

Transgressive Childhood and the Judicialization of Private Life the Role of the State in the Construction of Childhood in Brazil

Cristina Reis Maia

Abstract: This work aims to reflect on the way in which childhood in Brazil have been systematically judicialized and potentially treated as an offender over time. In this way, it attempts to problematize how this process has influenced private life and affected the perception of rights and duties of the citizen, delegating to the judicial body the role of resolving daily demands, interfering in the educational function of families. In this sense, it seeks to think about how the conception of childhood and adolescence have been progressively transformed, becoming more and more subject to legal actions and in breach of the established rules.

I. INTRODUCTION

The explosion of violence today has led to a heated debate about the age of criminal responsibility, making the judicialization of private life increasingly present (and acceptable). In view of the importance of the theme, this work aims to shed light on some socio-cultural aspects that contribute to the perception of childhood as a transgressor and encourage the legal institutionalization of the most intimate and personal experiences.

The conception of childhood and the way in which it is constituted reveals how society is structured and conceives its future. In Brazil, it has been subtly and systematically judicialized, conceived as naturally incapable and, eventually, an offender. Such understanding unfolds in the daily complications, directly influencing the exercise of private life and affecting the perception of rights and duties of individuals.

Considering that childhood constitutes a stage in the life of human beings marked predominantly by dependence, it is understood as an unfinished phase of human evolution. It therefore needs monitoring and care, and its members are not given the right to express an opinion or decide on their lives or to fully exercise their rights. Being a period of development and learning, it occupies the investment locus, which makes it, from the perspective of capital, an unproductive latency stage.

This idea of childhood incompleteness¹ - allegedly a formative stage of the human being, which needs to be constantly monitored -, removes its autonomy from it, making the child not a full citizen. And although in the last 50 years there has been a progressive movement to protect children, the State not yet invested with the prerogatives attributed to citizenship.

Since childhood has always been on the margins of society, it has become easier to justify the delegation of its decision-making power to third parties - the Judiciary, for example -, de-potentiating it as a citizen population.

From this perspective, it has become recurrent to hold children and / or adolescents responsible for the increase in crime, forgetting that they are not given the right to exercise citizenship. On the other hand, the excessive patrolling to which they are subject ends up being a double-edged sword, simultaneously making them liable and blaming them – and throwing the thankless task of responding for their well-being and their eventual penalties to the sphere of the Judiciary.

¹ I refer here to the concept of childhood developed by the International Convention on the Rights of the Child drawn up in the most widely ratified human rights treaty in history [1]. This treaty was ratified by the Brazilian government on November 24, 1990.

In fact, by assuming the role of resolving day-to-day demands, the judicial body ends up intervening in the educational function of families, encouraging the institutionalization of the most intimate and personal experiences. A consequence that looms over a structural problem constantly ignored and little recognized, obliterating the view on the entire historical process of the construction of childhood in the face of the capitalist production system.

The lack of a greater effort to think about recurring issues and to get to the root of the problem, always ends up holding those who are flanking society responsible, those who for one reason or another do not play an active or productive role. And in this case, who would be more on the sidelines than the children? Under such circumstances, the transformation of the infant into a transgressor represents a small step, of easy and frequent transposition.

The consistent judicialization process that has been institutionalized throughout history, permeating and (de) qualifying private life, not only affects the family's forms of self-management. It implies, mainly, in a transference of decisions (and responsibilities) to the legal scope of duties and rights regarding the ordering of families - from the most trivial decisions to those involving greater complexity and the need for intervention. But what almost nobody approaches is that this insidious process that de-potentializes families bring judgments and measures into the public sphere that are not necessarily compatible with the reality actually experienced by these people has been looming.

Amid the lack of clarity in socio-institutional relations, the many obstacles involved and the difficulties encountered, society increasingly demands retaliation and punishment, without considering the set of forces involved and the possibilities of immanent reconfigurations. And although the drafting of child protection laws (such as the Child and Adolescent Statute) has contributed to minimally protecting it, the social pressures involved end up not allowing its autonomous and consistent development without incurring the imminence of a judicialization process.

Many factors contribute to this: from the purest disregard for the conditions of social vulnerability to the simple pretension of having the most elementary aspects of the collective under control. Therefore, it is important to raise reflections on how the occurrence of this movement interferes in social dynamics, affecting childhood and adolescence, transforming them into transgressors. Thus, a quick historical context about childhood, addressing its progressive transformation into transgressor, as well as the mechanisms that provide for the installation of the judicialization of private life that we now experience, should be used here.

II. The concept of minority and its different frameworks in the Brazilian reality

The idea of minority arises from the understanding that children are beings that are not fully developed and, therefore, in need of care. This understanding of children as "adults in training" provides an idea of "incompleteness" (physical or rational) that refers to their lack of independence and responsibility [2]. Since they would not be able to manage themselves, children would be conducive to the intervention of others - which would classify them as "inferior", not allowing them to integrate the list of rights and duties attributed to ordinary citizens.

Throughout history, the notion of childhood and minority has undergone several transformations. Brazil was not indifferent to such transmutations.

During the colonial period and much of the imperial, the medieval view prevailed that children and adults would basically differ by size. So that, as soon as the children showed a certain physical independence, they were immediately integrated into the work network, as they were expected to contribute to the support of the family and society. Those who did not find a place of belonging or shelter were left to their own devices, in alleys, dumps, at the doors of other families or churches.

Child protection was not a function of the State, being restricted to philanthropic institutions and the Wheel of the Exposed - which would receive infants and train them for some function useful to capital. The idea that greater care should be taken with children arises with the advancement of enlightenment and scientific

ideas, but it was only in the beginning of the 20th century that the Brazilian State implemented public policies aiming to protect them.

As the dominant power at the time was impervious to the guidelines on basic health and hygiene measures, superstitions were rife and the incidence of epidemics was high, causing a high infant mortality rate. Those who escaped often ended up adding to the crime statistics, contributing little or nothing to the country's economic growth.

However, when the social and economic processes that support and consolidate capitalism are put at risk, forceful measures are required [3]. Given the need for the system, the government strives to implement legislation that minimally guarantees the survival of the child population, in order to make it useful and productive. So that specificities and peculiarities regarding childhood and youth come to be perceived and considered, implementing changes in relation to their role in society. The proposition of a "protection" of the State with its children emerged as a solution in a context where the worsening of social conditions made the conditions of poor children increasingly precarious [4].

Thus, the expansion of State intervention - creating and regulating a series of institutions that aimed to deal with the precarious existing social conditions - was the solution found.

In Brazil, the first legislation that engaged in systematic rights and duties of childhood was the 1927 Minors Code (Decree No. 17943-A, 12 October 1927). Its objective was to alter and replace obsolete conceptions and to establish criteria for discernment, guilt, penalty, responsibility and *patria potestas* over all who were not considered as adults and capable of deciding and producing for society [5]. This code established regulatory parameters for entering productive life - prohibiting work for children up to 12 years of age, determining its non-liability until the age of 14 and creating special places for the protection of transgressors - and legally marked the difference between children and minors [6]. In order to better regulate and supervise such laws, the Juvenile Court was instituted, by which the Executive and Judiciary sought to resolve the problem of orphaned and abandoned children.

This effort, however, although it had a protectionist and social control content, consolidating criminal laws and social assistance services, did not change the legal status (non-citizen) of the children - they remained subject to their parents, the State only intervening before risk situations. His greatest achievement was to promote a strategic distinction about children: those who had some support were recognized as such and those who not counting on this luck, were designated through an inferiority qualification - the so-called minors². This allusion to the working mass reinforced the reproduction of the labor force and the increase in productivity, keeping the mechanisms of social ascension and the current *status quo* unchanged, without interfering in social relations to the point of imposing the jurisdiction of private life.

The Code of Minors of 1927 had a discriminatory character, which associated poverty with delinquency, covering the real causes of the difficulties experienced by this public - the huge income inequality and the lack of life alternatives. This was because the standardization it presented was mainly aimed at the poorest, regulating behaviors and procedures to contain deviant behavior and the "disorder" that they promoted. It functioned as a control instrument, transferring the tutelage of "unsuitable minors" to the State, justifying the action of repressive devices. The children he addressed - considered "minors", unfit to live in society - were susceptible to the punitive measures established, as they fled the social order³.

²The child, understood as being in development, becomes the focus of society's attention and investment - the nomenclature itself indicates this, since the etymological root of the name child denotes creation, making it grow. The smallest, on the other hand, is the one who faces the dichotomy between subsisting in loitering or in the unhealthy conditions of the work offered to him - in both cases, outside the control of the family [7].

³ Considered "abandoned", "needy" or "offenders", children who belonged to this segment of the population, were actually victims of the lack of protection by the State. These were subject to vigilance and punishment by way of discipline and protection [8].

In permanent transformation, society starts to demand (some of) its members, new control and adaptation measures.

In 1940, Brazil approved a Penal Code that established a new conception of minority, arbitrating the age of 18 for entry into adult life. From this age, the subject starts to respond (and to be charged) for his acts – the so-called adulthood. Below this dividing line, supposedly, everyone would be subject to the “corrective pedagogy” of special legislation.

In the wake of the new legislation, the government created the National Department of Children (1943) which, with a social focus and without an essentially legal character, promoted a significant advance of rights for young people. This policy persisted until 1959, when the United Nations (UN) edited the Declaration of the Rights of the Child.

The advent of military governments after the 1964 coup made a series of institutional changes, without however changing the dichotomy between adulthood and minority. The National Policy for the Welfare of Minors (PNBM), the Foundation for the Welfare of Minors (FUNABEM) and the network of State Foundations for the Welfare of Minors (FEBEM) were created, defining a vertical and centralized management of the youth theme. Through these bodies, the aim was to develop strategies that prioritize the socialization and reintegration of these young people in their communities of origin, putting an end to the use of repressive and primitive methods in institutions for "minors". However, such foundations, of a regional (or state) nature, had the function of retaining and restraining anyone who violated laws and regulations. Shaped in the mold of military hideouts - places of torture and beatings for anyone subversive to the system - they reproduced the problems of adult prisons.

This notion was duly emphasized with the Doctrine of National Security formulated by the Escola Superior de Guerra in 1976, which reflected in Law 6.697 of 10/10/79. The latter formalized a new Code of Minors. Full of values and concepts of a conservative political character, this code was intended to inaugurate a new legal posture in the face of childhood, aiming to be the only instance to regulate the matter of protection and assistance to Brazilians belonging to this age group.

Still in 1979, the approval of the Doctrine of the Irregular Situation by the National Congress, led the Courts of Minors to stop separating young offenders from those in a situation of abandonment. *Minor* began to designate everyone who, being poor, was within the reach of the system. Since then, there has been a notorious criminalization of poverty in Brazil.

Justice assumes the function of social control that will especially cover the most disadvantaged - those who will not have supervision or resources. And the Court - a place of ordering and discipline, directed by a judge who arbitrates on the destinies of others under the pretension of not being able to properly manage their existence or break with social rules - becomes the forum for the exercise of this power.

This conception of the Judiciary, however, ends up being gradually assimilated by the population. From an authoritarian and imposing *locus* to a public sphere capable of resolving disputes and impasses - whether through fear or respect -, it constructs for itself the perception of a defender of civil rights.

This transformation in the scope of the judiciary begins to operate with the granting of the Federal Constitution of Brazil in 1988. It allows, with its laws and jurisprudence, the construction of parameters that delimit the area of performance and accountability of citizens shaping society from their own bases, acting as supreme arbiter of the issues raised by their own interference. This function allows him to guard the families and decide their future in an exercise of micro powers that, silently, invent forms of domination, but that can also offer the opportunity for new possibilities of life [9].

However, only with the enactment of the Child and Adolescent Statute on July 13, 1990 (Law 18069/90) will this position become effective in the popular imagination.

Like the 1988 Constitution, the Child and Adolescent Statute [10] allowed rights to be constituted and expanded, guaranteeing the protection of children and the maintenance (or transformation) of their social ties. Through it, family framing and organization rules were also systematized and regulated⁴.

The new national and international legal frameworks have facilitated the access and approximation of the judicial sphere of its target audience, however, they did not prevent justice from exercising a powerful process of social control. This process will cover especially the most needy, who will not have supervision or resources - including to defend themselves. So that the forums where such functions occur - the Courts⁵ - become an instance for the exercise of this power. This is because, although the ECA proposal is aimed at the integral protection of children and adolescents, constituting itself as a regulatory framework for the human rights of children and adolescents, its essence remains an authoritarian bias of social control.

The resurgence of the public policy agenda and the game of tensions and coalitions between the most diverse actors⁶ extends and eases the performance of the Courts [11], building an image of the defender of rights Judiciary. Whether out of fear or respect, this image is assimilated by the popular imagination. Gradually, the Judiciary starts to represent a space for resolving deadlocks and pending issues, consolidating itself beyond the authoritarian and imposing function. The laws and statutes (from the Latin statutum meaning "regulation", "sentence", "aresto") established in order to standardize and regulate social relations develop, when in excess, the reverse effect of legal dependency, providing what has been called judicialization.

Although the evolution of civil rights is progressively increasing - especially with the provision of laws aimed at protecting children -, families remained under the tutelage of the State. And when it constitutes itself as a space for care (or assistance) for childhood, it starts to express in an extensive way the movement of judicialization of private life, extrapolating the universe of its competence.

III. Judicialization of family relationships

But... what is judicialization?

In layman's terms, this is a word that is defined in an even simplistic way: it refers to the act of trying to resolve a conflict by appealing to a higher body, represented by the Judiciary in the personification of its representative, the judge [12].

The need for concreteness for the most diverse social appeals not resolved by Organs competent, ends up leaving the judiciary to offer answers. In view of the numerous pretensions required and the need to provide answers, it is this power that has been systematically assuming the function of realizing subjective rights of a social and political nature [13], influencing the decisions and even the way of life of its users:

Judicialization means that some issues of broad political or social repercussion are being decided by organs of the Judiciary, and not by traditional political instances

⁴ By assuming that all children and their respective families would be under the tutelage of the State, ECA supposedly would not make a distinction between them, passing on the idea of equality between classes. However, although the concept of universality is limited by the economic conditions of those involved - which makes it much easier for the poorest families to receive sanctions and punishments - the perception that minority would only reach the underprivileged is modified.

⁵ Place of discipline and legality, directed by members who arbitrate on the destinies of others under the pretense that they are not able to properly manage their existences and / or break with current social rules, the Court becomes a *locus* for the application of Justice.

⁶ This includes the various multilateral agencies and foundations (national and / or international) and, in particular, the International Convention on the Rights of the Child.

(...), in the Brazilian context, it is a fact, a circumstance that stems from the constitutional model that was adopted, and not a deliberate exercise of political will [14].

The increasing delegation of powers to the judiciary is proportional to the gradual decrease in the decision-making power of families. This is because in view of the increase and complexity of its demands, civil society has gradually been incorporating and developing the habit of delivering the solution of its problems to the judicial sphere so that it offers possibilities and ahead solutions that are not found in the dynamics of day-to-day.

The problem occurs when situations that are at first banal and commonplace are referred to the Judiciary as an alternative to resolve conflicts, making judicialization a common practice. Presenting multiple crossings in the social fabric, this habit establishes intervention mechanisms that affect the established relationships. And by restructuring the spheres of power, it ends up interfering in everyday relationships.

This experience of “dissemination” of the legal structure can be considered as a “symptom” of anomalous democracies, putting in check the formal structures that mark the social inequalities that cross them. In addition to a form of protection against possible abuses, judicialization “occurs due to the scarcity of policies that ensure the enforcement of citizenship rights (...) [and] the charge for access to public services, mainly health, education and assistance”[15]. In this sense, judicialization can be both a form of isolated voices making themselves heard.

On the other hand, judicialization can constitute a mechanism for controlling social relations, exercised precisely by the body that should guarantee freedom and civil rights for all. This process can be seen in the laws that regulate the conception, rights and legal duties of the family, but mainly, in the ways in which the poorest families are affected, making them the target of control and disciplining, even under the aegis of protection and care.

Despite the disagreements regarding the importance or character of judicialization, it has been manifesting itself more and more in our daily lives. And one of the ways that most drives it is the management (and control) of family relationships:

Jurisdictional control in family conflicts is guided by fundamental principles of protection of the person, his dignity, physical and mental health. Of all subjects in the family, with special attention to children and adolescents. The protective normative system of family relationships creates mechanisms of protection to the subjects, which are enforceable through the performance of the Public Power, in this case the Judiciary. As a consequence, it starts to play an important role in the realization of rights, intervening in human conduct and presenting concrete solutions to conflicts [16].

Historically, the advent of rights - civil, political and social - has emerged with the evolution of society and its needs. Civil rights correspond to the prerogatives to life, security and individual freedoms - above all the prerogatives to justice, property and contracts. Political rights are in keeping with their guarantee, in the free participation in political activities - either as members of bodies of political power or as simple voters of representatives in those bodies. Social rights, in turn, respond to basic human needs, ensuring minimum economic well-being for individuals - with guarantees such as salary, health, education, housing and food [17]. However, these rights are not always safeguarded; or if they are, they may not occur equally or simultaneously.

In Brazil, the search for the expansion of these rights has led society to run for the judiciary - either to resolve social conflicts or to make citizenship effective. Although for the feasibility of citizenship different institutions are called into action - such as courts (to safeguard civil rights), representative assemblies (to legislate political decisions) and social services of the executive bodies (to ensure access to health and education) - it is in the Judiciary that it is asserted [18]. This phenomenon is recurrent in the so-called social

democracies and the fact that the Brazilian judiciary is faced with this requirement, points to the consolidation of our democratic institutions. For at the same time that

social rights were expanded, through struggles and conquests, the State began to demand greater intervention in guaranteeing these rights, either through the Legislative or the Executive. With the legislation guaranteed, society now seeks to enforce these rights, and in the face of an executive limited by macroeconomic and political agreements, it seeks in the Judiciary, effectively recognizing it as one of the institutions of state power, the possibility of enforcing these rights [19].

This call for justice expresses a new trend in contemporary democracy, in which the consolidation of citizenship occurs through the judiciary, used as an instrument for resolving conflicts.

In fact, as the Legislative and Executive powers weaken due to the crisis of political representation and of modern democracy itself, the Judiciary grows as a political actor, being considered the "last refuge of a disenchanted democratic ideal" [20]. In contrast to this recognition, however, there is interference in private life - particularly in the microcosm of parental relationships - and, eventually, in the spheres of productive (collective or private) and public activities (such as health, education, labor relations or even in politics). So that the judicialization movement reaches

the regulation of sociability and social practices, including those traditionally considered to be strictly private in nature and thus impervious to State intervention, as are the cases of gender relations in the family environment and the treatment of children by their parents or responsible [21].

In this process, it is possible to identify three types of actions, based on different interpretation matrices. The first, of a juridical-sociological nature, understands that the demand for the Judiciary to resolve conflicts encounters obstacles in issues related to the capacity of the judicial guardianship to respond to demands that concern issues of effectiveness of their decisions, efficiency and accessibility to the judicial system. The second concerns a legal-ideological position that implies that it is not the task of the Judiciary to resolve such conflicts, and it is not for the Judiciary to make decisions about the civil life of its jurisdictions. The third, linked to a political-ideological conception, understands that the judicialization of social conflicts frustrates the possibility of the development of popular struggles for the claim of rights [22]. Whatever the conception suggested, the success of Justice is inversely proportional to the discredit that affects classic political institutions caused by the crisis of disinterest and loss of public spirit.

In Brazil, it is from the last decade of the twentieth century that the Judiciary emerges as an institution for the protection of families, not only systematizing and regulating rules for their framing and organization, but establishing guarantees for their survival. It allows, with its laws and jurisprudence, the construction of parameters that delimit the area of activity and responsibility of these families, shaping society from its bases, placing itself as the supreme arbiter of the issues raised by its own interference. And in doing so, he protects and decides the future of these families, in an exercise of micropowers that, silently, reinvents forms of domination, while still offering opportunities for new life possibilities [23]. Ultimately, he starts to manage and negotiate conflicts arising from the universe of family relationships.

Perceived as the guardian and guarantee of civil rights, the Judiciary assumes the function of protecting citizens. However, the fact of concentrating the decision-making power over their private life reflects the (considerable) reduction of individual autonomy and the power of action and resolution, since when transferring the solution of their particular problems to the legal sphere, the subject delegates his decision-making power to this.

With regard to childhood, the laws regulated through the Statute of the Child and Adolescent are guiding principles that discriminate (and control) the actions of families in relation to their offspring, and it is up to the State (understand Justice) to intervene if the norms are not met fulfilled:

Art. 3 The child and the adolescent enjoy all the fundamental rights inherent to the human person, without prejudice to the full protection referred to in this Law, assuring them, by law or by other means, all opportunities and facilities, in order to provide them with physical, mental, moral, spiritual and social development, under conditions of freedom and dignity.

Single paragraph. The rights set out in this Law apply to all children and adolescents, without discrimination of birth, family status, age, sex, race, ethnicity or color, religion or belief, disability, personal condition of development and learning, economic condition, environment social, region and place of residence or other condition that differentiates the people, families or community in which they live (included by Law No. 13,257, 2016).

Art. 4 It is the duty of the family, the community, society in general and the government to ensure, with absolute priority, the realization of the rights related to life, health, food, education, sport, leisure, professionalization , culture, dignity, respect, freedom and family and community coexistence.

.....

Art. 5 No child or adolescent will be the object of any form of negligence, discrimination, exploitation, violence, cruelty and oppression, punished under the law for any attempt, by action or omission, to their fundamental rights.

.....

Art. 19. Every child or adolescent has the right to be raised and educated within his family and, exceptionally, in a substitute family, ensuring family and community coexistence, in an environment free from the presence of people dependent on narcotic substances [24].

The new parameters of coexistence and action instituted promote the transfer of the decision-making power of family members to the courts, who are legally instructed to meddle and give their opinion on family dynamics, going through their internal, intrinsic relationships.

In this sense, "it is possible to recognize the significant interferences that the Judiciary can make in family relationships" [25], not only inspecting, but arbitrating over laws that establish norms about the care and responsibilities that families should have in relation to their members. In addition to these functions, he also performs the role of policy implementer to carry out the difficult task of promoting changes in mentalities [26]. Its laws, when not properly complied with, entail sanctions that can alter an entire family situation and cause serious repercussions - including determining the removal of family power⁷.

The judicialization of everyday actions shows the resurgence of a process that has become conventionally called citizenship, in which the more progress is made towards the improvement of democratic institutions, the less autonomy is obtained. In fact, such a term is used

to refer to the conversion and disciplining of the popular element to rationality and the current order. To this end, institutions and agents committed to the homogenization of society are configured through the expansion of a certain vision of citizenship [28].

In this condition, the rights (civil, political and social) that allow to rise to the status of citizen, are not supported - access to one does not guarantee automatic reach to the others [29]. In addition, obtaining such

⁷ Arte. 24. The loss and a suspension of control of **patria potesta** will be judicially decreed, in the contradictory procedure, in cases of civil legislation, as well as in the case of unjustified non-compliance with the duties and norms that allude to arte. 22 [27].

rights is in the interest of the State, which allows it to format them according to its criteria and interests. In such a context, citizenship always incurs the adherence to an external proposition (in the form of laws) that requires a certain degree of cession of individual decision-making autonomy to respond to the adjustments recommended for the granting of their rights⁸.

Despite its authoritarian construction, this process does not manifest itself unilaterally. If, on the one hand, families have their conduct systematized and sabatinized, on the other hand, they are potentially capable of finding subterfuge to act. The population to whom these rights are aimed not only plays a passive role; it often alters the provisions they foresee, transforming its results into something quite different than expected.

IV. The transgressive childhood

One of the stages of human development, childhood (from the Latin *infantia*, where *fan* = speaker and *in* = negation prefix) refers to the period of life in which the absence of a voice implies subordination and a lack of decision-making power over actions of existence itself. Its meaning goes beyond the physical and morphological conditions to extend itself in the metaphor - it symbolizes a disqualification of the subject, subordinated and framed as a minor⁹.

Although the childhood story was written by the elite - by lawyers, doctors, police, legislators, traders, priests, educators [31] -, some of the conditions (and peculiarities) that went through it never changed.

Forged by the amalgamation and counterposition of various powers (and counterpowers articulated within society [32], childhood constitutes itself as a category of its own, founded for the preservation of the labor required for the production process. However, even the legal norms and the the State's efforts to safeguard it, does not make consistent its adherence to the proposed proposals (to the implemented laws), which are never fully implemented or without resistance.

In Brazil, although childhood becomes regulate by the State - that establish its age group, competences and due protections - it cannot prevent possible transgressions in the face of movements to adapt families and their offspring to the hegemonic political-economic project, such as sanitary and state protection¹⁰.

Considering that, over time, children have ceased to take the place of "small adults" to become "the future of the nation" - a future that has never been extended to all -, they have become the target of State investment.

Focused on the (re) production of the current economic cycle, the State sought to guarantee (at least) the survival of children - especially those who lived on the margins of society. Childhood has become a political purpose, an ideological construct and an instrument for the country's social and economic development. It is the so-called minorization - which implies considering the child to be a minor being, de-conceptualizing it.

⁸ Citizenship implies individualization, rationalization - in the way social subjects relate to the world -, responsibility - of the subject to the detriment of state responsibility -, disciplinarization and macro institutionalization - in which the subjects, each with their role, compose the largest bloc which is society [30].

⁹ The term itself already indicates the place that these children occupy in the world: an adjective transformed into a noun, composing an insignia of inferiority that is transferred in the instituted appointment.

¹⁰ The concept of hygiene refers to the way in which the State (and consequently, the society) imposes and reinforces certain habits aimed at productivity, without worrying about the reality and culture of those involved. In these cases, an apparently healthy idea (such as cleanliness, for example), becomes a manifestation of authoritarianism and violence, since it starts to be imposed "for the common good" without taking into account the existential conditions of those involved (such as lack of sanitation and urbanism in the environment where they live).

However, it is among the poorest children that this process acts strongly, penalizing them twice. Subjected to subsistence difficulties and subordination ideologies, these children (and their families) are disabled from their potential, regulated and subjected in the name of a “care” and “protection” that, however, does not democratize accessibility to the means of production and a safer and more dignified life. So, transgression is often left to them as a possibility.

Nonetheless, transgressing does not mean just promoting something illegal. True transgression implies going beyond the parameters imposed, breaking with them. Consequently, questioning the instituted and paving the way for the achievement of new arrangements and other perspectives is a frightening picture, which undoes the balance of prevailing forces in society. As we get used to seeing transgression through the normative gaze of those who have their rules in check, it takes on a negative character that does not cover its entire scope or exhaust its representation. For this reason, it is very common to equate transgressors with “outlaws”, without taking into account that transgressing can also be an instrument of contestation.

When we encounter children who contradict the demanded expectations and, in one way or another, reject social norms, we are faced with transgressive childhood. Then, we have those whose conditions of existence are so precarious that transgressing becomes an act of survival; those who transgress to share experiences with the group to feel themselves supported; and those that make transgression a form of expression, of contestation. Whatever the reason or objective that permeates the transgression, it emerges as a political act, which brings representativeness to its practitioners. They transgress because they seek to have a voice and because they want to be heard.

When we take a closer look at childhood, we will see that its condition of incompleteness has always put it in the background. As a project for productive adults, infants are seen as a cost to society - their transitory dependence, overshadowing the discernment of being potential investments for the future. This immediate and limiting perception accentuates the inequalities that instigate and stimulate divergent behaviors and transgressive constructions.

The fact that age serves as a beacon for minor citizenship (or the absence of it), reflects the perspective of a society built on inequalities and relational abyss. It is not surprising that some of these children react. Whether they called needy, in conflict with the law or simply rebels - when belonging to the middle and upper classes - their actions are always against the system, testing their limits.

In turn, a solution found by the State to combat the advance of the transgressions promoted was institutionalization. Through it, a “resocialization” of transgressors is carried out coercively - the majority of those who were poor are admitted. Such measures - called socio-educational, but subject to punishment -, comprised yet another stage of minor victimization. Making this childhood - divested and poorly cared for - increasingly judicialized and subjected.

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V. Final Considerations

Thinking about the transformations that have occurred in families implies understanding how the process of social regulation and standardization takes place. It is important to reflect on who profits from this system and

how its viability interferes in the social organization. But, mainly, how this structure interferes in the production of subjectivities and delimits the current social roles.

Scrutinizing these relationships, we see the emergence of a transgressive childhood that resists the imposed norms, exceeding the established parameters, stretching its limits and problematizing the conjuncture in which it is inscribed. In contrast to this phenomenon, we increasingly find a process of judicialization of families, involving the eventual loss of their autonomy with the increase of State interference in their daily life. Under these circumstances, two distinct, apparently antagonistic perspectives - submission and insubordination to legal criteria - interact hand in hand: one accepting State intervention and the other reacting against the paradigms imposed by it.

In this context, transgressing constitutes the paradox between breaking with authoritarian structures and constituting new forms of action - composing a vicious circle of oppression and violence. And that, despite the restrictions imposed against childhood and its removal from citizenship, it fails to contain its innovative and subversive potential. However, considering that childhood is not homogeneous or uniform - since it is composed of several age groups, from different social classes and castes -, their transgressions to society will faced in different ways, receiving different treatments.

In fact, depending on the environment and those who commit it, certain transgressions trivialized. This shows the emergence of two categories that oppose each other in childhood - children and minors -, breaking up between those that effectively safeguarded and those that are adrift. On the other hand, the judicialization of conduct - especially those that go through childhood - allows greater control over private life, in an attempt to curtail and inhibit transgressions. Being able to reach all spheres of life of ordinary people, judicialization often transfers the responsibilities and attributions of the family (on their offspring) to the State, bringing important consequences for the society in which we live.

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