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Sexual Violence Against Children and Adolescents: Psychology and the Penal State[1]

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Abstract: This article discusses some practices of Psychology related to public policies that address sexual violence against children and adolescents in the context of strengthening the penal state, the judicialization of life and control through Biopower. By means of a literature study focused on academic papers and documents with normative references on the subject, and on the situation after the 1990s, we sought to problematize certain practices of social control that took sex as target and that, through discourses and practices that propose the accountability of the perpetrator, end up violating the rights of children and adolescents. It focuses on some techniques of Psychology as listening to children within a protective network that generate the production of evidence and allowances for legal decision. The conclusion is that psy-knowledge has been used to equip practices in the service of judicialization of life and that, instead of serving those who have had their rights violated – children and teenagers –, it is punitive and based on control.
Keywords: Sexual abuse; public policies; childhood and adolescence.

Violência Sexual Contra Crianças e Adolescentes: A Psicologia e o Estado Penal

Resumo: O presente artigo discute algumas práticas profissionais no âmbito da psicologia relacionadas às políticas públicas de enfrentamento à violência sexual contra crianças e adolescentes, em um contexto de fortalecimento do Estado penal, de judicialização da vida e de controle por meio do biopoder. A partir de um estudo bibliográfico concentrado em artigos acadêmicos, bem como documentos com referências normativas sobre o tema, relativos à conjuntura pós 1990, buscou-se problematizar certas práticas de controle social que tomaram o sexo como alvo e que, por meio de discursos e práticas que propõem a responsabilização do autor, acabaram por violar direitos e ferir garantias constitucionais de crianças e adolescentes. Têm-se como foco certas técnicas de intervenção da psicologia como a escuta de crianças na rede de proteção que geram a produção de prova e subsídios para a decisão judicial. Considera-se que os saberes psi vêm sendo utilizados para instrumentalizar práticas a serviço da judicialização da vida e que, ao invés de servirem àqueles que tiveram seus direitos violados – no caso as crianças e adolescentes, estão a serviço de uma lógica punitiva e de controle social.
Palavras-chave: Abuso sexual; políticas públicas; infância e adolescência.

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Violencia Sexual Contra Niños y Adolescentes: La Psicología y el Estado Penal

Resumen: El presente artículo discute algunas prácticas profesionales en el ámbito de la Psicología relacionadas con las políticas públicas de enfrentamiento a la violencia sexual contra niños y adolescentes, en un contexto de fortalecimiento del Estado Penal, de judicialización de la vida y de control a través del Biopoder. A partir de un estudio bibliográfico centrado en artículos académicos, así como en documentos con referencias normativas sobre el tema, relativos a la coyuntura post 1990, se buscó problematizar ciertas prácticas de control social que tomaron el sexo como objetivo y que, mediante discursos y prácticas que proponen la responsabilización del autor, acabaron violando derechos e hiriendo garantías constitucionales de los niños y adolescentes. Se tienen como enfoque ciertas técnicas de intervención de la Psicología, tales como la escucha a los niños en la red de protección, que generan la producción de pruebas y subsidios para la decisión judicial. Se considera que los Saberes Psi han sido utilizados para instrumentalizar prácticas al servicio de la judicialización de la vida y que, en lugar de servir a aquellos cuyos derechos fueron violados – en el caso los niños y adolescentes, están al servicio de una lógica punitiva y de control social.
Palabras clave: Abuso sexual; políticas públicas; infancia y adolescencia.

The crime of sexual violence against children and adolescents is at the center of the current debate, being highlighted in the great media and in discourses that vary from a social phobia to a new Pandora box of the postmodern psychology. The effects of the so called pedophilia, sexual abuse or even sexual violence can be especially observed in the repulsiveness that the perpetrator of the violence generates, accompanied by feelings of indignation, revolt and the attribution of the label of the new moral monster.

The demands for condemnation, punishment, sentence aggravation and accountability of the perpetrator are part of the movement analyzed by Wacquant (2001) called Penal State – less Economic and social state and more Police and penitentiary state. Such penal panopticism gains a so great proportion that, in the thirst for punishment, it often overreaches the rights of those who had them violated and that are not strictly repaired by a condemning penal action against the perpetrator.

This work analyzes some demands addressed to Psychology that seek the protection of children and adolescents through the accountability of the crime perpetrator: listening to children within the protection network and producing evidence and subsidizes for the legal decision, actions for which psychologists and social service professionals have been constantly requested. The logics linked to the judicialization of life and to the Penal State crosses the Psychology field, even when these spaces are not directly related to Justice, to the Criminal Law and to police investigation.

Michel Foucault's analysis on the device of sexuality will support the reflection about current sexual practices involving children and adolescents, taking as central axis the relations of knowledge and power that mark the construction of the sexual abuse and sexual violence categories. Practices that have engendered a sex technology will be privileged in a parallel way with medicine, pedagogy and psychology.

This is an exploratory study that consisted of a bibliographic survey of studies and researches in the field of children sexual violence and the analysis of governmental and legal documents, both produced within the context following the establishment of the Brazilian Child and Adolescent Statute (ECA, 1990). This period inaugurates a new planning in conceptual and normative terms, with implications on the management of social services and programs.

Thus, this is a theoretical study aimed at problematizing sexual violence, taking it as a phenomenon built from social registration, linked to a certain historical moment and to the economic, political and social processes of a particular reality. Based on the contribution of Foucault's studies on sexuality, the intention was to problematize the current forms of social control through sexuality in childhood and its several consequences resulting from these practices: judicialization and transformation of social relations.

The Device of Sexuality: Sex as Object of Control

Foucault (1976/1999) in "The History of Sexuality I", states that sex has not always been used as a mechanism of control over bodies and of subjectivity, and that from the 18th century, society tends to base itself on the device of sexuality, through relations of knowledge and power.

From the 18th century, there is the emergence of a discursive incitation about sex in the political, economic and technical spheres. Times in which moral discourses overreach a rationality, when sex is inserted into systems of usefulness and should be regulated for the benefit of everyone, under the yoke of the public power. The population is then conceived as an economic and political problem, with specific and variable phenomena linked to birth rate, morbidity, life expectancy, prematurity and frequency of sexual intercourse and/or incidence of diseases, and to health status in general.

Such sex technology hangs on three main axes: the pedagogy that is turned to the specific sexuality of children; the medicine that is interested in the sexual physiology of women; and the demography that is concerned about the regulation of births.

Until then, sex relations were based on the device of alliance – marital relations, kinship development, transmission of name and assets, and submission to the law. With the advent of the device of sexuality, there is a new permanent extension of domination and forms of control that will attach to and penetrate into the bodies in an increasingly detailed manner, and control the population in a more global way.

It was especially through the family cell, in its main dimensions – husband and wife, parents and kids – that the major strategic sets and elements of the device of sexuality developed, such as the female body, children's prematurity, regulation of births and specification of perverse subjects.

The family becomes a bond between sexuality and the alliance and transmutes the legal dimension proper of the alliance to the device of sexuality and, on the other hand, the economics of pleasure and the intensity of the characteristic sensations of this device to the alliance regime. With the fixation of the alliance and the device of sexuality around the family, the latter becomes a privileged place of affection, of love, and a more active focus of sexuality. Paradoxically, incest takes a central lace, being concomitantly instigated and rejected, feared and indispensable: "It greatly appears as an interdict in the family, as it represents the device of alliance; but it is also something that is continually requested so that the family is indeed a permanent focus of incitation to sexuality". (Foucault, 1976/1999, p. 103).

One of the explanations about the importance of incest ban in Western societies, deemed indispensable for the establishment of culture, relates to the device of sexuality itself, whose implication could be that of neglecting the laws and the legal forms of the alliance. This ultimate rule of incest prohibition would guarantee that the affective intensification of the family space would supposedly become immune to the former alliance system and, thus, the law would be supported in the new mechanics of power. To Foucault (1976/1999), it is a paradox of the 18th century society that created so many technologies of power that are foreign to the law, but at the same time fears its effects and, for this reason, tries to adequate them to the very forms of the law.

The importance of the family as a strategic instrument of social control was approached by Donzelot (1977/1986) as well. To the author, the family that is constituted in Modernity served as a social project for the construction of a Liberal state that was supported on it to disclose and guarantee this new economic and social imperative.

The bond between family and childhood and the link to the notion of affection and protection were engendered in a movement, not a bit spontaneous, that counted with the effort of philanthropists, hygienists and with a tutelary complex composed of psychologists, social workers and jurists. The family became the main target for the transmission of new current values and, through it, the State will transmit the norms and obtain social control (Donzelot, 1977/1986).

In current times, sexuality is, by excellence, a device of control that produces subjectivities and, in the case of sexual violence against children and adolescents, there is a notable change in the conception of gravity and tolerance, having an impact on the legal and medical system.

The Penal State and Sexual Violence

In the field of sexual violence and abuse against children and adolescents the use of the term pedophilia is frequent. Nevertheless, criticisms to the use of this term are made by human rights activists, because it does not take into account the social and cultural dimensions of the phenomenon, associating it to a pathology or perversion. Situated between crime and disease, the emphasis is placed on the aggressor's psychological characteristics, as opposed to the expression sexual violence against children, whose focus is on the suffering of the abused child (Lowenkron, 2010).

Contradictorily, there is, on one side, the discourse of combat and hatred towards any form of sexual violence and abuse, and, on the other one, the legitimization of contemporary social practices present in the media and in cultural and artistic manifestations that portray childhood in a seductive way through erotized ways of being and behaving. Felipe (2006) will use the term pedophilization as a modernity practice to point out such contradictions, social contradictions that clash with the effects that may result to those who dare to cross the barriers of sexuality regulation, especially when it comes to children. While the childhood pedophilization movement expands, it is possible to observe that the punishment and accountability discourse also arises.

In Brazil, sexual violence against children and adolescents mobilizes several sectors; however, actions linked to defense and accountability, which are represented by organs linked to public safety, to the Legal system and to the Public Ministry have been privileged actors in actions towards facing the issue, together with parliamentarians and other organs. The penal intervention as a privileged way of treating social questions was discussed by Wacquant (2003) based on analyses the author carries out about the dismantling process of the State of the North-American well-being and may assist in the reflection about the strengthening process of a Penal State in Brazil, in spite of the significant differences.

According to Wacquant (2003), North-American sexual offenders along with the impoverished youth have become the privileged target of the penal panopticism. Among a series of changes in the penal system, individuals convicted with indecent exposure are subjected to special measures, including the impossibility of penal anonymity, even after the sentence has been purged.

The emphasis on punitive vigilance has been distancing the authorities from other actions that aim at reducing sexual violence, such as alternatives for prevention and treatment. Nevertheless, studies conducted by the Johns Hopkins University found a recidivism rate of 3% of pedophiles that fully complied with the program organized by the institution. Even so, only 10% of the individuals convicted with sexual violence receive some type of treatment while serving the sentence, and an even smaller number still keeps receiving or starts treatment after being released from jail (Wacquant, 2003).

About sexual offenders with mental abnormality and considered as dangerous, in 1997 the Supreme Court of the United States legalized the indefinite detention in psychiatric hospitals even after the sentence has been served or psychiatric treatment has not been provided. In this way, after the sentence is served, individuals convicted with manners violation are seen as ill instead of criminals, but actually end up being subjected to the very same penitentiary authority, reinforcing the punishment logics to the detriment of the treatment (Wacquant, 2003).

In short, North-American penal devices are incompatible with the freedom system constitutionally guaranteed and prove ever more expansionist by absorbing other categories of convicted individuals not only related to sexual crimes.

If on one hand the North-American Penal State has specificities way distant from the Brazilian reality, on the other hand it is possible to establish approximations and to assess how much space the penal logics has been taking in other contexts, especially in the Brazilian penal system in relation to sexual crimes.

In Brazil, penal intervention has been a privileged way to treat the theme, with harsher punishments, increasing the sentence, with the addition of other typifications linked to sexual violence against children and adolescents.

In Brazil, Bill 552/2007 proposes chemical castration in case of crimes against the sexual freedom, when the perpetrator is considered as a pedophile, according to the International Classification of Diseases. Chemical castration is inserted into the new technologies of power addressed by Foucault

(1976/1999) that take the biological life as an object of control and management. Death penalty no longer makes sense in this new technology that tends to multiply and order life (Ponteli & Sanches, 2010).

In the case of chemical castration, the state tutelage over the biological body is evident through practices of public health aimed at the preservation of the biological patrimony of a State. Ponteli and Sanches (2010), in dialogue with Foucault and Agamben, discuss that, from the moment in which the decision of medicine starts to have an impact on political decisions, criminality becomes a matter of health and the punitive field moves further from the criminal's body, subjecting it to the tutelage of the bio-political regulation. Agamben (cited by Ponteli & Sanches, 2010), in consonance with Foucault's thinking, alerts us that the physician starts to have sovereign prerogatives about the lives that should be stimulated and those that should be prevented from perpetuating. The negotiation of Biopower with the punitive field over the tutelage of the body occurred with the transformation of the criminal into a species, and punishment into treatment or eradication.

Reflections on the Field of the Public Policies and its Implications

Policies with the purpose of facing sexual violence are result of a long public debate involving social actors and institutions with distinct competences in terms of the primary rights of children and adolescents. The Convention on the Rights of the Child (1989) is regarded as one of the main international treaties for the human rights of children and adolescents and was ratified by Brazil in 1990. The Federal Constitution (1988) and the ECA (1990) are also considered important achievements in the construction process of the citizenship of children and adolescents in the Brazilian context (Melo, 2010; Rosemberg & Mariano, 2010).

Nevertheless, the guarantee of rights in the field of sexuality of children and adolescents, with the exception of those of penal and repressive character, is little expressive in the Brazilian legal planning and ends up associating itself to the combat against sexual violence and against something that must be eradicated from the universe of this population (Carvalho, Silva, Jobim, Souza & Salgado, 2012). The first approach to the theme was done through the penal law, which until recently treated sexuality in accordance with the protection of manners, considered as a legal asset to be tutored by social morality (Melo, 2010).

As a guiding principle, it has been set forth that regulations should consider the superior interest of the child in the elaboration of policies, as well as in the decisions made by legal, administrative or legislative organs. However, at the same time in which the 1990s constitutes a milestone in the defense of children's rights, with the emergence of themes like children and youth's protagonism, social participation, right to expression, children as subjects of rights, right to access to information and to the privacy of intimacy, on the other hand, we see the emergence in the field of sexual and reproductive rights a tendency to and focus on intra-family sexual abuse and the sexual exploration of children and youths, marking an emphasis that is greater turned to the violation and increasingly distant from a discussion on rights (Carvalho et al., 2012; Melo, 2010).

The counterpart resulting from an interpretation on the right to expression of children and adolescents is the participation in procedures called damage-free testimony, special hearing, special inquiry, among other terms. The Clean Bill to the Bill No. 4.126 of 2004 that treats of the Damage-Free Testimony was approved by the House of Representatives and is awaiting an answer from the Federal Senate. The device consists of enabling the practice of listening to children and adolescents for the production of evidence, under the argument of protection to the bodily, psychic and emotional integrity of the deponent and nonrevictimization through a procedure carried out in a place other than the hearing room, with equipment supposedly proper and adequate to the age, where the inquiry should be intermediated by a psychologist or social worker with a wire that allows him or her to address to the deponent the questions made by the judge or by one of the parties (Brito & Parent, 2012). In this procedure, it is necessary that the child tells his or her story only once.

Among some of the justifications for the implementation of the project, one of them is supported on the difficulty for the obtainment of evidence; on the inadequacy of the hearings environment and its contributions to facilitate the work of justice; on the possibility of avoiding embarrassment to children, but with the guarantee of the quality of the testimony; and on the facility of access to the latter in the different stages of the process. Other arguments also defend the guarantee for the child to be heard by qualified professionals, but avoiding the repetition of the report and, consequently, revictimization (Brito & Parente, 2012).

The attempt to implement such device did not happen without strong disagreements of the category of psychologies and social workers and mobilized a series of debates, including some promoted by the Psychology Council System, as well as participation in public hearings at the Federal Senate and the conduction of a National Seminar (Federal Council of Psychology [CFP], 2009a), culminating in Resolution CFP No. 010/2010 that "instituted the regulation of the Psychological Hearing of Children and Adolescents involved in situation of violence, within the Protection Network" (amendment). The document highlights that "only the psychologist has the role of inquirer in the assistance to Children and Adolescents in situation of violence." (III.9)

In the same year, 2010, the National Council of Justice (CNJ) issues Recommendation No. 33 of November 23, 2010: it "recommends to the courts the creation of specialized services for the hearing of children and adolescents victims or witnesses of violence in legal processes. Special Testimony." (amendment). However, as an initiative of the Federal Public Ministry and of the Public Ministry of the state of Rio de Janeiro, the Resolution was suspended throughout the national territory, abstaining the supervisory organ from acting in situations of inobservance of the questioned normative act (CFP, 2010).

The contestations to the implementation of the damage-free testimony address the confusion and indifferentism of attributes about the work of the psychologist, since it is not about psychological assessment, assistance and/or referral to other professionals. The practice is marked by a lack of distinction between psychological and legal procedures, indistinctness that is also present in the use of the terms psychological, social hearing and inquiry as synonyms (Brito & Parent, 2012). The primary objective begins to be the obtainment of legal evidence against the accused, which greatly differs from the functions that are inherent to Psychology professionals. An even greater aggravation to the situation is the act of putting on the children the weight of being responsible for the punishment of the accused (Brito & Parent, 2012; Azambuja, 2010).

According to Azambuja (2010) "Inquiring children with the aim of producing evidence and elevating the rates of condemnation does not ensure the intended credibility, in addition to exposing them to a new form of violence by allowing them to re-experience the traumatic situation, reinforcing the already suffered damage." (p. 71). Moreover, the author alerts that the Damage-Free Testimony "will reinforce the violence committed against the child, especially the child with no protection from the family and from the social network, assigning to him or her the hard task of speaking for the abuser." (Azambuja, 2010, p. 75). For those who think that the damage-free testimony is the only alternative in justice, Azambuja argues that "we need to give credit to reports, to technical assessments, in special, if we want to get closer to the real truth." (p. 76).

The country that started this initiative is South Africa, which changed its legislation and created intermediation services for witness-children in order to reduce the trauma experienced by the child in the contentious forensic system.

If in the beginning the participation of the mediator was justified to reduce the hostility and aggression of a question and adapt it to be more understandable for the child, in reality it was possible to observe a limited action, and the question had to be repeated many times exactly how it had been elaborated by the court, with no possibility of adequacy to the comprehension of the child or even about the sequence or way to formulate a question (Muller cited by Jonker & Swanzen, 2007).

An aggravating aspect verified in South Africa's experience is the temporal lapse between the moment when the case is reported to the police and the moment when the child testifies for the first time at the court. This period may reach two years and causes the child to remain in the limbo, with no access to treatment, because the latter can only be started after the child's

testimony, in order to ensure that the testimony is not contaminated. Thus, what actually happens is a scarce access to therapy services due to economic limitations, and the child is left with only the practical preparation to the hearing as an aid. Not to mention when the child is unable to testify because of the debility of his or her health state, or even dies as a result of an HIV/Aids infection and lack of access to health services (Jonker & Swanzen, 2007). Thus, Jonker and Swanzen consider that "legal processes are little beneficial to children. The basic reasons for the criminal process are not necessarily aimed at the best interest of the child". (p. 113).

Returning to the Brazilian reality, it is possible to see divergences between current legal documents: the Civil Procedural Code in art. 405 prohibit the testimony from individuals younger than 16 years old, and the International Convention on the Rights of Children ensures to the children the right to be listened in legal processes of which they are part. Such issue, in practice, seems not to present so many divergences. According to a research by Meyer (2008) about the production of discourses constituted by the Legal System around the idea of a child that is victim of sexual abuse, it was found that the child's testimony is not a problematic question, "since children have been enrolled as witnesses in all complaints formulated by the Public Ministry, with no questions by judges, lawyers or family members." (p. 16).

Studies on the hearing of children in the justice system reveal that their speech not always has relevance, and in some contexts it barely appears. Not all children are heard, just as the child's will is not interesting in all situations. The child's speech has a great relevance especially when it comes to collecting information about the behavior of their parents. As a consequence of their speech, many of them end up carrying the guilt of a legal condemnation, separation or absence from home. The stimulation to the testimony predominates in these situations, whereas a mutism takes place when the context leaves the private sphere and enters the sphere of the State, as institutions for sheltering and fulfillment of socio-educative measures. In these cases, curiously, there is no interest in listening to the considerations that the child has (Brito, Ayres & Amendola, 2006).

Although both the Guarantee of Rights to Children and Adolescents System set forth in Resolution No. 113 of the CONANDA (National Council on the Rights of Children and Adolescents), and the National Plan for Facing Sexual Violence against Children and Adolescents (2001) discriminate the strategic axes of the action as well as the spheres and competences of defense/accountability and of promotion/assistance, there is a porosity between these axes that end up being overreached by the accountability sphere. Such issue becomes more evident in the context of the social assistance policy, where the place that Psychology occupies tends to be mistakenly turned into an extension of the eyes and ears of the judge.

The 1988 Federal Constitution acknowledged social assistance as part of the concept of social security, considering it, therefore, as a public policy that guarantees social rights to all who need it.

According to the PNAS/2004 and the Basic Operational Norm of the Unified Social Service System (NOB-SUAS/2005), "social protection… shall be hierarchized between mid and high-complexity basic protection and special social protection" (CFP-CREPOP, 2009b, p. 17-18).

Sexual violence against children and adolescents is inserted into the special protection, a modality of assistance that comprehends situations in which social rights are threatened and/or violated due to omission or actions by people or institutions and involve cases of personal and social risk, as a result of sexual abuse, mistreatment, fulfillment of socio-educative measure, children labor etc. The actions in the field of special social protection are carried out by Social Service Specialized Reference Centers (CREAS) of the Unified Social Service System (SUAS) and establish relation with organs of the Judiciary Power, of public safety, of the Public Ministry and guardianship councils.

As for sexual violence:

> It is not common that, especially in cases of sexual abuse, the CREAS receives cases in which there is only suspicion of violence. The family itself can reach the service or

> some Justice organ and ask for help by preparing reports. The CREAS team needs to be prepared to conduct revelation interviews.
> *Revelation interviews are understood as interviews that can confirm the existence of the situation of sexual violence. In many case, there is no formalized complaint with a defined situation*. The purpose of the revelation interview is to light the facts and try to clarify what is happening with the child or the adolescent and, thus, to be able to help them….
> At the end of the process of revelation interviews, the psychologist shall prepare the psychological opinion on the case, complying with the norms set by the Federal Council of Psychology (CFP). This material can be used during the legal process, if requested (CFP, 2009b, p. 20, 64 and 65, [our emphasis]).

It is worth highlighting that the revelation interview is not set forth in the National Policy of Social Service (2004) as a procedure to be carried out by the professionals. In later publication of the CFP (2013), there is a change in the political and ethical positioning in face of the requirement for psychologists to prepare psychological reports to be addressed to the Judicial Branch, and instead of encouraging the professional to answer the demands of the Judicial Branch, it characterizes such actions as abuse of power and recommends the development of political actions that enable the social control over the execution of the policy based on SUAS precepts.

Notwithstanding the elaboration of reports and despite the compliance with the judicial demands not being activities described in reference documents, data of the research of the Center of Technical Reference in Psychology and Public Policies (CREPOP) indicated that these actions are frequently carried out by psychologists at the CREAS (CFP, 2013).

It is possible to notice, in the case of sexual violence against children and adolescents, the superposition of defense and accountability axes with that of promotion/assistance, from the action of professionals linked to the social service and health areas, but who are summoned to prepare documents in order to subsidize a legal decision and that often constitute elements of evidence for the condemnation of an alleged aggressor.

On the other hand, 'psy' professionals that act more directly on the defense and accountability axis, such as in justice courts, in the Public Ministry, in police stations specialized in crimes against children and adolescents and in guardianship councils are also, many times, requested to provide evidence and subsidize a legal decision.

This question reminds of the place Psychology occupies in the defense and promotion of the rights of children and adolescents and to the consequences and outcomes that the interference of legal and criminal sectors have been producing in the social service and health field, as well as in the ethical principles that guide the profession.

It is worth highlighting that sexual violence is frequently in the arguments that justify the violation of rights, in the use of children to testify, in the production of evidence by technicians, in the break with professional secrecy, and in a complex technical and scientific arsenal created to handle the punishment to the aggressor, as well as the interferences and vigilance over the family and its members.

On behalf of what has sexual violence against children been combating? Of the protection for children and/or of the punishment to the aggressor? What are the effects of the anti-pedophilia crusade, and what are the main lines of action of public policies?

Rocha (2006) brings an analysis of the typology of the flow of procedures executed from the revelation of the fact and indicates an absence of articulation and lack of an assistance network of accountability flows, of assistance and of defense. Said research was conducted based on police inquiries and legal processes filed at the Courthouse of the district of a city in the state of São Paulo, with the following conclusion

> There is no network articulation of several flows, when the occurrence of sexual domestic violence against children and adolescents is revealed, disappointing for the absence of an assistance network to give support to the victim and his or her family members, during and

> after the revelation, whether in the legal or therapeutic aspect, which inevitably leads to a lack of accountability of the aggressor, as well as to irreparable traumas in the victim and in the family dynamics into which he or she is inserted (Rocha, 2006, p. 135).

Rocha (2006), from the analysis of assistance flows, exposes that after the public revelation of the cases, there is a small number of other adopted procedures in the documents, limiting the accountability flow of the aggressor, both in cases in which there was condemnation and in processes that ended with absolution.

The research by Rocha (2006) corroborates data surveyed by Faleiros (2003 cited by Meyer, 2008) that reveals that during the journey of the child that is victim of sexual abuse there is the predominance of instances of the accountability flow.

> The hegemony of the Accountability Flow evidences that the main focus of the complaint remains being the police inquiry and the trial of the accused subjects, to the detriment of the defense of rights and of the assistance to the people involved in the situations of notified sexual abuse, with predominance of the criminological and punitive conception of the resolution of the complaint. (Faleiros, 2003, cited by Meyer, 2008, pp. 194-195).

The data of a research on the network of assistance to children and adolescents victim of sexual violence conducted based on legal processes of the Public Ministry of Rio Grande do Sul revealed that 92% of the cases sent to the organ related to sexual violence. The material investigated comprehended the period from 1992 to 1998 and the results pointed that the sexual violence matter comes along with other violation of the rights of children and adolescents, making the question more complex (Habigzang, Azevedo, Koller & Machado, 2006). The main protection measure adopted by the institutions in relation to the interventions of the Network was the separation between victim and aggressor. In spite of the acknowledgment of the importance of psychological treatment, a few cases were effectively referred to such treatment. If the separation from the aggressor is necessary to prevent other aggressions, the contrary – taking the victim away from home, what happened in most of the cases –, aggravated the belief that some children nurture of being held accountable for the abuse, facing the detachment from the life with his or her families as a punishment (Habigzang et al., 2006).

Final Considerations

A reflection based on the device of sexuality (Foucault, 1976/1999) provides an instrument that allows analyzing the urgency of a sexuality reduced to the violation bias when it comes to children and adolescents.

Facing sexual violence against children and adolescents requires the observation of a phenomenon that transcends the compartmentalization of pieces of knowledge, of science and of public policies. On the other hand, the non-decriminalization of the different places and of the specific attributions of each area involved could homogenize, smooth and thus reinforce the predominance of one over the other, overreaching an action axis to the detriment of others that are not situated in an hierarchy of competences and priorities, but rather in a set of actions that, when articulated, can effectively guarantee the right of children and adolescents, especially in the sexuality and human rights field.

In this way, it is worth stressing the importance of considering the insertion of Psychology into policies towards facing sexual violence aimed at an emphasis on the production of evidence and accountability of the aggressor to the detriment of actions in the context of health and social service that have as central and straight goal to promote the physical, mental and social well-being individually and collectively. Separating the instances and competences does not necessarily mean disarticulation and fragmentation, but rather the guarantee that one does not invalidate, overreach or predominate over the other.

The assistance and care towards the aggressor and the victim requires a space of trust, of secrecy and of sheltering that, many times, opposes the demands of police and legal organs, producing interferences that may undermine such actions or even make them impossible.

The bond established by healthcare and assistance professionals presupposes that professional secrecy will be ensured and what is mentioned by the patient/client will not be used against him or her, but to build a subjective re-signification, a treatment of health aggravations, a space of reformulation of choices and changes of his or her ways of being, feeling and living life. Serving other organs without the awareness of the involved subject himself or herself may result in a conduct that is ethically questionable and technically not viable.

It is possible to observe that the damage-free testimony and some techniques of examination and assessment are articulated with disciplinary technologies and control that, through Biopower, encompass the biological body in punitive mechanisms that make separation between those who deserve to live and those who are abandoned to their own fate. Their bodies and lives should be disabled or nullified. Perhaps that is the reason why the sexual exploration of adolescents does not appear. There is the suspicion that only social aggressors are despicable in this bio-politics of life, but there is evidence that some children – notably those coming from underprivileged social strata – have access to a psychology and a medicine that is reduced to the control and to the judicialization of life.

Marked by the lenses of the penal panopticism (Wacquant, 1999/2001), the challenge about the sexuality of children and adolescents is that of not giving it to the restriction of the matter of violation and sexual violation; it is necessary to think about the rights of citizenship and development in the field of sexual and reproductive rights, also expanding the debate for the affirmation and guarantee of rights. In this sense, it is also fundamental to think about the sexual education of children and adolescents, prevention of pregnancy in adolescence, consent age, right to diversity, to privacy and to the participation of the very same perpetrators in the construction of transformation processes (Melo, 2010), and, why not to say, in pleasure, promotion of autonomy, and choices.

In addition, regarding the demands that have been addressed to professionals of the social service and health areas, we are left with the option of questioning to whom our knowledge is serving and what relations of power can interfere with some actions or even made them impossible.

References

Azambuja, M. R. F. (2010). A inquirição da criança e do adolescente no âmbito do Judiciário. In I. Ribeiro, M. L. Oliveira, A. L. Castro, E. Olinda, N. Aoki, & M. A. Alves (Orgs.), *A escuta de crianças e adolescentes envolvidos em situação de violência e a rede de proteção* (pp. 69-76). Brasília, DF: Conselho Federal de Psicologia.

Brito, L., Ayres, L. & Amendola, M. (2006). A escuta de crianças no sistema de justiça. *Psicologia & Sociedade*, 18(3), 68-73. Recuperado em 07 de abril, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-71822006000300010&lng=pt&tlng=pt. 10.1590/S0102-71822006000300010

Brito, L. M. T. de & Parente, D. C. (2012). Inquirição judicial de crianças: pontos e contrapontos. *Psicologia & Sociedade*, 24(1), 178-186. Recuperado em 07 de abril, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-71822012000100020&lng=pt&tlng=pt. 10.1590/S0102-71822012000100020

Carvalho, C. S., Silva, E. R. da, Jobim e Souza, S. & Salgado, R. G. (2012). Direitos sexuais de crianças e adolescentes: avanços e entraves. *Psicologia Clínica*, 24(1), 69-88. Recuperado em 09 de fevereiro, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0103-56652012000100006&lng=pt&tlng=pt. 10.1590/S0103-56652012000100006

Conselho Federal de Psicologia. (2009a). *Falando sério sobre escuta de crianças e adolescentes envolvidos em situações de violência e a rede de proteção: propostas do Conselho Federal de Psicologia*. Brasília, DF: Autor.

Conselho Federal de Psicologia. (2009b). *Serviço de Proteção Social a Crianças e Adolescentes Vítimas de Violência, Abuso e Exploração Sexual e suas Famílias: referências para a atuação do psicólogo*. Brasília, DF: Autor. Recuperado em 07 de abril, 2014, de http://crepop.pol.org.br/novo/wp-content/uploads/2010/11/Livro_ServicoProtecao_11mar.pdf

Conselho Federal de Psicologia. (2010, 29 de junho). *Resolução CFP nº 010/2010* [Suspensa, com parecer em anexo]. Institui a regulamentação da Escuta Psicológica de Crianças e Adolescentes envolvidos em situação de violência, na Rede de Proteção. Recuperado em 07 de abril, 2014, de http://site.cfp.org.br/wp-content/uploads/2010/07/Resolução-CFP-010-10-com-parecer-sobre-suspensão-judicial.pdf

Conselho Federal de Psicologia. (2013) *Referências técnicas para atuação de psicólogas(os) nos Centros de Referência Especializado de Assistência Social – CREAS*. Brasília, DF: Autor. Recuperado em 07 de abril, 2014, de http://crepop.pol.org.br/novo/wp-content/uploads/2013/03/CREPOP_CREAS_.pdf

Constituição da República Federativa do Brasil. (1988, 5 de outubro). Recuperado em 28 de março, 2015, de http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm

Convenção sobre os Direitos da Criança. (1989, 20 de novembro). Carta Magna para as crianças de todo o mundo, adotada em Assembleia Geral das Nações Unidas em 20 de novembro de 1989. Recuperado em 28 de março, 2015, de http://www.unicef.org/brazil/pt/resources_10120.htm

Donzelot, J. (1986). *A polícia das famílias* (2a ed.) (M. T. C. Albuquerque, Trad.). Rio de Janeiro: Graal. (Trabalho original publicado em 1977).

Felipe, J. (2006). Afinal, quem é mesmo pedófilo?. *Cadernos Pagu*, (26), 201-223. Recuperado em 03 de maio, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-83332006000100009&lng=pt&tlng=pt. 10.1590/S0104-83332006000100009

Foucault, M. (1999). *História da Sexualidade: a vontade de saber* (Vol. 1) (13a ed.) (M. T. C. Albuquerque & J. A. G. Albuquerque, Trads.). Rio de Janeiro: Graal. (Trabalho original publicado em 1976).

Habigzang, L. F., Azevedo, G. A., Koller, S. H. & Machado, P. X. (2006). Fatores de risco e de proteção na rede de atendimento a crianças e adolescentes vítimas de violência sexual. *Psicologia: Reflexão e Crítica*, 19(3), 379-386. Recuperado em 07 de abril, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-79722006000300006&lng=pt&tlng=pt. 10.1590/S0102-79722006000300006

Jonker, G. & Swanzen, R. (2007). Serviços de intermediação para crianças-testemunhas que depõem em tribunais criminais da África do Sul. Sur. *Revista Internacional de Direitos Humanos*, 4(6), 94-119. Recuperado em 06 de abril, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S1806-64452007000100006&lng=pt&tlng=pt. 10.1590/S1806-64452007000100006

Lei nº 8.069, de 13 de julho de 1990. (1990, 13 de julho). Dispõe sobre o Estatuto da Criança e do Adolescente e dá outras providências. Brasília, DF: Presidência da República: Casa Civil. Subchefia para Assuntos Jurídicos. Recuperado em 28 de março, 2015, de http://www.planalto.gov.br/ccivil_03/leis/l8069.htm

Lowenkron, L. (2010). Abuso sexual infantil, exploração sexual de crianças, pedofilia: diferentes nomes, diferentes problemas?. *Sexualidad, Salud y Sociedad - Revista Latinoamericana*, 0(5), 09-29. Recuperado em 06 de abril, 2014, de http://www.e-publicacoes.uerj.br/index.php/SexualidadSaludySociedad/article/view/394

Melo, E. R. (2010). Direito e norma no campo da sexualidade na infância e na adolescência. In M. A. Ungaretti (Org.), *Criança e adolescente: direitos, sexualidade e reprodução* (pp. 43-60). São Paulo: ABMP.

Meyer, M. (2008). *Produção de provas judiciais: verdade e poder nas histórias de crianças abusadas sexualmente*. Dissertação de Mestrado Não-Publicada, Programa de Pós-Graduação em Psicologia Social, Universidade do Estado do Rio de Janeiro, Rio de Janeiro.

Plano nacional de enfrentamento da violência sexual infanto-juvenil. (2001). Brasília, DF: Ministério da Justiça. Secretaria Especial de Direitos Humanos/Departamento da Criança e do Adolescente

Política Nacional de Assistência Social. (2004). Brasília, DF: Ministério do Desenvolvimento Social e Combate à Fome: Secretaria Nacional de Assistência Social. Recuperado em 30 de março, 2015, de http://www.mds.gov.br/assistenciasocial/arquivo/Politica%20Nacional%20de%20Assistencia%20Social%202013%20PNAS%202004%20e%202013%20NOBSUAS-sem%20marca.pdf

Ponteli, N. N. & Sanches, C. A. Jr. (2010). Notas para uma análise sociológica da castração química. *Revista LEVS/Unesp-Marília*, 5(5), 1-12. Recuperado em 06 de abril, 2014, de http://www2.marilia.unesp.br/revistas/index.php/levs/article/viewFile/1111/999

PL - Projeto de Lei 4126/2004. (2004, 14 de setembro). Acrescenta o art. 161-A ao Decreto-Lei nº 3.689, de 3 de outubro de 1941 - Código de Processo Penal - para prever regras especiais quanto à realização de laudo pericial e psicossocial nos crimes contra a liberdade sexual de criança ou adolescente. Brasília, DF: Câmara dos Deputados. Recuperado em 28 de março, 2015, de http://www.camara.gov.br/proposicoesWeb/fichadetramitacao?idProposicao=264294

PLS - Projeto de Lei do Senado, nº 552 de 2007. (2007, 18 de setembro). Acrescenta o art. 216-B ao Decreto-Lei nº 2.848, de 7 de dezembro de 1940 - Código Penal, para cominar a pena de castração química nas hipóteses em que o autor dos crimes tipificados nos arts.213,214, 218 e 224 for considerado pedófilo, conforme o Código Internacional de Doenças. Brasília, DF: Senado. Recuperado em 28 de março, 2015, de http://www.senado.gov.br/atividade/materia/detalhes.asp?p_cod_mate=82490

Recomendação Nº 33 de 23 de novembro de 2010. (2010). Recomenda aos tribunais a criação de serviços especializados para escuta de crianças e adolescentes vítimas ou testemunhas de violência nos processos judiciais. Depoimento Especial. Brasília, DF: Conselho Nacional de Justiça. Recuperado em 22 de abril, 2014, de http://www.cnj.jus.br/images/portarias/2010/port_gp_33_2010.pdf

Resolução nº 113 do CONANDA. (2006, 19 de abril). Sistema de Garantia dos Direitos da Criança e do Adolescente. Recuperado em 29 de março, 2015, de http://www.crpsp.org.br/portal/comunicacao/diversos/mini_cd/pdfs/Res_113_CONANDA.pdf

Rocha, L. F. (2006). *Ataque sexual infanto-juvenil doméstico: da revelação à responsabilização criminal do agressor*. Dissertação de mestrado, Faculdade de Ciências e Letras de Assis, Universidade Estadual Paulista, Assis.

Rosemberg, F. & Mariano, C. L. S. (2010). A convenção internacional sobre os direitos da criança: debates e tensões. *Cadernos de Pesquisa*, 40(141), 693-728.

Recuperado em 07 de abril, 2014, de http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0100-15742010000300003&lng=pt&tlng=pt. 10.1590/S0100-15742010000300003

Wacquant, L. (2001). *As prisões da miséria*. (A. Telles, Trad.). Rio de Janeiro: Jorge Zahar. (Trabalho original publicado em 1999).

Wacquant, L. (2003). *Punir os pobres: a nova gestão da miséria nos Estados Unidos* (E. Aguiar, Trad.). Rio de Janeiro: Revan.

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