Child sexual abuse, sexual exploitation of children and pedophilia: different names, different problems?

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Sexuality, culture and politics
A South American reader

Although mature and vibrant, Latin American scholarship on sexuality still remains largely invisible to a global readership. In this collection of articles translated from Portuguese and Spanish, South American scholars explore the values, practices, knowledge, moralities and politics of sexuality in a variety of local contexts. While conventionally read as an intellectual legacy of Modernity, Latin American social thinking and research has in fact brought singular forms of engagement with, and new ways of looking at, political processes. Contributors to this reader have produced fresh and situated understandings of the relations between gender, sexuality, culture and society across the region. Topics in this volume include sexual politics and rights, sexual identities and communities, eroticism, pornography and sexual consumerism, sexual health and well-being, intersectional approaches to sexual cultures and behavior, sexual knowledge, and sexuality research methodologies in Latin America.

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Child sexual abuse, sexual exploitation of children and pedophilia: different names, different problems?*

Laura Lowenkron**

1. Sexual violence against children: a contemporary social phenomenon

This article discusses the emergence of "sexual violence against children" as a current "social problem" and its breakdown into different modalities such as "child sexual abuse", "sexual exploitation of children" and "pedophilia". Although focused on a "problem" whose repercussions and visibility are not limited by national borders, it does not intend to account for all the different levels of this phenomenon. Instead, it aims to contribute to the understanding of one of this problem's local manifestations, within the Brazilian legal, social and political context. Where relevant, references will be made to the international scene.

The first point I would like to emphasize is how I understand "violence against children" as a contemporary social phenomenon. Over the last few decades, we have seen a discursive explosion around this topic, which has been accompanied by a censure of "silence", understood as "omission" and "complicity". Faced with new rumors and the rise in accusations[1], two possible interpretations emerge:

A pessimistic one that believes we are going through an "epidemic" of child "sexual abuse";

A more optimistic one, that sees this greater visibility not a result of a sudden rise in occurrences in abuse, but of the dissolution of the old "silence taboo".

Instead of focusing on this dilemma, and taking inspiration from Foucault's (1979)

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[1] *Disque Denuncia Nacional* (National Crime Report Hotlines) recently publicized the fact that it has reached 100 thousand reports of sexual violence against children and adolescents throughout Brazil. The service has been operating for six years and is coordinated by the Special Secretariat for Human Rights (SEDH). From 2003 to 2008, the number of reports received increased seven fold (from an average of 12 reports a day, in 2003, to 89 a day, in 2008). In 2009, until June, the average had already reached 94 a day. Apart from cases of sexual violence, which make up 31% of all reports received since 2003, Disque 100 (aimed specifically at crimes against children and adolescents) also receives information about trafficking of children and adolescents, ill treatment and negligence, among other crimes.

formulations,[2] I prefer to reposition it within a recent economy of discourses on "sexual violence against children". I will analyze how this topic came to be publicly debated and understood as a "problem" to be faced collectively. My aim is to understand the present repressive efforts that bring together public authorities and civil society in the battle against "sexual violence against children" from the point of view of its positive effects on the production of instances of knowledge/power that re-organize discursive forms, constitute sensibilities, institute relationships and diffuse and fix pleasures.

My starting point is the premise that "violence" should not be thought of as a datum per se, to be merely analyzed based on statistical criteria, but a notion that is combined with a change in the historical patterns of sensibility (Vigarello, 1998), whose dynamics can be gathered by the analysis of the production and use of classificatory categories.

My argument is that up until the late 1980s,[3] "sexual violence against children" was not particularized. Before analyzing how the topic is treated as a current social and political "problem", it is thus of paramount importance to briefly look at the conditions of the historical possibilities that allow us to understand its emergence as a specific social phenomenon.

In the transition from the Brazilian Penal Code of 1890 to the 1940 Code, the emphasis on the definition of sexual offences moved from the threat to families' honor to attacks against individuals' sexual freedoms.[4] The most significant issue in the definition of sex crimes moved from the social status of the offended person (whether they were married, a virgin, honest, or decent) to the presence or absence of consent which, in cases when the person in question is younger than 14,[5] is not legally recognized. This legal transformation, which can be traced back to the first half of the 20th century, acquires particular political and cultural strength from the 1960s onwards, following the development of the feminist movement.

Emphasis has also changed in regards to the effects of sexual offences: from shame to psychological suffering. This dislocation helps us to understand how "sexual violence

[2] "The question I would like to pose is not why we are repressed, but why we claim so passionately, so bitterly against our most recent past, against our present and against ourselves, that we are repressed?" (Foucault, 1988: 14)

[3] For a more detailed analysis of the historical process of the construction of the notion of "sexual violence against children" as a specific and particularly dramatic phenomenon, see Lowenkron (2008), ch.1. Regarding the shift of focus from gender to generation in the approach to sexual violence in the print media throughout the 20th century, see Landini (2006).

[4] In the Brazilian Penal Code of 1890, sexual offenses were grouped together under the title "crimes against the security of honor and honesty of families and indecency offenses". In the Brazilian Penal Code of 1940, sexual crimes became grouped under the title "crimes against good morals" (altered by Law nr. 12.015 of 2009 to "crimes against sexual dignity"), in the chapter "crimes against sexual freedom".

[5] "Age of consent" as defined in the Brazilian law (Penal Code, 1940). The figure of a "sexual minor" varies according to different legal, national and historical contexts. It can also be relativized in certain rulings. For an analysis of the issue, see Lowenkron (2007) and Waites (2005).

against children and adolescents"[6] has become particularly dramatic, since it is understood as a threat to the sexual and psychological development of the person's coming of age. This change also allows us to formulate a hypothesis to explain the transition from the old silence to the noisy visibility that has been a characteristic of the topic in recent decades. In the language of honor/shame, it was the offended party who was scrutinized, while in the language of suffering, collective indignation and degrading effects fall on the figure of the "aggressor", especially when the "victim" is a minor. It is not, therefore, a question of preserving silence in order to "hide the shame" (which refers to public scrutiny), but to turn "suffering into words"[7] in order to "overcome trauma". This refers to interiority and to holding the guilty party responsible, placing the effects of violence on them through a process of denunciation (Boltanski, 1993).

Another point worth highlighting is that from the end of the 20th century onwards, children and adolescents began to take a prominent place within political agendas in the battle for special rights, especially rights of protection against different forms of exploitation. In Brazil, this shift was marked by the move from the Minors Code of 1979, to the Statute of the Child and Adolescent of 1990. In this shift, the "irregular situation doctrine" was substituted by the notions of "integral protection" and working for the "best interest" of children and adolescents (Vianna, 2002; Schuch, 2005). With the transformation of children and adolescents into "subjects of special rights", criticism of violence against them was strengthened, thus making crimes perpetrated against children the main model of atrocity. This is a new "political and ethical" understanding of the phenomenon, "seeing it as a question of citizenship and human rights,and its violation as a crime against humanity" (Faleiros and Campos, 2000: 18). It is worth noting the role activism of various social movements played in this process.[8]

After briefly presenting how "sexual violence against children" has been constituted throughout the 20th century as a "problem" with its own especially dramatic outline, I will now analyze how this topic has been broken down into several areas.

[6] I use the categories "child" and "adolescent" in their legal sense, as defined by the Statute of the Child and the Adolescent (ECA/1990). A child is defined as someone up to 12 years of age; an adolescent is defined as someone between 12 and 18 years of age (Art. 2 of ECA/1990).

[7] "Silence" and "guilt", on the one hand, and the verbalization of "psychological suffering", on the other, are two ideal-typical poles that can be associated to historical changes in the notions of "sexual violence" and the respective reactions (intimate and collective) prescribed and inscribed on subjects with regards to this. Obviously, this does not mean that in the past, victims of sexual offenses did not suffer, or that nowadays there are no longer feelings of "shame" in relation to the experience of "sexual abuse". It also does not mean that every person is able or willing to make such abuse public, especially when the "abuser" is someone close to the victim or even a family member, as is generally the case. What I want to highlight is that, today, the understanding and the social and political expectations around the phenomenon of "sexual violence" emphasize the suffering of the victims and one's duty to report it.

[8] For an analysis of the role of social movements in the process of developing a political agenda around the issue of "sexual violence against children and adolescents" see Landini (2005). The author highlights the activities of two movements: the feminist movement and the movement for the rights of children and adolescents.

2. Sexual violence: abuse, sexual exploitation and pedophilia

"Sexual violence against children" should not be understood as a monolithic phenomenon. It is therefore crucial that we take note of the complex of acts and classifications that constitutes it. It is worth highlighting that my aim is not to prescribe ways of adequately conceptualizing the different types of the phenomenon, but to map out the processes of conceptualization and re-conceptualization regarding it. To that end, I will trace a genealogy of the main terms used in the process of identifying and classifying acts seen as "sexual violence against children". I will also present the most common uses and meanings of each term from an analysis of journalistic materials on the topic published in the newspaper *O Globo* from March 2008 to August 2009.[9] Here, it is worth highlighting that out of a total of 82 reports on "sexual violence against children" analyzed, the category "pedophilia" appears in 42 pieces; the word "sexual abuse" in 35 and "sexual exploitation" in 20.

Another part of the research was carried out between November 2008 and February 2009, using "Google news alert" as a tool. This selects reports on the Internet of different publications in Brazil through a search by "key words" and provides them in a daily e-mail. In this search, 208 occurrences were collected for the category "pedophilia", 140 for "sexual abuse" and 106 for "sexual exploitation".

Two other sources of documents were analyzed in an attempt to map out the uses and meanings of these terms: an ILO[10] (International Labor Organization) document, which provides a type of glossary regarding the sexual exploitation of children and adolescents; and a booklet published by ECPAT International[11], a global network of non-governmental organizations that work on the prevention and the combating of child prostitution, child pornography and trafficking of children for sexual purposes.

2.1. Child sexual abuse

The category "child sexual abuse" seems to have originated in the field of psychology. The term appears in Freud's texts from the end of the 19th century. [12] However, the sexual dimension of "child abuse" only began to appear in national and international public and political debates much later, the issue of physical violence and physical

[9] Rio de Janeiro newspaper with wide circulation and national social and political significance that especially targets the middle and upper classes, an audience group seen as "opinion maker".

[10] "A to Z of Sexual Exploitation Against Children and Adolescents" by the International Labor Organization (ILO). Childhood and Adolescence protected against sexual exploitation at the Argentina - Brazil - Paraguay triple border. Report, 2004.

[11] Questions & Answers about the Commercial Sexual Exploitation of Children. ECPAT International, 2001.

[12] Cited in Freud, S. Edição Eletrônica Brasileira das Obras Psicológicas Completas de Sigmund Freud (Vol. I). Rio de Janeiro: Imago.

abuse of children being the initial emphasis.[13] In Brazil, the first NGOs dedicated to the protection of children and adolescents appeared at the end of the 1980s and beginning of the 1990s. These were dedicated to abandoned minors living on the streets or to children who were victims of negligence or physical or sexual violence (Landini, 2005: 121-122). During the 1990s, sexual violence against children and adolescents became outlined as a specific and urgent political issue.

"Sexual abuse" appears as a political problem related to gender inequalities around the 1960s. It became highlighted by the second wave of the feminist movement, who developed a critique of the "patriarchal" model of the family that legitimates male violence against women and of adults against children. In the transition from the 1980s to the 1990s, this critique was integrated into emerging Children´s Rights Movement. This movement began to treat "child sexual abuse" as a particularized political issue and as an especially dramatic one.[14] In the conceptualization of the notion of "child sexual abuse" by activists, this category is defined as sexual interactions[15] with children. The emphasis is on power asymmetry (due to age, experience and difference in social position, among others) and/or psychological harm. It may take place by force, promise, threat, coercion, emotional manipulation, deception, pressure, etc. The key point of the definition of "abuse" is that the child's sexual consent is not considered valid, so that they are always seen as an "object" of satisfaction for someone else's lust and never as a "subject" in a sexual relationship with adults. Depending on the case,[16] this view might persist even if the sexual contact is with an older child or adolescent.

In terms of current uses, found in the analysis of print media materials, "abuse" is the preferred term to refer to cases of "intra-family sexual abuse" or abuse carried out by those who are close to the child. It is also often used together with the term "pedophilia" when the "'abuse" is perpetrated by those with high social status (doctors, priests, teachers, etc.), by famous artists or foreigners. Finally, it appears next to the terms "sexual violence" or "rape" when the act is combined with other types of violence such as murder, strangulation, etc.

[13] Analyzing the genealogy of the category "child abuse", Ian Hacking suggests that the term emerges in the North-American political scene during the 1960s, triggered by reports by pediatricians about young children physically attacked in the domestic sphere (Hacking, 1992: 199). This author affirms that it was only in 1975 that the issue of sexual abuse of children within the family (incest) gained visibility in the USA. In the mid 1980s, the "problem" of "child abuse" was exported to other countries and it gained new meanings, especially in the Third World.

[14] According to Faleiros and Campos (2000: 6), there are criticisms with regards to the use of the term sexual abuse in this context, since it seems to imply the existence of a permitted use of children and adolescents by adults. Jane Felipe's comments (2006) exemplify this type of criticism: "(…) the word abuse presupposes that, to a certain extent, it is possible to use something. As in the case of alcohol, whose use is permitted, but that can be abused by individuals, when they pass their quota, crossing the acceptable limits for social conviviality. In the case of the current term 'sexual abuse' I feel uncomfortable, because it gives the impression that some use of the child's body is acceptable, permitted" (Felipe, 2006: 206, note 9).

[15] According to ECPAT International's booklet "sexually abusive activities do not necessarily involve bodily contact between abuser and child. Abusive activities could include exhibitionism or voyeurism, such as an adult watching a child undress or encouraging or forcing children to engage in sexual activities with one another, while the abuser observes or films such activities". (Questions & Answers about the Commercial Sexual Exploitation of Children. ECPAT International, 2001, p.18).

[16] In general, a relationship is deemed one of "sexual abuse" among minors if one of the parties is a baby or a young child, if the act is practiced without consent, or if the age difference between the two minors is considerable. The limits between what is acceptable and unacceptable are very weak and they are defined in a situational and relational manner.

2.2. Sexual exploitation

The term "sexual exploitation" seems to have originated within the Marxist branch of the feminist movement. This group began to use the category to talk indiscriminately about adult, child and adolescent prostitution, especially involving "women and girls". This feminist understanding of "sexual exploitation" combines notions of commercialization of the body and alienation of the person.

Moreover, so-called "abolitionist" feminists do not distinguish between forced and voluntary adult prostitution. They deny the agency of those involved in the so-called "sex industry", although this understanding may often be contrary to the representations that the supposed "victims" have of their condition and professional activity.[17]

The notion of "child and adolescent sexual exploitation" as a separate category (and unacceptable under any circumstances) has been, since the 1990s, outlined and disseminated by social movements and international organizations that use the language of human rights and, in particular, those that fight for the rights of children and adolescents.

The term is used by activists in place of terms such as "prostitution" and "pornography" in order to emphasize the passive condition of children or adolescents involved in such activities. Thus, these groups radically differentiate children involved in these activities from adult prostitution and pornography by denying any dimension of choice. Their aim is to oppose the approach they classify as "traditional" and "conservative", that confers upon the child and especially the adolescent the responsibility through a moral accusation of "promiscuousness", assuming that the condition of prostitution is voluntary among young women.

The category "sexual exploitation" is defined as conceptually different from the notion of "abuse" in so far as it refers less to isolated acts or interpersonal sexual interactions than to networks of people and behaviors. It is associated with the idea of "commercial exploitation" and so-called "organized crime". In this context, the child is understood as being transformed not only into an object, but also into "commodity". "Commercial sexual exploitation" is seen as a complex phenomenon that combines different agents such as groomers (including relatives), "clients", "exploiters", commercial establishments, travel agents, hotels, bars, clubs, etc. It includes the following types: child prostitution, trafficking for sexual purposes, child sexual tourism and child pornography. The emphasis here is placed on the vulnerability of the victims and on the need to protect them, combining the problems of "poverty", "broken families", "drugs", etc.

[17] For an analysis of the distance and discrepancy between the perception of people technically considered as victims of sexual exploitation and the legal definitions of the crime of "human trafficking" see Piscitelli (2008).

In the media, the expression "sexual exploitation" appears less often than "abuse" and "pedophilia" and, when it is used, it refers to "child prostitution", usually focusing on the exploitation of poor girls. It is also therefore linked to gender and class vulnerability, as distinct from age vulnerability.

2.3. Pedophilia

Originally, "pedophilia" emerged as a clinical category in the field of psychiatry, defined as a "sexual perversion". According to DSM IV-TR[18], "pedophilia" is now defined as a "paraphilia", which is characterized by a sexual interest focused on pre-pubescent children (usually 13 years of age or younger) on the part of individuals who are 16 years old or older and who are at least five years older than the child, for a period of at least six months.

The diagnosis of pedophilia can be attributed, according to the manual, if the person acted on their desires or if the sexual desires and fantasies caused acute suffering or interpersonal difficulties. In current public debates (news reports, judicial processes, political debates, etc.), however, "pedophilia" is not used merely to refer to a psychological state, but it has increasingly appeared as a social category that refers both to sexual acts with children (especially when celebrities, foreigners or those with high social status are involved in the acts), and to the phenomenon of "child pornography on the internet". This latter question only gained public notoriety since the second half of the 1990s (Landini, 2006) with the appearance and spread of the commercial internet in Brazil and the consequent popularization of on-line spaces of sociability that have become increasingly popular: chat rooms, dating sites, instant messaging, and digital file sharing programs (texts, music, photos and video).

Located between crime and disease, the term "pedophilia" emphasizes the psychological characteristics (abnormality and perversity) of the adult who establishes sexual relationships with children or of those who produce, distribute or consume images of child pornography. Here, we witness a shift in emphasis from criminal acts to dangerous or abnormal individuals (Foucault, 2001). By treating "sexual violence against children" as related to the concept of "pedophilia", attention has been relocated from the suffering of the "abused child" to the psychological characteristics of the "pedophile". The former triggers feelings of horror and disgust that in turn create the figure of the "monster"[19]—"the pedophile"—on which public attention focuses.

[18] Diagnostic and Statistical Manual of Mental Disorders, 4th edition, revised text. Since 1993, the American Psychiatric Association's (APA) manuals are the basis for the IDC's (International Classification of Diseases, published by the World Health Organization) classification of mental disorders.

[19] According to Foucault (2001), the figure of the "monster" combines the impossible, the forbidden and the unintelligible, surpassing the limits not only of the law, but also of classifications.

3. Legal and policy timeline

In order to reveal how "child sexual abuse," "sexual exploitation of children" and "pedophilia" have been constructed as objects of state attention and regulation, I will now present a timeline of the laws and policies in this area. I intend to show how social and political sensibilities have been continuously reconfigured, leading to the proliferation of categories and the identification of new modalities of "sexual violence against children" and, simultaneously, to the need to formulate new political strategies and legal tools to combat the problem.

In terms of the legal timeline, which is linked, in turn, to the social and political development of the problem, I suggest we approach the issue in the following order: i) "child sexual abuse"; ii) "sexual exploitation of children and adolescents" and iii) "pedophilia".

As mentioned above, "child sexual abuse" is defined as any sexual interaction involving children. In Brazilian penal law, this is equated with the crime of rape. This includes any sexual act if the person is younger than 14 years of age, even if there is no physical coercion or threat involved in the act. The age criterion for the presumption of violence in the previously established crime of "rape"[20] and the now revoked "violent crime against pubic decency"[21] had already been implied by the Brazilian Penal Code of 1940, in paragraph "a", article 224.[22]

The same criteria of presumption of violence are present in the new crime of "rape of a vulnerable person", defined in article 217-A of the CP/1940 and included on the Criminal Code by law 12.015 of 2009. This is defined as: "having carnal union or practicing other sexual acts with someone younger than 14 (fourteen) years old.'[23]

According to the Manual of Brazilian Penal Law authored by Luiz Regis Prado, in Brazil, "the first legislation to include the presumption of violence was the Code of 1890, which stipulated in article 272 that violence was presumed when the sexual act was perpetrated against those below sixteen years of age" (Prado, 2006: 244). However, merely reading the codes is not enough to understand the ethical principles that oriented their moral assessments of sexual behavior. In Foucault's words:

[20] Art. 213 of CP/1940 – "To force a woman to have carnal union, through violence or serious threat. Punishment – imprisonment from 6 to 10 years". As stated above, the text of this article was altered by Law 12.915 of 2009.

[21] Art. 214 of CP/1940 – "To force someone, through violence or serious threat, to practice or to allow to be practiced on them sexual acts other than carnal union. Punishment – imprisonment from 6 to 10 years". Revoked by the Law 12.015 of 2009.

[22] Art. 224 of CP/1940 – "Violence is presumed if the victim: a) is not older than 14 years of age; b) is alienated or mentally feeble and the agent was aware of those circumstances; c) cannot, for whatever other reason, offer resistance". Revoked by the Law 12.015 of 2009.

[23] The punishment is imprisonment from 8 to 15 years. The 1st paragraph of the article adds that "the same punishment shall be given to anyone who practices the actions described in the main section of the article with someone else who, by reason of infirmity or mental disability, cannot give informed consent or who, for whatever other reason, cannot offer resistance."

> Prescriptions may well be formally similar: this only proves, ultimately, the poverty of the interdictions themselves. The ways in which sexual activity is constituted, recognized and organized as a moral question are not identical simply based upon the fact that what is permitted or forbidden, recommended or advised against is identical. (Foucault, 1984: 218)

As mentioned above, at the time of the Penal Code of 1890, the main criterion used in the definition of a sexual offense was not the presence or absence of consent, but the person's status. I therefore infer from this that the criterion of age for the presumption of violence in this legal document should be understood in relation to a wider strategy of preserving the virginity and innocence of girls.

This preoccupation can be noted more explicitly in the definition of the crime of "defloration", defined as: "to deflower a woman less than 21, through seduction, deception or fraud" (art.267/CP of 1890). It is also worth noting here that punishment was annulled if the offender married the victim in the crimes of "defloration" or "rape of honest woman", since the legal asset being protected was the "honor" of the families, not the "sexual freedom" of the person.

The Penal Code of 1940 clarified the justification for the legal presumption of violence and the reasons for protecting those younger than 14 years of age. The legislator explicitly emphasizes the idea of consent,[24]so much so that he also included the possibilities of presumption of violence in "crimes against sexual freedom" in those cases where the victim is "alienated", "mentally debilitated", or cannot, for whatever reason, offer resistance (paragraphs "b" and "c" of art. 224 of CP/140). From the moment children and adolescents became recognized as "subjects of rights", at the end of the twentieth century, the justification that legitimizes the prohibition (when below 14) and restriction (between 14 and 18)[25] of sexual activity of minors by penal law is no longer "protection", but guaranteeing the rights of children and adolescents to a healthy sexual development. Children and adolescents became understood as "subjects of rights" beginning with the Convention on the Rights of the Child (1989). The principles of the Convention were implemented in Brazil through art. 227 of the Federal Constitution of 1988 (incorporating the philosophy of "integral protection" then under discussion in the United Nations) and were developed in the infra-constitutional legislation of the 1990 ECA (Children and Adolescents' Statute).

The protection of children from all forms of sexual exploitation and abuse is understood

[24] "The basis for the legal assumption of violence, in the case of adolescents, is the innocentia consilii of the passive subject, that is, his/her complete unawareness of sexual facts, so that his/her consent is not valid". (rationale of the Penal Code of 1940)

[25] Sexual relations with adolescents aged 14 to 18 is not prohibited by Brazilian law. However, their sexual autonomy is not entirely recognized, as it is a crime to practice any commercial sex activity with an adolescent (person between 12 and 18 years of age), as well as to produce, direct, publish, sell, distribute, buy, exchange, offer, hand out, act with, possess, or store pornographic images (photos and videos) that involve the participation of minors (under 18 years of age).

as a collective responsibility of the State, the family and society as a whole (art. 227 of CF/88). From 1988 onwards, organized civil society and public authorities have come together in the development of policies developed to prevent and combat this kind of "violence".

In the international sphere, we can highlight the World Congress Against Sexual Exploitation of Children and Adolescents[26], whose third edition took place at the end of 2008 in Rio de Janeiro (Brazil). We can also point to the United Nations Optional Protocol on the sale of children, child prostitution and child pornography (2000), ratified by Brazil in 2004, which establishes several commitments with regards to penalizing and preventive measures.

In the Brazilian National Congress, the topic received intense political attention for the first time following the work of the Parliamentary Inquiry Committee (CPI in Portuguese) on Child and Adolescent Prostitution, which took place between 1993 and 1994 in the Brazilian National Congress. The CPI faced several difficulties in obtaining data regarding the phenomenon, given that Brazilian authorities were not preoccupied with the issue at the time. The CPI contributed to giving visibility to the topic at a national level. It generated significant social mobilization. Since then, several groups and non-governmental organizations have emerged which are politically active on the topic.

In 2000, the National Plan to Combat Sexual Violence against Children and Adolescents was delineated. The crime of "sexual exploitation of children and adolescents" was also defined with the inclusion of art. 244-A[27] in the ECA/1990. Between 2003 and 2004, the Parliamentary Inquiry Committee (CPMI in Portuguese) on the Sexual Exploitation of Children and Adolescents took place in the Brazilian National Congress.

This CPMI was led by members of Congress in the Parliamentary Front for the Defense of the Child and the Adolescent. It had as its starting point the Research on Trafficking in Women, Children and. Adolescents for Commercial Sexual Exploitation in Brazil (PESTRAF), coordinated by the Center of Reference, Studies and Actions about the Child and Adolescent. This study mapped out the main national and international trafficking routes. In August 2009, a bill developed by the CPMI was approved. This bill considerably altered that part of the Brazilian Penal Code that defines sexual crimes (whose title was altered from "Crimes against morals" to "Crimes against sexual dignity"). Aside from several other changes, it included the crime of "favoring the

[26] The first World Congress took place in Stockholm, Sweden, in 1996 and the second in 2001 in Yokohama, Japan.

[27] Art. 244-A of the ECA/1990 – "To submit a child or adolescent, as defined in the main section of Article 2 of this Law (under 18 years of age), to prostitution or sexual exploitation. Punishment – imprisonment from 4 to 10 years and fine. § 1st: The same punishment applies to the owner, manager or person responsible for the establishment where the child or adolescent is submitted to the practices referred to in the main section of the article. § 2nd: The cancelation of the operating license of the establishment is an integral part of the punishment". Added by Law 9.975 of 2000.

prostitution or other form of sexual exploitation of a vulnerable person" (art.218-B)[28], the definition of which includes and amplifies[29] the crime of sexual exploitation of children and adolescents covered by the ECA (art. 244-A).

"Pedophilia" emerged in Brazil as a juridical and political problem more recently, with the spread of the internet and the associated proliferation of child pornography. The crimes of producing and publishing "explicit sex or pornographic scenes" involving children or adolescents were already covered by the articles 240 and 241 of the ECA/1990, in its original text. However, those articles were rarely used (which is illustrated by the scarcity of judicial rulings in this area) and the text was limited, including only verbs such as "producing", "directing", "photographing" and "publishing". They also failed to consider the internet, including only theatrical, televised and cinematic representations of pornography. The two articles were therefore changed in 2003 in order to add other verbs (such as "presenting", "selling", "providing" and "distributing") and, especially, to include the use of any means of communication, particularly the internet, in the definition of the crimes.

Since then, the Brazilian Federal Police started a series of operations against child pornography on the internet in partnership with other countries through Interpol. I will highlight Operation Carrousel, which took place at the end of 2007, as the first international mega-operation against child pornography on the internet led by the Brazilian Federal Police.

The data gathered and the results of this police operation served as the basis for the establishment of a CPI on Pedophilia in the Federal Senate. This Parliamentary Inquiry Committee was created in March 2008, "aiming to investigate and combat the use of the internet for the practice of crimes involving 'pedophilia', as well as the relation between these crimes and organized crime" (Request nr. 200 of 2008 of the Federal Senate).

Besides increasing the visibility and political significance of the issue of "pedophilia on the internet", one of the main results of this CPI was the creation of a bill, which was

[28] Art. 218-B. "To submit, groom or entice into prostitution or another form of sexual exploitation someone younger than 18 (eighteen) years of age or who, by reason of mental disorder or disability, does not possess the necessary discernment to practice the action, facilitate, or prevent it. Punishment – imprisonment from 4 (four) to 10 (ten) years. § 1st If the crime is carried out with the intent of financial benefit, a fine shall be applied. § 2nd: The same punishment applies to: I – those who practice carnal union or any other sexual act with someone who is younger than 18 (eighteen) and older than 14 (fourteen) years of age in the situation described in the main section of this article. II – The owner, manager or person responsible for the establishment where the practices referred to in the main section of this article take place. § 3rd: In the case of II of § 2nd , the cancellation of the operating license for the establishment is part and parcel of the punishment.

[29] This new penal type added other categories of "vulnerability", besides age. It also placed criminal responsibility on the "client" involved in sexual exploitation. Recently, this became the target of a controversy caused by the fact that the High Court of Justice acquitted persons who paid to have sex with adolescents of 13, 15 and 17 years of age. According to the Court's ruling, the behavior of the occasional client is not covered by art. 244-A of ECA/1990. It also did not fit with any other penal type since the girls were already prostitutes. Therefore, although they were minors, they had already been corrupted. To see the whole ruling, search the Court's site: REsp. 820.018/MS, Rel. Min. ARNALDO ESTEVES LIMA, Quinta Turma, Julgado em 05/05/2009.

approved at the end of 2008, altering, once again the articles of the Child and Adolescent Statute which criminalize the production and distribution of child pornography. The new bill increased punishment, added other verbs to the existing crimes and several articles (241-A, 241-B, 241-C, 241-D and 241-E) covering the possession and storage of pornographic material, the on-line grooming and harassment of children, as well as simulating the participation of children and adolescents in a pornographic scene by photo or video editing.

These recent efforts to define new behaviors as criminal or to describe other behaviors in minute detail reveal the proliferation of classifications and, therefore, of perceptions of sexual crimes which were previously relatively invisible and unimaginable. It is worth highlighting that in this field, words are especially contested and subject to contradictory interpretations. They define not only different ways of understanding the phenomenon, but also different solutions.

3.1. The controversy around "pedophilia"

Although "pedophilia" is today the privileged term chosen by the media to refer to the phenomenon of "sexual violence against children" and although it has gained increased visibility in recent political debates, the term itself is seen by human rights activists as "politically incorrect", given that it links the cause of the "problem" to a sexual pathology or perversion instead of taking into account the phenomenon's social and cultural dimensions.

In order to illustrate how classificatory categories are contested and subject to contradictory interpretations, I will now analyze a specific conceptual discussion that took place within the CPI on Pedophilia Working Group. The issue was the controversy regarding whether the term "pedophilia" should be included in the Bill to alter the Penal Code.

This Working Group was formed at the outset of the CPI in 2008, aiming to provide permanent technical assistance to the committee, especially regarding the development of Bills. The group included Federal Police officers, Public Attorneys and the president of the NGO SaferNet Brasil.

It is worth noting that the initial aim of the chairman of the CPI on Pedophilia, Senator Magno Malta, was to define the crime of "pedophilia". The result would be the Senate Bill (PLS) n. 177 of 2009 that proposed, among other things, the alteration of the 1940 Penal Code.[30] The Bill suggested the addition of a second paragraph to the

[30] It is worth noting that this Bill was published in the Official Daily of the Senate on 12th May 2009, before Law nr. 12.015 of 7 August 2009 was approved. This Law altered the section on sexual crimes in the Penal Code so that the latter is already out of date.

penal category of "rape" (art. 213/CP) and in the revoked "violent crime against public decency" (art. 214/CP), defining a harsher punishment (10 to 14 years of imprisonment) when the crimes were directed against a child (12 years old, according to the definition of the ECA/90).

Among the Working Group members, there was no disagreement about the need to increase the punishment in the specified cases. However, there was controversy about the name of the new crime. Senator Magno Malta and a District Attorney defended the title "rape through pedophilia. Most group members disagreed with this, however, arguing that "pedophilia" is a disease, not a crime. They suggested, instead, "rape of a child", which was the title that prevailed in the final Bill.

Below, I discuss how the different arguments were constructed, by highlighting excerpts from a dialogue between the Attorney (a member of the CPI on Pedophilia Working Group) and a psychologist (who was not a member of the Working Group, but who was part of its network of advisers). They are excerpts from an e-mail exchange within the CPI on Pedophilia Working Group, in 2008, when the controversy reached its peak. These two arguments were sent to me by one of the members of the Working Group as representing the clearest examples of each of the positions taken within the group. The attorney who defended the inclusion of the category "pedophilia" argued as follows:

> Although the term "pedophilia" refers to a sexual disorder in its medical definition, this does not stop it from being used to indicate a specific crime in its juridical definition. Moreover, the term "pedophilia" is already widely used by the general population, the media and politicians precisely to indicate sexual offenses against children. In fact, the CPI is called the "CPI ON PEDOPHILIA", not because it refers to the medical definition of "pedophilia", but because it refers to "PEDOPHILIA" in the way the public, the media and the politicians use the word, indicating sexual crimes against children. The intention of the "nomen iuris" is to facilitate understanding and to define the perpetrator as a "pedophile", not because he must necessarily be ill, but because he is dangerous and attacks what is most important: the child. The term thus has a pedagogic and preventive function.

A psychologist presented the counter-argument:

> Although I understand that some terms (either scientific or common sense) can be used in juridical language, I believe we must avoid terms that may generate confusion, generalizations and stereotypes, creating prejudice or preventing us from rethinking our concepts and social values, placing evil or disease always upon "the other". For this reason, I must disagree that the term "pedophilia" carries a pedagogical and preventive function in itself. It refers to the idea of a crime perpetrated by a pathological individual. This leads us to avoid our social responsibility in the construction and management of such phenomena. We are in agreement, however,

> that sexual violence against children and adolescents is a violation of their basic rights. We need to confer responsibility on to the perpetrators for their acts, but we must also be socially responsible for a fact that is socially constructed.

The unanimity in relation to the "cause" produces a relative absence of controversy in the public debates, so that it becomes easier to map them "behind the scenes". During fieldwork at the National Congress in Brasília, I talked to a parliamentary advisor linked to the Child and Adolescent Defense Front and to other social movements. I told him I was researching the works of the CPI on Pedophilia and he advised: "You shouldn't buy into Senator Magno Malta's categories" – referring to the chairman of the Parliamentary Inquiry Committee.

This advisor also claimed that the phenomenon should be seen as "a practice" that within our culture is understood as "deviant", a "disease" or as something classified by psychiatry. He reported that in the previous Parliamentary Committee investigating the Sexual Exploitation of Children and Adolescents (2003-2004), the term "exploitation networks" was chosen instead. According to this advisor, this is the "most modern" term, adopted by the social movements that understand "sexual violence" through the "Human Rights approach".
However, as we have seen in the discussion between the attorney and the psychologist, the conceptual discussion around classificatory categories is not restricted to the universe of social movements and activism. While I spoke to a Federal Police officer who was a member of the CPI on Pedophilia Working Group about the works of institutions that fight against the crimes of child pornography on the internet, she corrected herself when using the expression "child pornography".

> Actually, I can't say "child pornography." I should rather say "child sexual exploitation photos and videos." In Brazil, we still use the term child pornography. But we are trying to change in order to demystify that idea, because pornography is something that is legal, as long as it involves adults only. It's like child prostitution; you can't say that. These are crimes of child sexual exploitation, usually involving the exploitation of children in situations of abandonment and need.

In the CPI on Sexual Exploitation of Children and Adolescents' final report itself there is an emphasis on the fact that "for the penal science, names and titles are crucial, since they define the legal asset to be protected". Therefore, words are part of the debates in the political universe, since, insofar as they define ways of understanding and ways of acting, they function as markers of social borders, delineating political groups and positions.

4. Final Considerations

I have attempted to show how "sexual violence against children" became a social phenomenon at the end of the 20th century, how it gained increasing visibility and is attracting increasing mechanisms and efforts of control. The aversion to the problem seems to unite collective support and a relative unanimity. This does not mean, however, that there are no controversies regarding how the phenomenon is understood and described, or regarding the solutions proposed for it. As we have seen, words are not neutral in this universe of political struggles, in so far they delineate not only differences of meaning, but also different political positions; not only different interpretations but also action strategies.

It is clear that terms are not straightjackets, attached to univocal meanings. Words and their meanings are constantly constructed and reinvented within disputes and social shifts at several levels. This semantic process does not occur in a completely free and random manner, however, but through specific trajectories of repeated and consistent use of the terms themselves.

I hope that this historical and social analysis of the uses and meanings of the diversified vocabulary regarding "sexual violence against children" will contribute to a more reflective usage of the relevant classificatory categories.

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