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**Silent Violence and Adoption: the paradigm of children's  
rights in Brazil**

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*To my great grandmother, Juraci, from where my family adoption story started.  
To my grandmother, Gloria, for keeping the adoption story going and believing I would take this  
far away someday. To my mother, Angela, and my father, Dilson, for bringing me to life through  
adoption and starting my journey. To Denise, who was the first one to believe in this research. To  
Camilla, who psychoanalysis transmission grabbed me by the heart and kept me going. To my  
biological siblings, who saw firsthand the system's violence and negligence. And finally, to my son,  
who made me see adoption from a mother's point of view, the person from whom I take the strength  
to fight for the adoption cause and whom I wish eyes will see the change that we all that came  
before couldn't.*



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## Introduction

In Brazil, the ideological bias of an adult-centered adoption – that is, on the applicant for adoption – occupied the legal scene and literary pages for generations, placing the child and adolescent as objects of interest to the adult, admitting even the civil adoption that simulated a contract of purchase and sale. This scenario only changed the social and political movements of democratization that culminated in the Federal Constitution in 1988 and the Statute of Children and Adolescents (ECA) in 1990.

These documents propose a new doctrine of complete protection by legally removing the child and adolescent from guardianship status to the adult. Adoption then takes on a new character as an exceptional measure under a policy to guarantee the fundamental right to family and community life. However, the Brazilian child protection system still has minorist remnants arising from the sociocultural and historical crossing that "impose biases in the performance of various entities of programs and services that serve the rights of children and adolescents.

This situation raises the question of perpetuating a process of violence that does not fail to carry the structural marks that lead young people to shelters. However, it can no longer be characterized in such a way, as it is not limited to such issues. It includes practices and conducts pre-, during, and post-institutionalization or adoption. Infer- if, therefore, a process of silent violence characterized by its invisibility and marked by a "normality" corresponding to the field where it is perpetuated.

Therefore, this research objective is to identify and investigate processes of silent violence in the context of adoption and its impact on child protection in Brazil. The study consists of exploratory research starting from a literature review on the history of childhood and adoption in Brazil, the legal path of child protection and the violence issue in the context, and an analysis of concepts and implications through a psychoanalytic perspective.

Then, through in-depth interviews with relevant groups (suiters for adoption, adopters professionals, and adoptees), the study investigate the silent violence phenomena in the context of adoption, identifying key issues and variables that are further analyzed and discussed considering the content explored in the literature review.



## 1. The History of Childhood in Brazil

The history of childhood has been widely explored in the historiographic field. Since the last decades of the XX century, several authors have been studying the story of childhood, focusing on the child as an object of study and a historical subject. These studies explored how society perceived and comprehended the child in many different forms through time. Concerning that, this chapter will approach the first studies about childhood in a general view, then narrowing to Brazilian history, understanding when it became an object of study and focusing on society's perception of the child in these moments. In order to do that, the chapter is chronologically organized from historical marks.

Philippe Ariès' argument on the discovery of childhood in the seventeenth century started as a concern for the conservative claim that the twentieth-century family was declining. Instigated to counter that thought, as an amateur historian greatly interested in the family's history, Ariès decided to prove that our definition of the family today – a private and domestic group gathered by mutual affection – is a new concept. In order to do that, he decided to study the center figure of this group: the child (Ariès, 1962).

Lloyd DeMause (1995) points out that, of all the volumes written about infancy in the past, Philippe Ariès' *Centuries of Childhood* is undoubtedly the most well-known. Frank E. Manuel (1971) in his book *The Use and Abuse of Psychology in History*, published in 1971, remarks on how often it is "cited as Holy Writ." Conversely, Ariès posits a central thesis that contradicts DeMause's. From Ariès' perspective, childhood was invented during the early modern period, leading to the imposition of a tyrannical family structure that hindered socialization and friendship. This resulted in the deprivation of children's freedom and the introduction of punitive measures such as corporal punishment and imprisonment.

### 1.1 Childhood and History: the child as an object of study

Philippe Ariès' *Centuries of Childhood: A Social History of Family Life* is considered the most famous work on the history of childhood, also known as the book responsible for the argumentation about childhood as a modern proposition. While his English translation was published in 1962, the original book in French was released in 1960 by the name *L'enfant et la vie familiale sous l'ancien régime*. Ariès (1962) highlights that until the end of the Middle Ages, the child was observed as a miniature adult who worked and played with mature adults. There was no idea of childhood before or in medieval society, which does not imply a lack of affection for children. The care for the children has nothing to do with the awareness of the nature of childhood, which creates a category apart from

adulthood and even young adulthood. It is essential to separate the concept of a child from the affection for them.

This argument proposed by Ariès (1962) is more nuanced than it sounds, especially considering that affection is commonly used as a core concept to define childhood or family. Regarding that, Hugh Cunningham points out that "the English translation fails to convey the meaning of the original, for the word translated as 'idea' was in French 'sentiment,' which carries with it the sense of a feeling about childhood as well as a concept of it" (Cunningham, 2021, p.19).

Therefore, Ariès did not intend to state that medieval families did not show affection for their children. However, that childhood was not recognized as a different phase of human existence or development. Hence, there was no separation between adults and children in the Middle Age Society (Cunningham, 2021). The absence of a definition of childhood displayed in the Middle Ages extends beyond a matter of language, also inserted in every social activity presented at the time. The visual arts and literature present evidence of this representation of the child as an adult, picturing their image as society members 'nestling singly or in pairs in the trousse hung round women's necks, or urinating in a corner, or playing their part in a traditional festival, or as apprentices in a workshop, or as pages serving a knight, etc.' (Ariès, 1962, p.128).

Childhood is, according to Ariès (1962), a relatively new concept that emerged in the seventeenth century, both concomitant and driven by structural changes and developments in society, such as the decrease in infant mortality, changes in the European educational system, increasing class stratification, and withdrawal of the family from a more extensive web of social exchanges. Llyod DeMause mentions the first-factor regarding infant mortality in his book *The History of Childhood*, originally published in 1974 by Harper and Row. According to the author, 'the history of childhood is a nightmare from which we have only recently begun to awaken. The further back in history one goes, the lower the level of child care, and the more likely children are to be killed, abandoned, beaten, terrorized, and sexually abused' (DeMause, 1995, p.1).

Ariès (1962) employs two primary arguments to substantiate the aforementioned thesis. The first argument stated by the author is that medieval art, up until approximately the eleventh century, exhibited a lack of awareness or deliberate omission of depictions related to infancy. The notion that the neglect observed during medieval times was a result of incompetence or incapacity is difficult to accept. Instead, it is more likely that the absence of a space for childhood was the primary factor contributing to this neglect.

In the initial section of Ariès' scholarly work, *Centuries of Childhood: A Social History of Family Life*, titled *The Idea of Childhood*, the primary means employed to depict the progression of a child's narrative were visual representations, encompassing painted images, portraits, and fictional characters. In his work, Ariès (1962) presents a comprehensive depiction of the historical trajectory

of childhood, highlighting a time when the preservation of its historical memory was not a prevailing priority. As per the author's assertion, the notion of childhood, as understood in present times, was not yet in existence. This is attributed to the fact that even the documentation of births, which is carried out with meticulousness in contemporary society, was not practiced during that period.

Iconographic representations during the period leading up to the eleventh century were notably devoid of depictions of children. During the thirteenth century, there was an increase in the representation of children in visual art, and the emotional expression depicted in these representations became more aligned with the prevailing sentiments of that era. During the fourteenth century, there was a notable increase in the prevalence of depictions featuring youthful male figures, often shown as angelic beings characterized by their rounded and elegant facial characteristics.

The representation of infants was prominently embodied by the depiction of the infant Jesus. Initially, the depicted images lacked a significant number of geometric forms or distinctive characteristics commonly associated with children. The sole distinction observed in the juvenile specimen was its diminished physical dimensions. With the growing prevalence of their portrayal in everyday life, the depictions evolved to exhibit heightened realism and emotional depth, thereby serving as a source of inspiration for several domestic tableaux.

According to Ariès (1962), the gradual evolution of religious imagery allowed for the inclusion of additional themes beyond the traditional depiction of Jesus, such as the birth and schooling of the Virgin Mary. Following this, additional figures were incorporated into the depictions of sacred childhoods, including Saint John, Saint James, and the children of saintly women, namely Maria Zebedeu and Maria Salomé.

During the 15th and 16th centuries, there emerged a notable phenomenon referred to as lay iconography by Ariès (1962). This particular kind of artistic expression witnessed a shift away from static depictions of symbolic figures, giving way to the prominence of genre scenes and anecdotal paintings. Within this particular framework, the child was comprehensively depicted engaging in routine tasks, alongside various individuals.

(...) the child with his family; the child with his playmates, who were often adults; the child in a crowd, but very definitely 'spotlighted' in his mother's arms, or holding her hand or playing or even piddling; the child among the crowds watching miracles or martyrdoms, listening to sermons, or following liturgical rites such as presentations or circumcisions; the child serving as an apprentice to a goldsmith or a painter or some other craftsman; or the child at school, an old and popular theme which went back to the fourteenth century and would go on inspiring subject paintings up to the nineteenth century (Ariès, 1962, p.37)

According to Ariès (1962), an additional significant element of iconography during the sixteenth century is the portrayal of deceased children in portraits. Initially, within the context of burial effigies, depictions of children can be observed on the sepulchral monuments dedicated to their instructors, and subsequently, on the sepulchral monuments dedicated to their progenitors. As stated by Ariès (1962), these facts are seen as a significant development in the historical understanding of childhood emotions. They underscore the value of preserving the memory of deceased children and challenge the long-standing perception of children as insignificant beings over the centuries. During the 16th century, it was a prevalent practice to create familial portraits that depicted both live and deceased children.

Since the 17th century, there has been a practice among families to commission individual portraits of their offspring, a tradition that has persisted to the present time. The prevalence of depictions of unclothed youngsters, sometimes referred to as "the putto," was widespread in the context of ornamental nudity. Ariès (1962) regarded this as the final stage in the development of children's iconography. Subsequently, the aforementioned sentiment towards the child gained significant publicity through visual representations, so facilitating the revelation of a culture and set of values that had deeply influenced childhood over several centuries.

The second argument proposed by Ariès (1962) speaks about how modern family restricts child freedom and increases the severity of punishment. From the fourteenth century onwards, there is evidence of the emergence of this modern family, characterized by a gradual and ongoing marginalization of women within the domestic sphere, the consolidation of patriarchal authority, and an increasing subordination of women and children. This transformation of the family structure also coincides with its growing significance as a foundation for monarchical power.

The contemporary understanding of family, in contrast to the medieval concept of lineage, became ingrained in popular religious practice as a secular movement of sanctification alongside the religious calling. This entailed novel perspectives on marriage, baptism, and communal celebrations that transformed the notion of family, transcending its religious connotations (Ariès, 1962).

Maria do Rosário Rolfsen Salles (1977) posits that the iconography emphasized in Ariès' research elucidates and establishes a cohesive connection between three emotional influences: dedication, the sentiment of early childhood, and the sentiment of familial bonds, particularly in the context of communal dining. The practice of joint prayer serves as a paradigm for family prayer, as private religious rituals were not prevalent prior to this.

According to Ariès, during the 18th century, the practice of public worship (by Catholics or Protestants) encountered some opposition within families, which hindered the establishment of its following. Salles (1977) emphasizes that the emergence of a novel familial sentiment is a result of the evolving internal dynamics between parents and children. This transformation is closely linked to

the shift from medieval childhood, characterized by children engaging in apprenticeships and civil service until the ages of 14 and 18 respectively, where domestic work was intertwined with education, to the subsequent phase of attending school. The educational institution increasingly assumes the role of a conventional mechanism for social integration, a process that is closely connected with the emphasis on ethical discipline and the importance of parental supervision. The contemporary concept of school isolation differs from the historical notion of separating students from their families. The emergence of the modern family appears to coincide with the establishment of educational institutions.

The aforementioned transformations have led to the family no longer being solely seen as a private legal entity responsible for the transfer of assets and surnames. Instead, it has acquired a novel moral and spiritual role, primarily manifested through the heightened significance attributed to the process of education. This elucidates the contemporary preoccupation with the physical, psychological, ethical, and sexual challenges pertaining to childhood.

During the 18th and 19th centuries, the collaboration between families and educational institutions resulted in the removal of children from the broader adult society. This process involved the imposition of progressively stringent disciplinary measures, ultimately culminating in the complete seclusion of children within boarding schools.

The popular classes, however, continued to maintain close proximity until the present day, fostering a sense of camaraderie that developed alongside the sense of class identity. The activities and schools that were formerly universally prevalent in society have now become stratified and specialized within a class system. The familiar aspects of everyday life have been supplanted by the implementation of strict indicators of power and hierarchy.

Ariès (1962) posits that the notion of childhood as a distinct phase of life was not prevalent during the early Middle Ages. DeMause (1995) challenges the assertion that childhood was absent in medieval art before the twelfth century or that artists refrained from depicting it due to technical limitations in rendering childlike features. The author contends that disregarding the extensive evidence that medieval artists were capable of realistically depicting children leaves the art of antiquity in a state of uncertainty and undermines its significance.

Ariès' contention that the absence of a distinct notion of childhood in etymology is indicative of its non-existence is a proposition that lacks validity. In this regard, DeMause (1995) asserts that the concept of the "invention of childhood" is ambiguous, which raises astonishment regarding numerous historians' recent adoption of this notion. Furthermore, Ariès' second assertion, which posits that contemporary families curtail a child's autonomy and intensify disciplinary measures, contradicts the entirety of the evidence analyzed by DeMause.

DeMause (1995) argues that four books, only one of which was written by a professional historian, are far more reliable than Ariès: George Payne's *The Child in Human Progress*, 1926, G. Rattray Taylor's *The Angel Makers*, 1958, David Hunt's *Parents and Children in History*, 1970, and J. Louise Despert's *The Emotionally Disturbed Child—Then and Now*, 1965. In 1916, Payne was the first to analyze the widespread nature of infanticide and violence against children in the past, especially throughout antiquity. Rich in documentation, Taylor's book is a nuanced psychoanalytic interpretation of infancy and personality in late 18th-century England. Hunt, like Ariès, focuses primarily on the unique seventeenth-century document, Héroard's diary of Louis XIII's childhood. Still, he does so with considerable psychological sensitivity and awareness of his findings' psycho-historical implications. Moreover, Despert's psychiatric comparison of historical and contemporary child maltreatment surveys the spectrum of emotional attitudes toward children since antiquity, communicating her increasing horror as she uncovers a story of unrelenting ruthlessness and brutality (DeMause, 1995).

According to DeMause (1995), Ariès' 'psychogenic theory of history' is the conceptual backbone of the endeavor. In his view, the interaction between successive generations of parents and children drives historical change. Fundamentally concerned with psychological evolution, the theory is that in each generation, parents regress to the psychic age of their children and resolve their own childhood conflicts more effectively. The result over the centuries has been a growing sense of empathy and respect for the individuality of parent and child. Therefore, considering DeMause's psychogenic theory on childhood analysis, Miles F. Shore (1976) asserts that:

He sees a historical gradient from the earliest times when the anxieties engendered in parents by children were handled largely by infanticide, through stages of abandonment, ambivalence, intrusiveness, and socialization, to the twentieth-century "helping" mode in which parents respect the unfolding sequence of the child's psychological development and stand ready to assist, with a minimum of direct interference or intentional frustration (p.496-496).

This historical gradient is evident in his psychogenic theory to such an extent that DeMause (1995) argues that the parent-child relationship is the core agent of change in history rather than technology or economics. Childrearing practices are designated as the primary mechanism through which all other cultural elements are transmitted from one generation to the next. The theory is formulated as a set of hypotheses susceptible to proof or disproof by the history of childhood. The book's main body is presented as the first phase in this verification process, as stated by Shore (1976).

Despite their chronological organization, DeMause's book *The History of Childhood* do not cover every era or worldwide region. Instead, they display the in-depth expertise of their authors and, to a lesser extent, the available literature. Thus, Richard B. Lyman, Jr. writes about the late Roman

and early medieval period, Mary Martin McLaughlin about the ninth to thirteenth centuries, James Bruce Ross about the middle-class child in urban Italy, from fourteenth to early sixteenth century, M. J. Tucker about English childhood in the fifteenth and sixteenth centuries, Elizabeth Wirth Marvick about nature versus nurture, studying the patterns and trends in seventeenth-century French child-rearing, John F. Walzer about the ambivalence in the eighteenth century American childhood, Joseph E. Illick about seventeenth-century England and America, Patrick P. Dunn about Imperial Russia, and Priscilla Robertson about the Middle-Class Childhood in the nineteenth-century Europe and the perspective of house as a nest.

All of the authors, including DeMause, are appropriately concerned about the lack of materials; in fact, one of the book's secondary goals is to give evidence of how there is more available material than was previously believed. In addition to the usual secondary sources in social and cultural history and indirect evidence from literature and the arts that is somewhat dubious, there is a reassuring use of primary sources, such as obscure autobiographies, memoirs, and letters of the less-than-world-famous. It appears that DeMause and his collaborators have not, for the most part, taken shortcuts or the simple route to generalization (Shore, 1976).

According to Shore (1976), however, psychohistorians, including those mentioned above, encounter significant methodological challenges similar to those faced by anthropologists in the culture and personality school. Given the circumstances, Shore presents some inquiries: Which phenomena exhibit a significant level of prevalence and longevity, allowing for the formulation of generalizations that encompass approximately 50,000 families over a span of one hundred years or more? Furthermore, what type of data remains sufficiently abundant to assure us that it accurately reflects these widespread phenomena? The main problematic pointed by Shore in this methodological matter is the generalization. At both individual and society level, it is difficult to conceptualize a psychological framework that enables the aggregation of all resultant causes and consequences. In this context, we transition to a specific form of quantitative historical analysis, which resembles contemporary public opinion research.

Shore (1976, p.498) highlights that “in the *The History of Childhood* the level of sophistication about these methodological problems is high. Similarly, psychoanalytic ideas are by and large used skillfully”. In other words, Shore considers DeMause’s work complicated in a methodological level considering the generalization issue mentioned earlier. Nevertheless, the author states that despite the “evangelistic tone”, this work warrants serious consideration from historians and behavioral scientists, not as an authoritative solution to any particular issue, but rather as a compelling catalyst for additional research on a subject that is inherently relevant to scholars in both disciplines.

Shore (1976) asserts that a notable limitation of psychohistorical endeavors conducted by non-clinicians is the tendency to employ psychoanalytic and psychiatric concepts formulaically; this

means postulating according to an established formula. The limitations of clinician psychohistorians are significant in nature, according to the author. However, DeMause and the authors of the chapters of *The History of Childhood* have effectively circumvented this issue by demonstrating meticulousness in applying psychological principles. Certain pieces exhibit a predominantly historical focus with minimal psychological interpretation. Several chapters in his book, particularly the editor's chapter and the one written by Illick on Anglo-American child-rearing in the seventeenth century, demonstrate a high level of sophistication in their application of psychoanalytic concepts. The chosen course prioritizes data analysis over making inferences, encourages the use of psychologizing only by those with expertise, and emphasizes the independent significance of serious historical study.

However, Shore (1976) emphasizes another psychological issue that warrants further elaboration. The book's overarching framework predominantly examines parenthood through a singular lens, categorizing it as either positive or negative, permissive or strict, and inclusive or dismissive. While ambivalence, internal conflicts, and projective mechanisms are recognized in parent-child relationships, these intricacies are overshadowed by the comparatively straightforward gratification-frustration axis. This means that although there was some acknowledgment of these factors, they are only considered by the gratification-frustration axis, and not in a wider perspective. In a unidimensional framework, the characterization was either exhibiting positive or negative traits, engaging in indulgent or punitive behaviors, or displaying acceptance or rejection tendencies.

This assertion represents a commonly encountered oversimplification of the complex dynamics inherent in parent-child interactions. It has persisted as a prominent topic of debate within the realm of popular psychology for an extended period of time. It arises not solely from the query of "what is the issue with the younger generation nowadays" but also in deliberations concerning law enforcement, the reformation of correctional facilities, and even matters pertaining to international relations.

The same issue can be seen in Freud's initial theory of neurosis. Within the historical context of psychoanalysis, an area of concern arose in Freud's original theory of neurosis, which expeditiously transitioned into guidance for parents and educators. Freud promptly recognized the repressive influence exerted by society, which is transmitted via parental figures, as the underlying cause of neurosis. The efficacy of psychoanalytic treatment was predicated on eliminating repressed thoughts and emotions, thereby liberating the innate drives of the id, and facilitating the pursuit of both interpersonal relationships and productive endeavors.

According to Freud, the essence of his theory is that analysis serves as a substitute for the spontaneous and excessive process of repression, by instilling a more measured and intentional control exerted by the highest faculties of the mind. In essence, analysis serves as a substitute for

repression through the act of condemning. Shore (1976) highlights that this formulation, initially more intricate in its earliest iterations, was enthusiastically embraced as a fundamental principle of permissive parenting and progressive education. Public pronouncements on matters such as this are frequently employed as a means of justifying preexisting desires. However, it is important to note that these pronouncements impact behavior, both by intensifying feelings of guilt and attaining societal popularity.

Once permissiveness had undergone extensive experimentation, leading to the recognition of its limitations and unanticipated consequences, psychoanalysis had already transitioned into the subsequent stage of ego psychology. Examining the defensive and adaptive components of personality development has resulted in a novel comprehension of the significance of parents and educators in cultivating ego functions. The therapeutic approach of dismantling debilitating defense mechanisms was deemed suitable for neurotic individuals who exhibited excessive manifestations of certain aspects of ego functioning. The inclusion of direct child observation, child analysis, and psychotherapy for borderline and psychotic patients introduced an additional aspect, specifically emphasizing that both the developing ego and the significantly impaired ego require an increased number of defense mechanisms rather than a reduction in them (Shore, 1976).

Considering this new aspect that stated both developing ego and the severely damage one needed more defenses, for children or those who have experienced significant damage to their self-esteem, the absence of limitations on gratification, coupled with the absence of frustration, can result in profound feelings of anxiety, the display of primitive behaviours, and the emergence of regressive manifestations. The establishment of limits, which refers to the frustrations experienced due to interactions with individuals who do not fully satisfy one's needs, plays a crucial role in developing fundamental psychological processes such as reality testing and impulse control (Shore, 1976).

Elwyn James Anthony (1969) highlights that, in this regard, Anna Freud proposes an important question of whether it is possible or not to love a really free child. However, Shore (1976) identifies a problem with that:

The problem is that life is potentially hard. Just outside the stockade of technology, public health measures, law, and custom, which has been erected around each of us by civilization (aided by a generous dose of psychological denial), sit the relentless facts of life, the potentially hostile forces of nature and other human beings, which require effort and skills to survive. The effort and the skills are hammered out between parents and children as ego functioning develops through limits and love, a mixture of hardship and indulgence (p.499-500).

The examination of childhood as a subject of scholarly inquiry is characterized by the influential contributions of Philippe Ariès, particularly his groundbreaking book titled *Centuries of Childhood: A Social History of Family Life*, which was released in the year 1960. The initial contribution he made to the field of childhood research, and transformations created a framework that allowed for the emergence of subsequent studies, some of which even challenged his own theories.

DeMause, an author whose initial publication on the topic dates back to 1974 with the title *The History of Childhood*, presents significant inquiries regarding Ariès' methodology. DeMause highlights the ambiguity surrounding the notion of the "invention of childhood" and argues that the implementation of restrictive and punitive measures towards children contradicts the evidence presented in Ariès' research.

DeMause highlights the contrasting perspectives between his theory and Ariès' viewpoint. According to Ariès, the conventional child experienced contentment due to the ability to interact with various social classes and age groups. However, Ariès posits that the notion of childhood emerged during the early modern era, leading to the establishment of a domineering familial concept. This development undermined the values of friendship and sociability, restricting children's freedom and subjecting them to punitive measures such as corporal punishment and incarceration for the first time.

Moreover, scholars like as Shore contribute novel perspectives to the discourse by critically examining the works of DeMause and subsequently, Ariès. There exists a methodological concern in DeMause's work, which is also observed in several authors within his subject. Similar to prior publications by the DeMause group, Shore emphasizes the numerous challenges associated with DeMause's theory. Consequently, individuals lacking expertise in both psychology and history should approach this theory with caution, since it presents a perception of unwavering certainty that may be highly deceptive.

Nonetheless, Shore argues that DeMause's contributions were valuable in terms of generating ongoing interest in an evolutionary perspective on individual and group psychology, as well as prompting more refined adjustments, revisions, and counterarguments. This assertion can also be used to Ariès' contributions in facilitating an exploration of childhood, hence enabling numerous subsequent investigations and novel conceptualizations that have extended to the realms of children's rights and safeguarding. The protection and assurance of rights necessitate an understanding of their origins and the historical context of the individuals whose rights we seek to safeguard.

Taken together, the authors mentioned explored the history of childhood, focusing on the child as an object of study and a historical subject. Starting with Ariès, these studies brought complementary and opposite views on childhood. Nevertheless, more important than that, being a complementary or opposite theory to each other, the authors highlight the importance of childhood as a research topic. Keeping the topic in light made further studies in the historical, social science,

psychological, and psychoanalytical fields possible. However, it is a fact that childhood as we know it today is not the same as described by the authors mentioned above. Childhood, as we know it today, is presented not only as a concept different from those presented by the authors in their respective times but also because it presents different problems. It is essential to highlight that some issues regarding childhood may be similar, such as approaching or distancing from the "adult world," punitive practices, the relationship with institutions, and their place in the world of work. However, the subject is marked by his time and social, political, economic, and cultural context. The concept of childhood, therefore, characterizing itself as an issue inseparable from the construction of the subject, points to an essential relativization of the concept of childhood, which, although similar in some aspects, will never be the same.

## 1.2 Childhood in Colonial Brazil

The viewpoints derived from the research of Philippe Ariès and other writers discussed in the preceding chapter hold significance and validity in relation to the conceptual framework and impact of studying childhood and children on a global scale. However, caution should be exercised when extrapolating its applications to contexts beyond Western Europe, particularly medieval and modern France, as the analyses of representations of French childhood may not necessarily be applicable to other countries, such as Brazil.

In the Brazilian setting, researchers of childhood were tasked with the difficulty of comprehending the concepts initially explored by Ariès, who conducted his studies in modern France. It is important to note that the Brazilian reality differs significantly from the context in which Ariès conducted his research. Noteworthy among these authors are Mary Del Priore (1991) and Moysés Kuhlmann Jr. (1998), who have highlighted the limitations of foundational research on Brazilian childhood that heavily rely on European theorists like Ariès. They advocate for the imperative of comprehending the development of childhood sentiments within the specific environment of Brazil. The writers concur that the notion of childhood is mostly a product of historical and societal influences, thereby precluding the establishment of a singular childhood. William Arnold Corsaro (2011) supports this perspective by emphasizing the significance of history studies in recognizing children as active participants in societal development and the formation of their own unique children's cultures.

Formally, the historical narrative of Brazil commences with its "discovery" in the year 1500, and merely three decades later, the Portuguese began colonizing the region. During this era, a significant proportion of males and a subset of females displayed a willingness to go on maritime expeditions across the Atlantic Ocean in the direction of the "New World". Nevertheless, it has been

noted by historian Fábio Pestana Ramos (2015) that a significant portion of individuals are not cognizant of the presence of minors within the crew of Lusitanian vessels throughout the 16th century. According to the historian, the children were exclusively enlisted as cabin boys or pages, either as orphans of the monarch who were brought to Brazil to marry subjects of the Crown or as passengers who embarked alongside their parents or a close relative.

The youngsters embarked on their journey amidst highly challenging circumstances, enduring the harshness of terrible conditions. Regrettably, throughout their cruise, they were subjected to instances of sexual assault perpetrated by sailors who displayed discourteous and aggressive behavior. A considerable number of individuals were forcibly enslaved by pirate vessels, thereafter subjected to the exploitative practice of prostitution, and in cases where this was not the fate, succumbed to fatal exhaustion (Ramos, 2015). The journey was characterized by a compelling narrative of sexual brutality, coerced work, and persistent perils of mortality, resulting in a limited number of youngsters who managed to survive and reach Brazil. The aforementioned grim reality experienced by children aboard Portuguese vessels highlights the vulnerability of these young individuals, who, in their state of need nurturing and safeguarding, were subjected to treatment contrary to their rightful entitlement. According to Ramos (2015), children were often perceived not as mere children but rather as individuals embodying adult qualities. This perspective implies that children are expected to assume adult responsibilities and face the consequences of their actions, hence highlighting the prevalent disregard for the distinct nature of childhood in Western societies.

The historical narrative of the initial children who migrated to Brazil in the 16th century was characterized by a notable lack of moral support and persistent mistreatment. However, during colonization, a distinct shift in circumstances occurred, as indigenous children emerged as significant historical figures, replacing the previous roles of pages and cabin boys. The Jesuit missionaries, driven by their missionary, evangelistic, educational, and welfare worldview, committed themselves to the welfare of indigenous children.

Gilberto Freyre's ethnographic work on the Colony offers a comprehensive depiction of the social structure prevalent in Brazil during that era. His primary emphasis lies in capturing the intricate nuances of everyday life within the societal frameworks of the time. In the present analysis, due attention was given to the topic of childhood, rendering the individual under consideration as a trailblazer in the realm of social research on children within the Brazilian context. Freyre (2004) emphasizes the dominance of the family structure and the patriarchal system, wherein the distinction between children and adults was characterized by the authority of the latter. It was the responsibility of boys to strive for maturity in order to shed the stigma associated with childhood. According to Freyre (2006), the involvement of children played a significant role in facilitating the interaction between indigenous and European cultures. These children served as a means of civilizing the

indigenous population through the influence of Catholic missionaries, as well as acting as intermediaries through which valuable aspects of aboriginal culture were transmitted from the “tabas” – name given to the place where the indigenous people lived – to the missions and eventually integrated into the broader life of the colonizing population. Upon the arrival of the Portuguese in Brazil, they encountered indigenous tribes that had long inhabited the region, establishing their own distinct cultural practices and social structures over the course of several centuries. The role of children played a crucial role in the European colonization endeavor, leading to a clash between the concept of childhood held by the conquistadors and that of the indigenous people.

The Catholic perspective on the essence and characteristics of childhood primarily influenced the prevailing understanding of childhood in Colonial Brazil. According to the theological perspective, drawing on their interpretation of biblical teachings, the kid was regarded as a representation of sin and the continuation of malevolence. Consequently, the child was believed to be subjected to strict discipline to cultivate moral behavior and achieve sanctification.

According to Antônio Gomes Ferreira (2014), punishment constituted an integral component of the coercive tactics employed by most educators in Portugal. For Jacques Gélis (2009), there was concern that the excessive indulgence resulting from individualizing child-rearing practices would contribute to the development of individuals lacking resilience and strength. Carlota Josefina Malta Cardozo dos Reis Boto said that individuals with religious and moralistic beliefs during that era viewed children in terms of their deficiencies and the aspects that could only be fulfilled via the natural process of maturity and education. Boto (2002) highlights that children were perceived to possess a delicate bodily constitution and exhibit behaviors and moral values that required regulation, training, and normalization to facilitate their social integration.

Based on Freyre's analysis (2004), it can be observed that in Colonial Brazilian society, children up until the age of six were highly cherished and indulged, being perceived as innocent and without worldly knowledge. Upon attaining the theological stage of cognitive development, commonly referred to as the age of reason, typically around six to seven years, the child was perceived as a malevolent being and deemed necessitous of behavioral control. Within the age bracket of 6 to 12 years, children were historically perceived as impure and, as a result, were expected to maintain a physical separation from adults, refrain from engaging in verbal communication with them, and even be subjected to limitations during recreational activities. This was an opportune moment for individuals to acquire knowledge and intellectual development, which demanded a meticulous approach. Consequently, the training of priests was undertaken to meet this need.

Nevertheless, the responsibility for disciplining the youngster rested with any adult figure, including family, close acquaintances, or educators. The practice mentioned above was commonly implemented through the use of physical discipline as a means to eliminate the prevalent traits of

malevolence and indolence among the individuals in question, occasionally resulting in instances of corporal punishment and even the unfortunate demise of children (Freyre, 2004). During that period, corporal punishment emerged as a distinctive method of interacting with children, as teachers assumed to impart moral guidance.

### 1.2.1 Childhood around the 17<sup>th</sup> century

According to Del Priore (2016), throughout the Brazilian Colonial Period, childhood was perceived as a phase characterized by transition and the development of the future adult. Children held a distinct position as a targeted audience in the context of the Jesuits' evangelizing mission. This practice was influenced by the evolving perception of children during the 17th century, as articulated by Ariès (1962). During this period, children began to be recognized not merely as tiny versions of adults but rather as individuals in their own right, experiencing a distinct phase of existence preceding adulthood.

The Ignatians believed that cultivating children's education and inculcating positive habits and beliefs would suffice to mold society following the principles espoused by the Catholic Church. According to Freyre (2006), the civilizing process implemented by the Jesuits involved a significant reversal of roles, wherein the son educated the father, the boy served as a model for adults, and the child guided the elite towards the path of the Lord and European customs. Religious individuals were deeply struck by the conviction in the inherent purity of children, leading them to perceive infants as capable beings with the capacity to acquire the necessary religious conduct. This perspective emerged throughout the 17th century, whereby the notion of the child as an "unfinished adult" prevailed (Boto, 2002).

The Jesuits then invested in educational institutions and communities intending to provide children with an education that adhered to the Jesus-child ideological framework. This framework promoted a deepened devotion to the divine child, highlighting his innocence and benevolence as exemplary qualities for children to emulate. This paradigm's dissemination entailed privatizing the child's image, thereby enhancing their individuality and setting a prescribed framework for infancy (Gélis, 2009). The catechization and education of these children emerged as a prominent approach during the colonization endeavor. This strategy aimed to convert and discipline them, ensuring their compliance as future subjects of the Portuguese State. Additionally, it was believed that the conversion of adults to the newly introduced social and cultural frameworks would be influenced by the successful conversion and discipline of these children (Rizzini & Pilotti, 2011).

The concept of perceiving a child as a "blank slate" originated from the evolving notions of childhood in Europe. This perspective influenced the Society of Jesus to align with contemporary

ideologies and collaborate with the State in establishing distinct approaches toward children (Chambouleyron, 2015). During that particular period, the initial stages of the development of the notion of childhood in Brazil were witnessed, which were subsequently shaped by influences from the "Old World". These influences significantly impacted the Church's educational and welfare policies, notably concerning Amerindian and Portuguese children.

The children in Colonial Brazil “were caught” in a conflict that arose during the European Renaissance period, which happened between the 14<sup>th</sup> and the 17<sup>th</sup> century). This conflict involved the urgent change this period imposed on contrasting views on family education, which was deemed inadequate for preparing individuals for the prevailing society, and the education provided by religious figures, who were seen as possessing the necessary educational framework to shape children for the desired society. Guided by a perception of children as individuals endowed with the ability to embody and disseminate societal principles, the Jesuits relocated them from familial and communal settings, segregating them inside a framework that sought to employ their contributions in establishing a novel social order grounded in Christian ideology.

Gabriel de Cassio Pinheiro Prudente (2017) states that an additional indication of the significance of children in the educational endeavor of the Jesuits in Colonial Brazil was the deliberate importation of orphan boys from Lisbon. This action aimed to facilitate language acquisition by encouraging interaction between these boys and their indigenous counterparts. The ultimate goal was to enable effective communication with the adult members of the tribes, as daily interactions were primarily mediated through an indigenous language. Some of these male individuals choose to join the Society of Jesus, assuming significant roles as interpreters and facilitators in the interactions between Europeans and indigenous populations.

According to Prudente (2017), the initial stage in assimilating indigenous inhabitants into settlements and Christian practices was the transformation of their oral languages into written forms, following the grammatical structure of the Latin language. The topic of language holds significant importance in the context of children. The “curumins” – popular name given by the colonizers to young indigenous people – facilitated the dissemination of religious teachings by supporting the acquisition of proficiency in the indigenous tongue. The youngsters, acting as agents in educational evangelization, utilized the Jesuit pedagogy to employ various instruments that promoted effective communication and, as a result, contributed to the conversion process.

Following their belief in the child's capacity to embody and disseminate societal principles, the Jesuits separated children from their familial and communal environments, subjecting them to an audacious educational framework. This approach aimed to harness their potential to establish a novel society guided by the Christian worldview (Boto, 2002). The author Rafael Chambouleyron (2015)

highlights that the individual experienced profound gratification when observing the sons' rejection of their parents' traditions, as they openly criticized and reported them to the religious authorities.

Therefore, by examining the above sources, it becomes evident that the Catholic understanding of infancy primarily shaped the prevailing notion of childhood in Colonial Brazil. According to religious beliefs, both males and girls were regarded as emblems of sin and the perpetuation of evil, necessitating strict treatment to achieve moralization and sanctification. The Ignatians believed that children constituted a distinct audience since they saw education as a sufficient means to mold society under the principles of the Catholic Church. The Ignatians aimed to instill in them good habits and beliefs through educating children.

The categorization of individuals into children and adults was predicated around the perceived vulnerability of children, therefore positioning them as the most marginalized segment within society.

### 1.3 The Abandoned Childhood from the 18th Century

The social history of Latin America, particularly in countries that experienced colonization and significant influence from Catholicism in their formation, is characterized by pervasive disparities and other socioeconomic challenges. The prevalence of infant abandonment and helplessness has long been observed in societies, including Brazil, where such occurrences were widespread during the colonial and imperial eras. Nevertheless, due to the limited extent of research conducted in this particular domain, there is a dearth of information regarding the prevalence rates of this issue. The transformation of this situation commenced solely upon the advent of the field of Historical Demography (Marcílio, 2019; Brügger, 2007). Portugal's administrative and institutional structure significantly shaped the provision of support to abandoned minors in Portuguese America, although it also exhibited distinct characteristics.

According to Venâncio (1999), safeguarding neglected children in Brazil traces its origins back to the early stages of colonization, as evidenced by the implementation of three Kingdom Ordinances. In instances when parents or relatives failed to assume the duty for a child, the obligation of caring for the kid was assumed by the City Council. Consequently, the City Council was tasked with the challenge of procuring the necessary resources to provide for the child in the absence of a familial support system.

The Jesuits were dispatched to Brazil with comprehensive missionary and civilizing authority over the indigenous population. The individuals displayed a profound lack of concern over the presence and ultimate destiny of forsaken children, including those born out of wedlock, individuals subjected to enslavement, and women. Upon their arrival in Brazil, they promptly attended to the needs of the indigenous youth by implementing a distinctive pedagogical approach characterized by

an authoritative style and demeanor. This approach was rooted in the humanistic principles espoused by Erasmus in his seminal work *A Civilidade Pueril* (1530), which enjoyed considerable acclaim. For a span of three centuries, this particular pedagogy served as a means to ensure the cultivation of "good manners," the regulation of individuals' moral conduct, and the establishment of a comprehensive set of ethical principles and foundational educational practices (Revel, 1991).

During the colonial era, it was observed that neither the State nor the church assumed direct responsibility for the welfare of abandoned children. Both parties engaged in indirect actions, exercising legal and legitimate control, providing intermittent financial assistance, and offering various incentives. In actuality, civil society, whether organized or not, exhibited compassion and expressed concern over the well-being of the vulnerable youngster lacking familial support.

In the context of the vulnerable kid lacking familial support, Venâncio (1999) highlights the presence of three discernible stages in the development of aid for abandoned children in Brazil, with the other two stages overlapping. The initial stage, referred to as the caritative phase, persists until the midpoint of the 19th century. While upholding the charitable sectors and elements, the latter phase underwent a transformation towards a novel philanthropic – second stage – nature and persisted, strictly speaking, until the 1960s. During this phase, doctors and philanthropists collaborated to elevate the significance of childhood health, establishing it as a prominent concern. These actors had a significant role in restructuring humanitarian aid by introducing new institutional models that prioritized children's hygienic principles and pedagogical precepts advocated by philanthropic initiatives. The concept of "Social Welfare," often known as the Protective State, is to provide social support for vulnerable and foundling children. During the final phase mentioned, the child attains legal recognition as a rights-bearing individual and assumes an active role as a member of the citizenry. In the present discussion, we shall examine the caritative period within the framework of Colonial Brazil.

From the colonial era until the mid-19th century, a caritative phase prevailed, characterized by a sense of human solidarity and paternalistic undertones, devoid of any explicit aim to instigate social transformations. The movement in question is motivated by religious ideals and operates as a missionary endeavor. Its activities primarily prioritize acts of kindness and benevolence. A sense of urgency distinguishes the caritative era, as the affluent and influential individuals endeavor to ease the hardships the most marginalized members face, employing acts of charity and benevolence, whether performed collectively or individually. Conversely, individuals aspire to attain the redemption of their souls, the forthcoming utopia, and, in the present world, the acknowledgment of the community and the esteemed position of their patrons. Ideologically, there is a concerted effort to uphold the existing state of affairs and safeguard social stability, promoting adherence to established norms and values.

During this particular phase, support, and regulations aimed at addressing the needs of neglected children manifested in three primary modes: one being informal, while the other two being official in nature. According to Portuguese legislation, the City Councils – first formal regulation on the matter – were the sole entities entrusted with the official responsibility of providing help to minor foundlings. Employing written agreements duly sanctioned by the monarch, the Chambers possessed the ability to assign particular responsibilities concerning safeguarding vulnerable children to alternative institutions. As a result of this concession, several agreements were entered into, particularly with the approval of the monarchy. From these agreements, another institutional protection system was established by implementing the *Roda* (Wheel), *Casa dos Expostos* (Foundling House), and the collection for impoverished girls. These initiatives typically resulted from agreements forged between municipalities and the Houses of Mercy, and for that the *Roda* and *Casa dos Expostos* were characterized as formal regulations at addressing the needs of neglected children.

The third system of safeguarding disadvantaged children can be identified as the informal system, which is the most pervasive and all-encompassing. This system has persisted throughout Brazil's history, from the 16th century to the contemporary era. Families or individuals were responsible for "adopting" abandoned infants found at the entrances of their residences, religious institutions, or alternative locations. After that, they opted to provide care and upbringing for many motivations. Individuals attended the *Roda dos Expostos* to assume guardianship over a kid or even engage in a form of adoption. These individuals are commonly referred to as "foster children."

The *Roda dos Expostos* (Foundling Wheel) was originally developed in Europe during the Middle Ages and gained significant popularity in Brazil, particularly during the colonial period. Its implementation in Brazil began in 1726 and continued until the 1950s. According to Marcílio (2019), this institution assumes a significant role. For nearly a century and a half, it was essentially the sole institution providing care to abandoned children throughout Brazil. The exhibits were securely housed behind a wooden structure affixed to the wall or window of the Holy Houses of Mercy, ensuring that the individual surrendering the child remained concealed from those receiving the infant at the facility.

The functioning of the *rodas* (*wheels*) in Brazil commenced in Salvador in 1726, following the vice-king's request for the establishment of a *roda* in Santa Casa da Bahia, as stated by Marcílio. Twelve years subsequent to the initial occurrence, Rio de Janeiro was subjected to a subsequent round of two deliveries, both of which were placed under the jurisdiction of the Holy House of Mercy. In urban areas lacking formal establishment of community centers for capoeira practice, it would be advisable to employ surveillance cameras as a means of providing assistance to neglected minors. Indeed, it is worth noting that in cases where two foundlings were associated with the Holy Houses,

a portion of the institution's upkeep expenses were covered by the municipal chambers (Marcílio, 2019).

It is noteworthy to mention that the terminologies employed during that era, namely vulnerable or foundling pertain to infants who were forsaken during their formative years. During the 19th century, the term "abandoned" was rarely utilized in common language, with its usage primarily limited to legal writings. It was not until approximately 1890 that the term began to make its initial appearances in other contexts. During the colonial period, the terms vulnerable and foundling were extensively utilized and continued to symbolize distinct social realities. According to Rodrigues (2010), the initial term referred to an infant who was abandoned on the streets without any form of safeguard, thus being vulnerable to mortality. On the other hand, the term foundling denoted a form of abandonment that was considered more civilized, involving the act of leaving a mother or baby in hospitals or residences, thereby enhancing the likelihood of the child's survival.

Medical facilities or containment units conducted the provision of aid to exposed individuals. The child was officially recorded in a designated registration book and afterward entrusted to the care of a wet nurse for a duration of three years. Following the conclusion of this designated period, the child was entrusted to the care of a nursemaid who provided a nurturing environment within her residence until reaching the approximate age of seven. Subsequently, it was deemed appropriate for the child to be transferred into the custody of the judge responsible for orphaned individuals (Rodrigues, 2010). Nevertheless, due to the failure of the councils to perform their welfare responsibilities, the individuals in question were placed in the care of the Holy Houses, which subsequently established the system known as the wheel of the exposed. Historically, the prevailing ideology within institutions was characterized by Christian charity, which manifested as compassion towards vulnerable infants their mothers had forsaken.

Subsequently, the provision of help transitioned from its initial charitable nature to a philanthropic one as it began to be funded by the State. The subject under consideration is the Salvador *Roda*, an institution established by the *Irmandade da Misericórdia* in 1726. According to Anthony John Russel-Wood (1981), the *roda* initially had a religious purpose until 1828, when a law designated the government as the primary source of financial support for the institution.

Historians have identified various factors that contributed to the practice of child exposure over a significant period in Brazilian history, including child illegitimacy, preservation of a woman's dignity, limited money, and inadequate access to birth control methods. Despite receiving care from the government, Holy Houses, and generous families, these vulnerable youngsters did not always attain survival. In addition to being preyed upon by urban wildlife, individuals were also susceptible to various illnesses, contributing to the nation's elevated infant death rate. The unfortunate circumstance of not surviving or not being raised by one's own family indicates that the process of

childhood development would remain incomplete. Hence, the formation of a distinct child identity would not occur, as evidenced by historian Luiz Lima Vailati, since children would be integrated into the adult realm and assume the predetermined social roles assigned to them upon reaching the age of seven. According to Vailati (2010), during the first part of the 19th century, childhood in Brazil persisted in pursuing a distinct identity separate from that of the adult society.

#### 1.4 Elite Children and Slave Children: childhood in Imperial Brazil

The historiography of infancy in Empire Brazil encompasses a wide range of subjects explored by several authors, including Mary Del Priore, Ana Maria Mauad, Mariana Muaze, and Manolo Florentino. These scholars have contributed to a relatively diversified and complete understanding of this subject. The arrival of the Portuguese court in Brazil and the subsequent establishment of the Empire initiated significant societal and familial transformations. This period witnessed the introduction of various European customs into Brazilian society, resulting in the modification and remodeling of existing standards.

According to Muaze (1999), the establishment of the Brazilian Imperial State co-occurred with the formation of the manorial class. This class was shaped through two processes: restoration, which involved the preservation of the agrarian elites existing prior to Brazil's independence from Portuguese rule, and expansion, which entailed the inclusion of liberal professionals, coffee growers, civil servants, and other members of the white and land-owning elite. These developments were instrumental in the creation of a prosperous imperial society.

Within the framework of imperial consolidation and the establishment of a society guided by European civilizing paradigms, affluent families endeavored to express their prominence by adopting European habits and ideals. The education of these privileged youngsters would serve as a tool employed by the State to cultivate a culture that is deemed "civilized." The child's involvement in this matter was significant as they demonstrated a heightened ability to internalize and assimilate behavioral patterns, ultimately integrating them into their innate disposition (Muaze, 1999).

Moral education mainly occurs within the household, while the school's role is limited to providing instructional content, thus ensuring a clear distinction between the two domains. Concerning the latter, there existed distinct training practices for boys and girls. According to the scholarly work of Ana Maria Mauad (2015), it was customary for privileged young males to commence formal schooling at the age of seven. Furthermore, these individuals would typically pursue their studies until attaining a doctorate, often in law, either domestically or abroad.

In the context of female education, it was customary to allocate physical skills and social skills to girls. Additionally, starting from the mid-1870s, school curricula began incorporating a range of

disciplines, including national, French, and English languages, arithmetic, ancient and modern history, mythology, and many forms of needlework (Mauad, 2015).

In conjunction with the responsibilities of leading a disciplined lifestyle, children from privileged backgrounds also experienced periods of pleasure. Using documentary materials, such as diaries and photographs, provides insight into the idyllic experiences of childhood and adolescence within affluent households. According to Mauad (2015), various activities such as visits to the zoo, travels to relatives' residences, shopping excursions with the mother, and outings to the theater were cited as illustrative instances of the typical daily experiences of females during that period.

In contrast, whereas elite children underwent social construction through the influence of their household and educational institutions, emphasizing moral values, exemplary behavior, and intellectual development, children of enslaved individuals experienced a markedly distinct reality. From their birth, enslaved children experienced disenfranchisement since they were frequently separated from their mothers and subjected to the possibility of being sold, regardless of their tender age. The prohibition of separating enslaved families by sale was officially established in 1869, but its enforcement was frequently lacking.

According to José Roberto de Góes and Manolo Florentino (2015), during their early childhood, typically around four or five years old, enslaved children were assigned various chores that were deemed less complex. However, after they reached the age of twelve, they were entrusted with more demanding labor after completing their designated "training" period. At the age of fourteen, they commenced engaging in labor comparable to that executed by adult individuals subjected to enslavement. Within this framework, children held captive had a challenging and merciless existence, except for instances involving bodily harm resulting in death. These children were left with a mere glimmer of hope, uncertain of the possibility of attaining their liberation.

The work for enslaved children persisted until the enactment of Abolition. According to historian Heloísa Maria Teixeira, during the era of transitioning to free labor, numerous enslavers exploited the *Free Womb Law*, enacted on September 28, 1871, by compelling the offspring of enslaved individuals to engage in labor until reaching the age of 21 (Teixeira, 2008). In light of the challenging circumstances surrounding the utilization of slave labor, Del Priore (2016) highlights that children may be seen as a potentially viable option. On numerous occasions, illicit activities were perpetrated to ensure the presence of child labor, including the acquisition of socially isolated children, despite legislation prohibiting such practices since 1869. These actions involved exploiting the labor of vulnerable individuals and even engaging in the act of child abduction. The regulations enacted in 1869 and 1871, namely the *Free Womb Law*, aimed to prevent the separation of enslaved children from their mothers. However, these laws were not effectively enforced.

Guardianship, particularly in the post-Abolition era, frequently served as a mechanism to secure the labor of impoverished children, particularly those of enslaved ancestry, to fulfill the needs of their guardians. The wards were vulnerable individuals, requiring a suitable caretaker to provide their basic needs for sustenance, shelter, clothing, and education in a field aligned with their aptitude. Due to limited financial resources, families of former hostages were compelled to resort to transferring custody of their children to others capable of assisting since they lacked viable options (Del Priore, 2016).

### 1.5 Underprivileged children in "Brazil República"

During the early years of the First Republic (1889-1930), Brazil experienced significant transformations, including the abolition of slavery and the establishment of a new political-administrative system. It is imperative to underscore two crucial variables in comprehending the Brazilian capital's metamorphoses during that period.

The primary concern is the State's endeavor to assimilate the European modernization concepts. Political leaders were concerned about the "prospects of the nation's future." Urbanization emerged as the second influential element. Following the enactment of legislation aimed at eradicating slavery, a wave of individuals, including formerly enslaved people and their offspring, relocated to urban areas in pursuit of employment opportunities and suitable housing, thereby contributing to a gradual increase in population. Nevertheless, the increasing population posed a significant societal challenge to the State's progressive ideology, prompting it to develop public policies to confine or relocate the most impoverished segments of society to the outskirts. The differentiation of socioeconomic rank was evident not alone in the restructuring of the urban public sphere but also in the implementation of social policies targeting the institution of family and the stage of childhood.

According to Rizzini (2011), the responsibility of promoting measures to ensure social harmony and secure the nation's future now lies with the government. This can be achieved by implementing a discourse that emphasizes moral values and the advancement of civilization. This would involve the reconfiguration of family responsibilities and roles and the fundamental concepts surrounding children. Rio de Janeiro became a significant participant in this historical context of transformation due to its status as the capital of Brazil and its crucial role in implementing state policies targeting children. Furthermore, its effect transcended regional boundaries.

The primary source utilized for this concise analysis consists of the scholarly works authored by historian Irene Rizzini, which delve into the examination of governmental policies and legislative measures targeting the welfare of children during the 20th century. In a minimum of two of her literary works, the author addresses a significant matter about the societal circumstances of children in Rio

de Janeiro during the initial years of the Republic, which undoubtedly extends to the contemporary era: the existence of street children within the urban landscape of Rio de Janeiro. In pursuit of this objective, the research technique facilitated a discourse between the domains of history and law, consistently emphasizing the role of the State and society in addressing the imperative of ensuring adequate care for impoverished children to promote their overall welfare. The initiation of this process can be traced back to the development of a set of legislative proposals, which culminated in the creation of the initial Code of Minors in 1927. This code aimed to bring about changes in supporting the socioeconomically disadvantaged population in Rio de Janeiro and the broader context of Brazil. Hence, it is imperative for forthcoming analyses to take into account the observations regarding the mechanisms via which these transformations occurred, comprehending the significance of the legal framework within this particular setting and its profound implications for the developmental trajectory of infancy throughout the initial decades of the 20th century.

The topic matter is further explored by Irma Rizzini, who delves into the historical research of Professional Teaching Boarding Schools. Rizzini (2000) examines the sources generated during the 19th and 20th centuries in her work. In her work titled "The Lost Century: Historical Origins of Public Policies for Children in Brazil," Irene Rizzini examines the correlation between the welfare initiatives targeting underprivileged children in Brazil, particularly during the republican era, and the nation-building endeavor characterized by citizenship. The emerging philosophy aimed to enact the civilizing endeavor, with the primary objective of eradicating indicators of underdevelopment and pursuing growth. According to Rizzini (2011), individuals categorized as "beggars," "vague," "offenders," and "abnormals" were viewed mainly as adversaries to the republican philosophy.

The perception of idleness, therefore, was closely associated with criminal behavior and delinquency. Employing and remunerating individuals from an early age appeared to be a viable approach to societal advancement. The Republican Government in Brazil sought to address the issue of impoverished and neglected childhood by primarily relying on the legal domain but maintaining its religious and charitable orientation (Rizzini, 2011). Furthermore, the interplay between hygienist ideology and state programs to assist disadvantaged children in Brazil constitutes a significant factor to consider. Hygienist physicians in Brazil have been actively establishing educational institutions for children and supporting minors since their inception. The organization's objective was not solely to offer charity assistance but rather to focus on preventing and mitigating diseases and "deviant" conduct, thereby contradicting the ideals upheld by the State.

In this context, providing aid to underprivileged or orphaned individuals was regarded as a means of safeguarding society and ensuring the well-being of morally upright individuals. Consequently, during the latter half of the century, the Imperial State established a range of institutions within the urban confines of Rio de Janeiro. These included the Imperial Institute for

Blind Children (1854), the Imperial Institute for Deaf Children (1855), the Sailor Apprentice School (1873), and the Disabled Boys Asylum (1875).

From a similar standpoint, Irma Rizzini (2000) aimed to elucidate the phenomenon of childhood institutionalization in Brazil and its correlation with public welfare measures. In the book "Children Underprivileged, Indigenous and Black in Brazil: Scenes from the Colony, the Empire, and the Republic," the author, a psychologist and historian, examines the emergence of various government initiatives between 1870 and 1910. These initiatives were specifically designed to address the educational needs and professional development of indigenous children, street children, and the offspring of enslaved individuals who were born after the implementation of the Free Womb Law. As a result, during this particular era, the vulnerable child assumes the role of a recipient of administrative intervention by the State as initiatives aimed at safeguarding children in Brazil are implemented. This marks a departure from past endeavors in this domain, primarily confined to familial and ecclesiastical spheres. Strategies were implemented in the former federal capital to foster the process of 'civilization' among its inhabitants, facilitating access to fundamental education and providing vocational training opportunities. Therefore, the government actively advocated for social regulation to maintain public order and facilitate the intended progress.

Rizzini (2011) posits that during this period, there was a growing recognition within the society of the child's issue, which took on a political dimension commonly referred to as the 'republican ideal.' The matter at hand encompassed more than simply highlighting the significance; rather, it entailed the pressing need to intervene, educate, or rectify "the minors" to cultivate their potential as valuable and industrious members of the nation, safeguarding the ethical structure of society. This particular choice entailed the division of childhood into two distinct categories: firstly, the child who remained under the care of their family, with citizenship privileges, and secondly, the youngest child who was placed under the watchful supervision of the State, subject to laws, philanthropic initiatives, educational and repressive measures, as well as assistance programs (Rizzini, 2011). Hence, the designation 'minor' was additionally employed in a derogatory manner to categorize those from impoverished and marginalized sectors, specifically those who were forsaken, vulnerable, and engaged in deviant behavior, thereby becoming socially assimilated. Therefore, the involvement of the State served to validate the socially recognized dichotomy concerning the protection of children: the youngster in a vulnerable situation, requiring assistance, and the 'dangerous' child, posing a threat to society. In all scenarios outlined, the State operated under the assumption that children's education was essential in fostering active involvement in developing a cultured society.

According to Rizzini (2011), the Brazilian government prioritized its efforts on younger children, as they are more susceptible to influence and can be shaped according to societal norms and values, shaping their character and steering them away from behaviors deemed morally corrupt and

detrimental. Considering that, it is clear that the State played a dominant role in promoting hygiene, particularly during childhood, as part of a eugenic endeavor to rejuvenate the human population.

Childhood as an object of study has come a long way since the European studies on the representation of childhood from the Middle Ages to a specific and in-depth analysis of the Brazilian context in South America. Indeed, the childhood domain was always influenced by its time and place's political, economic, social, and cultural agenda. During the colonial period, childhood control was a form of population dominion in the Brazilian context. Dispossessing children of their culture and putting them against their parents was the most effective tool in Brazilian colonization. In the 17th century, childhood control was the most effective tool of societal adhesion to the Jesus-child ideological framework. In the 18th century, there were still religious motivations. However, this time, the focus was not on converting a society from the base (child) to the top (adult) but on showing charity and benevolence from the church, displaying disadvantaged children as the temptation and the religious institution as the image of salvation. In Imperial Brazil, education is considered a synonym of civility, separating a culture that belongs to the imperial society (white elite children) and the outsiders (children of enslaved individuals), considered uncivilized. When Brazil becomes a republic, social harmony and the nation's future lie with the government. Therefore, childhood control, especially underprivileged children's control, becomes the political weapon to "secure" this society.



## **2. Child Protection in Brazil: from minorism to the doctrine of integral protection**

### **2.1 Minorism and its legacy in Child Protection**

Throughout the 20th century, notable political advancements were underscored by implementing diverse social and political rights rules. This movement influenced children's domain, which was interconnected with a societal endeavor established centuries prior. The International Congress on Prisons was a proposition by the United States of America to institute reforms within the prison system, specifically about the segregation of adult and juvenile offenders during their respective periods of incarceration. This reform was based on enacting two laws, namely those issued in 1874 and 1892 in the United States, which stipulated the separate adjudication of minors who were charged with criminal offenses compared to adults.

Within the context of Latin America, it is commonly acknowledged among researchers that the minorist model was introduced by the enactment of the *Agote Law* in Argentina in 1919. In their research on the emergence of minorism, Fernandes and Costa (2021) provide evidence that the name and concepts of minorism were already included in the regulations governing the *Asylum for Underprivileged Children* in 1875 and 1890.

The organization of a legal framework for the punishment of minors can be categorized into three phases: the Undifferentiated Penal Model, the Guardianship Model, and the Juvenile Penal Model. The initial stage, the Undifferentiated Penal Model, commenced during the 18th century and persisted until the early 19th century. During this stage, individuals under the age of seven were the only exceptions since kids were generally treated like adults. Emílio García Méndez (2006) proposes that children who are younger than seven years old were historically seen as entirely incompetent, according to the traditional perspective in Roman law, and their actions were deemed equivalent to those of animals (Fernandes & Costa, 2021). Nevertheless, individuals aged seven to eighteen were evaluated based on the retributionist framework, resulting in a reduction of their punishment by one-third of the prescribed amount. Scholars commonly refer to the present setting as the third phase, the Juvenile Penal Model. As Costa and Fernandes (2021) argue, this model is currently undergoing a transitional phase and has yet to reach a state of complete consolidation.

The Tutelary Model phase establishes a normative and scientific autonomy of Criminal Law regarding other departments of Law. This development has led to rationalizing penalties and a deeper contemplation of their underlying objectives. The final distinction between women, men, and minors in serving sentences occurred during this period, which was a vital characteristic of the preceding model known as the Undifferentiated Penal Model.

According to Zanella (2014), the rationalization of the penalty aligns with humanity's intellectual and scientific movement. This movement, in conjunction with liberalism, witnessed the

political ascent of the bourgeoisie and the curtailment of the State's absolute powers. During the 19th century, there was an association between this movement and positivism, as positive law, characterized by its foundation in the will of legislators, was seen as its guiding principle. Ultimately, the product in question can be attributed to the State. This attribution arises from the social contract, which encompasses a collection of broad norms originating from the legislator's volition and capable of being externalized. The adherence to these norms can only be ensured through the intentional exertion of force by the State apparatus.

During the 18th century, Europe was the hub of intellectual discourse and the development of theoretical and practical approaches to criminal punishment. However, a significant shift occurred in the 19th century, as the international prison movement began to adopt and advocate for implementing prison models pioneered in the United States of America (USA). The genesis of this trend may be traced back to the prison models established inside that nation and their subsequent impact on forming a unified approach to penalizing incarcerated individuals. This pattern also extended to the realm of infancy and impacted Europe and Latin America (Fernandes & Costa, 2021).

The historical confrontation between socialism and capitalism during the late 19th century's era of international polarization significantly transitioned from a punitive approach to child payback to a more protective and guiding model. The process of constructing minorism was influenced by several factors. These include the separation of adults and minors in the execution of sentences, the establishment of the Juvenile Court Act/Juvenile Courts Act, the simplification of judicial procedures for minors to ensure their protection, the distinction between correctional and reformatory institutions discussed in International Congresses of Prisons, the elimination of the differentiation between infraction and abandonment within the realm of justice, the psychological understanding of problem adolescence by Stanley Hall, and the enactment of the Declaration of the Rights of the Child - Charter of Geneva in 1924. However, despite these factors, a crucial element still needed to be added.

The reformers that emerged at the turn of the century consisted of philanthropists and jurists who faced the challenge of devising a solution for institutionalizing children who engaged in criminal behavior with varying levels of discernment, as well as those who required protection to deter criminality. According to the perspective of reformists, the underlying source of the problem can be attributed to both parents and, to a certain extent, the morally compromised society, as elucidated by Jean-Jacques Rousseau (2018) in his renowned publication *The Social Contract* (1762). In order to address this matter, it was imperative to intercede and supplant the negligent guardians. In his seminal work *Capital*, Karl Marx (2013) introduces the notion of negligent or degraded parents, examining the impact of industrialization on the dissolution of large-scale industries and the subsequent transformation of the economic foundation of traditional familial structures and relationships. Based on this conceptualization of the nation, the transition from parental guardianship to State guardianship

commenced, guided by the principle of *parens patriae*, which pertains to the State's authority to intervene in cases involving a parent or legal guardian, thereby superseding the family power held by the parents.

The term "minor" shifted meaning, no longer solely indicating a distinction based on age concerning adulthood or a mathematical comparison between major and minor. Instead, it began to signify separating and distinguishing children and adolescents based on their social status and adherence to a conventional nuclear family model associated with the bourgeoisie. The minor was identified as the socioeconomically disadvantaged child associated with families similarly branded as dysfunctional due to their failure to conform to the established bourgeois norms (Zanella, 2018).

According to Méndez (2006), the time frame from 1919, when the Agote Law was published in Argentina, until 1989, when the Convention on the Rights of the Child was enacted, represents significant milestones in applying the tutelary model in Latin America. Nevertheless, although the formal nature of the 1919 Law as a legal framework, traces of minorism can already be discerned in Brazil as early as 1875. Decree No. 5,849 was enacted in the same year to establish regulations for providing asylum to underprivileged children. Article 6 of this decree stipulated that minors residing in the asylum would be returned to their parents. In cases where the children were orphaned, they would be placed under the jurisdiction of the appropriate judge unless it was deemed more appropriate to assign them an alternative placement. This single mention already pointed toward what would come to pass in the coming years (Brasil, 1875, art. 6°).

In 1890, Deodoro da Fonseca, the leader of the provisional government, issued decree no. 439, which preceded the concept of minorism by thirty years. This decree served as a fundamental framework for establishing support systems to aid socioeconomically disadvantaged children. The constitution stipulated that the Underprivileged Children Asylum was established to provide care, support, and education to disadvantaged children. Within the legislative context, it becomes evident that the term "minor" had already been included in the Brazilian legal framework by the conclusion of the 19th century. Furthermore, it is worth noting that the shift from an Empire to a Republic in Brazil gave rise to a novel legal-institutional framework characterized by increased interventionism. In addition to decree no. 439, this was exemplified by introducing the Penal Code of 1890 (Decree No. 847, dated October 11, 1890). The historical period was characterized by significant industrial growth, leading to a corresponding adjustment of legal standards to accommodate the emerging industrialization. Consequently, legal regulations reflected a repressive approach motivated by apprehension regarding the severity of punishments.

According to Luís Antonio Groppo (2004), industrialization and urbanization intensified negative social consequences associated with industrial capitalism. This phenomenon mainly affected adolescents from working-class backgrounds, increasing the prominence of undisciplined youth

within the global Western context. The younger generation discovered its place within the framework of capital reproduction. The legislation's interventionist aspect was evident in its establishment of hygienic and behavioral measures, which also highlighted the economic incentives behind the criminalization of teenagers. The rationale behind the punishments outlined in the Penal Code of the Republic stemmed from the prevalence of disorder, vagrancy, intoxication, theft, and robbery. These offenses were intended to be addressed by imposing disciplinary measures within industrial institutions where forced labor was to be carried out. In this context, the State recognizes the potential to shape individuals into new citizens, particularly during their vulnerable childhood stage. The primary aim was to provide education to facilitate their conformity and compliance. Instead of allocating resources towards a comprehensive national education strategy that ensures high-quality education for all individuals, a decision was made to prioritize investment in a policy primarily focused on providing legal aid to marginalized kids facing economic and social challenges (Rizzini, 2007).

Taken together, the data mentioned above provides a basis for refuting the claims made by jurists who assert that the Ley Agote, enacted in Argentina in 1919, was the initial legislation in Latin America about the rights of minors (Zanella, 2019). It is possible to observe that in Brazil the legislation already had traces of minorism as early as 1875 with the asylum for underprivileged children.

The minorist conception persisted during a subsequent phase, formally codified in the 1979 Minors Code, enacted by Law no. 6.697/79. This legal framework was rooted in a paternalistic, authoritarian, welfare-oriented, and tutelary philosophy. The Code, established towards the military government's conclusion, endorsed a unified and antiquated perspective that disregarded the rights and protections afforded to children and adolescents. It treated them as objects of the law rather than recognizing their agency as subjects within it. The primary tenet of minorist practices revolves around perceiving children and adolescents as objects, disregarding their subjectivities and the contextual factors that influence them. These practices advocate for corrective treatments that address perceived deficiencies in young individuals. Several months following the initiation of the exceptional regime, the publication of the Decree-Law titled "On the National Policy for the Well-being of Minors" introduced the establishment of the National Foundation for the Well-being of Minors, commonly referred to as FUNABEM (Saraiva, 2021).

Karyna Batista Sposato (2013) states that , establishing this organization in 1964 and the subsequent development of Febem in 1976, which was closely associated with the former, facilitated solidifying a social control program to implement social mechanisms to address and mitigate violence. Legal scholars have developed and refined the educational methods of maladjustment, recognizing it as a critical component of societal risk. Until that point, the State consistently preferred

advancing its own interests at the expense of the well-being of children and adolescents. The acknowledgment of the child's status as a rights bearer, as established by the 1988 Constitutional Charter, exemplifies a paradigm shift. Examining policies has provided evidence that the legislation implemented in Brazil is not impartial or detached from the broader context of Latin America, Europe, and the United States. On the contrary, as previously demonstrated, it is apparent that these policies are influenced by international interests and efforts to implement and advance such interests.

The normative changes in the 1990s, leading to the promulgation of the *Estatuto da Criança e do Adolescente* (ECA), translated to English as Statute of the Child and Adolescent, were primarily driven by similar interests. It is worth noting that these changes came shortly after the United Nations promulgated the Convention on the Rights of the Child (CRC) in the preceding year. The Convention refers to a comprehensive and universally applicable agreement formally established by Resolution no. 44/25 by the United Nations General Assembly on November 20, 1989. This agreement carries global significance and entails enforceable obligations for all participating nations. The document is a component of the Organization's collection of seven treaties about human rights. Its purpose is to deviate from the tutelary paradigm adopted from the late 19th century to the early 20th century. This disturbance played a role in establishing the Organization as a prominent advocate for said rights, notwithstanding a lack of alignment in interests during the enactment of prior legislation (Zanella, 2019).

Examining the involvement of States, Intergovernmental Organizations, International Organizations, and NGOs in the Working Group responsible for drafting the Convention reveals that the governments of Latin American nations actively participated in the sessions conducted between 1981 and 1988. Upon analyzing the performance of the non-governmental organizations (NGOs) involved, Pilotti (2000) observed a notable disparity in participation levels compared to the United Nations (UN) agencies, funds, and programs operating in childhood. This discrepancy was particularly evident in the increased engagement of NGOs during the second reading of the final text of the Convention. The presence of international non-governmental organizations (INGOs) in the working groups responsible for the development of the Convention was consistently observed, albeit with certain limitations, until 1983 (Pilotti, 2000).

At this point, an *ad hoc* group was established, convening biennially, with the specific purpose of examining the proposals by participating nations and formulating recommendations for the articles of the Convention. The involvement of Save the Children's branches in Sweden and Great Britain recognized as highly engaged non-governmental organizations (NGOs), was noted. These branches possess extensive networks of contacts in Latin America and the Caribbean and play a crucial role in distributing the content of the debates in these regions (Zanella, 2014). In order to fulfill the goals of advancing and executing the rights outlined in the Convention, the United Nations Children's Fund

(UNICEF) instituted three distinct phases. First, as Francisco Pilotti (2000) stated, the initial focus lies in promoting the ratification of the international document. This endeavor primarily involves engaging with the executive and legislative branches of government. In Latin America, this phase was successfully concluded by the mid-1990s. Second, the subsequent objective is to ascertain the harmonization between the stipulations of the Convention and those encompassed inside domestic legislation. At this juncture, intergovernmental organizations advocate for implementing legislative changes, considering each nation's unique characteristics and offering technical support to the legislative, executive, and judicial branches in the formulation of requisite legislation. In the 1990s, UNICEF focused much of its efforts in this region. It was crucial in facilitating legislative reforms that were either completed or in progress in over a dozen Latin American nations. The third and ultimate phase, characterized by greater prevalence and long-term implications, focused on implementing the institutional changes required to cultivate what the Economic Commission for Latin America and the Caribbean (ECLAC) referred to as a "rights culture" in Latin America, aligning with the intended impact of the Convention. According to Zanella (2014), this particular culture would bring about a significant shift in the legal and social understanding of childhood, resulting in a new perspective and a qualitative transformation. The impact of such a transition would be reflected in the attitudes, values, and sensibility of individuals and in the policies implemented by the state.

According to Zanella (2014), the conventional approach to developing a United Nations treaty involves a two-stage process. Initially, the initial composition of the text is undertaken. This stage is commonly referred to as the initial reading. The second iteration of the text has been updated and subsequently finalized. The initial phase of the Convention took place over a series of one-week sessions spanning from 1979 to 1987, followed by a concluding two-week session in 1988. The second reading was conducted over two weeks throughout November and December 1988. The Commission on Human Rights officially adopted and authorized the text in March 1989. In opposition to other nations, Brazil did not delay its progress until the internal approval, ratification, and enactment of the Convention were secured. In contrast, it is worth noting that the Statute of Children and Adolescents, enacted on July 13, 1990, and subsequently implemented in October of that same year, had been expected. Nevertheless, despite the legal abolition of the minor term, the implementation of the policy continues to be guided by the tutelary model of the doctrine of irregular status nearly thirty years after the ratification of the Statute. Indeed, according to Nakamura (2019), there is a coexistence between minorist practices and the Statute. In his study, he points to practices and ideologies of accountability, blame and criminalization of poverty as a serious problem, already seen in the history of Brazil as a justification for removing children from their homes. This violates the right to family life provided for in the ECA.

When considering this matter, the author concurs with Aurea Satomi Fuziwara (2013) in asserting that in Brazil, the Child and Adolescent Statute and the comprehensive legal framework associated with it represent significant achievements in terms of directing individuals, society, and the State toward a proactive stance in safeguarding children's rights. However, it is essential to acknowledge that the struggle for these rights is ongoing, extending beyond mere legal provisions and necessitating practical implementation in real-world contexts.

The Statute is an ethical-political framework associated with the ongoing struggle for re-democratization. In this manner, it is not regarded as the primary instrument but rather as a point of reference achieved solely inside a specific ideopolitical framework where it was contested and endorsed. The disagreements resulted in losses, and the failure to comply with them highlights how Brazilian society has not entirely departed from its culture characterized by minorism, authoritarianism, centralization, patriarchy, machismo, and patrimonialism. The acknowledgment of the child as an individual entitled to rights necessitates a significant shift in societal norms. To better understand the correlations between the Statute instrument and its evolutions, it is imperative to revisit the document's inception and guiding principles. Subsequently, an evaluation of its significance as a pivotal document in safeguarding the Rights of Children and Adolescents in Brazil will be conducted.

## 2.2 The Child and Adolescent Statute in Brazil: a new social paradigm?

Law no. 8.069/90 instigated a comprehensive overhaul in the legal approach to the subject matter. This initiative aimed to deviate from prior protocols and incorporate legal notions on children and adolescents, moving away from the traditional categorization of "minors." The emergence of the Statute of the Child and Adolescent may be attributed to its aim of safeguarding the comprehensive protection of children and adolescents. This statute recognizes the unique circumstances of individuals in the developmental stage, who are considered rights holders in a vulnerable position. Consequently, ensuring the fulfillment of their fundamental rights is of utmost importance and takes precedence over other considerations. The elements mentioned above constitute the foundational pillars.

As argued by Humberto Ávila (2005), the Child and Adolescent Statute is an open system of rules and principles. These norms can be understood as manufactured meanings derived from the systemic interpretation of normative texts. Ávila underscores the imperative of effectively interpreting the legal system to operationalize its foundational principles. Concerning these principles, governing the fundamental rights of children and young individuals, the Statute has three overarching and guiding concepts: the Principle of Absolute Priority, the Principle of Superior Interest, and the Principle of Municipalization.

The Principle of Absolute Priority, as outlined in Article 4 of the legislation mentioned above, is constitutionally mandated. It stipulates that the family, community, society at large, and public authorities bear the responsibility of guaranteeing, with utmost precedence, the fulfillment of rights about life, health, nutrition, education, sports, recreation, vocational development, culture, dignity, respect, freedom, as well as family and community coexistence. In this single paragraph, the user's text might be rewritten to be more academic by incorporating formal language and structure. Additionally, the concept of guaranteeing priority encompasses several aspects. These include the provision of protection and assistance in all circumstances, the prioritization of assistance in public services or matters of public importance, the preference given to the development and implementation of public social policies, and the privileged allocation of public resources in areas of the safeguarding of childhood and youth (Amin, 2015).

The Principle of Superior Interest is upheld by the legislative and enforcement bodies of the legal system, which prioritize the welfare of infants as a guiding principle for interpreting laws, resolving conflicts, and formulating regulations. The decision that best aligns with the needs and interests of the child and adolescent must prevail, as derived from the analysis of the specific case, following this concept. Thus, it is evident that in light of all factual and legal considerations, the principle above must be duly considered, with the decision prioritizing the comprehensive safeguarding of the fundamental rights of children and adolescents. In order to provide further elucidation, it is essential to note that judges or law enforcement officials do not interpret the concept of meeting the child's best interest as what they subjectively perceive to be in the kid's best interest. Instead, it pertains to objectively fulfilling the child's inherent dignity as an individual in the development process while safeguarding their fundamental rights to the fullest extent feasible (Amin, 2015).

The Principle of Municipalization manifests the concerns expressed by the constituent lawmakers throughout the decentralization and expansion of social welfare policies, wherein concurrent powers are granted to entities within the federation. The Union was granted the jurisdiction to establish and oversee universal standards and facilitate coordination for implementing assistance policy programs at the state and municipal levels. Within this particular context, it is stipulated by Article 100, sole paragraph, item III of the ECA that the primary and shared duty of public authorities is to ensure the complete enforcement of the rights bestowed upon children and adolescents by both this Law and the Federal Constitution, except situations explicitly outlined in the Federal Constitution. According to Amin (2015), the primary and shared responsibility for governance is with the three realms of government while also acknowledging the potential for municipalizing services and implementing programs by non-governmental actors.

Hence, based on the premise of comprehensive safeguarding and the unique circumstance of being individuals in the process of growth and development, both citizens and the governing authorities must prioritize children and adolescents in their endeavors and considerations, ensuring that their needs are addressed holistically across all domains of engagement. Moreover, André Viana Custódio (2008) emphasizes that acknowledging the essential rights of children and adolescents has introduced the Principle of Universalization, which asserts that all children can demand and uphold these rights.

Therefore, the 1988 Constitution established the assurance of fundamental rights to children and adolescents as an absolute priority. It also mandated that the family, society, and the State have a legal and concurrent duty to protect these rights, safeguarding them from all negligence, discrimination, exploitation, violence, cruelty, and oppression. The Child and Adolescent Statute was created to regulate and implement the constitutional principle of comprehensive protection, as reflected in its provisions, from the first to the sixth.

The Child and Adolescent Statute is a significant milestone in the history of Brazilian Constitutions since it represents the inaugural instance when the matter of children is addressed as a matter of public concern, exerting influence over the entirety of the legal framework. The law must acknowledge and uphold the distinct circumstances of individuals in the development process, as this is a distinguishing feature of such individuals, irrespective of their societal status. Prior to this, these individuals possessed rights. However, as Wilson Donizeti Liberati (2006) noted, they could not exercise these rights due to their limited social integration and dependence on familial authority. According to the author, children and adolescents are the primary beneficiaries of their rights.

Concerning the modifications introduced by Law no. 8.069/90, Andréa Rodrigues Amin (2015) supplements that, to ensure the efficacy of the principle of comprehensive safeguarding, the legislation above incorporated a range of governmental interventions across the three federative entities. These interventions encompassed fundamental social policies, social assistance policies and programs, specialized preventive services, and medical and psychosocial support for individuals subjected to neglect, mistreatment, and abuse. Furthermore, the law also stipulated legal and social protection provided by non-governmental organizations.

Therefore, alongside its opposition to the historical practices perpetuating social exclusion, the doctrine of complete protection encompasses a comprehensive framework about conceptual, methodological, and legal aspects. This framework enables us to comprehend and tackle challenges concerning children and adolescents through the lens of human rights (Saraiva, 2010).

Saraiva (2010) asserts that the Child and Adolescent Statute is founded upon the concept of Guarantee Systems, which are categorized into three primary axes that function in a harmonic, sequential, or simultaneous manner. The primary guarantee system is founded upon Articles 4, 85,

86, and 87 of the ECA and centers on formulating public policies to ensure the universal welfare of Brazil's child and youth population without any form of discrimination. The secondary system of guarantees is primarily concerned with addressing the needs of children and adolescents who have experienced victimization and whose fundamental rights have been infringed upon. The subject matter pertains to the arts, specifically focusing on provisions outlined in articles 98, 101, and 136. These articles establish protective measures and designate the Guardianship Council as the entity responsible for their implementation. The tertiary system of guarantees commences concerning Article 103 and centers its attention on adolescents involved in legal disputes.

The Brazilian Statute places utmost importance on the well-being of children and adolescents, recognizing their specific needs and rights within the constitutional framework. These prerogatives are established as constitutional principles, guaranteeing them a differentiated treatment that acknowledges their unique developmental stage. Nevertheless, as Saraiva (2010) emphasized, the Child and Adolescent Statute, commonly referred to as the tertiary system of guarantees only for adolescents, acknowledges additional particular guarantees in addition to the constitutionally established set of rights and guarantees for both segments.

Considering the sources mentioned, it is possible to observe that during the minorist period, the legislations were directed towards a particular set of children and adolescents, as observed from normative, doctrinal, and jurisprudential perspectives. As per legislators and law enforcement officials, the term "minor" has been recognized as a technical-legal terminology utilized to designate youngsters or teenagers in an abnormal position. However, the disclosed information highlighted a biased targeting of children from families residing in vulnerable and socially precarious circumstances for an unwarranted state intervention. This intervention was based not on the actual act committed but on the assumption that there is a correlation between abandonment, poverty, and a propensity for delinquency.

In contrast, the protectionist method stands out by critiquing the preceding model as a foundation for comprehending the fundamental principles of the theory of complete protection. The promulgation of the Federal Constitution of 1988 and the implementation of the Statute of Children and Adolescents resulted in a significant shift in the legal framework of Brazilian childhood. This transformation replaced previous legislation that had categorized children into different groups and instead established a constitutional and legal framework that recognized the equality of all children and adolescents. Consequently, children and adolescents were acknowledged as legal subjects with unique developmental needs and entitled to a comprehensive safeguards system.

Despite the legal recognition of children and adolescents' rights, a practical problem persists in effectively exercising and preserving these rights. In the context of adoption, a pertinent inquiry emerges regarding the measures undertaken to ensure the optimal welfare of the child. Despite the

implementation of formal measures to protect the rights of children and adolescents, such as the Federal Constitution of 1988 and the ECA of 1990, which sought to eradicate discriminatory and punitive practices that have been prevalent throughout history, there remains evidence of the perpetuation of stigmatizing notions and behaviors towards Brazilian childhood and adolescence. These notions and behaviors takes us back to the historical era of colonialism, the institution of slavery, and the legislative frameworks known as the Minors Codes of 1927 and 1979. For Nakamura (2019), these notions and behaviors can be observed, for an example, on massive and unrestricted publicity programs for the image and availability of children and adolescents for adoption by the Judiciary

Regardless of the formal social protection sought through legislative measures such as the Federal Constitution of 1988 and the ECA (Statute of the Child and Adolescent), child vulnerability in the Brazilian context reveals inadequate social protection perpetuated within the justice institutions. Concerning that, Paulo & Kodato (2015) highlight that social conditions experienced by young individuals in Brazil who find themselves in vulnerable situations are characterized by persistent issues often downplayed and seen as typical. These issues manifest in various forms, such as abandonment, neglect, or mistreatment. These facts are frequently seen and extensively debated. The historical legitimization of breaches against the rights of children and teenagers is widely acknowledged, primarily attributed to the omissions, ineffectiveness, and lack of commitment exhibited by a significant portion of public authorities. This neglect affects a specific group characterized by age, gender, race, and other relevant factors. In order to provide a more comprehensive understanding of the relationship between legal provisions and the actual experiences of Brazilian children and adolescents within the adoption system, the subsequent chapter presents an examination of adoption practices within the Brazilian jurisdiction as outlined in official documents. This analysis encompasses both the theoretical and practical challenges associated with adoption and the discourse surrounding it within the realm of psychoanalysis.



### 3. Adoption

#### 3.1 A brief history of adoption in Brazil

In her scholarly study titled *História Social da Criança Abandonada*, Maria Luiza Marcílio examines the progression of support provided to abandoned children and identifies three distinct phases in this realm of aid. The phases can be categorized into three distinct periods. The first phase, the charity phase, spanned from the early 19th century until the mid-19th century. Following this, the second phase, known as the philanthropic phase, extended until the 1960s. Lastly, the third phase emerged in the last few decades of the 20th century, introducing the State of Social Welfare concept and emphasizing the recognition of children as rights-bearing individuals. The author highlights the recurring presence of omission, negligence, and disinterest in the historical treatment of abandoned children. Brazilian municipalities have consistently failed to prioritize these issues, relegating them to a secondary position. Consequently, it has been the responsibility of civil society to provide care and financial assistance to these vulnerable individuals.

The initial stage, the philanthropic phase, persisted until the 19th century. During this period, it was closely associated with religious matters and primarily employed by the affluent to seek spiritual redemption by addressing the urgent necessities of the less fortunate. However, the primary focus of this phase did not encompass any long-term societal transformations. During this phase, the vulnerable child in question was perceived as a delicate and helpless entity who had been unjustly forsaken. Consequently, despite the lack of support from the government, it fell upon individuals and organizations to assume responsibility for these neglected children. The provision of support was facilitated by Municipal Councils, who offered financial aid to *Rodas dos Expostos* and facilitated the placement of these children in foster homes. According to Marcílio (1998), Brazil's informal child protection system has been consistently prevalent and extensive, spanning from the 16th century to the contemporary day.

Since the year 1521, when the *Manueline Ordinances* were established, the primary responsibility for protecting and upbringing children rested with their parents or relatives. In cases where parents or relatives were absent, it became the community's duty to ensure the welfare of abandoned or orphaned children by sending them to hospitals or foundling homes. The primary responsibility for the welfare of exposed children would rest with the Municipal Councils. In cases where parents, relatives, and the community were absent, these children would be placed under the supervision of the municipal authorities and financially supported through funds collected by the municipal councils via a dedicated tax established explicitly for this purpose. The town councils' responsibility terminated upon the children reaching the age of seven, which was transferred to orphan judges until they reached 20. The responsibility of determining the placement of abandoned

individuals into either foster families or employment rested with the judges. The prognosis above was conveyed to the Philippine Ordinances and persisted in this structure until the initial Brazilian Civil Code was enacted in 1916 (Marcílio, 2010).

Alessandra Zorzetto Moreno (2010), emphasize that during the period of Portuguese colonization in America, the Municipal Chambers and the Holy Houses of Mercy established and managed a system intending to incentivize the care of abandoned individuals financially. However, due to limited financial resources, only a few Chambers could provide monetary support to wet nurses, and the *Rodas dos Expostos* institutions dedicated to caring for abandoned children only expanded their operations in the 19th century. Consequently, the responsibility of assisting orphans and abandoned individuals in Brazil fell primarily on private individuals who welcomed them into their homes, often as foster children.

The Chambers aimed to offer monetary support to "breeding families," a term coined by Venâncio (2017) to refer to households that took in or accepted abandoned infants. Hence, it is imperative for the individual who discovers or takes custody of an infant to prioritize the administration of the sacrament of baptism. Subsequently, the clergyman would generate an official record attesting to the child's reception by said individual and the provision of adequate care. With the possession of said document, one may seek financial aid from the President of the Chamber. The President would then evaluate the issue, considering personal connections or patronage relationships. The infant's name would be recorded in the Exposed Persons' Registration Book if approved. The Chambers provided financial support for the child's upbringing until age seven, offering a variable sum commensurate with "a few kilograms of cassava flour and dried meat per month.". The family had the autonomy to select the payment structure, which allowed them to collect the funds either quarterly or upon the completion of the project, either by death or upon reaching the maximum age.

The Chambers mentioned in the text were subject to more significant publicity compared to the Holy Houses. These Chambers were established in various locations, including Salvador, Rio de Janeiro, São Paulo, Curitiba, and Minas Gerais. In Minas Gerais specifically, five Assistance Chambers served thirteen cities and towns. Nevertheless, the procedure for seeking assistance proved arduous, as the individual who offered refuge to the abandoned child encountered extensive interrogations. This included being compelled to take an oath with their hand placed upon the Bible and being required to disclose any knowledge regarding the child's biological parents.

Additionally, neighbors were questioned regarding the circumstances surrounding the child's abandonment. In essence, a comprehensive system was in place that inadvertently perpetuated the marginalization of infants in need rather than effectively aiding those who sought to shelter them. As a consequence, the occurrence of abandonment persisted, with private assistance emerging as the prevailing mode of support. The phenomenon of "raising" children from socially disadvantaged

backgrounds resulted in extensive networks that involved the aggregation of children from various families and their subsequent circulation within extended family units. These youngsters were often utilized as apprentices or domestic assistants, harnessing their labor for future purposes (Venâncio, 2017).

The limited and challenging support provided by the Chambers notwithstanding, the Houses of Mercy assumed a pivotal role in the reception and provision of care for abandoned individuals through the Rodas dos Expostos. However, in contrast to the Chambers, the *rodas* were exclusively found in the urban areas of Salvador, Recife, and Rio de Janeiro throughout colonial Brazil. Following the country's independence, twelve *rodas* were constructed across Brazilian territory. The genesis of exposed wheels can be traced back to the historical context of spinning cylinders employed in medieval monasteries and convents. These cylinders were initially created to transmit food, messages, and objects to the inhabitants, who willingly embraced a secluded lifestyle devoid of external interactions. For Marcílio (2016), the rotating device known as the *roda* was utilized by parents, referred to as oblates, who desired to relinquish their children to devote themselves to religious service. This mechanism allowed for anonymous abandonment, as parents would place their infants on the wheel. Consequently, hospitals established during the 12th and 13th centuries adopted this practice by affixing wheels to their walls, facilitating the reception and care of abandoned children. In the study conducted by Diane Valdez (2004), it was observed that the terms "exposed," "foundling," and, to a lesser extent, "destitute" were employed to denote the state of being an abandoned infant.

Miriam Lifchitz Moreira Leite (2019), punctuates that the primary aim of the circle was to rescue abandoned infants and subsequently employ them, as it served as one of the social endeavors aimed at directing the impoverished populace towards becoming productive members of the working class, thereby removing them from the perilous realm associated with "prostitution" and "vagrancy." The act of abandonment was prevalent and occurred regularly, accompanied by a resigned acknowledgment of the high rate of newborn mortality until the onset of the 19th century, and for Marcílio (2016), exposed children's circles served as the sole support for abandoned children for over 150 years in Brazil. This practice began with the establishment of the Salvador Circle in 1726 and continued until the 1990s when the activities of welcoming exposed children ceased. In 1950, the São Paulo and Salvador circles were closed, marking the end of their existence as the final remaining circles of their kind in the Western region.

For many *expostos*, abandonment happened in its most dire form, wherein they were effectively subjected to a death sentence due to being left in various locations such as roadways, waste dumps, abandoned beaches, open spaces, and occasionally, if fortunate, at the doorsteps of private individuals. However, it is essential to note that these children may face mortality due to various

factors such as complications arising from high-risk pregnancies, often resulting from incomplete abortions, as well as conditions like fevers, navel infections, malnutrition, inadequate nutrition, diarrhea, intestinal parasites, scabies, syphilis, and even adverse effects stemming from mistreatment and neglect (Moreno, 2010). Upon successfully enduring these numerous adversities, the individuals in question found themselves embraced and nurtured by various families. The nature of their relationship with these families determined their social standing, whether as orphans, godchildren, nephews, household members, or apprentices. Ultimately, they assimilated into the role of a *filho de criação* (foster child). Nevertheless, irrespective of the appellation bestowed upon him, he exhibited qualities that were incongruous with the notion of filial relation.

As previously noted, abandoned children frequently integrated into the foster care system due to the lack of clear regulations governing adoption in Brazil, a legal framework that has been in place since colonial times. Therefore, one could argue that adoption was not a common occurrence in the everyday lives of Brazilians. However, this legal gap merely reflects a lack of willingness to establish filial relationships through adoption, possibly due to an overemphasis on biological ties and the associated inheritance-related property matters. According to Silvia Maria Fávero Arend (2010), the act of adoption, which involves integrating an abandoned or exposed individual into another family, was a common practice. However, the societal perception of the exposed infant as a social outcast was primarily attributed to the absence of familial connections, which held significant importance in a society where such ties were still considered essential.

It is worth mentioning that on October 12, 1927, the promulgation of Decree No. 17,943-A60 took place, marking the establishment of the inaugural Minors Code in Latin America. According to Marcílio (1998), the primary purpose of this Code was to establish regulations explicitly about neglected and delinquent children and adolescents. It also conferred significant authority to juvenile judges, empowering them to intervene and, if necessary, remove parental rights and guardianship in cases involving criminal behavior or antisocial conduct by parents or caretakers. According to Lidia Natalia Dobrianskyj Weber (2015), implementing this new Code did not effectively decrease the prevalence of abandoned children. Instead, it primarily focused on institutionalization to purportedly safeguard childhood.

Institutionalization persisted despite implementing the Minors Code, which purportedly aimed to provide adequate care for children. Consequently, the emergence of the Republic in Brazil accentuated the stark contrast between the privileged child and the underprivileged child. The initial individual, predestined to assume influential societal roles, garnered the family's focal point and received educational endeavors. Conversely, the subsequent individual, referred to as the minor, belonged to the marginalized segments of society and was subject to heightened scrutiny by the collective, necessitating their preparation for the labor market through rudimentary and vocational

instruction. This observation highlights the limited attention given by minorism to the issue of child subjects and their rightful integration into families. Instead, minorism perpetuates the exclusion of these young individuals from society, viewing them solely as a source of inexpensive labor.

The heightened awareness regarding the issue of abandoned kids emerged primarily during the 20th century. However, the implementation of comprehensive laws aimed at addressing the needs of abandoned children in Brazil was hindered by the prevailing social norms, posing challenges to adequately providing care for this vulnerable population. Despite legal regulations governing adoption in Brazil, such as the Civil Code of 1916 and subsequent legislative amendments, a significant development occurred on June 2, 1965, with the enactment of Law No. 4,655, which introduced provisions about adoptive legitimacy. The concept of adoptive legitimation refers to the legal process by which a child under seven who has been abandoned, orphaned, or destitute is permanently separated from their biological family and granted irrevocable status. This process involves the placement of the child with a couple or, in rare cases, a widowed individual (Chaves, 1966). Nonetheless, this technique raises ethical concerns as the child in issue is not afforded the same rights as those biologically born into the family, including being denied the right to hereditary succession.

The shift in societal demand from seeking domestic workers to pursuing children for adoption has led to a gradual transition from Family Placement Agencies to Adoption Agencies. Adoption emerges as a highly effective mechanism for safeguarding the well-being of children, prompting a critical examination of the merits of institutionalizing minors. Moreover, it aligns with deconstructing biological determinism concerning parenthood, aiming to foster genuine socio-familial integration (Costa, 1988).

In response to emerging societal norms, Law No. 6.697, also referred to as the Statute of Minors, was enacted on October 10, 1979. This legislation superseded the Minors Code of 1927 and Law No. 4,655/65, which previously governed the process of adoptive legitimation. The Statute of Minors changed terminology by introducing the new Codex, which is full adoption. According to Allyrio Cavallieri (1984), the new Code incorporated the concept of irregular circumstance, wherein minors are considered legal subjects when they are in a condition of social pathology that is legally defined. Faleiros (2011) highlights that the child would be considered in a state of irregularity as defined by article 2 of Law n° 6,697/79 if they experience deprivation of essential conditions for subsistence, health, and education. This deprivation can be attributed to parental or guardian negligence, omission, or irresponsibility. Additionally, the child may be deemed irregular if they are subjected to mistreatment, exposed to moral danger through exploitation, engaged in activities that contravene societal norms, lack legal representation, or have engaged in misconduct or criminal behavior. The implementation of new legislation has significantly enhanced the advancement of

adoption. This legal framework encompasses two types of adoption: simple adoption, sanctioned by a judge and applicable to minors facing irregular circumstances, and full adoption, previously referred to as adoptive legitimation. The recently enacted Minors Code regulated both forms of adoption. Furthermore, alongside the adoption categories, there existed an additional form known as traditional or civil adoption, regulated by the Civil Code. This method involved the execution of a legal document at a Notary's Office, facilitated through a contractual agreement between the involved parties (Weber, 2015).

The topic of institutionalization targeting impoverished children and adolescents in Brazil, particularly concerning social movements, was subject to significant scrutiny in the 1980s, coinciding with shifts in paradigms around childhood. The Citizen Constitution, sometimes called the Federal Constitution, was promulgated in 1988. Subsequently, after two years, precisely on July 13, 1990, the legislative measure known as Law No. 8.069/81, commonly referred to as the Child and Adolescent Statute, was officially promulgated. We now embark on a fresh approach to childhood, moving away from the notions of disadvantaged, neglected, delinquent, impoverished, and irregular minors. Instead, we embrace a holistic framework for safeguarding the well-being of children and adolescents, no longer singling them out as "minors." For Rizzini and Celestino (2016), after this period, there was a growing acknowledgment of children and adolescents as bearers of rights, thereby challenging the traditional paradigm of guardianship and promoting a collective approach to their care, which involves the State, family, and society.

According to Stella Scantamburlo de Mergár (2019), it is argued that the existence of the ECA (*Estatuto da Criança e do Adolescente*) undermines the justification for the institutionalization of children and adolescents based solely on their impoverished status. Furthermore, it is emphasized that such institutionalization should not be carried out in a discretionary and obligatory manner. Furthermore, there is no specified time constraint. Nevertheless, despite implementing a novel system that purportedly prioritized the welfare of children, including those who were abandoned, delinquent, or vulnerable, prevailing social norms and perceptions of these children did not swiftly dissipate, resulting in the persistence of numerous conventional beliefs.

### 3.2 The Adoption Law and changes in the adoption scenario in Brazil

Significant transformations within the adoption scenario were observed solely after the introduction of the 1988 Federal Constitution. This constitutional amendment solidified safeguarding children and adolescents through the Doctrine of Integral Protection, founded upon the Principle of Absolute Priority. Additionally, it ensured equal treatment for children regardless of their background, explicitly prohibiting any form of discrimination as stated in Article 227 of the Federal

Constitution. There is a notable emphasis within the adoption institute on prioritizing the welfare and interests of the adopted rather than solely focusing on the adopter. The change mentioned earlier is brought to attention by Maria Regina Fay Azambuja (2004), who provides an in-depth analysis of the significance of art. 227 in the 1988 Federal Constitution of Brazil. This constitutional provision establishes the country's dedication to the Doctrine of Comprehensive Protection, which guarantees children and adolescents the recognition as individuals with rights, fostering their growth and development and prioritizing their well-being above all else. Since that time, there has been a reversal in the concentration of priority. In the preceding legal framework, the welfare of the adult was given precedence. The primary focus of the New Charter is to prioritize the child's best interests. The Brazilian legal system has witnessed an increased emphasis on safeguarding kids with the enactment of the Child and Adolescent Statute – Law 8.069 on July 13, 1990. This legislation replaced the Minors Code and introduced comprehensive regulations and guidelines about various aspects concerning minors.

The Statute has abolished the distinction between simple and full adoption, consolidating them into a single category. It also establishes regulations for adoption, which now apply to all minors under 18, regardless of their irregular circumstances, as previously stipulated in the repealed Minors Code. According to the current legislation known as the Child and Adolescent Statute in Brazil, the several forms of adoption that previously had limited effects have been abolished. Consequently, adoption now possesses distinct characteristics, namely its uniqueness and irrevocability, while simultaneously establishing a legal relationship of filiation between the adoptee and the adopter(s). This legal process effectively severs the adoptee's previous familial ties — biological factors, except marriage-related obstacles. The adopted child is assimilated into the new family with equal entitlements afforded to any other child, regardless of their background.

As stated by Lôbo (2008), the changes above have had a defining role in shaping contemporary adoption practices, particularly concerning the decline of the concept of the "adopted child." The concept of adoption is currently recognized, primarily theoretically, as a distinctive method of establishing familial connections. Upon the completion of the adoption process, which includes the court ruling and birth registration, the individual who has been adopted assumes the legal status of a child. In 2009, a shift in the legal landscape of adoption occurred, stemming from this particular perspective. Before 2009, the regulation of adoption in Brazil was governed by the Brazilian Civil Code (2002), specifically in articles 1.618 to 1.629. The National Adoption Law effectively repealed nearly all legislation on adoption while also amending the language of the Child and Adolescent Statute. Law No. 12.010, enacted on August 3, 2009, was formulated to streamline the adoption procedure and enhance the protection and oversight of children and adolescents whom both Brazilian citizens and foreigners adopt.

The recently enacted legislation, the "National Adoption Law," has brought about significant amendments to the Child and Adolescent Statute, specifically Law No. 8.069 of 1990. This new law has effectively repealed a substantial portion of the articles governing adoption within the 2002 Civil Code while also introducing modifications to the Consolidation of Labor Laws (CLT). These changes have incorporated established positions from legal doctrine and jurisprudence into the Brazilian legal framework. Law 12.010 of 2009 was enacted to replace specific provisions within the text of the Child and Adolescent Statute that required updating following its initial approval. These provisions were deemed inappropriate in light of the fundamental principles of the Statute. They conflicted with the principles and regulations established within the Brazilian legal framework. The alteration replaces the term "national power" with the phrase "family power" following the constitutional text. Moreover, the legislation was modified to align with the terminology established in the 2002 Civil Code. Consequently, the term "concubinage" was substituted with the term "stable union." The wording was additionally revised to include "shared custody" as a potential arrangement in instances of adoption by divorced, separated, or former partners (Article 42, Section 6, ECA).

One notable alteration that should be emphasized is the modification of the Statute to align with the revised legal definition of the age of civil majority. This revision, implemented by the Civil Code of 2002, reduced the age of civil majority from 21 to 18 years. The Statute effectively modifies the minimum age requirement for adopters following the interpretation that has been consistently applied since the implementation of the Civil Code.

The recent legislation has brought about the consolidation of maternity leave durations for adoption. This was achieved by repealing sections 1, 2, and 3 of article 392-A of the CLT, explicitly addressing the duration of maternity leave for adoptive mothers. Consequently, the legislation terminates the progressive structure of maternity leave durations, which previously mandated the following timeframes:

- 30 days of leave for children between the ages of 4 and 8 years.
- 60 days of leave for children aged 1 to 4 years.
- 120 days of leave for children under the age of 1 year.

Hence, in all instances of adoption or legal custody for adoption, the duration of maternity leave has been standardized to 120 days, irrespective of the child's age. The provision of a 180-day license, as authorized by Law 11,770 of 2008, is available.

In addition to the adaptations mentioned above and updates, notable innovations include:

- the provision of psychological support to pregnant women and mothers during the pre- and post-natal period;
- the recognition of the right to family life;
- the establishment of specific requirements for adoption;
- the recognition of adoption by homosexual couples;
- the acknowledgment of the right to access information about one's biological origin;
- the establishment of the National Adoption Registry (CNA);
- the introduction of a cohabitation stage.

Moreover, the implementation of Law No. 12,010 in 2009 enhanced stringency and protection for minors in foster care with families residing outside their home country. This legislation introduced novel protocols for facilitating international adoption, ensuring more robust safeguards and stability for children and adolescents involved in such processes.

### 3.2.1 Psychological assistance to pregnant women and mothers in the pre- and post-natal period

In order to promote familial coexistence and preserve the presence of children and adolescents within their biological families, it is imperative to ensure that placement in an alternative family setting is only pursued as a last resort, with the utmost consideration for the well-being and best interests of the child. Law 12.010 extended the provisions in the Child and Adolescent Statute, which granted pregnant women and nursing mothers the entitlement to medical treatment and nutritional support. Additionally, this law introduced the right to psychological assistance for pregnant women and mothers during both the pre and postnatal stages. According to the provisions outlined in Article 8 § 4, it is incumbent upon the public authorities to ensure the provision of psychological support to expectant mothers and mothers during the antenatal and postnatal periods. This aid serves as a means of preventing or alleviating the repercussions of the puerperal stage.

This innovation underscores the significance of psychological care to prevent or alleviate the potential risks associated with the postpartum period. Addressing postpartum depression aims to discourage impulsive behaviors that may lead a mother to consider giving up her child for adoption or engaging in actions that could jeopardize the child's well-being. The potential hazards posed to the well-being and survival of the neonate. In this context, it is essential to note that pregnant women and mothers who demonstrate a desire to relinquish their children for adoption are entitled to receive psychological support, as stipulated in §5 of Article 8 of the Child and Adolescent Statute. Additionally, as outlined in Article 13, a single paragraph of the same statute must be directed to the Children and Youth Court. This referral aims to ensure that the mother fully comprehends the

implications of her decision and that her consent is not compromised by the vulnerable circumstances surrounding it.

### 3.2.2 Right to family life

Article 227 of the 1988 Federal Constitution establishes the entitlement of children and adolescents to the fundamental right of family life. The primary focus is on the harmonious cohabitation of the child or teenager with their "biological family," as defined by the Child and Adolescent Statute's article 25. This family unit consists of the biological parents or either of them and their offspring. Furthermore, the newly enacted legislation acknowledges the concept of an "extended" or "expanded" family, which encompasses immediate biological relatives with whom the minor resides and retains emotional or affectionate connections (as stated in article 25. The act of placing a kid in a "substitute family" through means such as custody, guardianship, or adoption should be considered an extraordinary action, to be pursued only when it is not feasible to preserve the child or teenager within their "natural family" or the "extended family."

The legal system exhibits a preference for family fostering, which entails temporarily separating a child or teenager from their "natural family" under the guardianship of an individual or couple registered in the foster care program. The kid will only be brought to a shelter as a measure of last resort, as stipulated in Article 34, Section 1 of the Statute. In all of these scenarios, the legal system acknowledges the entitlement of children and adolescents to exercise their right to freedom of expression. It is specified that their opinions must be considered, considering their level of cognitive and emotional development. Notably, children aged twelve and above must express their views, which can be obtained through a formal hearing.

In order to uphold the right to family life and prioritize the preservation of the child or adolescent within their natural or extended family, as well as to underscore the temporary and exceptional nature of placing a child in a shelter, Law 12.010 of 2009 introduced three additional paragraphs to Article 19 of the Child and Adolescent Statute. These paragraphs establish the requirement to periodically reevaluate the circumstances of a child or adolescent residing in institutional care, with reassessments occurring at intervals not exceeding six months (§1). In order to achieve the same objective, the newly enacted legislation has implemented a provision (§2) that sets a maximum duration of 2 years for institutional care unless there exists a substantiated necessity. Additionally, the law prioritizes reintegrating children and adolescents into their biological families (§3).

### 3.2.3 Requirements for adoption

Under the new law, adoption continues to be that exceptional and irrevocable measure of placing a child and adolescent in a surrogate family, which must primarily meet the interests of the adoptee<sup>25</sup>. The adoption bond is constituted by a court ruling, which will be registered in the Civil Registry employing a warrant. At this point, the original registration of the adoptee will be canceled. Registration certificates cannot contain any observations about the adoption, according to the original text of article 47 on ECA. The law innovates by allowing the adoptee's registration to be drawn up at the Civil Registry Office of the adopter's municipality of residence (Article 47, §3, ECA). It also innovates regarding the change of the adoptee's first name, requiring, for this purpose, the hearing of the adoptee, as provided for in §6, Article 47 of the Child and Adolescent Statute. If the adopter requests the first name change, listening to the adoptee observing the provisions of §§ 1 and 2 of Art. 28 of this law is mandatory. The requirements for adoption were maintained in the reform: adoption is permitted regardless of marital status, as long as there is a difference of 16 years between adopter and adopted, and as long as at least one of the adopters is 18 years old (article 42, ECA). Adopters must be married or live in a stable union to adopt jointly, as Article 42, paragraph 2 of the ECA provides. However, the law is silent regarding the possibility of joint adoption by homosexual couples. Given the omission, it will be up to the interpreter to decide whether the homosexual stable union meets the requirement.

### 3.2.4 Adoption by homosexual couples

The legislation does not impose any stipulation that predicates the legal feasibility of adoption on the sexual orientation of the individuals seeking to adopt, nor does it explicitly forbid adoption by couples of the same sex. The legislation permits the adoption of children by both individuals and couples, including those who are married or in a committed relationship. The legal feasibility of adoption by those identifying as homosexuals is contingent upon the judge's discernment and personal principles. The argument frequently employed as a barrier to prospective dads or mothers in the context of adoption by same-sex couples is the legal stipulation of gender variety as a prerequisite for a stable partnership. Despite the constitutional provisions safeguarding various types of family entities as outlined in Article 226 of the 1988 Federal Constitution, there is still a significant reluctance to embrace the emerging notion of family and accepting pluralism within family law.

In Brazil, although family law has undergone secularization, the influence of the Catholic Church remains prominent. The Church has consistently advocated for the recognition of the married family, comprising a heterosexual couple, with the primary objective of procreation as the legitimate

form of family. According to Maria Cláudia Crespo Brauner and Andrea Aldrovandi (2010), notwithstanding the enactment of the 1988 Constitution and the 2002 Civil Code, the regulatory framework formed by the State continues to exhibit the inherent traits of Canon Law.

The previously mentioned features, as observed within legal discourse (e.g., male and female), can potentially be subject to narrow interpretations, thereby serving as justifications that conceal bias and marginalize family structures that do not align with societal norms. This view fails to consider fundamental ideals such as equality and decency. Fortunately, there has been considerable progress in overcoming these impediments, as evidenced by the unusual legal decisions regarding the potential for adoption by same-sex couples, which warrant recognition. These judgments acknowledge the inclusion of stable homosexual relationships within family law, drawing upon the fundamental principles of dignity, equality, and the freedom to express one's sexual orientation. Proponents also acknowledge that granting adoption aligns with the principle of prioritizing the child's best interests. This is supported by many interdisciplinary reports, which demonstrate that being raised by a same-gender couple does not cause any harm to the adoptee. The expansive interpretation of Article 226 of the Federal Constitution is employed, enabling the inference that the enumeration of constitutionally safeguarded families is illustrative, encompassing additional familial entities beyond those explicitly mentioned in the statutory language. Furthermore, through analogy, the extension of rights already afforded to heterosexual unions, such as adoption, is advocated for same-sex unions (Brauner & Aldrovandi, 2010).

### 3.2.5 Right to know biological origin

In the year 2000, the Superior Court of Justice (STJ) acknowledged the entitlement of adult individuals who were adopted to obtain access to their biological parents' personal information and identities. Nevertheless, it should be noted that adoption is considered irrevocable, prohibiting any subsequent claims or requests from the adoptive parents. Another ruling, also dated 2002, was delivered by the Tribunal of Justice of Rio Grande do Sul (TJ/RS).

Following the provisions outlined in Article 48, lone paragraph, of the Child and Adolescent Statute, individuals who have been adopted possess the entitlement to ascertain their biological lineage alongside unrestricted access to the proceedings of the adoption process and any potential ramifications thereof. As mentioned above, the right is legally ensured for individuals who have been adopted once they reach the age of 18. However, minors under 18 can be awarded this right, contingent upon receiving appropriate legal and psychological support and aid. In order to achieve this objective, the recently enacted legislation, namely paragraph 8 of article 47 of the ECA, stipulates that the procedures of adoption, together with any associated processes, shall be documented and

preserved in a manner that permits their storage on microfilm or through alternative methods. This provision ensures the long-term preservation of these records, enabling their accessibility for consultation purposes at any given moment.

The acknowledgment of the right to inquire about one's biological origins does not impede the irrevocable nature of the adoption bond, nor does it grant permission for the permanent alteration of the registration. Concerning this matter, Pietro Perlingieri (2002) emphasizes that minors are entitled to be informed about their genetic, cultural, and social heritage to safeguard their understanding of their genetic identity. The genetic inheritance, as per the concept of structure-function adaptation, is not entirely impervious to the environmental conditions in which an individual functions. Moreover, responsibly, it establishes a connection between the possessor of the genetic legacy and the individual who is born.

However, there are differing viewpoints on this matter from other authors, including Eduardo de Oliveira Leite (1995) and Paulo Lôbo (2008), who express disagreement with this allowance and perceive it as controversial. They argue that granting the right to know one's genetic origin places excessive emphasis on biological paternity while neglecting the importance of emotional or affective paternity. The approval of the potential investigation of biological parents is regarded as a hindrance to the process of de-emphasizing biological lineage. This is because the law, by granting this right, undermines the significance of the socio-emotional connection established between adoptive parents and children, potentially leading to significant and distressing consequences in family dynamics.

### 3.2.6 National Adoption Registry (CNA) and the Coexistence stage/phase

The Child and Adolescent Statute stipulates the establishment of local and regional repositories of information that facilitate the matching of prospective adoptive parents with children and adolescents who require adoption. In this context, after the completion of registration and qualification procedures at the specialized Court, the applicant has the potential to be enrolled in the National Adoption Registry. The registration process will be conducted by either the judge or the judge's assistant within the district where the applicant resides. Under being included in the Child Welfare National Database (CNA), courts nationwide will be granted access to the comprehensive roster of adoption applicants.

The National Adoption Registry is a comprehensive database that contains information on children and adolescents who meet the criteria for adoption and prospective adoptive applicants. This registry was established by the CNJ (National Council of Justice) to streamline and minimize bureaucratic hurdles in the adoption process by implementing standardized adoption banks. The utilization of regional data facilitates the rationalization of qualification procedures, enabling their

implementation in any State or District. This is achieved through a centralized registration process at the individual's residence. Consequently, this approach broadens the scope for consultations with Brazilian applicants, thereby assessing the feasibility of placing a child or adolescent with a surrogate family from another country.

The legal provision emphasizes the significance of the coexistence phase in adoption, even in instances where factual custody is involved (§2), with the exception being made in extraordinary circumstances, such as when the adopter has assumed guardianship or legal custody for a considerable duration to allow for an evaluation of the suitability of establishing a bond (§1). The coexistence internship will be supervised by psychologists and other interprofessional team members, who will provide comprehensive assessments and reports to assess the feasibility of granting the measure.

### 3.2.7 International Adoption

Law No. 12.010 of 2009 has significantly enhanced the scrutiny and protection afforded to children and adolescents in a surrogate family abroad within the context of International Adoption. The legislation is supplementary to the regulations established under the 1990 Child and Adolescent Statute. These regulations played a significant role in mitigating instances of international trafficking of minors during the period spanning from 1988 to 1992. Notably, this illicit activity was closely associated with fraudulent international adoptions, which were prevalent in the nation then.

According to Article 51, Paragraph 1, Item I of the Statute, the international adoption of a child or adolescent from Brazil, or one who is domiciled in Brazil, can only occur if it is demonstrated that placement with a surrogate family is a suitable resolution for the particular situation. Hence, while considering the adoption of a teenager, it is imperative to engage in a consultative process with the individual in question.

This rule exemplifies a commitment to safeguarding the welfare and rights of the adoptee, a fundamental premise that forms the basis of contemporary laws acknowledging children and adolescents as legal entities entitled to the protection of their inherent dignity. As a result, those being adopted are ensured the right to articulate their viewpoints over their placement within a "substitute family." The guarantee of the right to family life also promotes utilizing all available resources to sustain familial bonds within the biological family, with the option of pursuing adoption only when circumstances render it unfeasible. The promotion of sibling connection preservation is also advised in situations where adoption becomes unavoidable.

International adoption is rare, limited to children and adolescents who have not been adopted within Brazil and are moved overseas. As a result, empirical evidence indicates that individuals from

other countries are more likely to engage in late adoptions, adopt siblings, or adopt children and adolescents with health issues. This is due to the prevailing preference for newborn infants in Brazil.

### 3.3 Adoption and Psychoanalysis

Psychoanalysis demonstrates that the child's position within the family narrative is distinct and unparalleled. The concept of adoption is intricately woven into the imaginative formation of every individual throughout a particular stage of their development. In order to engage in a comprehensive analysis of adoption from a psychoanalytic perspective, it is imperative to delve into the theoretical underpinnings surrounding the child's position within the mother's desire (or the individual who assumes this role) and the indispensable role of the paternal function as a regulatory force in the subjective development of the individual within the realm of neurosis. Patrícia Aurília Breckenfeld Alexandre de Oliveira & Jailma Belarmino Souto (2017) states that psychoanalysis emphasizes the father and maternal functions, which are not determined by the biological distinction between males and females but rather by the role assumed by the individual who takes on the responsibility of nurturing a new being within their desires. Therefore, regardless of whether it is a heterosexual or homosexual pair or originating from any other family structure, what will be dominant is the establishment of maternal and father roles, with the phallus symbolizing authority.

In Seminar 5, titled *Formations of the Unconscious*, Lacan (1957-1958/1999) directs his attention towards the Oedipus Complex and the father's significance in influencing the dynamics between the mother and child. The ordering of the subject is contingent upon the presence or absence of symbolic functioning, as determined by the interplay between psychosis, neurosis, and perversion. In his initial clinical work, Lacan, when revisiting Freud's concept of the Oedipus complex, introduced three distinct temporal dimensions to elucidate the child's subjective positioning concerning the enigmatic nature of their existence.

Initially, Lacan (1957-1958/1999) highlights that the child assumes the role of an "imaginary phallus," as the subject engages in a specular identification with the object of the mother's desire, namely the "phallus." The initial phase of the Oedipus complex is characterized by an abstract construct including three elements: the mother, the phallus, and the child. During the latter part of the narrative, the father intercedes in the mother's inclination and denies her the opportunity to engage in this conversation. The crux of Oedipus' predicament resides in the intimate bond he shares with his mother, as seen by his reliance on a legal code that does not belong to her but to the paternal figure, sometimes referred to as the *Other*. The crucial aspect to be identified in this manner is the discernment of its definitive nature, which can be attributed to the association with the paternal discourse rather than the paternal figure itself.

During the third period, the father assumes a tangible and influential role by providing support, actively engaging, and intervening. The paternal figure possesses the ability to fulfill the maternal figure's desires. Hence, potency in the context of genitality becomes relevant in this scenario - assuming that the father possesses reproductive capability. As a consequence, the maternal bond with the paternal figure reverts to the realm of reality (Lacan, 1957-1958/1999, p. 200). Drawing from the premises at hand, Lacan (1957-1958/1999) places significant emphasis on a distinctive matter about the mother's desire, which influences the subject. Lacan asserts that the mother is crucial to the child's desires. What are the desires or objectives of the subject? The author in question will argue that the need for the mother is not merely a superficial want for attention, interaction, or physical proximity but rather a profound desire for her as a whole. The initial symbolization presented in this context confirms the child's desire, which sets the stage for the ensuing complexities of symbolization. These complexities arise because the child's desire is intertwined with the mother's.

The initial symbolization introduces the youngster to the possibility of the mother's alternative desires. Hence, the paternal figure acquires a pivotal role within the dynamics of this subject's relationship when navigating the Oedipus Complex, as he becomes the agent responsible for depriving the mother of her desired object - the phallic object. Therefore, the desire of the Other, which is synonymous with the mother's desire, encompasses a conceptual realm essential for facilitating the symbolic law. According to Cristina Drummond (2005), the mother holds a significant role in the child's life, serving as a constant presence. The child's responsibility lies in restoring the father figure, transforming him into a suitable model for further personal development. The paternal communication directed towards the maternal inclination is not limited to the statement "you shall not engage in sexual relations with your mother" but rather encompasses the directive of "you shall not reintegrate your object," specifically aimed at the mother (Lacan, 1957-1958/1999, p. 209). Lacan proposes that the child does not become solely the focus of the mother's desire due to the influence of the paternal restriction, which prevents the circle from fully enclosing the child. The mother's desire is not directed towards the child itself but rather towards her desire (Oliviera & Souto, 2017).

Revisiting the original notion of adoption as a spectral construct experienced by every individual during a particular stage of their existence. In his work "Family Romances," Freud (1909/1996) highlights the inclusion of adoption in forming familial fantasies experienced by every kid. He further suggests that these fantasies encompass several aspects, such as origin, progression, and goals, influenced by their engagement in clinical settings.

The function of parents holds significant importance as they serve as the primary source of knowledge for children, thereby playing a critical role in their overall development. This narrative explores the dynamics inside a family unit, specifically focusing on the inquiries that arise over one's familial connections, origins, and sexual identity (Freud, 1909/1996). Fryd (2005) recaptures Freud's

theories that suggest that the concept of an adopted child can be seen as a familial melodrama that reinforces the desire of neurotic individuals to have more deserving parents, aligning with their idealized aspirations. Children utilize fiction to construct a hypothetical representation of the bond that connects them with their parents.

In his article titled "Family Complexes in the Formation of the Individual," Lacan (1984/1987) employs the term "family complex" to elucidate his theoretical framework. In the present discourse, the author examines the aforementioned familial dynamic and perceives it as a collective of individuals that assume a central function in disseminating cultural values and fosters a psychological connection over successive generations, with its underlying causation rooted in cognition. Concerning this matter, Lacan (1984/1987) argues that in the context of adoption, cultural factors tend to exert a more significant influence than biological ones, as the sense of paternity is shaped by spiritual principles that have shaped its evolution. Françoise Dolto (1998) asserts that adoption challenges the notion that human beings are solely defined by their biological connections. The author posits that culture and language are crucial in shaping relationships.

Bassols (2016) explores the concept of the family as a symbolic system in his work. He argues that interactions are structured around a dominant signifier within this system. While contingent and unique, this signifier plays a crucial role in facilitating identification with the processes of reproduction and descent. Individuals' inquiries pertain to how symptomatic pleasure is experienced when establishing familial connections. According to Lacan (1957-1958/1999), the child's enrollment in their "unspeakable and foolish existence" is determined by the desire of the Other. Language has the potential to facilitate the emergence of a desiring subject who acquires and utilizes speech to establish their position within the community of speakers (Lacan, 1957-1958/1999).

In this context, utilizing the theories proposed by Lacan and Dolto elucidates that establishing family connections and developing the individual fundamentally rely on language and the construction of symbolic representations. According to Danielle Ferreira Gomes Moura (2013) in her work "Maternity and Power," the absence of guarantees for the subject, whether biologically determined or through adoption, is emphasized in Psychoanalysis. The genetic relationship between the subject and their parents is deemed irrelevant, as what holds significance is the subject's inscription in a desire that is not anonymous.

Freud's (1915/1996e) exploration of the unconscious and its association with the concept of the psychic subject reveals that the mere existence of biological processes does not ensure a child's integration into the symbolic realm or their subjective development. Consequently, this challenges the prevailing belief regarding the essential factors that contribute to the survival of a newborn. Maintaining the body's essential demands is of utmost importance, but this cannot be achieved without implementing disciplined routines, notwithstanding the lasting impact they may have.

Identifying a specific language through which the desire can be expressed is necessary to effectively embody the concept (Soler, 2005). In this context, it is imperative that children, regardless of their biological status, undergo a subjective and voluntary process of adoption by their caregivers. On the other hand, the refusal to acknowledge the presence of a kid, regardless of their biological connection, can give rise to various adverse circumstances such as neglect, vulnerability, emotional deprivation, and finally, symbolic acts of harm, all of which can have significant detrimental effects on the child's subjective well-being.

Regarding filiation, Nazir Hamad (2002) provides commentary and asserts that the definition of a family cannot be solely reduced to the biological connection. The concept of family is defined by a process of subjectivization, wherein a child can symbolically become a part of a lineage with the support of their guardians. The specific positioning of each guardian, especially the mother figure, concerning the phallus, plays a significant role in this process. Hence, this inherent longing concludes and constructs the individual's position within their being. In the study conducted by Abeles et al. (2005) on adoption, the authors present their understanding of the concept of family. They argue that family, within the context of adoption, is a construct formed through a deliberate decision made by individuals who desire to adopt. This construct encompasses the transmission of desire, adherence to legal regulations, and the mysterious pleasure that binds the adoptive parents and child together. This study centers on the impact of contact with the enigmatic being manifesting as a child, a presence until absent from our midst.

In his work, *Two Notes on the Child*, initially penned in 1969 and addressed to Jenny Aubry, Lacan (1998) highlights the child's symptoms to address the symptomatic aspects within the family structure. Furthermore, Lacan suggests that the child's symptom has the potential to embody the reality of the familial dyad. Following Lacan's assertion, Drummond (2007) posits that children utilize familial language to organize their linguistic and bodily experiences. In other words, they react to their encounters as the object of the Other's pleasure.

According to Drummond (2005), establishing a family plot for adopted individuals encounters significant obstacles, leading to a more intricate trajectory in developing a familial soap opera. Based on her clinical experience with adopted children, the author highlights a consistent pattern wherein the child invariably inquires about the mother's intentions, emphasizing that this inquiry has no bearing on the adoption process. According to the author, in the context of adopted children, the presence of a biological mother is not guaranteed, which intensifies their engagement with questions surrounding the mother's femininity and motherhood. Consequently, it appears more challenging for them to direct their attention towards the father. From this standpoint, examining the adoption clinic entails contemplating the concept of affiliation, as it emerges as a pivotal concern for an individual's sense of belonging within an established family unit. For Queiroz and Speck (2014), when adoptive

parents cannot complete the registration process for a child, the child is placed in a state of vulnerability and becomes susceptible to further abandonment. This rationale is supported by the fact that when a child is placed for adoption, they have already undergone an initial instance of abandonment stemming from the dissolution of their biological family unit.

Therefore, considering the emphasis of Psychoanalysis on the construction of subjectivity, in contrast to the prevalent biological determinism in other fields of study, it is argued that naming a child is crucial. The absence of this desire can lead to many obstacles that may have profound and long-lasting negative consequences on the child's psychological well-being. Language plays a significant role in the construction, or lack thereof, of both children and parents. From this particular standpoint, adoption is a possible choice for the individual to establish and reconstruct novel emotional connections and secure a position within their familial lineage.

Taken together, the history of adoption is intertwined with the history of childhood, and it can be defined as a path from which children were recognized as rights-bearing individuals. Authors from the present chapter highlight the recurring presence of omission, negligence, and disinterest in treating abandoned children throughout Brazilian history, from colonization until the republican times. Also, they present how civil society was the leading actor and starting practices, which will be, during history, characterized as adoption. However, it is essential to highlight that it was only after the 1988 Federal Constitution and the 1990 Child and Adolescent Statute that we see adoption as a formal and integral form of protection and safeguarding children of their rights, especially concerning life and safety. Also, the new Adoption Law, in 2009, included notable innovations specifically in the field, such as the provision of psychological support to pregnant women and mothers during the pre-and post-natal period, recognition of the right to family life, establishment of specific requirements for adoption, recognition of adoption by homosexual couples, acknowledgment of the right to access information about one's biological origin, establishment of the National Adoption Registry and introduction of a cohabitation stage.

These new documents and dispositions were created to safeguard children and their rights. Institutionalization and adoption were essential to change the child protection course in Brazil. It was only after them that the adopted child's status was equated to a biological child. Considering that, it is essential to the contribution provided by psychoanalysis, proposing a new way of thinking and approaching affiliating and parenting processes that may guide the adoption matter to further discussions and practices. Following the statement made by the famous child psychoanalysis, Françoise Dolto (1998), under the pretext that the law of blood prevails over structure, the human becomes a simple mammal, as if it were the physical characteristics that make someone's son. Humans are not reducible to their biological bonds. It is in culture and language that relationships become structured.



## 4. Silent Violence

### 4.1 An introduction on Violence

The theme of violence pervades our daily preoccupations. It manifests throughout several domains of human existence, encompassing diverse cultures and interconnections among social, cultural, economic, political, public, and private spheres. Moreover, violence operates in multiple dimensions, including material, bodily, and psychological. The conceptual genesis of violence and its conceptualization as a distinct notion are closely intertwined with the societal transition in industrialized cultures, wherein technological and scientific reasons supplanted old frameworks and values of the political community. Concerning this matter, Yves Michaud (1989) posits that the phenomenon of violence is no longer subject to denial and repression but rather acknowledged as a pressing issue necessitating the implementation of practical solutions and therapies. This falls within the purview of phenomena that are subject to social governance.

The present era is characterized by the emergence of scientific and technological advancements, although this does not necessarily ensure a reduction in violence compared to earlier periods. Brutality and savagery are observed within communities that exhibit inadequate development. Nevertheless, within technologically advanced civilizations, the potential for widespread devastation is significant, although violence is rationalized to the same extent as other aspects of postmodern existence. The current era saw the integration of means of destruction, control, and mass communication into management and social instrumentalization. We aim to manage issues and employ sensible methods to address conflicts effectively. Paradoxically, there is a significant escalation in the prevalence of violence (Mello, 2017).

However, contrary to popular belief, Denise Ribeiro Barreto Mello (2017) asserts that violence is not a recent occurrence but rather a pervasive issue that transcends cultural boundaries. It is an inherent aspect of the human condition, and its repercussions directly impact individuals' and communities' physical and mental well-being. Thousands of lives are lost annually, while others endure injuries, assaults, self-inflicted harm, mutilations, and other forms of violence. Additionally, those near these incidents often bear the burden of their consequences, which may manifest as temporary incapacitation, permanent disability, or even death.

Various data have been utilized to assess the effects of violence, encompassing quantitative measures of its magnitude. This has facilitated a deeper comprehension of the underlying causes of violent behavior and those that may heighten the likelihood of such acts. Furthermore, these data have helped evaluate the efficacy of preventative initiatives. The significance of mortality figures lies in their capacity to engender profound impacts on communities, households, and individuals, evoking

emotional distress. However, these accounts solely depict a singular aspect, albeit sorrowful, of the issue concerning violence.

In contrast, many individuals experience the consequences of non-lethal acts of violence daily. Consequently, alternative data collection methods and information acquisition are necessary to address this issue. The World Health Organization (WHO) (2002) suggests that these methods may encompass examining cultural practices, the prevalence of criminal activities, the effectiveness of violence prevention policies and programs, and the implementation of legislative reforms.

Contemporary society is confronted with a pervasive presence of violent acts, which are extensively disseminated by the media. These acts encompass a range of phenomena, including terrorism, wars, and rebellions. However, it is essential to acknowledge that many violent occurrences remain concealed within private residences, workplaces, social environments, and medical institutions. These concealed acts of violence predominantly impact individuals who are young, vulnerable, defenseless, or afflicted by illness. Such violence can manifest through the abuse of power or physical degradation. Isabel da Silva KhanMarin (2002) posits that denying various forms of violence is inherent to the human identity. However, accepting this hypothesis is challenging due to the strong rejection that people themselves have towards it and the elusive nature of such violence.

According to The World Health Organization, *violence* is defined as the utilization of physical force or power, either in threat or in practice, against oneself, another individual, or a group or community, resulting or potentially resulting in suffering, death, psychological harm, impaired development, or deprivation. The concept encompasses identifiable aspects that are pertinent to the characterization of violence. The ethical implications surrounding the motivation behind a violent act are a subject of inquiry. In addition to its physical manifestations, violence can be observed in various non-physical forms, including threats, intimidation, and other related behaviors. These non-physical expressions of violence can lead to other types, such as neglect and omission. However, Mello (2017) emphasizes that the intention and use of power are not always easily perceptible and tend to become naturalized within the collective. It is imperative to consider additional forms of violence, including symbolic, psychological, and silent violence, which are integral to phenomena such as alienation and institutionalization stemming from invisible actions.

The interpretation of violence holds a dual significance for Cassandra Falke, Victoria Fareld, and Hanna Meretoja (2023). The concept of violence has two aspects: the cognitive process of constructing meaning when interpreting depictions of violence and the possibility for violence inherent in the act of interpretation itself. Narratives can be regarded as depictions of violence or interpretations through which we comprehend ourselves and others, potentially encompassing violent connotations.

Likewise to the concept of violence, ethics should be devoid of any predetermined definition to maintain a non-dogmatic posture and be open to the intricate nature of distinct ethical dilemmas that arise in various circumstances. The portrayal of violence intended for the consumption of others is necessarily imbued with ethical implications since it prompts readers or viewers to envision the anguish and suffering experienced by someone other than themselves. A narrative can prompt readers or viewers to empathize with various roles within the story, such as the victim, offender, witness, rescuer, or implicated topic. Individuals can envision the events described in the book either as suggested or in a manner that opposes it. However, by actively involving themselves in the portrayal of violence, they consider it a gratifying or morally justifiable expenditure of their time and mental energy. Hence, the many modes of storytelling that bring our attention to fictional and nonfictional acts of violence have a crucial role in shaping our ethical standpoint toward the individuals implicated in such acts (Falke et al., 2023).

However, before we arrive at the narratives of violence that the present research will show in the last chapter, it is essential to understand the form of violence that is going to be in focus in this particular research, considering the adoption and children's rights paradigm in Brazil: silent violence.

#### 4.2 What is Silent Violence?

Violence constitutes an inherent aspect of the human experience arising from interpersonal dynamics. Research has established a correlation between it and criminal behavior and instances of sexual or moral harassment. In contemporary times, the authors' scholarly works above have facilitated the conceptualization of violence as a psychological occurrence with global implications, exhibiting diverse manifestations across various situations. The exploration of various forms of violence has been facilitated by examining contemporary reality, as evidenced in the works of Maria Cecilia de Souza Minayo (2006, 2009) and Ligia Costa Leite (2008, 2009, 2010), among other Brazilian authors. These scholars have contributed to the diverse studies on the modalities of violence. Michaud (1989) states that personal interaction serves as the underlying condition for the occurrence of violence. This discovery introduces intricacy to the notion that it is no longer contingent on a singular factor, individual, or incentive. The consequence of an individual's purpose to engage in violence manifests in the resultant effects, which can be achieved through physical force exerted by one's body or by employing other instruments. The creation of violence can involve various modalities, and technical advancement has the potential to indirectly generate violence through the utilization of "increasingly cleaner means" (Michaud, 1989).

These modes of trivialization and naturalization contribute to an aura of invisibility, forming the foundation of Leite et al. (2010) notion of "silent violence". The phenomenon referred to by the

authors is commonly known as silent violence, characterized by its subjective nature and widespread social acceptance as a routine occurrence. The phenomenon under consideration is manifested by nuanced actions that infringe upon the inherent worth of individuals. It is closely linked to symbolic elements and exhibits intersections with other forms of expression. Furthermore, it becomes ingrained within the consciousness of this behavior's recipients, practitioners, and observers. Due to its imperceptible nature, quantifying this phenomenon with precise tools is unattainable. It occurs due to the lack of adequate protective mechanisms that facilitate the subject's physical and psychological growth in a wholesome manner across many settings and at any point in the lifespan. Regarding that, Leite (2011) proposes that several types of violence, including silent violence, can impact an individual's impression of emotional and psychological well-being and their capacity to function autonomously and freely in their surroundings.

The various forms of violence classified by the World Health Organization (2002) are distinguishable by the observable harm they cause. The concept of silence, in this context, lacks overt visibility as it exerts an influence on individuals without being readily discernible. This is primarily attributed to the numerous impositions that individuals encounter, compelling them to acquiesce to circumstances that necessitate relinquishing their aspirations and endeavors. It is important to note that these instances of renunciation are not explicitly expressed as acts of violence. The comprehension of silent violence processes reveals a modern phenomenon that facilitates its perpetuation. Different manifestations of violence were not universally recognized as such in alternative historical periods or inside diverse cultural contexts. Violence perpetrated against women represents a highly symbolic illustration in this context. The comprehension of silent violence in its various forms, particularly temporal and historical, is crucial for grasping its presence in the modern world.

For example, Mello (2017), in her study about processes of silent violence in the context of medical students, found out that experiences of silent violence give rise to a tendency to adhere to the archetype of a "real doctor," leading to a blurring of subjectivity and jeopardizing one's mental well-being. In order to comprehend the interplay between choice, a doctor's professional identity, and personal experiences, the terms "real doctor" and "ideal doctor" are employed as conceptual references. The former denotes a socially constructed model that is externally imposed, while the latter represents a subjective construct that evolves through personal transformation. This process entails the doctor's progression from passively receiving societal expectations to actively shaping their professional identity in alignment with their aspirations. The term "real doctor" refers to the prevailing standard, sometimes called the "biomedical model" or hospital-centric model, which is recognized in legislation as a paradigm with inherent limitations in addressing the multifaceted nature

of contemporary health issues. The notion of the "ideal doctor" was introduced by students upon entering the school, positioning it as a counter-cultural alternative to the prevailing model.

However, it is essential to acknowledge that silent violence has persisted across numerous historical periods. Presently, there is a correlation between the abovementioned phenomenon and the deterioration of interpersonal connections, a proclivity towards intolerance, and the marginalization of individuals as bearers of fundamental entitlements such as dignity and the right to life. Furthermore, this trend is accompanied by the trivialization of injustices, the amplification of social disparities, and the normalization of psychosocial occurrences. Additionally, it is essential to note that this situation contributes to the intensification of capitalist economic systems, devaluing intrinsic worth in favor of monetary exchange (Mello, 2017).

Silent violence is situated inside a specific domain, intersubjectivity, which encompasses the diverse configurations of interpersonal relationships. The foundation of this structure is rooted in the concept of naturalization, which serves as a historical mechanism for rationalizing and justifying its existence. Additionally, we may observe the presence of trivialization, a commonly observed attitude within such processes. The concept of reality is commonly understood as inherent to the natural world and, therefore, beyond questioning. However, authors like Terry Eagleton and Pierre Bourdieu state that it is crucial to recognize that reality is a product of socio-historical construction. This construction is established through legitimations that arise from the exertion of symbolic power. This power does not reside solely within symbolic systems but is defined by the specific relationship between those who exercise power and those who are subjected to it. The field structure in which belief is generated and perpetuated plays a crucial role in shaping and maintaining this power dynamic (Bourdieu & Eagleton, 2007).

Pierre Bourdieu, a prominent sociologist of the 20th century, devoted his scholarly pursuits to comprehending and elucidating the mechanisms of social control, encompassing cultural, educational, economic, and political dimensions, among others. He formulated various theoretical notions through his scholarly work, including habitus, symbolic violence, and the social field. Bourdieu (1978) proposed the notion of symbolic violence, which pertains to exercising power through symbolic means, such as the media, science, and knowledge, within the context of education. This form of violence perpetuates a hierarchical dynamic where individuals in subordinate positions are controlled and dominated. Inventorying the subject inside a specific reality might result in a state of humiliation, as it reveals an underlying ideological backdrop that may not be readily apparent but impacts individuals across various socioeconomic classes and races. This phenomenon leads to accepting prevailing social concepts as inherent and unquestionable. The concept of domination encompasses diverse manifestations of power dynamics, resulting in the passive perpetuation and acquiescence to established norms and penalties. The subjugated individuals actively contribute to

establishing the legitimacy enforced by those considered natural or inherent, enabling the collective adjustment to specific circumstances. The construction of identities for dominant and dominant individuals occurs within a symbolic framework that delineates their respective responsibilities and behaviors.

Botelho, Moraes, and Leite (2015) argue that there continues to be a strong correlation between symbolic and silent violence, as both phenomena are prevalent in the everyday experiences of social inequalities. This correlation is further exacerbated by the lack of adequate public policies and the gap between implementing and managing such policies. The phenomenon in question permeates the everyday experiences of individuals who have become detached from societal affiliations, exerting detrimental effects on their overall physical and mental well-being. Furthermore, it progressively relegates them to the periphery of societal inclusion and participation.

Mello (2017) proposes that dominated individuals conform to a set of symbols that are collectively agreed upon, abide by established laws, and hold common beliefs ingrained in the social structure. Subjects immersed in a field characterized by significantly dominant forces tend to lose their critical capacity to challenge the impositions imposed upon them. Cultural practices emerge due to the reproduction of collective acts through symbolic forces.

If symbolic violence is the fundamental phenomenon, silent violence represents the specific context that can occur indiscriminately in commercial establishments or impoverished communities, affecting individuals of varying socioeconomic backgrounds. This pervasive issue manifests throughout esteemed private healthcare institutions and under-resourced public hospitals. The topic under discussion pertains to the field of health. The phenomenon under consideration does not discriminate in its impact but manifests itself when human dignity is violated. It arises when a particular event distorts the expected course of reality. However, the questioning and problematization of this phenomenon do not stem from its manifestation but rather from the psychological distress it inflicts upon those affected by the altered reality. Within the realm of adoption, its significance is evident in legal frameworks, social ethics, cultural norms, the absence of a conceptual framework outside the legal domain, and the activities of professionals and all individuals engaged in the adoption context. The subsequent chapter will introduce a qualitative research study that sought to discover mechanisms of silent violence within the realm of adoption.

## 5 Silent Violent and Adoption: exploratory research

### 5.1 Methodology

The chosen qualitative and exploratory methodological approach, employed in the construction of thesis, facilitated a clearer understanding of the dynamics within the adoption environment, encompassing its diverse actors. The qualitative and exploratory research is a specific approach to examining reality in its entirety and concreteness, emphasizing the significance of its subjective indicators. In order to achieve this objective, the research employed an in-depth bibliographic study on the context of childhood, violence, and adoption (as seen in Chapters 1 to 4). Subsequently, semi-structured interviews were conducted to comprehend the reality experienced by the critical actors within this context regarding the theme mentioned above.

Semi-structured interviews were carried out, characterized by establishing, *a priori*, some questions, but which could be changed whenever, during the interview, other themes or problems emerged in the interviewee's speech, deserving further investigation. To collect the interviews, the oral history methodology was used, which allows the material obtained to be analyzed in a way that calls upon subjectivity as part of social objectivity, viewing the subject's history as inseparable from collective history (Salgado & Franciscatti, 2014). For Calvino (2006), oral history allows an analysis through experience, not its characterization. Leite et al. (2005) consider the interview a moment of reflection, especially for those willing to narrate their experiences, and that speech is an exchange. This path provides an understanding of situations experienced little thought about. Although there are no therapeutic intentions with this process, it presents an undeniable transformation in the lives of the participating subjects. There is a production of subjectivity there. In this process of reflection and understanding of their experiences, oral history also points to the revelation of contradictions in the narrative, which Salgado and Franciscatti (2014) point out as its great strength as a research method and also of social intervention. Considering the theme addressed in the research, two enriching and fundamental aspects are characteristic of a data collection methodology.

#### 5.1.1 The Abduction Method

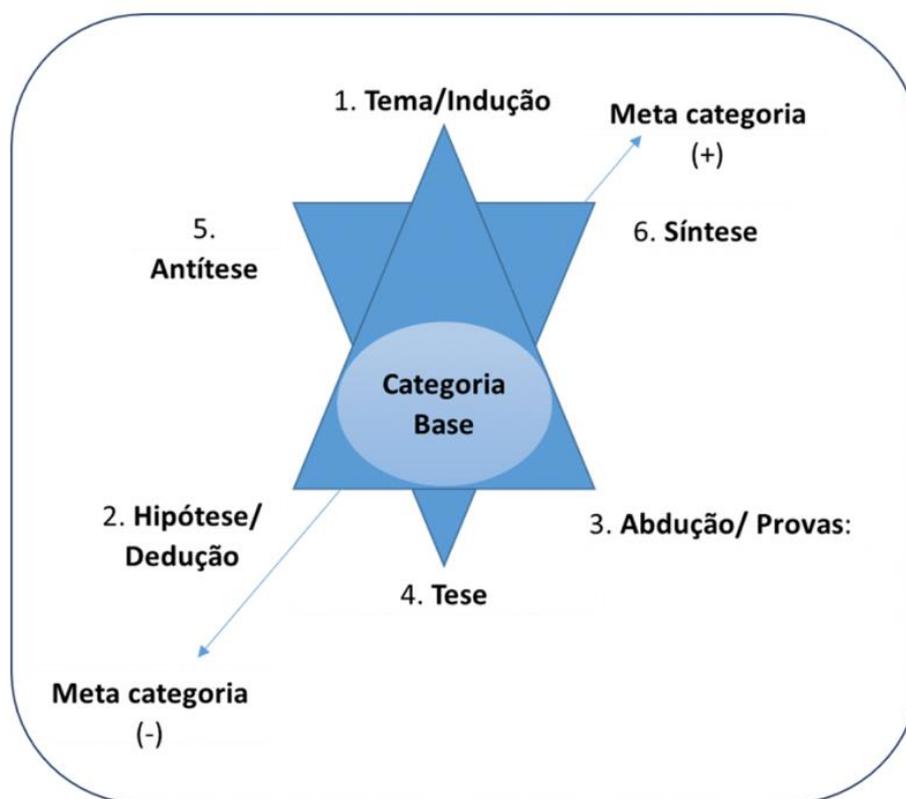
The interviews were systematically recorded, transcribed, and subjected to analysis using the method of Abduction in Communication by Pierre Boudon to originate what the author calls *Templum*, the synthesis diagram indicated in *Figure 1*. The method is called abduction due to the abducted – removed and constructed – categories from the content that emerged from the collected data set. During research, it demonstrated efficiency in pointing out contradictions and coherences, said and unsaid, gaps and completeness, which justifies the choice of this method. This theory

employs a unique approach to communication analysis, wherein categories are derived from the data collected in the field rather than relying on pre-existing categories utilized in other methodologies. The types mentioned earlier of abduction serve to illuminate the cognitive frameworks employed by the narrator of the narrative, much like how the concealed truths within the discourse are extracted. The present methodology effectively captures objective and subjective experiences expressed in the interviewees' narratives. It systematically organizes these experiences into distinct categories within their speeches, facilitating further analysis encompassing the many experiences presented. This technique prioritizes utilizing heuristic knowledge to interpret and effectively interpret and accommodate divergent viewpoints expressed by interviewees, hence enabling the identification and analysis of valuable clues in their discourse. The formation of a network of senses is facilitated by the channels originating from the abduction of meanings.

The abductions above serve as instances of interrogations inside a specific classification, representing intersections within a network of significations. According to Boudon (2002), the researchers find themselves between an imprecise context already given and a context constructed using protocols. This position allows for the simultaneous application of integrative logic. The method described aligns with the research proposal and is compatible with the chosen methodology for data collection due to its distinctive ability to facilitate the convergence of divergent and often socially unexpressed meanings, which can generate discomfort in the realm of communication.

The elements that make up the *templum* are: categoria base (base category), tema/indução (theme/induction), hipótese/dedução (hypothesis/deduction), abdução/provas (abduction/evidences), tese (thesis), antítese (antithesis), síntese (synthesis), meta categoria positiva (positive meta-category) e meta categoria negativa (negative meta-category) (Fig. 1). The theme/induction is based on data collected in the bibliographical research and the delimitation of the central concepts and context of the study. The base category emerges from fieldwork, as similar speeches are perceived concerning the theme. Thesis, antithesis, and synthesis follow the dialect created by Hegel, where the thesis corresponds to an idea or a thought. The antithesis is a thought different from the thesis, a contrary idea. The synthesis is a conclusion of the thesis with the antithesis; that is, a summarized conclusion would be reached after the debate of ideas. However, this synthesis passes to be a new thesis for a dialectic. Also, it is important to highlight that the hypothesis can always be counter proved and this means the *templum* could not support the concept in question.

Figure 1. *Templum*



*Note.* This is the *Templum*, the synthesis diagram from the method of Abduction in Communication by Pierre Boudon. From “O cenário contemporâneo de formação em medicina e seus efeitos à saúde mental do estudante” by D.R.B, Mello, 2017 adapted from “Réseau du sens I (nouvelle version) Une approche monadologique pour la compréhension du discours. Paris, Edição do autor:” by P. Boudon 2004. Copyright 2017 by Mello, D. R. B.

### 5.1.2 Subjects

The subjects were recruited from the virtual and face-to-face adoption groups with mediation from the group coordinator. The interview subjects were divided in four different groups: applicants for adoption, adopters, adoptees, and professionals involved in the adoption context. The first group was composed of suitors for adoption. This group includes people over 18, single, married, or in a stable union interested in adopting. These people can be in the process of insertion in the National Adoption Registry (CNA) or already inserted but on a waiting, list waiting to cross data with a child/adolescent. The second group was composed of adopters. This group included people over 18, single, married, or in a stable union. These people were already living with their child(ren), with provisional custody for adoption purposes or already completed adoption process. That group included people who have returned to the CNA for a new adoption. The third group was composed of adoptees. This group included people not younger than 12 years old who have been adopted

following current adoption law and were included in the National Adoption Register or were in the process of inclusion when the adoption process started. The fourth group comprised professionals involved in the adoption process. It refers to people who work or worked in the context of adoption and do part of the stages of this process. Professionals from psychology, social assistance, law, and medicine, among others, could be part of this context and were part of the Adoption Support Groups (GAA). There were four subjects in the first group, nine in the second, two in the third and six in the fourth, reaching a total of 21 participants.

The interviews were conducted in Portuguese (official language in Brazil), with the use of the videoconference platform *Zoom* – *were they were recorded and saved in researche's institutional email of the University of Padua* – and the content of the previews defined questions defined for all four groups are available in *Annex 1* (in English), along with their translation in *Annex 2* (In Portuguese). Also, the consent term, allowing the recording and use of the content for research purposes, signed by the participants are available in *Annex 3*.

The entire process of the interviews, which included the organization of contact mechanisms, first contact with the groups, the performance of the online interviews through *Zoom*, and analyses of results, took four months, from June to September 2023. There were interviewed 21 Brazilians from 18 to 66 years old, of which four were in the first group, nine in the second, two in the third, and six in the fourth. Among them, 20 identified themselves as females and one as male. The participants were from four different states in the Brazilian territory: Rio de Janeiro (RJ), São Paulo (SP), Minas Gerais (MG), and Distrito Federal (DF), including the capitals and inner cities.

During the contact with the online groups and coordinators to draft the participants, some resistance to the research was perceived. Many coordinators didn't respond to emails or communication on social media (where many of these groups operate). When they didn't show resistance from the first contact, this would happen when the research objective was explained. In general, all coordinators and participants are curious about Silent Violence. It was from this point that, contacting the participants, a particular group showed tremendous resistance: the fourth group, which consisted of professionals who work/worked in the adoption context. This data was analyzed along with other findings that will be available in the next subchapters.

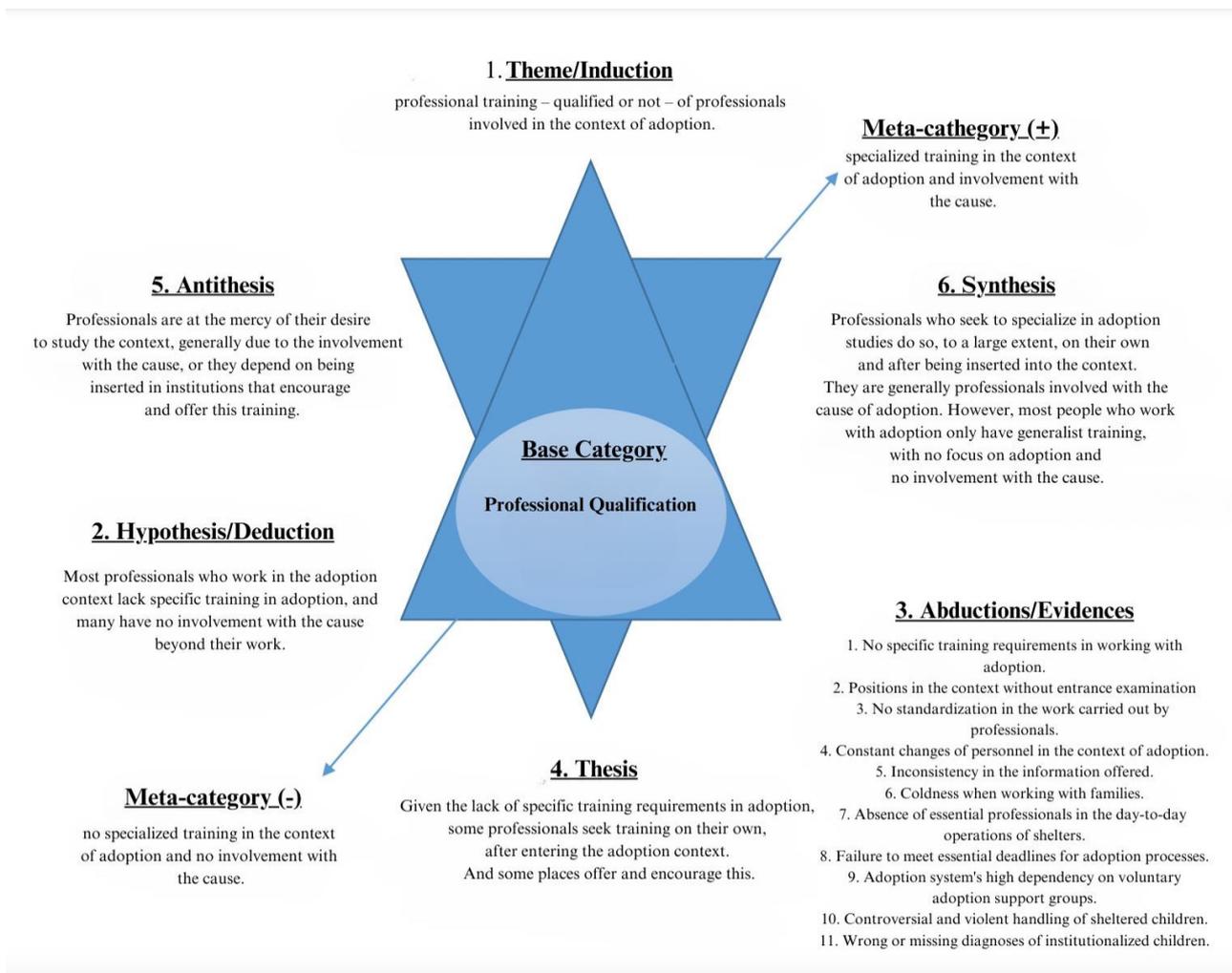
Therefore, data processing and analysis using the *Templum*, a representation tool for the diversity of theoretical contents and categories of analysis, resulted in the creation of primordial, diverse, but complementary types of *templum* that will be explored in the next subchapters named after their base category: Professional Qualification and The Concept of Adoption.

## 5.2 Results

### 5.2.1 The First *Templum*: Professional Training

The first *Templum*, developed based on data processing gave rise to the synthesis diagram illustrated in *Figure 2* and had as its base category "Professional Training", chosen based on the fact that there are different positions of professionals involved with adoption in the context. Professional training in the context of adoption is of essential importance so that professional practice is based on ethics towards those involved, obeying the child's best interests as indicated by the Statute of Children and Adolescents in Brazil.

Figure 2. *Templum 1: Professional Qualification*



Note. First *Templum* obtained from the interviews.

The base category was mediated by two meta-categories superimposed on the set of six dimensions that intersected in *Templum* in a path that went from a positive extreme to a negative one

and which, here, corresponded to the presence and absence of specialized training and involvement with the cause beyond work responsibilities.

The positive meta-category indicated professionals with specialized training and involvement with the cause of adoption. These professionals' management is based on scientific knowledge about the context and the best professional practices. Furthermore, involvement with the cause is present as what drives this search for knowledge. The negative meta-category was based on the lack of specialized training, with only generalist training being present. These professionals work without specific training and involvement with the cause of adoption beyond their work obligations.

The theme of analysis, obtained through induction, was "professional training – qualified or not – of professionals involved in the context of adoption," as influential on practices and transmission of knowledge about them within the context of adoption and its influence on actors involved, mainly children and adolescents. Hence, a hypothesis was deduced: "Most professionals who work in the adoption context lack specific training in adoption, and many have no involvement with the cause beyond their work". From the data collected in the interviews, the clues abducted (evidences) were:

1. No specific training requirements in working with adoption.
2. Positions in the context without entrance examination.
3. No standardization in the work carried out by professionals.
4. Constant changes of personnel in the context of adoption.
5. Inconsistency in the information offered.
6. Coldness when working with families.
7. Absence of essential professionals in the day-to-day operations of shelters.
8. Failure to meet essential deadlines for adoption processes.
9. Adoption system's high dependency on voluntary adoption support groups.
10. Controversial and violent handling of sheltered children.
11. Wrong or missing diagnoses of institutionalized children.

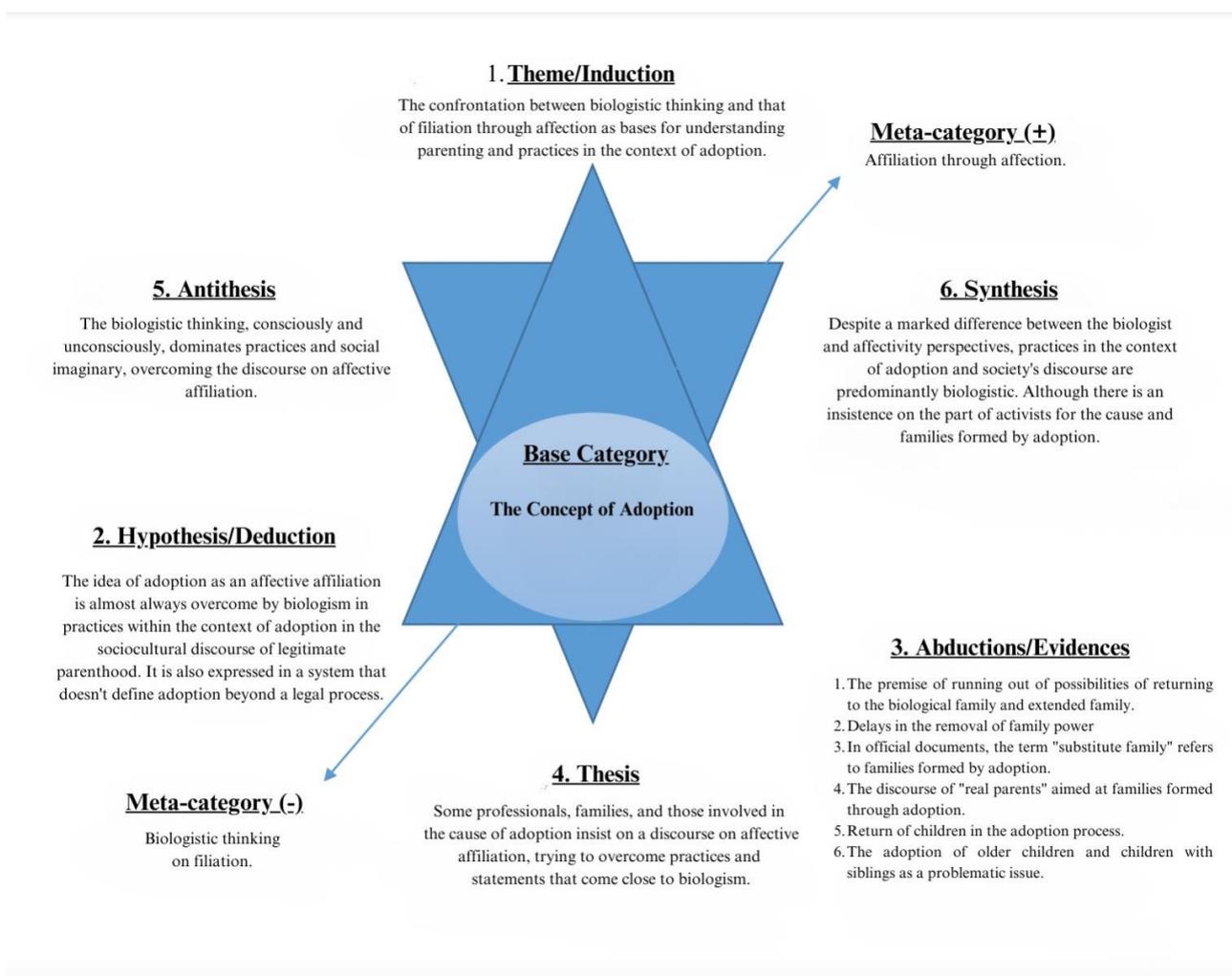
This network of meanings intersected with other clues that were, concomitantly, being woven into this dynamic process, unveiling new facts and arguments and enabling the emergence of the thesis that revealed the following premise: "Given the lack of specific training requirements in adoption, some professionals seek training on their own, after entering the adoption context. And some places offer and encourage this." As a counter-argument, that is, antithesis, the observations pointed out that "professionals are at the mercy of their desire to study the context, generally due to the involvement with the cause, or they depend on being inserted in institutions that encourage and offer this training." Finally, the synthesis of the analysis of this *Templum* proved the initial hypothesis that "most professionals who work in the adoption context lack specific training in adoption, and

many have no involvement with the cause beyond their work." Therefore, professionals who seek to specialize in adoption studies do so, to a large extent, on their own and after being inserted into the context. They are generally professionals involved with the cause of adoption. However, most people who work in the adoption system only have generalist training, with no focus on adoption and no involvement with the cause.

### 5.2.2 The Second *Templum*: The Concept of Adoption

The second *Templum*, developed based on data processing, gave rise to the synthesis diagram illustrated in *Figure 3* and had as its base category "The Concept of Adoption," chosen based on the fact that there are different ways of thinking filiation and parenthood, one being through biologism and another through affective affiliation.

Figure 3. *Templum 2*: The Concept of Adoption



Note. Second *Templum* obtained from the interviews.

The base category was mediated by two meta-categories superimposed on the set of six dimensions that intersected in *Templum* in a path that went from a positive extreme to a negative one and which, here, corresponded to two different ways of thinking about parenthood and affiliation: biologism and affective affiliation. The positive meta-category indicated professionals, families, and individuals who thought filiation was based on affection. These people have a family view based on emotional connection, day-to-day experiences, and the desire to be parents and children. The negative meta-category was based on biologism, a way of viewing parenthood and affiliation through a biological lens, where biological markers solely define family. These perspectives directly influence how adoption will be perceived.

The theme of analysis, obtained through induction, was "the confrontation between biologicistic thinking and that of filiation through affection as bases for understanding parenting and practices in the context of adoption". Therefore, a hypothesis was deduced: "The idea of adoption as an affective affiliation is almost always overcome by biologism in practices within the context of adoption in the sociocultural discourse of legitimate parenthood. It is also expressed in a system that doesn't define adoption beyond a legal process". This process of overcoming ideas means how these two paradigms coexist and can, by political, social, and cultural processes, overpower each other; it makes a concept easier or harder to carry in a context both in a theoretical and practical approach.

From the data collected in the interviews, the clues abducted (evidences) were:

1. The premise of running out of possibilities of returning to the biological family and extended family.
2. Delays in the removal of family power.
3. In official documents, the term "substitute family" refers to families formed by adoption.
4. The discourse of "real parents" aimed at families formed through adoption.
5. Return of children in the adoption process.
6. The adoption of older children and children with siblings as a problematic issue.

This network of meanings intersected with other clues that were, concomitantly, being woven into this dynamic process, unveiling new facts and arguments and enabling the emergence of the thesis that revealed the following premise: "Some professionals, families, and those involved in the cause of adoption insist on a discourse on affective affiliation, trying to overcome practices and statements that come close to biologism." As a counter-argument, that is, antithesis, the observations pointed out that "the biologicistic thinking, consciously and unconsciously, dominates practices and social imaginary, overcoming the discourse on affective affiliation." Finally, the synthesis of the analysis of this *Templum* proved the initial hypothesis that "the idea of adoption as an affective affiliation is almost always overcome by biologism in practices within the context of adoption in the

sociocultural discourse of legitimate parenthood. It is also expressed in a system that doesn't define adoption beyond a legal process". Consequently, despite a marked difference between the biologist and affectivity perspectives, practices in the context of adoption and society's discourse are predominantly biologicistic. However, there is an insistence on the part of activists for the cause and families formed by adoption who present as a stronger front in this fight.

### 5.2.3 Process of Silent Violence in the context of adoption

Therefore, considering the *templums* that emerged from the data collection and analyses from Boudon's Theory, it is possible to observe that processes of silent violence were identified in the context of adoption, following the concept of this type of violence as discreet actions that transgressed the principles of human dignity and were linked to symbolic elements, amalgamating with other intersecting manifestations. Consequently, it became widely regarded as a commonplace phenomenon, embraced by individuals who personally encountered, engaged in, or observed it. Here we are taking the two main *templums* analyzed in the previous subchapters and their abductions (evidences) as the processes of silence violence to be analyzed in this topic. Also, phrases will be taken from the interviews to understand better the analysis, which discourse led the research to its findings expressed in both *templums*. Eleven abductions were found in the first *templum* Professional Qualification, and the participant's discourse was present in each one. Therefore, through parts of the interviews, this chapter will discuss what led to these results and why they can be defined as processes of silent violence.

The first abduction was the fact that there is no specific training requirement in working with adoption and, along with the second one, which states that positions in the context of adoption happen a lot without an entrance exam, points to the fact that working in the adoption context does not demand a specific knowledge on the topic. During the interviews, this fact was mentioned by professionals and adopters who pointed out, for example, that "*the shelters are not prepared for dealing with these children, professionals who are in the official chairs in there, that are not volunteers, have no specialized training. They enter through a contract, usually pointed out by someone known and involved in politics in the town. They are just filling a position.*" (subject 1)

This absence of knowledge and skills to work in such a specific and demanding setting has complex implications such as described by all the other abductions, such as no standardization in the work carried out by professionals, constant changes in the number of professionals working in the context (especially in shelters), inconsistency in the information offered, coldness when working with families, absence of essential professionals in the day-to-day operations of shelters, failure to meet essential deadlines for adoption processes, adoption system's high dependency on voluntary adoption

support groups, controversial and violent handling of sheltered children, wrong or missing diagnoses in institutionalized children. Some critical discourses on that were:

*"I saw people who worked in the shelters beat children because they said that they could not handle them and were too difficult (...) a lot of things are allowed just because we are talking about institutionalized children (...) their rights are not different, I don't think so. But some people think." (subject 1).*

*"I was a volunteer in shelters for years, and I joined because I saw a lack of professionals there, and the ones that would go had no training for that. They rely on their generic university degree to handle a diverse context and still not taught in medical or psychology schools, for example." (subject 1).*

*"There is also the problem that many professionals have a 30-hour/week work journey and sometimes go once a month. So children stay without basic care regarding medical appointments and psychological care." (subject 1).*

*"The diagnosis situation is still a huge problem. I worked in an institution where the doctor responsible would go once a month to evaluate all children. There were many wrong diagnoses, especially Autism Spectrum Disorder and ADHD." (subject 1).*

*"My daughter was misdiagnosed with celiac disease and was taking medications for years without needing it." (subject 13).*

*"I had a problem with misdiagnoses with one of my daughters. She was diagnosed with diabetes in the shelter and took insulin from a young age. After the adoption, taking her to new doctors and investigating new symptoms, we realized she did not have diabetes, and now she has a memory deficit due to insulin abuse." (subject 13).*

*"My daughter was a victim of abuse, and the forum scheduled the custody hearing at the same time as the biological family, so we crossed paths, which was chaotic. They had no care for us or my daughter." (subject 13).*

*"The contact with people from the forum and other public institutions connected with adoption is always cold and administrative. They do not understand that we are talking about building a family there." (subject 3).*

These are all dialogues recorded during the interviews that confirm several processes of silent violence in the context of adoption. Most participants, even bothered by some conduct, did not realize something was wrong. About the cold and administrative position from the professionals, adopters, suitors for adoption, and even professionals would say that "it is normal for things to be like this in the public system." On the matter of diagnoses, it was a common phrase: "There are not many people working in there, or they are overwhelmed by the number of children to take care of". Therefore, there is a difficulty from the participants to perceive these treats to dignity as a form of violence since

they were always normalized as a part of the system, as problems inherent to the context of adoption, and even necessary to the process.

The second *templum*, *The Concept of Adoption*, also presented a lot of important discourses on the matter. Therefore, through parts of the interviews, this chapter will discuss what led to these results and why they can be defined as processes of silent violence. All the premises on this *templum* were based on the idea that family, at least a legitim one, is born from a biological connection, the need of a male and female to reproduce and give continuity to its genes; this set of beliefs can be intended here as biologism. Therefore, all the efforts and practices surrounding the adoption context take into consideration this point of view on the matter of family. Consequently, we have these scenarios in the adoption context: the premise of running out of possibilities of returning the child to the biological or extended family, the delays in the removal of family power, the term "substitute" family that refers to a family formed through adoption in official documents, and the social discourse of "real parents" aimed at families formed through adoption, return of children in the adoption process and the adoption of older children and children with siblings as problematic issues for prospective parents.

In this *templum*, we can very well separate three actors: the system, the families involved with adoption (with or without a finalized process), and the social context. Even though we separate them to observe better how their discourse travels throughout the adoption context, they are indissociable and feed themselves in a violent chain from the biologicistic perspective. The biologism idea of the family, which invades all the spheres of life – political, social, cultural, and economic – is at the base of the first four abstractions at this *templum* because it implies that biology must be taken into consideration above all evidence contrary to it, even violence. Therefore, no concept describes adoption as a "form to constitute a family" but only a "substitute one." This is what we can call the Conceptual Problem of Adoption, that is the absence of a concept that aligns with the understanding of a family beyond biology and, most of all, that refers to the families formed through adoption as legitimate ones. The lack of such a concept is at the base of all violent processes regarding adoption, delaying a neverending fight to the recognition of family as affective affiliation and preservation of children's dignity as a subject and not an object under adult's desires.

The conceptual problem of adoption is directly connected to the perception of the child as an object, which we call minorism. Described in previous chapters, minorism is a set of practices that put the child as an object of the government or other families as a tool for better social and political development according to the demands of its centuries. Thought to be over with the laws after the Minos Code, these silent and violent practices in the context of adoption, such as the conceptual issue, make clear that minorism never died. Minorism just found a better way to hide it: it became acceptable and justified as the only way to protect the youth in Brazil.

Biologism, which is a way of thinking affiliation at the base of the conceptual problem of adoption, desensitizes people and professionals from acts of violence in the biological family on the excuse that "the real family must be maintained together". This is also a conjoint work with society, not only the people involved. Adoption is not a mandatory theme discussed in schools, universities, and healthcare institutions. We talk about family as if there was only one way to become a way, and this becomes the rule of a society in which spheres are entangled. Social and political contexts feed each other on this violent conception. From this lack of a broader discourse, families are targeted with signifiers like "real parents" or "real children." The system cannot even protect its initiatives, which is a substantial conceptual issue.

Regarding the families involved in adoption, two abstractions were crucial to understanding the processes of silent violence practiced, the fifth and the sixth: The return of children in the adoption process and the resistance to adopting older children and those with siblings express an attachment to biologism and, therefore, practices of silent violence. The concept of silent violence is the main point around which all the other concepts and practices revolve. The return of children in the adoption process, "to give up on a child," is a complex process that cannot be reduced to the parent's role. However, there is a typical attitude towards children in their adoption process: "If it is giving too much trouble, I cannot handle it. If it were biological, it would not be like this, and since it is not, I have the opportunity to give it back and try again." Moreover, about the resistance to older children and siblings, there is an attempt to replicate a biological past, the idea that a younger child without any other biological attachments (siblings) can be raised as if there was no previous history as if you can reset a life. There is nothing like biologism to say that it is in the parents' control what the child is going to be and is supposed to do.

Some of the phrases that sustained the findings mentioned above were:

*"The law states that we need to run out all the possibilities of reinsertion of the child in the biological family and then search for an extended family. And we understand that things must be well thought out, but after a year of nobody showing interest in a child, is it right to keep insisting?" (subject 11)*

*"My husband didn't want to adopt at first, because he had the same idea a lot of man have: that an adopted child is not our child." (subject 18)*

*"When I decided to adopt a teenager, I didn't receive the same support as I was receiving before. I was the only one in my work, for an example, to not have a welcoming party for my child. No one cared. It looked like I wasn't a parent like all of them. And in general, people don't want older kids, people think they come ready and there is nothing we can do, that they are too problematic." (subject 15)*

*"It took a long time to suspend the family power in my son's adoption. It was a nightmare waiting and thinking that we might lose him. Why so long since no one from the biological family or extended family was interested in him?" (subject 2)*

*"People do not know about adoption and our rights. We had many difficulties in getting maternity leave, which the law assured us of, and also, we are constantly disrespected in doctors' appointments and school when we talk about the law of the social name; they do not respect that our children have a different name now, that we are the natural family and we have rights. Everything about adoption seems to be on paper; no one knows and bothers to know it." (subject 7).*

*"Yes, now I am thinking... even on the official documents in the ECA, we are called substitute families. It is hard to fight when we are not legit, even for the law." (subject 13).*

*"I hate when people ask: When will you have your own kids? As if my son is not mine because he came from adoption." (subject 4).*

*"I was being adopted but wanted to keep contact with my biological siblings, and then the couple said that I had to forget about my life and focus on the now. I gave up on the adoption because I had a life. I want a new one, but not to forget good things like my siblings." (subject 6).*

Apart from the violent practices and concepts identified through the *templums*, two variables appear and deserve attention regarding the adoption context: the difference between the reality in the processes in capital and inner cities and the volunteer work done by the Adoption support groups. Participants revealed that they felt a better professional handle and organization in means, especially in Rio de Janeiro, and this data is associated with the presence of older and well-organized support groups based there. Also, many professionals from the governmental institutions responsible for the adoption process in these capitals are founders and members of these support groups.

*"The professionals from the official channels don't give us too much attention, it is too technical. And a lot of wrong informations, but I know that in some places it is better." (subject 14).*

*"I live in a small town, not a capital and there was no support group. Everything was different here. I had to find support in online groups and start therapy on my own to deal with everything that was going on in the process. The professional in my town would only give administrative information" (subject 7).*

*"I see that here in the capital, at least where I work, we are all very involved in the adoption activism. We tried to see the process as a whole" (subject 12).*

Lastly, another data showed a phenomenon that deserves attention and further study: the reality of interracial adoption. Even though studying this particular family reality in the context of adoption was not the focus of this particular study, it appeared as a reality to some subjects, all caucasian families who adopted black children. Apart from the similar challenges faced with the adoption

system and the social construct about adoption, as mentioned earlier and exemplified on the *templums*, these families had a particular challenge regarding ethnicity. These challenges cannot be ignored and, in addition to being analyzed from the perspective of silent violence in the context of adoption, they cannot be deeply studied without a deeper look at the racial issues that have permeated the Brazilian reality since its colonization. These questions, although present in the bibliographical study on the history of childhood and adolescence, present in this research, still need to be revised to delve into this issue properly. It is essential, therefore, that a parallel study is developed to delve deeper into this issue that presents itself as urgent concerning protecting children and adolescents in Brazil, inside and outside the context of adoption.

*"It is hard for me to deal with the esthetical insecurities of my daughter because I do not know how it is for her. We love her but do not know how she feels because we are not black." (subject 18)*

*"My daughter suffered a lot of bullying at school because we were physically different." (subject 18)*

*"There were some situations regarding my son's afro hair both in our family and at school." (subject 20)*

*"A parent at my son's school once asked him if he would not brush his hair, and then, this father asked me why I did not cut my son's hair." (subject 20)*

*"We only see racism when we have a black child. Before, we do not know. Moreover, we are not well informed about it. I am always learning to be his mother, which is difficult. It is not just the adoption, but the fact that he is black; there are many challenges, too much racism." (subject 20)*

*"My mom is white, and I am black. People ask questions and say racist things; I do not always have patience. It is hard. Racism is hard." (subject 10)*

## Conclusion

Children's rights came a long way in the Brazilian context. In Colonial Brazil, children were a tool for Portuguese colonization. During colonization in the eighteenth century, children were the main focus of moral and conduct regulations and the establishment of a comprehensive set of ethical principles and foundational educational practices to show the church's goodwill. In Imperial Brazil, children were ruffly separated between elite and enslaved children; these last were seen only as cheap labor. In the Brazil Republic period, providing aid to underprivileged or orphaned individuals was regarded as a means of safeguarding society and ensuring the well-being of morally upright individuals. Therefore, the rights perspective in these periods was merely actions moved by political, social, and religious forces and their demands.

During the republic years until contemporary days in Brazil, which still is a republic, children's rights became a subject of political discourse. However, the child itself was only seen as a minor and object, at least until the Minors Code was overruled by new constitutional laws and the ones focusing on Children's Rights and Adoption, like the Brazilian Constitution from 1988, the Child and Adolescent Statute in 1990 and the Adoption Law from 2009. Theoretically, affirming that minorism died with the Minors Code would be correct. Still, the present research points to a paradigm in Children's Rights where the ongoing existence of a "minors" vision of the child sustains the processes of silent violence in the context of adoption.

These processes of silent violence were identified through the interviews carried out with many actors in the context of adoption, thought that it was possible with Pierre's Boudon method of Abduction in Communication to generate two main *templums* which described this paradigm by showing in the abstraction's diverse forms of silent violence processes that permeate the context of adoption in contemporary times. Two main categories, *templums*, were created from the participants' discourse: professional qualification and the concept of adoption. These two processes are an umbrella for several violent conducts, such as wrong and misdiagnoses, no specific professional training in adoption required to work in the context, constant changes of personnel in the context of adoption, controversial and violent handling of shelter children, the premise of running out of possibilities of returning to the biological family and extended family, "substitute family" as a legal term to refer to families constitute by adoption, among others.

Therefore, the paradigm in Children's rights in Brazil can be described as a problematic reality with deep social-historical roots based on main phenomena like three main phenomena: minorism, biologism and the conceptual problem of adoption and lack of professional qualification in the specific field of adoption. Through these critical phenomena, adoption walks a dangerous path

regarding putting the child's best interest in the spotlight. Hiding acts of violence through a set of new laws that can still show minorist characteristics, especially in a conceptual view, is a fake sensation that we are protecting the youth when we are just in a fight against the undeniable biologism that permeates society.

Nevertheless, it is essential to highlight the work the adoption community has been doing with the Adoption Support Groups, trying to overcome the difficulties with information both in the system setting and with the families who desire to adopt. This initiative is the closest to considering the child as a subject. Besides that, a deeper discussion on adoption must be made, a discourse that goes beyond academic knowledge and the settings where the adoption families are. It needs to get closer to society as a whole since it is there where phenomena such as silent violence are. Change also needs to be in the hands of the main characters in this discussion, adopters and adoptees, because we cannot discuss the best interest of the child in the matter of their rights when the discourse on this issue is only in the hands of people outside the contexts and not the ones who lived it, the main stakeholders.

There is, without question, an ethical urgency on this matter, which needs to be considered at the level of politics, social justice, and professional education. This honest approach facing the paradigm in children's rights in Brazil, which can be extended on a global scale, must refer to recognizing their subjectivity and opinions. It refers to a perspective of the child as a subject and not an object that must be protected in all instances, including listening to their discourse before anything else. A family power owned by biological traits and connections must not overcome their dignity, just as the prospective family thought adoption must not be the protagonist of this match between child and family. The child must be at the center of all the choices made to safeguard them, and this is, ultimately, also an ethical issue.

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## **Annex**

### **Annex 1: Interview Script in English**

#### **Group A: suitors for adoption**

1. When was the first time you thought about adopting?
2. How was the decision to adopt? If you have a partner, has there been Any disagreements with that decision?
3. What is the profile chosen for adoption? Why?
4. Did your profile change during the adoption process? If so, what was the reason?
5. How long have you been in the adoption process? It has already been added to the queue CNA?
6. What challenges have you faced, and are you facing in the adoption process?
7. What knowledge about adoption did you have when you decided to adopt?
8. Do you have the support of friends and family in the adoption process? Since news of the adoption had this support?
9. Do you currently participate in any adoption support groups?
10. What purpose do you believe adoption groups serve? Believe that Do these groups fulfill their purpose?
11. How do you see the current adoption scenario?
12. How would you describe the adoption process?

#### **Group B: adopters**

1. When was the first time you thought about adopting?
2. How was the decision to adopt? If you have a partner, has there been any disagreements with that decision?
3. What is the profile chosen for adoption? Why?
4. Did your profile change during the adoption process? If so, what was the reason?
5. How long have you been with your child(ren)? How was/has the adaptation been?
6. How is the process of adopting your child(ren) going? And how have you dealt with that?
7. What challenges have you faced, and are you facing in the adoption process?
8. What knowledge about adoption did you have when you decided to adopt?
9. Do you have support from friends and family in the adoption process? Since news of the adoption had this support?
10. Do you currently participate in any adoption support groups?
11. What purpose do you believe adoption groups serve? Believe that Do these groups fulfill their purpose?
12. How do you see the current adoption scenario?

13. How would you describe the adoption process?

**Group C: adoptees**

1. How long have you been with your family?

2. How was and has been the adaptation process?

3. How does your family deal with the issue of adoption? What do you think?

4. Before being adopted, how long were you at the shelter?

5. Do you have any information about your history before going to the shelter? If yes, would you like to talk a little bit about it?

6. Do you have siblings? If so, were they adopted together?

7. How is your relationship with other family members? Uncles, grandparents, cousins...etc.? How was meeting them?

8. Before meeting your family, how were things at the shelter?

9. Did you believe you would be adopted? Why?

10. How did shelter professionals explain adoption?

11. Do you believe that nowadays, it is easier or more difficult to be adopted? Why?

12. What challenges have you faced, and are you facing in the adoption process?

13. Do you currently participate in any adoption support groups?

14. What purpose do you believe adoption groups serve? Believe that  
Do these groups fulfill their purpose?

15. How do you see the current adoption scenario?

16. How would you describe the adoption process?

**Group D: professionals**

1. How long have you been working in the context of adoption?

2. How is the exercise of your profession in the context of adoption?

3. What challenges have you encountered in this context?

4. How does the adoption process work?

5. Which professionals work in this context?

6. Do you currently participate in any adoption support groups?

7. What purpose do you believe adoption groups serve? Believe that  
Do these groups fulfill their purpose?

8. How do you see the current adoption scenario?

## **Annex 2: Interview Script in Portuguese**

### **Grupo A: pretendentes à adoção**

1. Quando foi a primeira vez que pensou em adotar?
2. Como foi a decisão de adotar? Caso tenha um (a) companheiro(a), houve alguma divergência nessa decisão?
3. Qual o perfil escolhido para adoção? Por que?
4. Seu perfil sofreu alguma mudança durante o processo de adoção? Se sim, qual foi o motivo?
5. Há quanto tempo está no processo de adoção? Já foi inserido na fila do CNA?
6. Quais desafios enfrentou e tem enfrentado no processo de adoção?
7. Quais conhecimentos sobre adoção tinha quando decidiu adotar?
8. Tem o suporte de amigos e familiares no processo de adoção? Desde a notícia da adoção teve esse apoio?
9. Atualmente participa de algum grupo de apoio a adoção?
10. Qual propósito acredita que os grupos de adoção possuem? Acredita que esses grupos cumprem com seu propósito?
11. Como observa o cenário atual de adoção?
12. Como você descreveria o processo de adoção?

### **Grupo B: adotantes**

1. Quando foi a primeira vez que pensou em adotar?
2. Como foi a decisão de adotar? Caso tenha um (a) companheiro(a), houve alguma divergência nessa decisão?
3. Qual o perfil escolhido para adoção? Por que?
4. Seu perfil sofreu alguma mudança durante o processo de adoção? Se sim, qual foi o motivo?
5. Há quanto tempo está com seu(s) filho(s)? Como foi/ tem sido a adaptação?
6. Como está o processo de adoção de seu(s) filho(s)? E como tem lidado com isso?
7. Quais desafios enfrentou e tem enfrentado no processo de adoção?
8. Quais conhecimentos sobre adoção tinha quando decidiu adotar?
9. Tem o suporte de amigos e familiares no processo de adoção? Desde a notícia da adoção teve esse apoio?
10. Atualmente participa de algum grupo de apoio a adoção?
11. Qual propósito acredita que os grupos de adoção possuem? Acredita que esses grupos cumprem com seu propósito?
12. Como observa o cenário atual de adoção?

13. Como você descreveria o processo de adoção?

### **Grupo C: adotados**

1. Há quanto tempo está com a sua família?
2. Como foi e tem sido o processo de adaptação?
3. Como sua família lida com o tema adoção? O que você acha disso?
4. Antes de ser adotado (a) esteve no abrigo por quanto tempo?
5. Possui alguma informação sobre sua história antes de ir para o abrigo? Se sim, gostaria de falar um pouco sobre?
6. Possui irmãos? Se sim, foram adotados juntos?
7. Como é o relacionamento com os outros membros da família? Tios, avós, primos...etc? Como foi conhece-los?
8. Antes de conhecer sua família, como eram as coisas no abrigo?
9. Você acreditava que seria adotado(a)? Por que?
10. Como a adoção era explicada pelos profissionais do abrigo?
11. Você acredita que hoje em dia é mais fácil ou difícil ser adotado? Por que?
12. Quais desafios enfrentou e tem enfrentado no processo de adoção?
13. Atualmente participa de algum grupo de apoio a adoção?
14. Qual propósito acredita que os grupos de adoção possuem? Acredita que esses grupos cumprem com seu propósito?
15. Como observa o cenário atual de adoção?
16. Como você descreveria o processo de adoção?

### **Grupo D: profissionais**

1. Há quanto tempo trabalha no contexto da adoção?
2. Como é o exercício da sua profissão no contexto da adoção?
3. Quais desafios tem encontrado nesse contexto?
4. Como funciona o processo de adoção?
5. Quais profissionais atuam nesse contexto?
6. Atualmente participa de algum grupo de apoio a adoção?
7. Qual propósito acredita que os grupos de adoção possuem? Acredita que esses grupos cumprem com seu propósito?
8. Como observa o cenário atual de adoção?

## **Annex 3: Consent form for the interviews**

### **CONSENT TO PARTICIPATION AND DATA PROCESSING - ADULT**

#### **1. RESEARCH DESCRIPTION AND PURPOSES**

Dear participant,

We hereby ask you to provide your informed consent to participate in the research “Silent Violence and Adoption: the paradigm of Children's Rights in Brazil” coordinated by Beatriz Alexsandra Garcia Pinho and Federico Zilio. The search aims to identify and investigate processes of silent violence in the context of adoption and its impact on child protection in Brazil. The study will consist of exploratory research starting from a literature review on the history of childhood and adoption in Brazil, the legal path of child protection and the violence issue in the context, and an analysis of concepts and implications through a psychoanalytic perspective.

#### **2. RESEARCH METHODOLOGY**

During the search, you will be asked to answer questions about adoption. The interview format will be a semi-structured interview, characterized by establishing a priori some questions or guiding questions, which may be changed whenever, during the interview, other topics or problems arise. The interviews will be recorded in audio and video and posteriorly analyzed.

#### **3. PLACE AND DURATION OF THE RESEARCH**

The research will be carried out online through the “Zoom” Platform and will last a maximum of 2 hours.

The research will be carried out with the authorization of Federico Zilio, research supervisor.

#### **4. CONTACT DETAILS**

Research manager:

Name: Beatriz Alexsandra Garcia Pinho

Telephone:3497020233

E-mail: beatrizalexsandra.garciapinho@studenti.unipd.it

Insittutional Adress: Piazza Capitaniato, 3 – Palazzo Del Capitano – Padova – Italy.

Responsible for data collection:

Name: Beatriz Alexsandra Garcia Pinho

Telephone:3497020233

E-mail: beatrizalexsandra.garciapinho@studenti.unipd.it

Insittutional Adress: Piazza Capitaniato, 3 – Palazzo Del Capitano – Padova – Italy.

## 5. CONSENT TO PARTICIPATION AND DATA PROCESSING

1. I am aware that the study is in line with the current laws, Legislative Decree 196/2003 and EU GDPR 679/2016, on data protection and to consent to the processing and communication of personal data, within limits, for the purposes and the duration specified by the laws in force (Legislative Decree 196/2003 and EU GDPR 679/2016). The research manager undertakes to fulfill the obligations established by the current legislation regarding the collection, processing and storage of sensitive data.
2. I am aware of being able to withdraw from the study at any time, without providing explanations, without any penalty, or obtaining the data's non-use.
3. I am aware that the data will be collected in confidential form (name/code).
4. I am aware that your data will be used exclusively for scientific and statistical purposes and with the maintenance of the rules relating to confidentiality.
5. I know that a copy of this form will be given to me by the researcher.
6. I consent to video and/or audio recording
7. I know that the protection of your data is designated by Decree of the Director General 4451 of 19 December 2017, in which a Data Protection Manager was appointed, [privacy@unipd.it](mailto:privacy@unipd.it).

The undersigned (SURNAME AND NAME IN CAPITAL LETTERS) \_\_\_\_\_ having read this form, expresses his/her consent to the participation and the processing of one's data.

Date \_\_\_\_\_

Legible signature \_\_\_\_\_

