whether they behave in ways that meet institutional expectations is more about having (or not having) certain dispositions that can be used in given social contexts than it is about showing 'goodwill' or being cognitively aligned with the values promoted by the institution.

Considering relationships to penal control as part of a process means looking at specific penal apparatuses – in this case, the LA measure – as links in the chain of actors and institutions with which youths are confronted during their penal career. The meaning of the penal control exercised by LA and the youths' ability to comply with it varies depending on when it takes place within their penal career. It is different when they are 'starting out' on this career, when they have been assigned to a series of non-custodial measures following a series of minor offences, and when their LA is a measure progression after long months spent in a confinement facility. Examining the different roles played by LA in deviant and penal trajectories can therefore shed productive light on how youths interpret and react to the control to which they are subjected.

In return, the degree to which the youths 'comply' with the measure – as perceived and categorized by their *técnicas* – strongly determines how penal control is applied to them. The *técnicas* constantly assess this degree of compliance through various adjectives they apply to their charges. Depending on their behaviour within the measure and the relationships they build up with their *técnicas*, the youths will be described as 'committed' (*comprometido*) or 'assiduous' (*asiduo*), or, in contrast, 'resistant' (*resistente*), 'rebellious' (*arredio*), or 'apathetic' (*apático*). These descriptions are not static and permanent: youths can be considered 'committed' at the start of their measure and then progressively become 'rebellious' or vice versa. These adjectives clearly express the relationships built up between young people and their *técnicas* throughout their interactions, in line with the observations of Ossipow et al. (2008) in rehabilitation programmes in Switzerland.

I showed in Chapter 4 that the government through speech specific to the LA measure went hand-in-hand with a form of discontinuous and contractual penal control that was very different from that exercised in custodial settings, where continuous monitoring is more common as are sanctions when institutional rules are broken. This type of control has two major consequences on the youths' experience of LA: first, it subjects them to a form of daily self-control; second, the shape of penal control is negotiated in the relationships between the youths and their *técnicas*.

However, this double institutional requirement (self-control and negotiation) produces inequalities between the young people in question. As we shall see, by combining an interactionist and structuralist approach to trajectories (Darmon 2008), these inequalities can be explained by the different forms of capital that they have at their disposal but also by their prior institutional trajectories.

Self-control as a form of vulnerability

The LA measure relies upon constant self-control required of the youths, but for some of them, this becomes a form of vulnerability. Diogo was arrested for armed robbery and went through all of the stages of the socio-educational system: confinement, a semi-open facility, and finally LA. He explained that confinement was more useful as a measure than LA because its rigid rules force youths to toe the line. In non-custodial settings, on the contrary, Diogo considered freedom to be a risk³ because he found himself entirely exposed to an urban context in which violence and organized crime were rife:

I was open to getting out of control, like before, like taking drugs for example, you see? . . . I didn't want to do that anymore, but LA exposed me to that, because my freedom was right there in front of me, so I could do anything I wanted. But thank God, I was smart, I said to myself 'No, no, I don't want that in my life anymore.'

(Diogo)

Diogo's words should not be taken literally as meaning that the youths would in fact prefer being incarcerated to being in LA. Most of them see being given an LA measure as an opportunity and confinement facilities as places of suffering. What Diogo is illustrating here, though, in a graphic way, is the considerable difficulty they face in trying to leave the world of delinquency behind when they can only draw upon their own resources.

Contrary to Diogo's suggestion, however, being 'smart' and making good resolutions do not suffice to stay away from crime during an LA measure. Several types of social determinants, connected to the spaces inhabited by these youths, to the forms of capital they have at their disposal, and to their prior experiences of the socio-educational system all affect their capacity for self-control during non-custodial measures. First, the simple fact of living outside zones that are ruled by organized crime and therefore being far from drug dealers' offers and demands spares some youths the difficult struggle of trying to stay away from the 'world of crime.' Second, possibilities for professional rehabilitation, which depend on the youths' academic capital,⁴ go a long way to explaining their ability to comply with the measure and exercise self-control. Diogo had a higher level of education than most of my other interviewees – he was finishing *ensino médio* at the time of his interview – and therefore managed to obtain a place on a professional training programme. This afforded him 'worker' status (symbolically opposed to 'dealer' status in his *favela*), a regular income, and a professional activity lending structure to his days, as well as providing social recognition. Finally, my results indicate that the youths' previous trajectories through the socio-educational system also have a major impact on how non-custodial measures play out for them: those such as Diogo who have

been given an LA measure as a reward for ‘good behaviour’ in a custodial setting tend to respect institutional rules more than their counterparts who have been given a non-custodial measure directly after a minor offence. According to the data I collected in my interviews, this can be explained by the fact that youths who have been through confinement are more aware of the ordeals they can endure at the hands of the socio-educational system⁵ and have also developed a fine-grained understanding of institutional expectations allowing them to free themselves from the hold of the justice system more quickly.

‘It costs nothing’: negotiating and minimizing control

In parallel to the self-control required of the youths, the LA measure also deploys a form of institutional control that is negotiable: the youths can request that appointments be changed, cancelled, or made less frequent when this makes sense to them and their *técnicas*. Not only is control negotiable, it can also be reduced to be of minimal intrusion in the youths’ lives: some only come to talk to their *técnicas* twice a month despite not returning to school or taking any steps towards professionalization. As Joana put it, in short, it ‘costs nothing’ to play along with the LA measure:

And so I said to myself: it costs nothing to go and talk for an hour or two, it’s such a little thing, and then to leave. It’s better to come here and sign in once or twice a month, which is a little thing, than to be in prison and not able to sign anything or do anything else, which is much worse, so I prefer signing in, following the right path.

(Joana)

Moreover, the flexible rules and the substantial room for manoeuvre that the *técnicas* have regarding what information they pass on to the judge mean that the youths’ transgressions do not necessarily result in extended measures. Mario, for example, stopped coming to his *atendimentos* for two months but then returned of his own accord, stating that he wanted to do his measure. His *técnica* had not yet notified the judge of his absence, and there were therefore no consequences.

LA therefore differs substantially from non-custodial measures aimed at adult offenders: studies on electronic monitoring (Devresse 2013; Razac 2013) and parole (Werth 2011) show that despite the apparent freedom given to convicted offenders, the constraints in fact remain very real, and transgressions systematically lead to a return to prison. Within these systems, the rules are also far less negotiable than in LA, which encourages ‘surface compliance’ (Werth 2011, 335). Although youths in LA can also, to some extent, pretend to comply with the measure’s expectations, it is also easier for them to refuse to speak to their *técnica* or even to announce that they will not be complying with the rules (by

refusing to return to school, for example) without this having any immediate or tangible judicial consequences, as Sallée has also shown in the French (2015) and in the Canadian contexts (2018).

While the diffuse and negotiated nature of control in LA might, at first glance, seem to make the measure easier to cope with and therefore to complete, it is not that simple. Control is not exercised equally over all the young people in question. As with the requirement for self-control, the forms of capital the youths have at their disposal, but also their prior trajectories through the socio-educational system, inform their varying abilities to negotiate their way through the institutional control weighing upon them. In this way, verbal skills provide them with important resources for negotiating how often they must see their *técnicas* or justifying why they have failed to fulfil certain commitments. These skills derive not only from traditional cultural capital but also from experience gained in the 'world of crime,' where verbal facility constitutes an important resource especially in the upper echelons of organized drug trafficking (Grillo 2013).

Moreover, the control exercised over the youths also depends on their relationship with their *técnica* and, more broadly, with the socio-educational system as a whole, and this relationship is a direct consequence of the youths' prior trajectory through the system. The youths whose experiences of that system have been marked by control and stigmatization tend to refuse to play by institutional rules: they lie to their *técnicas*, do not come to *atendimentos*, and refuse to speak about their trajectory in ways that align with institutional expectations. Over time, some of them develop a more strategic approach to socio-educational institutions in order to reduce their negative impact on their lives. Others – whether because they fail to understand the rules of the game or because they do not have the necessary means to abide by them or negotiate them – continue openly to break them. For a while, as long as they are subject to a non-custodial measure, they escape sanctions, but the threat of incarceration is constantly present in the professionals' discourse, and the slightest repeat offence will lead to them facing more repressive forms of penal control.

Conversely, youths who have been labelled 'exemplary' throughout their interactions with socio-educational actors and who see these institutions as broadening their horizon of possibilities will comply more willingly with their rules. Oversight is exercised in a more effective and continuous manner for youths who meet the expectations of the non-custodial measure: those who agree to talk, who return to school, and who enter professional training programmes are monitored all at once by their *técnicas*, their teachers, their bosses, and the social workers on these programmes. These exemplary youths obviously reap the rewards of their compliance (shorter measures, access to work, and so on) and manage to turn the LA measure into a resource enabling them to desist from criminal activities, but they also have to show far more tolerance for constant surveillance.

Dynamics of desistance

The increasingly large body of literature on desistance processes, whether in the Anglosphere (Sampson and Laub 1993, 2001; Laub, Nagin, and Sampson 1998; Warr 1998; Uggen 1999; Maruna 2001; Farrall 2002) or more recently in the French-language social sciences (Mohammed 2012a; Gaia, de Larminat, and Benazeth 2019) presents common findings. First, desistance from crime is tied to a process of psychological and social maturation (Mohammed 2012a, 184): the vast majority of young offenders cease deviant activities around the age of 20 to 25, as they start to enter adult life. Finding steady employment and getting married are two particularly significant events accounting for changes in the course of these trajectories, from a lifestyle structured by delinquency toward a more socially conformist one (Sampson and Laub 2012). Another crucial finding in studies on this topic is the non-linear, dynamic, and complex nature of the desistance process (Benazeth, de Larminat, and Gaia 2016): the sequences differ from one individual to another, with frequent hesitations and relapses, which leads Mohammed to describe gang exit as ‘progressive disengagement by trial and error’ (Mohammed 2012b, 187). It is therefore important to move away from a dichotomous conception of involvement in delinquency to consider the multiple possible configurations of legal and illegal practices within an individual trajectory. Finally, it is also important to differentiate between compliance with certain dominant norms (obtaining income legally, for example) and respecting the rules that penal institutions impose on the populations under their control. As Werth’s (2011) research on parolees demonstrates, it may be necessary to transgress certain institutional rules in order to adopt a way of life in accordance with dominant social norms. This is because penal institutions often impede the process of disengagement from delinquency that they are theoretically there to encourage (Werth 2011).

My analysis of the desistance process among the Brazilian youths I interviewed confirms the findings from the existing literature: the process of disengagement from delinquency appears to be non-linear, marked by setbacks and periods of transition in which the boundaries between illegal activities and socially compliant lifestyles are porous and dynamic. Moreover, while most of the young people I interviewed were affected, to varying degrees, by the traditional factors of desistance – such as access to employment, being in a stable relationship, and paternity, but also the stress, exhaustion, and losses linked to the ‘world of crime’ – the effective possibility of disengaging from criminal activities depended on more subtle mechanisms. Understanding these mechanisms requires taking into account the experience and meaning attributed to the events that make up these youths’ life trajectories. In this chapter, I seek to refine the analyses of the desistance process by exploring two particular dimensions of these trajectories: the deviant career, on the one hand, and the penal career, on the other. My approach incorporates both of these dimensions through two ideal-typical poles. In the first, the deviant career can act as a structuring dimension of the trajectory – from both a material and symbolic

point of view – and thus be closely interwoven with the other spheres of social life (family, school, and so on). In the second, the deviant career can unfold in relatively compartmentalized spaces and have little impact on other spheres of life. As for the penal career, it can be marked both by experience of control and stigmatization, or, on the contrary, by social recognition and acquisition of new resources and capital. My hypothesis is that the combination of these two dimensions (experience of the deviant career and the penal career) has specific impacts on the desistance process which can be observed in the trajectories of the young people interviewed.

My approach builds out from the observation that the same event will not have the same impact on different people's trajectories depending on the meaning they themselves ascribe to it (Caiata Zufferey 2006). Thus, the meaning given to criminal involvement (seen, for example, as the family destiny or as a source of financial autonomy or social status) and the youths' experiences and interpretations of penal intervention (for example injustice, support, or punishment) are at the heart of my analyses. This interpretative approach does not, however, ignore the objective social aspects that structure the trajectories of these young people (Darmon 2009). My analysis also uses a range of objective elements to contextualize the narratives provided by the youths: levels of education, family income, the use made of money earned illegally, the degree of criminal activity around them, and whether or not they had the necessary resources to meet the expectations of the penal system.

Box 12 Lucrative and professionalized delinquency

The life stories I have chosen to analyze here are all very similar in many respects. First, all of the youths come from an underprivileged, even poverty-stricken socio-economic background. The majority live in a *favela*, and all were in contact with the 'world of crime' (see Grillo 2013) long before they themselves committed any offence. This familiarity with illegal practices was a consequence either of the places where they grew up (there was a drug sales point on their street, for instance) or of their specific family history (they had a father, brother, or cousin who was a dealer). Scholarship on juvenile delinquency tends to differentiate two different patterns: one 'identity-based/conflictual,' based on the sense of belonging to the gang, the other 'professional/utilitarian,' focused on the economic profits of illegal activities (Mauger 2009). Although these two patterns are usually intertwined, one or the other is often predominant. The illegal activities in which my interviewees were involved related to the world of organized crime, in which each person's place is prescribed according to well-defined hierarchical systems, and the search for profit is

the shared motivation of most actors involved. The experience of physical, possibly fatal violence, occurring during fights between warring factions or interaction with the police is another permanent feature in these youths' narratives. It should be noted that while most of the teenagers in my corpus were involved in drug trafficking, some also specialized in armed robberies, while others combined both activities. In short, this was no 'playful' offending, just to 'pass time' (MacDonald and Shildrick 2010), nor was it the result of belonging to a 'youth gang' (Mohammed 2012b). This kind of lucrative, professional involvement in crime requires that the youths engage in their activities on a regular, often daily basis. This overall context has direct consequences on the type of 'desistance' that can be observed. Whereas the occasional delinquency characteristic of 'youth gangs' ceases to make sense when these teenagers reach adulthood (Le Caisne 2009; Mohammed 2012b), these young Brazilians, on the contrary, have the prospect of embarking on a career within some faction of organized drug trafficking in which the 'bosses' are well-known, admired adults. Consequently, the maturing process (Caiata Zufferey 2005) alone is an insufficient predictive factor for leaving a deviant career. And that is before one even considers the extreme levels of violence characteristic of these adolescents' life in drug trafficking; many die before reaching adulthood and therefore do not have the time to embark on the usual desistance mechanisms.⁶

At the time of my interviews, all the youths claimed to have ceased criminal activities, but the length of time since that desistance, as well as the extent to which they had withdrawn varied. Whereas some had held a steady job for a year or two and were confident about their future, others had only very recently ended their involvement, were struggling to make ends meet by legal means, and explicitly planned to return to the 'world of crime' if they failed to find work. My empirical framework thus makes it possible to explain the mechanisms in play *during* the desistance process itself rather than simply trying to explain it after the event (Kazemian and Farrington 2012, 82). Finally, all the interviewees had spent time in the various institutions that make up Brazil's socio-educational system, although the nature of their experiences differed. Some were only subjected to non-custodial measures, whereas others had spent considerable time in confinement.

Desisting through identity transformation: 'survivors'

The first type of desistance process concerns youths whose deviant career had a significant hold over all aspects of their lives and who had very few resources that they could use outside the criminal world but whose experience with

penal institutions made them feel worthier and more capable. In a sense, these young people were 'survivors' of the world of crime. They were fully aware that there was no prior indication that they would one day walk away from delinquency and that they had only barely avoided a dreadful future: 'without LA I would be in prison today, or else I'd be dead,' stated Miguel, for example.

Their involvement in criminal activities began many years ago and was directly related to extreme poverty or a situation in which other family members were already involved in the world of crime. Their opportunities in conventional society were therefore very limited, both objectively and subjectively. In their narratives, these youths described their involvement in criminal activities as self-evident or as a financial necessity. Miguel, for example, began dealing drugs when he was ten. His three older brothers were also involved in drug trafficking and two of them were in prison when I interviewed him. During his adolescence, the money he earned through drug dealing enabled him to help his mother support the family and send a little money to his brothers in prison.

Faced with the demands of the penal system, these youths presented cumulative disadvantages: they had an extremely low level of education, their language was typical of the world of crime, their involvement in trafficking prevented them from moving around the city freely because of gang wars, and the urgent need to earn money made walking away from their criminal activities highly improbable. Fabiano, for instance, had never completed his first year in *ensino fundamental* (the very first year of compulsory education) because his family was constantly moving when he was a child. He began dealing drugs to help his cousin bring a drug sales point back in business. After a while, he was promoted to co-manager of that sales point, and, when his cousin was sent to prison, it was up to him, with the help of a handful of youths armed to the teeth, to protect it from rival traffickers who wanted to take it over. When he arrived in LA, he had no identity documents. When interviewed, he unhesitatingly asserted, 'almost everything I know I learned from my life in crime.'

Yet, at some point in their trajectories, the socio-educational system offered these young people a new horizon of possibilities, most of the time within the setting of a very particular and emotionally intense relationship with a professional in charge of their case. For Mateus, this opportunity occurred when he arrived in the LA measure, following a long period during which he had suffered violence and humiliation in confinement facilities. He then established a relationship with his *técnica* based on trust and dialogue, which, in his own words, 'made him want to manage to make good.' With the help of this *técnica*, he got a place in a professional training programme, which offered him the optimal conditions to stop robbing and to regulate his drug use.

These trust-based relationships with professionals lead to strong internalization of institutional values and categories, and it is the narratives of these youths that most resemble what might be termed trajectories of 'identity transformation' (Darmon 2009). Miguel, for instance, often stressed that he felt he was now 'reborn'; Igor used religious metaphors, referring to a 'miracle' to explain how

he gave up trafficking at age 18, after five years in the world of crime. In their narratives, these youths' trajectories were clearly structured around the distinction between *before*, in the world of crime, with its violence, 'dirty money,' and 'illusions,' and *after*, in the world of legal work, symbolized by expressions such as 'walking with my head held high' and 'not owing anything to anyone.'

The future remained extremely uncertain for these youths, however, because the resources at their disposal were minimal, aside from the support they had received from the juvenile justice system. It is only by taking advantage of the experience acquired in the professional training programmes and by subsequently accepting a relatively unqualified, poorly paid job that they might succeed in keeping away from illegal activities.

Desisting through skills transfer: 'exemplary' youths

A second type of desistance process occurs by skills being transferred to other activities. This concerns young people whose deviant careers developed relatively autonomously from other spheres of their life and whose experience of the penal system was characterized by social recognition and the acquisition of resources. These youths were labelled 'exemplary' by the penal system, in that they met the expectations of the system: they were at ease talking about themselves in *atendimentos*, were committed to their studies, and took the initiative to find employment.

These youths' relationship to delinquency had more to do with a need for social recognition, purchasing power, and independence than with the logic of survival or family predestination. Indeed, their parents usually had jobs and sufficient – although always very limited – financial resources to meet the family's needs. Davi, for instance, explained that he began to commit armed robberies when his mother became unemployed: 'I didn't need money; at the time I mostly wanted to buy clothes, trainers, a tee-shirt. And then I realized that it was easy.' Davi lived in the city centre, but he had several friends in the nearby *favela* and was already acquainted with the local drug dealers before he began his armed robberies; this made it easier for him, subsequently, to sell off the stolen merchandise. Furthermore, he differed from others in that he had a relatively good level of education – he was in his first year of *ensino médio* (final three years of compulsory education, usually completed ages 15–18) when he was arrested – and by the fact that he managed to keep going to school while pursuing his illegal activities. For these youths, criminal involvement was just another way of earning 'pocket money' during their adolescence, without that competing with their schoolwork or with their future entry on the job market. As well as going to school, Wanderson even managed to keep his job in a kiosk during his period of involvement in drug trafficking. This low-paying job had the main advantage of giving him an identity as an 'honest worker' in the eyes of the inhabitants and the police in his neighbourhood. According to Wanderson, 'all fifteen year olds want to go out, go to the shopping centre, buy clothes,

catch women's eyes,' and selling drugs is a way of getting that money when there is no possibility of securing a steady job.

When faced with the institutions of the penal system, these youths are able to take advantage of their previously acquired skills and resources. First and foremost their educational capital – a diploma from compulsory-level school is required for any professional training programme – but also verbal aptitude and social skills. Jonas, who had never dropped out of school and, like Davi, was in his first year of *ensino médio* when he was arrested for drug dealing, had no difficulty being accepted on three different professional training programmes, whereas many other youths did not even have the prerequisites for taking the competitive selective examination. Verbal skills are another valuable form of capital for these youths: the social ties developed at a music school and at church enabled Diogo to avoid the typical language of drug dealers, which gave him a definite advantage within the socio-educational system.

It is also important to note that youths who live outside of the *favelas* have other assets both in the world of crime and in the penal system. Everton, who lived in working-class housing located in a rather well-off residential area, refused an offer by drug dealers from the neighbouring *favela* to work for them, realizing that the profits would be higher as an independent dealer. That stance would not be tolerated coming from a youth who had grown up in a *favela*. Also, youths living outside the *favelas* receive more attention from professionals in the penal system, who place greater hopes in their rehabilitation since these young people do not have the same social handicaps as young *favelados*.

In sum, these 'exemplary' youths gain access to alternative sources of recognition and income thanks to the penal system, and these replace the world of crime as providers of social status and purchasing power. Moreover, their relationship with the penal institutions is more strategic and reflexive than for youths who desist through identity transformation. Their resources enable them to negotiate the institution's control over them and to take advantage of the potential benefits of professional training programmes without completely internalizing the institution's discourse.

Desisting despite penal institutions: victims of labelling

Finally, my analysis of youth trajectories points to a third type of desistance process, which occurs *in spite* of the control and the labelling by penal institutions rather than *as a result* of the opportunities offered by the system. This type of desistance process applied to youths who possessed forms of capital that could be used outside of the world of crime – because their criminal careers unfolded in social spaces that remained fairly separate from the rest of their lives – but whose experiences within the penal system mostly caused forms of stigmatization and humiliation, as well as limited rehabilitation opportunities. Wilson did not begin to commit armed robberies out of 'necessity' – his mother had a steady job and income – but because he wanted to earn money 'easily.'

Following his third arrest, he was sent to provisional confinement and then to a semi-open facility from which he escaped. He then decided to stop stealing and to work in the family transportation business within his *favela*. But two years later, his previous offences were discovered during a routine police check, and he was sent to a confinement facility for three months and transferred again to a semi-open facility. Wilson suffered many losses as a result: first, his job, then the motorbike he had bought on credit, and even his girlfriend, whose family had been totally unaware of his criminal past.

Other youths were simply unable to comply with the expectations of the penal system, which demands high tolerance for control and apparent conformity to the institutional rehabilitation project. Joana, for instance, was systematically labelled 'a rebel' because she refused to employ the institutional discourse on identity transformation, displayed an explicitly lesbian identity, and used the language typical of drug dealers in her *favela*. As Werth (2011) points out, failure to align with institutional expectations – which, in Joana's case led to her failing the entrance examination to a professional training programme – is in fact unrelated to ability or willingness to engage in a 'conformist' adult lifestyle.

Professionals in the penal system are perceived by these youths as agents of control, who have to be manipulated where possible. Marcio, for instance, lied systematically to his *técnica* about his criminal involvement. On their journey to desistance from crime, these youths gradually construct a strategic relationship with penal institutions so as to limit the negative impacts the latter may exert on their lives. Once he understood that the penal system 'would always find him in the end,' Wilson began to play along with institutional rules – but only on a minimal level: he went to his appointments with his *técnica* but refused to go back to school and gave priority to his work in the family business. For him, the LA measure was simply a constraint, since the institution's rehabilitation project based on school diplomas and formal work did not meet his needs, be it in terms of his subjective expectations or his objective resources (he had a very low level of education and worked in the informal labour market). The obligation to attend an *atendimento* with his *técnica* every two weeks was in fact an impediment to his employment, since he lost a day's work each time.

All in all, the resources deployed by these youths in order to walk away from their delinquent way of life are located outside the penal system and in some cases are even directed against the system to alleviate its negative effects. Most of them find work by their own means and social networks, often on the informal labour market.

An impossible desistance?

Analysis of these youths' trajectories revealed three types of desistance processes, resulting from the combination of their relationships to delinquency and to penal institutions. By cross-referencing these two dimensions, a fourth theoretical type also emerged. It combines the strong influence of the youths'

deviant career upon other dimensions of their trajectories with experiences of the penal system that are marked by stigmatization, as shown in Table 7.1.

The youths who exhibit those two characteristics do not seem to desist. The only effect of the penal system’s intervention is to reinforce their identity as offenders and further restrict their horizon of possibilities. Because of the lack of resources at their disposal, these youths were subjected to control by the institution without benefiting from any of its empowering effects.

For example, Rodrigo faced death threats from enemy factions involved in drug trafficking. When his *técnica* suggested moving away, he told her, ‘I’m from Morro Beija Flor [a *favela* in the city], I come from there and I belong there, I was born there and I’ll die there, and if I have to die for someone there, then I’ll die.’ Rodrigo had just turned 18 when I met him. Even though he had an important position in drug trafficking, he had ‘only’ been arrested for carrying a weapon. He went to his *atendimentos* with his *técnica* every Monday morning at 8:00 a.m. accompanied by a ‘bodyguard,’ because at this early hour, he was less afraid of running into a member of an enemy faction on his way to the city centre. Although he attended *atendimentos* regularly – which was surprising even to his *técnica* – he systematically refused to meet any other institutional expectations and spoke openly about his involvement in drug trafficking. As mentioned previously, his own father was also a dealer and had committed several homicides. Rodrigo’s life trajectory thus seems largely structured by belonging to the ‘world of crime,’ and leaving this world did not seem at all feasible.

Another example of impossible desistance was Edson, whose trajectory was marked by cumulative disadvantages and labelling effects. There was a drug sales point on the doorstep of the house where he spent his childhood. His mother suffered from health problems and received only minimal state aid, dependent

Table 7.1 Types of desistance process

<i>PENAL CAREER</i>	<i>Source of control and stigmatization</i>	<i>Source of social recognition and forms of capital</i>
<i>DEVIANT CAREER</i>		
Structuring effect on the social trajectory (interwoven spheres of life)	impossible desistance?	desistance through identity transformation
Relative autonomy from other spheres of the social trajectory (compartmentalized spheres of life)	desistance in spite of penal institutions	desistance through skills transfer

Source: Bugnon, Géraldine. ‘How does the penal system and criminal involvement impact the desistance process? Trajectory analysis of young offenders in Brazil’, *The Architecture of Desistance*, edited by Stephen Farrall, Routledge, 2019, p. 134.

on her children's schooling. The money Edson earned in the drug trade, where he began working age 12, allowed him partially to support his family. He said he was arrested twice for 'trumped-up crimes,' a police practice consisting of arresting an innocent person to bolster arrest figures. The second time, Edson had begun to reduce his involvement in drug trafficking, which caused him great frustration. His detention in a provisional confinement facility led to his expulsion from school, and during his consecutive placement in a semi-open facility, he was not able to resume his schooling or to find a job (his professional plan was to work as a hairdresser with his cousin).⁷ At the time of the interview, Edson described his future as totally blocked and held the penal institutions largely responsible for the many obstacles he faced in attempting to desist from drug trafficking.

Rodrigo and Edson's trajectories differed in many respects: Rodrigo seemed little affected by the hold that the penal system had – or could have – on his life, because he fully inhabited his identity as a drug trafficker and accepted everything this way of life might entail, including prison or death. On the contrary, Edson perceived himself as a victim of unfair treatment by the actors in the penal system, who contributed to reinforcing his deviant identity and to hindering his attempts at turning towards a more 'conformist' way of life. Nevertheless, these two examples do support the hypothesis that a desistance process is either impossible or extremely difficult for youths whose involvement in delinquency is governed by a logic of survival or a family destiny and who are labelled negatively by the penal system.

Conclusion

Considering penal control in terms of the experiences and trajectories of those who encounter it in the day-to-day sheds light on aspects of this control that cannot be understood by simply using empirical material collected among penal actors and institutions. It also offers a more balanced perspective on the social world by giving a voice to social groups who are usually silenced.⁸

In this chapter, this approach has enabled me to underline the varying ways in which 'government through speech' is experienced and the different forms control can take within LA. The more the youths play by the institution's rules, the more they are subject to a continuous yet negotiable form of surveillance. Above all, they are then able to use the institution to their advantage. As contemporary 'self-controlled' individuals (Elias 2001), youths in LA are at once more free and more compliant, as this compliance results from them internalizing social norms. They stand in strong contrast with their more recalcitrant counterparts who refuse to meet institutional expectations and, sooner or later, are therefore subjected to more vertical and repressive forms of control.

It is clear, though, that not all young people in LA are in a position to conform to institutional norms by building a relationship with a *técnica* based on dialogue and reflexivity. This is exacerbated by the fact that institutional rules

are fairly vague and not applied systematically, especially regarding sanctions. These individualized forms of support and control therefore produce particular forms of inequality intrinsically linked to the types of capital that the youths have at their disposal and to their prior trajectories through the system. Verbal fluency, as well as being able to decode implicit expectations and cope with a diffuse form of surveillance, determine to a large extent how an LA measure will unfold. Paradoxically, the institutional rhetoric around individualized support contributes to masking these inequalities, by placing the responsibility for the success or failure of the measure on the youths' desire to 'make good.' In this way, it produces the institutional violence characteristic of non-custodial measures.

The youths' experiences of the penal system are also central to how I analyze desistance processes. Their trajectories highlight the variable impact of penal responses, which can sometimes produce forms of negative labelling but also sometimes allow the acquisition of new resources, as in the constraining but also empowering forms of control described by Foucault. My results also suggest desistance should be viewed as a process that is more about continuity than radical change (in terms of practices, identity, and social relations). Indeed, the three types of desistance process identified in this chapter do not have the same probability of occurring: desistance by identity transformation is more unusual and uncertain than desistance through skills transfer or the type I called desistance 'in spite of penal institutions.' In the latter two types, desistance is often enabled by the youths consolidating resources and capital acquired inside and outside the world of crime. In other words, it is necessary to consider each youth's varied social contexts and the range of skills and dispositions these afford in order to assess how transfers of capital can arise. With this kind of approach, it becomes possible to avoid two pitfalls in explaining desistance processes: first, relying on an overly rationalist vision of the social world where only individuals who have chosen to comply with social norms desist from delinquency and second, overestimating the importance of radical change in terms of identity and lifestyle.

Notes

- 1 This chapter is based on two prior publications: Bugnon (2017) 'Un contrôle pénal négociable. Conformité, résistance et négociation dans les mesures en milieu ouvert pour mineurs délinquants au Brésil,' *Agora débats/jeunesses* 77 (3): 80–92 and Bugnon (2019) 'How Does the Penal System and Criminal Involvement Impact the Desistance Process? Trajectory Analysis of Young Offenders in Brazil,' in *The Social Architecture of Reform: Exploring the Structural Sources of Desistance and Rehabilitation*, edited by S. Farral (London: Routledge). The latter chapter was, itself, based on a prior publication translated by Helen Arnold and has been adapted for the present book. This publication also appeared in French in *Comment sortir de la délinquance? Configurations des processus de désistance*, edited by A. Gaïa, X. de Larminat and V. Benazeth (Geneva: Médecine & Hygiène, 2019).
- 2 In reality, youths often prefer not to come to their *atendimentos* rather than to lie to their *técnicas*. For example, they will stop seeing their *técnicas* during periods when they are

strongly involved in criminal activities and then return when they can truthfully state that they have decided to change their lives. The contractual relationship between these young people and the *técnicas*, built on both trust and surveillance, therefore produces very real effects because the youths would rather break a more explicit rule (by not attending their *atendimento*) than lose face in that relationship.

- 3 In a very different context, Turnbull and Hannah-Moffat (2009) have also discussed the difficult transition from prison to parole among women prisoners: when they leave prison, these women have to handle a large number of aspects of their daily lives which were previously planned and organized by the prison institution.
- 4 As mentioned before, the diploma for compulsory education and regular school attendance are both necessary conditions for obtaining a place on a professional training programme.
- 5 Exhausted by this long penal career, the youths in this situation often told me that they conformed to the demands of LA in order to free themselves from the hold that penal institutions had over their lives and so they would 'no longer owe anything to anyone' (*'não dever nada a ninguém'*).
- 6 Whereas in Mohammed's study (2012b), the two possible types of pathways for young people who do not leave delinquency in adulthood are professionalization or homelessness, in Brazil, the two ways out most often mentioned by young people are 'prison or coffin' (*'cadeia ou caixão'*).
- 7 From the point of view of all the young people I encountered, the multiple constraints imposed by semi-open facilities (strict time-tables, requirement to provide written certificates from all places frequented outside the centre, and so on) made it extremely difficult to give continuity to studies or professional work. For example, the youths would rather give up a small job than have to confess to a potential employer that they have been convicted of a criminal offence.
- 8 My overall research approach nevertheless remains primarily focused on penal actors and institutions: my access to the actual experiences and trajectories of youths on the LA measure was strongly informed by this initial choice. For example, I was unable to interview any youths who had been given an LA measure but had never attended appointments with their *técnicas*. By choosing not to take the institutions' point of view, other research methods focusing on 'neighbourhoods' or 'groups of youths' (Goffman 2014; Mohammed 2011) no doubt show a broader range of experiences and trajectories.

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Conclusion

Governing young offenders through freedom: producing responsible individuals within a hybrid justice system

Building out from the hypothesis that penal control takes specific forms depending on the institutional apparatus, in this book I have identified, described, and explained the specific ways in which juvenile delinquency is governed in a non-custodial setting. Although the book's chapters were organized empirically, a set of underlying questions were addressed throughout the research it described: what normalizing intentions underpin these institutional apparatuses, and how are they enacted in practice? How are individuals controlled in the absence of prison walls or any direct, continuous physical constraint? How are social and penal logics imbricated within these apparatuses? How do institutional logics intersect with the outside social environment? Finally, how do young offenders experience this type of penal control, and to what extent does this inform their pathways to desistance?

This research was therefore firmly placed in the tradition of sociological studies seeking empirically to understand the meanings, forms, and logics of penal control in contemporary societies. These are increasingly important issues given the sharp increase in alternatives to incarceration, promoted either as 'more humane' than prison or as a less costly way of monitoring criminals. This proliferation of non-custodial sentences is at the heart of many ideological controversies, but existing academic research has mainly tried to assess their effectiveness or legitimacy rather than seeking to understand how they function (Werth and Ballesterio 2017).

I addressed these key questions through empirical analysis of a specific institutional apparatus: the Brazilian LA measure in the cities of Rio de Janeiro and Belo Horizonte. Choosing to focus on this particular system in these particular places enriched my analysis in several ways. First, the fact that the LA measure is embedded in the juvenile justice system exacerbates tensions between social logics (educational, therapeutic, and protective) and penal logics (punitive, constraining, and judicial). This therefore makes LA a textbook case for examining the hybridization of these worlds. Second, the sheer scale of social inequality and spatial segregation in Brazilian cities, combined with the scarce and variable resources of public services, offers a renewed perspective on 'local' and 'networked' institutional action in non-custodial settings. Finally, comparing two

different cities with two different institutional configurations (regarding legitimate forms of professional knowledge, relationships between actors, judges' penal philosophies, and so on) allowed me to highlight how specific configurations help determine forms of government.

The concept of government, borrowed from Foucauldian approaches, was a guiding thread throughout. I attempted to understand what type of individual the LA measure was trying to produce, considering that techniques of government draw on the freedom of those they govern but also instrumentalize that freedom in order to govern (Rose 1999). In other words, the LA measure does not simply manage young offenders who *have freedom*; it is based on a project and techniques of government that operate *through freedom*. By producing effects of both subjugation and subjectivation, apparatuses for governing conduct both constrain and enable individual agency, while at the same time producing identities: in this particular case, 'responsible youths,' 'vulnerable youths,' 'inconsistent youths,' 'youths incapable of critical thought,' and so on. This analysis of 'power in action' led me to distinguish the project of government, identifiable in discourse, from its actual realization and also to look at the specific tools used to implement that project (knowledge, practical categories, relational techniques, material apparatuses, and so on).

My empirical approach paid careful attention to institutional contexts and actors' daily practices, allowing me to underline the shifting, differentiated, and contingent nature of the modes of government at work. The discrepancies observed between the project of government and its implementation should not, however, simply be understood as the result of hypocrisy or a lack of goodwill on the part of state actors. Such a reading of the facts would presuppose an excessively univocal and homogeneous view of institutional action. My analyses have shown, on the contrary, that there is not one single project of government applied to youths in LA, but several, with often conflicting forms of legitimacy. These projects of government are sometimes implemented by different actors but sometimes co-exist – in either contradictory or complementary ways – within one person's practices.

Moreover, while my work focused primarily on the government of youths in LA as conceived and implemented by institutions, I nevertheless still took into account the youths themselves as the targets of the measure. Institutional practices are more than just a reflection of what actors in the field think and do. They are co-produced through interaction with the people handled by the institutions in question. And this is even more the case when the institution's work principally involves face-to-face relationships in which affect and improvisation play a key role. By looking at the youths' socio-economic condition, their subjective relationship to the world, and how and to what extent they engaged with the demands of the LA measure, I was able to identify how they also contributed to defining the boundaries and content of government in LA.

Having delved into the world of the LA measure as described previously, I would now like, in this conclusion, to take a more cross-cutting look at the theoretical issues that informed and underpinned my investigation.

***Liberdade Assistida*: between rehabilitation, responsabilization, and new public management**

At a time when there is strong emphasis in the literature on the punitive turn in contemporary penal polices, in both adult criminal justice (see Mary 2001; Garland 2001; Wacquant 2004) and juvenile justice (see Bailleau, Cartuyvels, and De Fraene 2009), the Brazilian socio-educational system seems, instead, to be reasserting the 'old' penology, with its ideal of rehabilitation, seeking above all to transform and normalize offenders. The LA measure plays an important role in this system. On a symbolic level, it embodies the founding values of the socio-educational system (freedom, citizenship, and autonomy), and, in practice, it is also the measure most frequently applied by Brazilian juvenile judges. In my study, the notion of risk, which lies at the core of the new penology (Feeley and Simon 1992), proved absent from institutional categories both in discourse and practice. Unlike other systems for managing juvenile delinquency, for example in Canada, the young people in the Brazilian LA measure are not assigned the identity of 'at-risk youths' and are not included in broader categories of 'at-risk populations' targeted by specific, often purely preventive, forms of action (Dufresne and Goupil 2010, 134). Moreover, the vast majority of youths are given an LA measure after having committed a criminal offence in the strictest sense of the term (theft, aggravated theft, drug trafficking, and so on) rather than what might be labelled 'public disorder' offences (threats, insults, fighting, damaging public property), which are increasingly being criminalized in other contexts because of the judicialization of social conflict (see for example Mucchielli 2004, 2012 for the French case). It is interesting to note that the rare situations of this type that I encountered in my study involved youths from middle- or upper-class backgrounds. It seems plausible that, given the lack of extensive or regular police presence in the relegated zones of the *favelas* (Bugnon and Duprez 2014), the working classes in Brazil have not been criminalized as a result of everyday interactions with law enforcement. Finally, my analyses highlighted institutional practices focused on individuals and their life trajectories, thus giving renewed emphasis to a 'case-by-case' logic based on providing long-term support: in short, an approach that is perfectly in line with the former ideals of treatment and rehabilitation (Quirion 2006, 142–43).

While these different points show that LA is quite distanced from the 'new penology' paradigm (Feeley and Simon 1992), this initial finding should nevertheless be qualified. The omnipresent requirement for the 'responsibilization' of young offenders in LA and the widespread presence of management rationales do correspond to the spirit underpinning the new penology. The historical context to Brazil's current juvenile justice system, as well as the transnational

circulation of criminal justice models, can provide some reasons for this apparent paradox.

Espousing freedom and democracy as fundamental values, rejecting ‘total institutions,’ and promoting individual rights formed the ideological cornerstone for the social movements re-democratizing Brazil in the 1980s. These movements in turn informed not only the new Brazilian constitution but also, soon after, the Statute of the Child and the Adolescent. Furthermore, the current juvenile justice system in Brazil is not just a product of national dynamics. It also owes much to the increasing influence of children’s rights (Moody 2016) and the transnational circulation of criminal justice models. The now omnipresent idea of ‘responsibilizing’ young offenders should be understood as a counterpart to considering children as ‘subjects of rights’ no longer to be placed under the arbitrary care of juvenile judges. Contemporary individuals, even under-age, are supposed to be capable of self-determination, of speaking in their own names, and of viewing their actions critically and reflexively. The fact that LA frames youths as at once ‘responsible’ and in need of ‘responsibilization’ is not, however, an obstacle to pursuing rehabilitation and education as aims. Quite the opposite: the two trends combine in an institutional project aimed at producing responsible, autonomous individuals by means of affectively charged interpersonal relationships between young offenders and social work professionals.

In parallel, as new management approaches have emerged and spread throughout the socio-educational system, this has created an obstacle to the initial institutional project. In the name of improving the juvenile justice system’s efficiency, there is a requirement for objective results and faster criminal justice procedures. However, for the professionals in the field, these goals are experienced as constraints imposed by their superiors and the juvenile court, diverting them from their main professional mission – namely building up individualized relationships with their charges.

Hybrid modes of government and variable forms of ‘responsibilization’

The LA policy is not built on one coherent institutional programme but rather on different types of norms and professional knowledge that produce hybrid modes of government.

First of all, the forms of knowledge considered legitimate in each city (psychoanalysis in Belo Horizonte; social work in Rio de Janeiro) had a clear influence on the work done with the youths. At the same time, contemporary models of public action, based on individual autonomy and reflexivity, combined with less legitimate practices for supervising deviant populations, characterized by more vertical and moralizing approaches. This gave rise to hybrid modes of government: on the one hand, the therapeutic approach specific to the psychoanalytical framework, which considers the offence as a symptom,

co-existed with an approach based on the youths' reflexivity. On the other hand, contractual practices of supervision co-existed with the paternalistic and moralizing approach inherent to social work. In line with other empirical studies on apparatuses for regulating deviant populations (for example Gowan and Whetstone 2012), my analyses have shown the enduring nature of older models of social intervention. While these may have disappeared in official discourse, after receiving violent criticism in the 1970s, they nevertheless still continue to exist in practice.

Although psychoanalytical theory has not seen the same decline in Brazil (Jesuino-Ferretto 2007) as in Europe with the advent of cognitive behavioural approaches, this cannot entirely explain its enduring influence in the LA measure. My analyses also show that, when revisited and adapted, the psychoanalytical perspective aligns perfectly with the conception of reflexive, autonomous subjects that prevails in contemporary societies. Language and speech become a medium through which to produce reflexive individuals, while the idea that 'desire must emerge from the subject' further promotes autonomy and critiques of paternalistic assistance. The impact of psychoanalysis on the government of youths in LA is therefore clearly ambivalent: on the one hand, it reinforces the requirement for autonomy from these young people; on the other, because it conceives of the subject as a singular being, inhabited by an unconscious, which can only be changed in the long-term, it also curbs the use of cognitive behavioural approaches based on subjects' rationality.¹

The hybridization of the modes of government used with young offenders in LA can therefore be explained partly by the presence of multiple forms of professional knowledge and partly by the combination of modes of intervention from different historical periods. However, these dimensions alone cannot explain the fluid and contingent nature of this government. We must also take into account the interdependence between the professionals and the youths, which is so strong that the latter in fact coproduce both the content and the results of the institution's intervention. Professionals depend on the youths' compliance not only for their endeavours to be effective but also, more profoundly, for them to have any meaning. To some extent, there is a form of 'reciprocal subjugation' (Valli, Martin, and Hertz 2002, 229) in this relationship. While the professionals can label the youths 'responsible' and 'assiduous' or, on the contrary, 'resistant' and 'apathetic,' the latter can, in turn, make the former into bureaucrats serving as the right arm of the judge or, conversely, 'life coaches' and helpful resources in administrative procedures. This strong mutual dependence forces the professionals to use their substantial discretionary power to adapt to the varied situations of their charges.

A further effect of the hybrid and contingent nature of modes of government in LA is that youths are not assigned static identities. On the contrary, categorization is always part of a process, in keeping with Cicourel's analyses in his study on the organization of juvenile justice (1995). Thus, in LA, aims are constantly

revised according to changes in relationships between youths and professionals. The discretion enjoyed by the latter regarding the progress reports they send to the judges allows them to emphasize positive aspects and gloss over less favourable ones. As my findings underscore, the meaning of 'responsibilization' can vary from the youths simply having to demonstrate awareness at a given point in time to them respecting institutional rules or even radically changing their lifestyles. This observation is in line with the findings of Chauvenet and Orlic (2002), who consider that institutional rules are defined flexibly in non-custodial settings in marked contrast to the inflexible nature of carceral contexts, where each broken rule results in a punishment.

That being said, while these numerous categories remain fluid, they can also prove contradictory. During their LA measure, youths can be asked, for example, to prove themselves capable of accepting reality but at the same time to show a sense of initiative. It is therefore not enough for them simply to reproduce pre-formatted discourse about their guilt at a given moment, in the way Roux (2012) describes for reparation measures. The youths in LA are forced to anticipate the varying and sometimes contradictory expectations of different institutional actors (judges, LA professionals, staff on professional training programmes, and so on) in order to prove themselves docile, reflexive, or reasonable depending on the situation.

Finally the professionals' discretionary power also produces inequalities in how the youths are treated because they determine, on a case-by-case basis, how much responsibility they require from their charges. While 'responsibilization' is a common expectation across the board, certain youths who are considered more vulnerable, less mature, or less capable of reflexivity will be exempted from proving their responsibility, whereas others in similar situations may be viewed, instead, as demonstrating a lack of goodwill or motivation. One explanation for this unequal treatment lies in the youths' capacity to play by the institution's rules: by demonstrating even just a minimal commitment to their relationships with the professionals handling their cases, they reduce the risk of being considered responsible for their situation.

This requirement for responsibility – an eminently contemporary form of institutional domination (Martuccelli 2004, 485–90) – affects the youths in different ways. For youths who meet the institution's demands in an exemplary fashion, it can become a source of recognition or even emancipation: having proved responsible, they gain access to socially valued spaces and statuses. For most of the youths in LA, who only meet these expectations in part, the imperative for responsibility becomes instead a tool of government in its own right: they are constantly reminded that LA is an opportunity that they must seize by proving they are responsible. When this demand has no effect and the measure has evidently failed, a form of 'devolution' takes place (Martuccelli 2004, 490–92) whereby responsibility for both the causes and the consequences of this failure are delegated to the youths themselves.

An institution contending with external realities

The modes in which individuals are governed in non-custodial settings are highly dependent on the social context in which these measures are implemented (Castel 2001; Chauvenet and Orlic 2002). In the case of the LA apparatus, this context comprises institutional actors (schools, professional training programmes), specific social spaces (the neighbourhoods in which the youths live), and also more structural social factors, such as the employment market. My analyses highlight the difficulties faced by professionals in reconciling the institutional aims of education and professionalization, on the one hand, and the social reality of public education and the labour market in Brazil, on the other. Torn between the judges' demands, the shortcomings of the Brazilian welfare state, and the youths' desires and objective possibilities, the *técnicas* constantly have to gloss over this discrepancy between institutional aims and actual results in the reports they send to the judges, often by way of euphemisms.

The influence of broader social realities is also clearly visible in the professionals' relationship to the ethical issues raised by the youths' offences. Most of them are socially and economically vulnerable and their involvement in delinquency is often more about participating in a subsistence economy than about 'silly mistakes' made by immature teenagers. For this reason, the *técnicas* rarely give moralizing speeches about the harm caused by the offence, the victim's suffering, or the immoral nature of a life in drug trafficking. They tend to take a pragmatic rather than a legal or moral approach, warning the youths that they are risking their lives by working in the drug world. However, morality is not entirely absent either. Rather, it appears in a different form, connected to the notion of 'choice,' which the professionals use to explain the institution's failure with youths engaged in a career in drug trafficking. They divest themselves of responsibility for this failure, while at the same time reasserting the model of autonomous individuals choosing their own life path despite its inherent risks. In short, rather than trying to instil a particular form of morality in the youths, they try to encourage moral behaviour based on the idea of individual responsibility. These observations are in line with the 'reshaping and displacement of the moral issue' observed by Cauchie and Chantraine in the government of crime, which results in a 'process of (re)moralization percolating down by increasingly placing responsibility in the hands of both offenders and potential victims' (Cauchie and Chantraine 2005, 3).

Finally, the fact that the youths are embedded in different social spaces during their LA measure raises new questions in terms of institutional labelling. In order successfully to complete its mission, the institution has to counter the labelling effects (Becker 1963) it might itself produce. Youths labelled as 'delinquent' can face discrimination from both schools and potential employers, and, unlike in custodial settings, the professionals working with them do not dispose of facilities within their own walls adapted to the particular profiles of their

charges. They therefore have to manipulate the youths' social identities in these different social spaces, by presenting them as 'vulnerable' rather than 'delinquent' with a view to mitigating the effects of discrimination. This strategy is only possible because non-custodial measures in Brazil are run by institutions that belong to the welfare state rather than the penal system.

Penal and social logics: mutual dependency and complementarity

However, the LA measure is also a hybrid apparatus that combines logics from both the penal state and the welfare state. This type of hybridization is not unusual. On the contrary, different authors have examined the increasingly prevalent coupling of the penal and the social in contemporary societies. Geay (2012), for example, has shown the intrusion of punitive logic in institutions such as schools that were traditionally part of the protective and educational 'left hand of the state.' Rodger (2012) interprets the coupling of the penal and the social as a process of 'colonization' of one system by the other. In his view, we are witnessing a blurring of boundaries between the state actors providing social care and those responsible for social control, as well as an increasing interdependence between these two groups in which the balance of power tips in favour of the penal. This configuration therefore leads to the colonization of the welfare and voluntary sectors by logics of law and criminal justice (Rodger 2012, 422–23). Taking these reflexions further still, Bernheim and Commaille (2012) describe the judicialization of the welfare state in a context where the notion of collective responsibility for individual risk is in decline. In this new landscape, the question of welfare is viewed as an individual problem and the vulnerable as having proved incapable of seizing the opportunities offered to them. The authors argue that this individualized management of 'social problems' gives increasing importance to the law and to legal categories, while also generating new forms of inequality and new labelling effects (Bernheim and Commaille 2012, 289–91).

Taking a more empirical approach, Bonnet (2009) suggests understanding this hybridization in terms of the concrete power relations and mutual dependencies at play between the actors involved in a given apparatus. In his view, which I share, this perspective avoids the pitfalls of engaging in a normative debate that either views social policies as necessarily better than security policies or, conversely, views the welfare state as a tool of social control (Bonnet 2009, 1031–32). In conclusion to his study, Bonnet observes that, while the balance of power is not in favour of social welfare actors, they do enjoy sufficient latitude to be able to maintain the 'social nature' of their work. The mutual dependence between the different actors in play – public and private, focused on social work or security – also produces a constant renegotiation of the process, such that its 'welfare' and 'security' aspects are never fixed or definitive (Bonnet 2009).

My analysis of the LA apparatus contributes to this debate about the hybridization of the penal and social spheres. Since the new legislation adopted in 1990, the Brazilian socio-educational system has changed in ways that run counter to the trend described by most authors who observe the increasing intrusion of security-focused discourse within the welfare state. The socio-educational system appears, at first glance at least, to be part of the 'right hand' of the state, responsible for regulating deviancy and maintaining public order. However, rather than heightening its security-focused discourse, it has moved away from penal logic, producing strongly euphemistic institutional language ('youths in conflict with the law' rather than 'young offenders,' socio-educational 'measure' rather than 'sentence,' 'confinement' rather than 'detention,' 'accommodation' rather than 'cell,' and so on). This explicit distance taken from penal logic can also be seen in the institutional division of labour in non-custodial settings, where the measures themselves are run by local social services.

Analyzing the relationships between these social services centres and the juvenile courts shows that the imbalance of power in favour of the court is in fact compensated by the substantial discretionary power enjoyed by the professionals working in the field. They have far more detailed information about the youths than the judges, who are forced to base decisions on the reports they receive. And, as I have shown, because of their training, career paths, and institutional affiliation, the *técnicas* have their own professional ethos, which is typical of welfare state workers and differs substantially from legal and penal logics. In a way, the LA apparatus shows the colonization of penal logic by welfare logic, because judicial decisions are made based on categories and modes of intervention specific to social work. However, the professionals working on the ground do not have total autonomy either. They have to adapt to management models imposed by the juvenile courts, which require the LA measure to obtain objective results and aim to both speed up and tighten up the different stages of the judicial process.

The delicate balance in place between the logic of criminal justice and the logic of welfare takes different shapes according to local context. In Rio de Janeiro, the mutual distance and distrust between the juvenile court and the professionals working in the field produce more tangible forms of resistance to judicial logic. Conversely, in Belo Horizonte, the working relationship between the professionals and judges is more of a partnership. These local differences have an impact on the type of control exercised over the youths: it proves both more arbitrary and more protective in Rio de Janeiro, while in Belo Horizonte, it is deployed in a more continuous but also more legally coherent fashion.

Individualized, discontinuous, and contractual control

The regulation of youths in LA is contingent on their 'compliance,' that is to say on their participation in the socio-educational measure. Already in 1970,

Foucault stated in a lecture that one of the new features of penal punishment was that 'the individual being punished is made to take on the management of his own punishment' (Foucault 2009, 18). In this respect, LA is almost ideal-typical: without the youths' active participation, the measure struggles to exercise any control. Again according to Foucault, alternatives to prison constitute 'so many more ways of diffusing outside of prisons the functions of surveillance' (Foucault 2009, 17). In the case of LA, this surveillance not only applies to all aspects of the young people's daily lives, it also extends to their family members. While this is therefore not a new development as such, both the recent literature and my own research findings show that requirements for normality and social integration have changed considerably since Foucault gave that lecture. Thus, the injunction to be autonomous, demonstrate reflexivity, and provide coherent discourse about oneself – skills that are all expected of the youths in LA – form the normative matrix characteristic of contemporary liberal societies. Rose argues that the rationalities of liberalism imply a responsible subject, capable of self-reflection (Rose 1999, 42–43). Even though the regulation of excessive behaviour through the idea of self-discipline and willpower appeared from as early as the 19th century, the conception of the autonomous subject, in its current profound and extensive meaning, is relatively recent. Over the course of the 20th century, we have seen a shift from the subject as an individual, in terms of personality and social condition, to the subject as a citizen with rights and duties in the welfare state, to, finally, the subject as autonomous and capable of choosing and fashioning his or her self-identity (Rose 1999, 45–46). In a context of normative pluralism, wherein individuals have to be capable of picking their own path through different and often contradictory logics of action, reflexivity becomes central to legitimating actions – that is, giving them a socially acceptable meaning (Caiata Zufferey 2005).

In this societal context, freedom and government are not contradictory (Rose 1999). Quite the contrary: freedom is both an invention of and a resource for contemporary government that, to use Rose's terms, means subjects are 'obliged to be free.' And this does indeed seem to be the paradoxical situation of the youths in LA: they are supposed to comply with the measure, not because it is obligatory, but because they understand the opportunity it presents to them. They are supposed to prove themselves capable of putting together a life plan and making choices, before then legitimating the latter discursively. Finally, they are supposed to demonstrate reflexivity about their prior trajectories and their current situations.

This government through freedom is also intrinsically linked to the notion of a contract, which has a central place in this new configuration of social ties: being responsible means knowing how to bind oneself to others in contractual ways on the basis of autonomous choice (Pattaroni 2007, 212). This contractual relationship takes various different forms between individuals but also between institutions and the people handled by them, such that the notion of contract has also come to penetrate the penal state: 'contractual governance, as

metaphor and instrument, represents a pre-eminent form of social regulation,' and 'autonomy, freedom, and choice have become the totems of the modern age' (Crawford 2003, 480).

Despite the fact that the LA measure is presented to the youths as an opportunity – and sometimes even as their last chance – many of them refuse to comply with it. Two possible explanations can shed light on this empirical observation. First, for many youths, the opportunity they are supposed to be seizing seems entirely beyond their reach; they are fully aware of their objective range of possibilities within Brazil's highly segregated and stratified society, and the dreams of upward social mobility showcased by certain actors in the system often seem entirely illusory. When viewed as having no real capacity for rehabilitation, the LA measure therefore appears first and foremost as an apparatus of surveillance and control. Second, many youths view the freedom imposed upon them as increasing their vulnerability. They continue to be confronted with the same social environment that saw them engage in criminal activities but have no extra resources to help them change direction; moreover, they are now under the surveillance of the judicial system, meaning they face harsher punishment should they reoffend. Furthermore, the importance of speech – along with the full conceptual arsenal of psychoanalysis – seemed to have gone unheeded for many of the youths I interviewed, especially when the requirement for reflexivity became the only *raison d'être* of their measure. They then perceived speech as a means of surveillance, which they resisted by refusing to speak or by lying. Much like the requirement for responsibility, the requirement to put trajectories and self-identity into words produces forms of inequality because some youths have more resources at their disposal in this regard than others.

How, then, can we describe the form of control exercised by the LA measure over the teenagers it handles? This control differs quite substantially from the panoptic control described by Foucault that 'induces in the inmate a state of conscious and permanent visibility' producing surveillance that is 'permanent in its effects, even if it is discontinuous in its action' (Foucault 1977, 201). This research has shown that the LA measure struggles to be convincing in its power of surveillance over young offenders. This is evidenced by the number of youths who stop attending their *atendimentos*, as well as the recurrent comments made in interviews about the possibility of cheating (i.e., continuing to offend while doing the measure).

The control exercised by the LA measure is also subject to negotiation throughout the interactions between the youths and the *técnicas*. Insofar as the measure's objectives and obligations remain flexible and vague, restrictions can be adapted when the youths have demonstrably understood and respected the institution's rules. In certain cases, respecting this relationship imposed by the institution – based on dialogue and contractual commitment – seems more important than the more substantive expectations relating to attending *atendimentos*, returning to school, and entering the professional world. This produces situations in which control is reduced to its most minimal form.

Surveillance is, however, exercised in a more effective and continuous fashion over the youths who meet all the LA measure's expectations. Those who agree to talk, return to school, and join professional training programmes find themselves under the surveillance of their teachers, employers, or programme social workers. These 'exemplary youths' reap the rewards of their compliance and manage to make the LA measure into a resource for desistance from crime. However, they also have to be extremely tolerant of surveillance affecting all aspects of their life. It is interesting to note that these young people describe this surveillance with more positive overtones, because their institutional trajectory has provided them with new resources for the future. This is particularly true when they desist from crime and engage in identity transformation: because of their almost total lack of resources outside the world of crime and the extensive hold that the institution has over their trajectory, they strongly internalize institutional categories and values. Conversely, the other youths (i.e., the majority) who desist despite this penal control and the low levels of support provided by socio-educational institutions are more distrustful and distant. They also tend to resist control, even when this earns them more repressive penal punishment. These findings show the importance of considering *how* control is exercised and what it means for the individuals concerned, rather than simply trying to assess how effective it is (i.e., its capacity to put a stop to criminal activities). The impact of the LA measure on the lives of these teenagers cannot be understood in binary terms – that is, desistance from crime or not – as there are in fact a range of possible consequences and effects, some of which have no link to the issue of criminal activities *per se* (e.g., access to civil and social rights, receiving emotional support and recognition, being listened to, and so on).

In short, the LA measure deploys individualized, discontinuous, and contractual control, which can take various forms and be extended in various ways depending on how the youths engage with it and negotiate its boundaries with the *técnicas*. The more the youths play along with the institution's rules, the more they come under a continuous but negotiable form of surveillance and the more they can benefit from the socio-educational system's empowering possibilities. Conversely, those with a more resistant, evasive, or even rebellious relationship to the institution may be able to escape surveillance to some extent but ultimately find themselves subjected to a more vertical and repressive form of penal control.

Within the Brazilian socio-educational system, there is a certain division of labour in the way penal control is exercised. Professionals in non-custodial settings count on a horizontal, negotiated, and softer form of control, while nevertheless relaying the potential consequences should the youths fail to comply with the measure's requirements. Repression is always connected to another actor or another space (the judge, the confinement facility, the penal code for adults), which allows the *técnicas* to continue to emphasize their role supporting and protecting the youths. In some ways, though, it is the threat of a more repressive intervention that makes the horizontal relationships operating in the

LA system possible. In several respects, the LA apparatus therefore embodies a hybrid form of justice: between the welfare state and the penal state, between negotiated and imposed control, between allowing youths their freedom and threatening to deprive them of it.

Does it work? A dialogue between sociology and juvenile justice

The aim of this book's 'bottom-up' sociological analysis of a penal apparatus was to achieve a better understanding of the meanings and modalities of penal control, by analyzing in context the practices of actors working on the ground. Having concluded this study, however, the time has come to address a final 'extra' question. Both during my research and afterwards, both within academia and beyond, people would ask me, 'So, does this LA measure work?' In keeping with my ethos as a sociologist, I tended to circumvent this question, replying in constructivist terms that the notion of 'working' or 'not working' related precisely to those normative institutional objectives that I was trying to analyze and deconstruct. Nevertheless, it is clear to me at this stage that my findings do shed some light on mechanisms likely to be of interest to juvenile justice professionals and institutions. I would therefore like to bring this book to a close by addressing a few issues that could make a productive contribution to their reflections. Considering the question 'does it work?' in terms of the official aims of the LA measure (i.e., its capacity to support youths in socio-professional integration and desistance from crime), I will therefore answer this question in two ways: first, by comparing LA, as a non-custodial measure, with responses to juvenile delinquency that involve deprivation of liberty, and second, by taking a more 'endogenous' approach to the conditions necessary for LA to produce empowering effects rather than simply to render the youths responsible for its failure.

Like all non-custodial sentences, the LA measure presents several major advantages when it comes to supporting – or at least not hindering – young people's socio-professional integration and desistance from crime. First, the penal 'label' produced by LA is not as strong as with measures involving deprivation of liberty and therefore does not consolidate deviant identities in the same way. Aside from the mandatory court hearing, the youths are managed in spaces dedicated to social work, and professionals in the field use a range of techniques to avoid penal stigmatization. Second, although the LA measure does not often provide the youths with new resources, it generally does not create any obstacles to existing or future modes of social inclusion, whether in terms of sources of income, education, or sociability, unlike measures depriving them of freedom. Third, the long-term flexible support it provides means it is possible to 'give things time' – something all studies on desistance processes agree is the most reliable catalyst for success in this regard. Finally, the control exercised over the youths in LA is compatible with the aims of the measure

itself (attending *atendimentos*, going back to school, and so on). Penal control is therefore not used to serve other institutional purposes, as in custodial settings, where discipline is primarily about limiting internal conflicts and ensuring security.

While the LA measure, like other non-custodial sentences, seems better placed than its custodial counterparts to provide support for rehabilitation and desistance, it is still necessary to examine the conditions of possibility for this enabling intervention. Above all, it is crucial that the measure not be reduced to techniques of surveillance, which induce distrustful or even resistant attitudes from youths. In the absence of any tangible resources or support, rehabilitation ultimately relies on discourse, making the youths' responsible for both themselves and the measure's success, explaining any failure in terms of their lack of initiative or genuine desire to 'make good.' Structural inequalities are key here: the youths with the most educational capital, along with those who live outside the relegated territories of the *favelas*, are in a better position to benefit from the measure's empowering aspects than the others. Beyond these structural issues, however, over which the juvenile justice system has no control, my findings also shed light on potential ways of reinforcing the empowering aspects of the LA measure. First, introspection and reflexivity cannot be viewed as an end in and of themselves. The youths require tangible material support to compensate for their extremely vulnerable socio-economic circumstances. Furthermore, by making self-reflection into a sign that the 'responsibilization' process is working, the professionals run the risk of misdirecting their efforts. Some youths who are particularly skilled in this respect are in fact extremely involved in drug trafficking, whereas youths with more anecdotal criminal activities can prove entirely mute, especially when they perceive LA as an intrusion into their private lives.

Second, threatening repression and dealing out punishments do not encourage rehabilitation. Punishment may increase surface compliance with institutional rules, but it is not a driving force for desistance because this process occurs as a function not of an individual decision but rather of the resources and capital that make it possible. Furthermore, if surveillance is too intensive, if demands are too rigid and insufficiently tailored to the individual, and if punishments are too systematic, this becomes counter-productive, as has been demonstrated in non-custodial settings in other national contexts. It is therefore important that the discretionary power of the professionals working in the field be maintained or even further extended, so that the apparatus can continue to maintain flexible and individually tailored expectations, as well as a high tolerance threshold to different types of rule-breaking.

Finally, the youths in the LA measure would stand to gain from more pragmatic support,² with greater relevance to their everyday life circumstances: the *técnicas* spend considerable time and energy compensating for the discrepancy between official expectations and the actual possibilities of rehabilitation available to the youths. The CREAS' location in the city centre, far from the *favelas* where the teenagers live, and the likewise distant social background of the

professionals together lead to a certain disconnect between public policy and the resources that can in fact be deployed for and by these young people. It might therefore be productive to consider how the LA apparatus as a whole could better bridge the gap with the social world in which these youths live their lives.

Notes

- 1 This type of model, based on identifying individual ‘risks and needs’ and on a belief in individuals’ ability to ‘make the right choices,’ is the foundation for many non-custodial policies (see, in particular, Turnbull and Hannah-Moffat 2009).
- 2 Much like harm reduction policies for drug addicts, which aim to improve the people’s well-being, including in their substance abuse, rather than promoting abstinence at all costs.

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Appendix

About the tables:

Each line represents an interview.

RJ refers to the city of Rio de Janeiro and BH to the city of Belo Horizonte.

Certain professionals were interviewed several times, especially when the interviews focused on the cases of particular youths. X, Y, and Z CREAS are centres where I only interviewed *técnicas* without conducting any ethnographic observations.

All the youths interviewed had, at some point in time, been given an LA measure. Some youths, whom I interviewed in the CREAS, were still serving their measures at the time of the interview. Others had finished months or even years earlier (especially those interviewed in semi-open facilities). And some had only just received their judicial sentence (those interviewed at the court). Most youths received their LA measure as a direct result of the offence committed. When they came to LA as a measure progression after time spent in a confinement or semi-open facility, this is indicated in brackets. Some youths were interviewed twice or even three times and this is also indicated in brackets (2nd, 3rd).

Table A1.1 Interviews with *técnicas*

Name (fictional)	Training	Place of work	City
Alice	Psychologist	Ana Leopoldina CREAS	RJ
Amelia	Psychologist	X CREAS	RJ
Bruno	Psychologist	Chiquinha Gonzaga CREAS	RJ
Cristina	Community officer	Ana Leopoldina CREAS	RJ
Leonarda	Social worker	X CREAS	RJ
Mayra	Educational specialist	Ana Leopoldina CREAS	RJ
Paloma	Legal specialist	Ana Leopoldina CREAS	RJ
Patricia	Social worker	Ana Leopoldina CREAS	RJ
Patricia (2nd)	Social worker	Ana Leopoldina CREAS	RJ
Priscila	Community officer	Chiquinha Gonzaga CREAS	RJ
Priscila (2nd)	Community officer	Chiquinha Gonzaga CREAS	RJ
Rafael	Social worker	Ana Leopoldina CREAS	RJ

(Continued)

Table A1.1 (Continued)

<i>Name (fictional)</i>	<i>Training</i>	<i>Place of work</i>	<i>City</i>
Carolina	Psychologist	Tupis CREAS	BH
Carolina (2nd)	Psychologist	Tupis CREAS	BH
Carolina (3rd)	Psychologist	Tupis CREAS	BH
Carolina (4th)	Psychologist	Tupis CREAS	BH
Clara	Psychologist	Y CREAS	BH
Cristiane	Social worker	Z CREAS	BH
Graziela	Psychologist	Tupis CREAS	BH
João Carlos	Social worker	Z CREAS	BH
Paula	Psychologist	Z CREAS	BH
Pedro	Social worker	Tupis CREAS	BH
Pedro	Social worker	Tupis CREAS	BH
Pedro (2nd)	Social worker	Tupis CREAS	BH
Sofia	Psychologist	Tupis CREAS	BH
Sofia (2nd)	Psychologist	Tupis CREAS	BH
Sofia (3rd)	Psychologist	Tupis CREAS	BH
Veronica	Social worker	Tupis CREAS	BH
Viviane	Social worker	Tupis CREAS	BH

Table A1.2 Interviews with youths

<i>Name (fictional)</i>	<i>Year of birth</i>	<i>Offence that led to the LA measure</i>	<i>Place of interview</i>	<i>City</i>
Alexandre	1993	Assault	Ana Leopoldina CREAS	RJ
Davi	1990	Aggravated theft (measure progression)	Promovendo justiça	RJ
Diogo	1994	Aggravated theft (measure progression)	Promovendo justiça	RJ
Elson	?	Drug trafficking	Shopping centre	RJ
Enrique	1991	Theft (measure progression)	Ana Leopoldina CREAS	RJ
Enrique (2nd)	1991	Theft (measure progression)	Public space	RJ
Everton	1993	Aggravated theft (measure progression)	Public space	RJ
Everton (2nd)	1993	Armed robbery (measure progression)	Public space	RJ
Felipe	1994	Aggravated theft	Ana Leopoldina CREAS	RJ
Igor	1991	Drug trafficking	Firmando Vidas	RJ
Igor (2nd)	1991	Drug trafficking	Shopping centre	RJ
Jailson	1994	Drug trafficking	Chiquinha Gonzaga CREAS	RJ

<i>Name (fictional)</i>	<i>Year of birth</i>	<i>Offence that led to the LA measure</i>	<i>Place of interview</i>	<i>City</i>
Jalmir	1994	Theft	Chiquinha Gonzaga CREAS	RJ
Jennifer	?	Defamation, insults	Promovendo justiça	RJ
Joana	1992	Drug trafficking	Chiquinha Gonzaga CREAS	RJ
Joana (2nd)	1992	Drug trafficking	Teenager's home	RJ
Jonas	1993	Drug trafficking	Chiquinha Gonzaga CREAS	RJ
Larissa	1990	Drug trafficking	Chiquinha Gonzaga CREAS	RJ
Luiz	1990	Aggravated theft (measure progression)	Promovendo justiça	RJ
Mateus	1991	Aggravated theft (measure progression)	Promovendo justiça	RJ
Micael	1993	Drug trafficking	Chiquinha Gonzaga CREAS	RJ
Roberto	?	Theft	Promovendo justiça	RJ
Wilson	1990	Aggravated theft (measure progression)	Ana Leopoldina CREAS	RJ
Alex	1995	Drug trafficking	Tupis CREAS	BH
Alex (2nd)	1995	Drug trafficking	Restaurant	BH
Antonio	1992	Drug trafficking	CIA (court)	BH
Brendon	1996	Drug trafficking	Semi-open facility	BH
Edson	1993	Drug trafficking	Semi-open facility	BH
Edvaldo	1994	Drug trafficking	Tupis CREAS	BH
Emerson	1997	Theft	Tupis CREAS	BH
Emerson (2nd)	1997	Theft	Tupis CREAS	BH
Emerson (3rd)	1997	Theft	Tupis CREAS	BH
Ezequiel	1993	Aggravated theft	Semi-open facility	BH
Fabiano	1995	Drug trafficking	Tupis CREAS	BH
Franklin	?	Theft	Tupis CREAS	BH
Ismael	?	Drug trafficking	CIA (court)	BH
Junior	1994	Drug trafficking	CIA (court)	BH
Marcelo	1992	Drug trafficking	Tupis CREAS	BH
Marcio	1994	Aggravated theft	BHAAS	BH
Matias	1995	Carrying a weapon	CIA (court)	BH
Miguel	1992	Drug trafficking	Projeto Digitalizando	BH
Miguel (2nd)	1993	Drug trafficking	Public space	BH
Rodrigo	1993	Drug trafficking	Tupis CREAS	BH
Sandro	1995	Aggravated theft	Tupis CREAS	BH
Thiago	1994	Drug trafficking	Semi-open facility	BH
Thomas	1994	Drug trafficking	Semi-open facility	BH
Wanderson	1994	Drug trafficking	BHAAS	BH
Wanderson (2nd)	1994	Drug trafficking	Public space	BH

Table A1.3 Interviews with other professionals

<i>Interlocutor</i>	<i>City</i>
Lawyer at the juvenile court	RJ
Coordinator of non-custodial measures	RJ
State social worker in charge of monitoring LA case files	RJ
Juvenile judge	RJ
Juvenile judge	RJ
Juvenile judge (2nd interview)	RJ
Legal specialist in a children's rights NGO	RJ
Legal specialist in a children's rights NGO	RJ
Member of a regulatory council in Rio de Janeiro	RJ
Head of the Firmando Vidas professionalization programme	RJ
Head of the Promovendo Justiça professionalization programme	RJ
Head of 'non-custodial' affairs at the juvenile court	RJ
<i>Técnica</i> at the juvenile court	RJ
<i>Técnica</i> at the juvenile court	RJ
<i>Técnica</i> from a religious organization that previously implemented non-custodial measures	RJ
Deputy coordinator of non-custodial measures (for PSC)	BH
Deputy coordinator of non-custodial measures (for LA)	BH
Coordinator of non-custodial measures	BH
Director of a semi-open facility	BH
Director of a semi-open facility	BH
Director of a semi-open facility	BH
Teacher in the Projeto Digitalizando professionalization programme	BH
Juvenile judge	BH
Juvenile judge	BH
Juvenile judge (2nd interview)	BH
Volunteer mentor	BH
Volunteer mentor	BH
Head of the Projeto Digitalizando professionalization programme	BH
Head of 'non-custodial' affairs at the juvenile court	BH
Head of a programme for youths who have dropped out of school	BH
<i>Técnica</i> in the BHAAS professionalization programme	BH
<i>Técnica</i> in the BHAAS professionalization programme	BH
<i>Técnica</i> in a semi-open facility	BH
<i>Técnica</i> in a semi-open facility	BH
<i>Técnica</i> in a semi-open facility	BH
<i>Técnico</i> at the juvenile court	BH

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