

INTRAFAMILY VIOLENCE AND JUSTICE

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This study aimed to analyze the structural, developmental and functional dimensions of families in situations of violence, under judicial intervention in the city of São Paulo, SP, Brazil. The theoretical reference utilized was centered on the perspective of the ecological context of human development. A qualitative methodology was adopted. Data collection was constituted in the analysis of the judicial lawsuits, census maps, semi-structured interviews, free observation and photographs produced by the subjects. Data analysis was inspired by dialectic hermeneutics. "I did not have" and "In the streets" were empirical categories emerging from the subjects' statements, evidencing situations of insecurity and despair, the insertion in perverted relations, established in the universe of drug dealing, exploitation, violation of rights and economic privations. Families showed changes from one historical moment to another, under distinct variables and with a specific complexity, regarding their capacity of discovering, maintaining or altering their development in the environment.

DESCRIPTORS: family; violence; criminal law

LA VIOLENCIA INTRAFAMILIAR Y LA JUSTICIA

El objetivo de este estudio fue analizar las dimensiones estructurales, de desarrollo y funcionales de las familias en situación de violencia, bajo intervención judicial, en un municipio, en San Pablo, Brasil. Se utilizó el marco teórico centrado en la visión del contexto ecológico del desarrollo humano. La metodología adoptada es de naturaleza cualitativa. La recolección de datos se realizó sobre el análisis de los procesos judiciales, mapas de censos, entrevista semiestructurada, observación libre y fotografías producidas por los sujetos. El análisis de los datos se inspiró en la hermenéutica dialéctica. "No tuve" y "En la calle" fueron categorías empíricas que emergieron de los diálogos de los sujetos, evidenciando situaciones de inseguridad y desamparo, inserciones en relaciones perversas - establecidas en el universo del tráfico de drogas, explotación, violación de derechos y privaciones económicas. Las familias presentaron alteraciones de un momento histórico para otro, bajo distintas variables y con complejidad específica, en lo relacionado a las capacidades de descubrir, sustentar o alterar su desarrollo en el ambiente.

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O objetivo deste estudo foi analisar as dimensões estruturais, de desenvolvimento e funcionais das famílias em situação de violência, sob intervenção judicial, em um município do Estado de São Paulo, Brasil. Utilizou-se o referencial teórico centrado na visão do contexto ecológico do desenvolvimento humano. A metodologia adotada é de natureza qualitativa. A coleta de dados constituiu-se em análise dos processos forenses, mapas censitários, entrevista semi-estruturada, observação livre e fotografias produzidas pelos sujeitos. A análise dos dados inspirou-se na hermenéutica dialética. "Não tive" e "na rua" foram categorias empíricas que emergiram das falas dos sujeitos, evidenciando situações de insegurança e desamparo, a inserção em relações perversas, estabelecidas no universo do tráfico de drogas, a exploração, a violação de direitos e as privações econômicas. As famílias apresentaram alterações de um momento histórico para outro, sob distintas variáveis e com complexidade específica, quanto às capacidades de descobrir, sustentar ou alterar o seu desenvolvimento no ambiente.

DESCRITORES: família; violência; direito penal

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INTRODUCTION

Brazilian reality nowadays depends on several legal devices to help children and adolescents, and on public management models that, focusing on the family, aim at a broader commitment with human and social development in the country, justified by sharing intersectorial and governmental actions in an attempt to face and overcome poverty, social and economic inequalities. Such goals generate responses that are theoretically satisfactory for the proposed issues, also changing the incumbencies of each constituted power, so that their operators and specifically the science of Law can seek help from Human and Social Sciences, with the goal of advising and supporting the decisions and legal procedures in situations requiring technical-scientific knowledge.

Therefore, when a given situation of violence in the family reality against children or adolescents suffers a judicial intervention, the fact becomes a lawsuit. When the family is in a judicial situation, in the face of an authoritarian, centralized, rigid and bureaucratic organization like the Court of Justice, the violent fact, its consequences and temporal interfaces are displaced, granting importance to this cross-sectional study that monitored the development of its subjects for ten years.

Is it expected that parents from economically impaired lower social classes, who committed violence against their children and its aggravations, would be able to play the role of parents? We do not have such data or the pretense of answering that question in this study, but the combined results indicate that exposure to an environment lacking variables likesocioeconomic status, maternal institution, among others that determine a consistent tendency for strictly empirical work towards it.

Literature shows that the hierarchical structure of the family was based on the power and rights of the patriarch, even resorting to violence to maintain order. This structure of domination was crystallized both in image and in reality.

The reflections of the father's authority over his children, and adults' authority over children in general became the standard that raised several generations, including those whose parents are aggressors of their children, through violence.

METHOD

The realization of this research complied with the guidelines and regulatory standards for research involving human beings, stated in Resolution 196/96, which covers this type of research, and approval was obtained from the Review Board of Escola de Enfermagem de Ribeirão Preto, Universidade de São Paulo.

After this stage, the authorization for the research was requested to the officials in charge in the legal sphere, i.e. at the Forum of the research city – São Paulo, so that the data could be collected from lawsuits. Nine families were randomly selected to participate in the project, out of 115 families with a history of violence, in the period from 1995 to 2005, which had judicial intervention, totaling 66 participants.

As part of the documentation requested by these regulations, the term of consent was also elaborated and used to obtain the informed consent of the subjects participating in this research.

Cross-sectional monitoring happened through document analysis (family lawsuits) and also by programmed interviews and systematic observations by the researcher over ten years.

A qualitative methodology⁽¹⁻²⁾ was adopted, herein understood as interpretative practices contemplating the meanings that the subjects attribute to phenomena and the group of relations permeating their day-to-day lives. Semi-structured interviews, free observation and photographic material produced by the subjects were used for data collection, attempting to apprehend the personal views of family members about their family reality, using photographic imagery, a technique that brought important elements for the research. The Calgary Family Assessment Model (CFAM) was used to outline the family structure. The model consists of a multidimensional structure with three main categories: structural, developmental and functional, supported on a theoretical basis involving systems, communication and changes. This model was adapted from the family assessment model⁽³⁾.

The hermeneutic-dialectic method⁽⁴⁻⁵⁾ and the fundamentals of the Theory of Ecologic Systems⁽⁶⁾ were used to analyze and better understand the meanings.

The analytical-interpretative course involved the following stages: (i) Data sorting and classification; (ii) exhaustive and comprehensive reading, aiming

at acquisition, collective view and search for relevant structures; (iii) constitution of the corpus of communications, units of registry and refining the classification; (iv) identification and problemization of the explicit and implicit ideas within the text; (v) definition of empirical categories and search for broader (sociocultural) meanings, which articulate the explanations of the research subjects; (vi) final analysis, movement of the dialogue among the problemized ideas, information from other studies about the topic, the theoretical reference of the study and elaboration of an interpretative synthesis, attempting to articulate the objectives of the study, the theoretical reference adopted and the empirical data.

RESULTS/DISCUSSION

The analysis of structural, developmental and functional dimensions of the families of children and adolescents in situations of violence, under judicial intervention, brings results that qualify it as a space of social disintegration and all sorts of risk mechanisms with negative events, making the life histories of the people focus on the loss of loved ones due to homicide, imprisonment and long convictions due to intra- and extra-family violence.

People were observed to belong to low-income social classes, incapable of providing for the most basic needs of their members. They have a marked social retraction, even though they live on the streets. Parental, institutional and social contexts of the participants have no inclusive logic, which allows us to describe them as excluded⁽⁷⁾. There are gaps in their levels of constancy and differentiation of the family system's structural organization, with the abuse of alcohol and narcotics, professional instability and poor interpersonal skills. Data that are corroborated in the quantitative comparative distribution of physical violence, negligence and sexual violence in the same period⁽⁸⁾.

Children and adolescents define quite a precarious socialization, showing lack of knowledge of social and cultural standards, which is observed to increase the conflicts with the family environment and their exacerbations outside it. Severe difficulties and incompetence for integration into external systems

are noted, with the school as the place where these occurrences are most visible. Even though they may be in the later years of school, they remain illiterate, which was seen in several children in this environment.

A dilution of the family process is seen in the social systems, since the family functions are transferred to social services.

Eighty percent of the family members are female. According to age, the range with the highest number of subjects is between 30 and 39 years (30.0%), followed by 40-49 years (16.0%). High unemployment, professional instability and precarious jobs are also observed.

These dimensions, seen by their members in the perspective of judicial intervention, are shown to be innocuous and ineffective.

Violence is placed as a continuum, since there is a social construct that defines it since the childhood of the members of these families. Child labor is also found here, as the use of children for drug dealing, among several other situations of violations of rights, where the universality of childhood does not sustain itself, as seen in Figure 1.

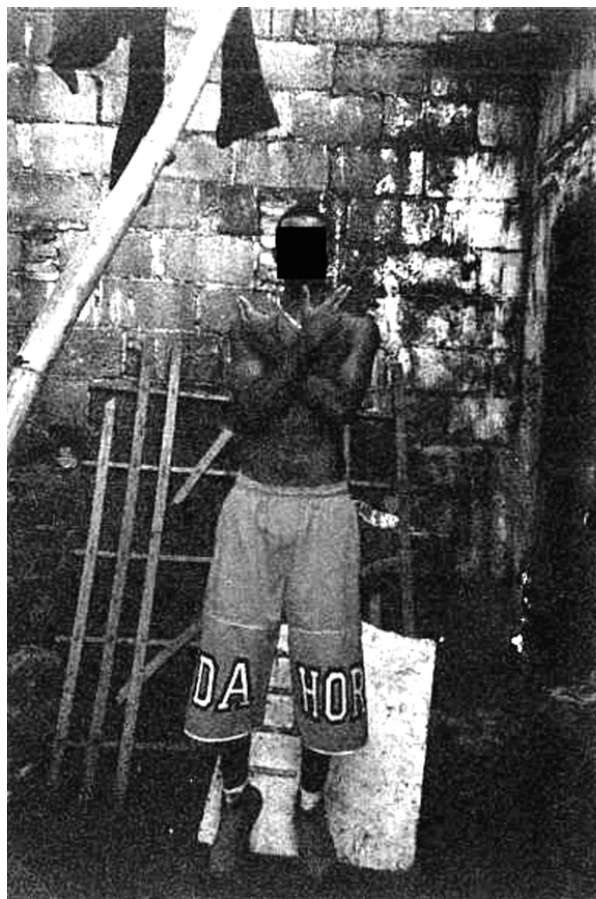


Figure 1 - Violence construct

It can be observed that the weight of the family roles is very significant for the development of its members, and that, depending on how the family is constituted and how its members relate, a better and higher development of its members can be promoted, or, on the other hand, their capabilities can be hampered. The family can be many things, from the source of emotional and social support, aiding in the healthy development of its members, to a source of risk, conflicts and stress. As for the emotional and behavioral adjustment of children and adults, it is associated with the quality of family relations⁽⁹⁾.

"On the streets", an empirical category unveiled, defines non-protection and loneliness, also revealing that the idealized family model (based on family membership, in the family nucleus with the predominance of the father-mother-children structure), according to these subjects, is the only one capable of providing the conditions necessary for the development of a child.

Broad-spectrum sociocultural analyses are necessary to understand the inner workings of a family, where its transformations can be observed through history⁽¹⁰⁾. For those authors, studying cultural diversity favors the development of clearer theories and the construction of more valid family concepts, which this study brings strongly. The family institution can be understood, when its members are "On the streets", as a principle of construction of collective reality. The family, nowadays, when seen as a social construct, can be understood as a common, well-known space that is simultaneously physical, relational and symbolic, capable of being used as a metaphor for all the situations that refer to spontaneity and ease⁽¹¹⁾.

Added to staying "On the streets", the context of the studied families is the late 20th century / early 21st century, noting that Brazil underwent important social, demographic and economic changes, which modified the age structure and family composition as a whole. The Brazilian family structure is still nuclear, but the size of the families decreased, while the number of unions without legal bonds and monoparental arrangements increased – those

characterized by the presence of the father (or mother) with the children, with or without other relatives in the same home⁽¹²⁾. The greater transformations have occurred within the family, due to changes in the woman's position and to new relational patterns among the family members.

We should also consider that, in operational terms, the macrosystem is manifested in the form and content continuities revealed by the analysis of a given culture, because the family analysis requires systematic information in relation to its structure and the ecological level where the behavior of its members occurred.

Simply affirming that these subjects are low-income Brazilian parents or children and not middle-class families is the same as offering a single marker, a sign on the door of the environmental context, which makes it unexpected. Therefore, in the context of the macrosystem structures, it is necessary to imagine human development as if it occurred within a dynamic environmental system: "Development happens inside a moving train, and this train can be called a 'macrosystem in motion'"⁽¹³⁾.

Responses in our research clarify the people's conceptions, as well as their relations with the forces of social and economic changes, as protagonists and subjects who are aware that they have nothing, and perceive the judicial intervention in their families as ineffective, and who want, need or move "ON THE STREETS", who also has the sky of freedom, or distancing from the State as a welcoming institution of protection for their needs, as observed in figures 2 and 3.



Figure 2 – On the streets, the sky as freedom



Figure 3 – The bathroom doorway in the house, covered with the national flag

The ecologic perspective used in the present study constitutes a theoretical approach which helped us not only to comprehend the amplitude and complexity of the study universe, but also to describe and explain the effects of the ecosystem in each family member⁽⁶⁾.

In the early 21st century, in the Brazilian reality, there is a very complex and specific context, which demands differentiated social and cultural responses, from people as a whole and, more specifically, from the families themselves.

Families are observed to have been living situations in their context, with extreme difficulties, being in a constant situation of vulnerability, either by the local drug dealer who threatens them, or by an extremely precarious socioeconomic situation, mostly maintained by social subsidies from the government, such as Bolsa Escola (*a social program that provides money to families as long as their children are sent to school*). Therefore, school evasion is not high, since the benefit has school attendance as its eligibility standard. Added to such subsidies,

they also receive community or institutional aid, often added to by theft and illicit activities. Children also participate in this income obtained from obscure sources, which, although the interviewees tried to hide them, were clearly detected in the statements, demonstrating the disintegration.

When Tonho was a minor, he worked as a drug carrier, you know? For drug dealers, I did that to pay for my vice, I had no childhood, I don't remember ever playing with anything (F9).

Studies about multiproblematic families showed very similar structures, describing and justifying the lack of ability to face crises and solve problems, where the attempts implemented to improve stressful situations usually end up in conflicts. Lack of mutual support and diverted alliance standards induce negative affective states in the family members, in so-called dismembered relations, where any adaptive process, such as negotiation, problem and conflict resolution, is shown to be less effective⁽¹¹⁻¹²⁾.

Although the data are clear, according to the strictness of the quantitative aspects, the qualitative analysis notes that the situation of the spouses does not present the same clarity, when based in the traditional sense. For example, in one of the families, where the couple has lived together with their children and formally married for over 30 years, the marital status of both persons is "married". However, the wife has lived in the same house with another partner for over five years, in a coexistence whose circumstances denominate stable union between man and woman, according to article 226, § 3rd of the Constitution of the Federative Republic of Brazil⁽¹³⁾. Also, there is another occurrence of the sort, where a married woman has been living with another man for 12 years, not her husband.

"I didn't have" education corroborates with the survey data, performed in a previous research on lawsuits related to victimized childhood⁽¹⁴⁾, resulting in a percentage where most people are illiterate, have never attended school or even finished 4th grade, and higher educational levels were not found.

Child labor occurred in all families studied, reported in 100% of the grandparents, 85% of the parents and 15% of their descendents. Child labor, defined as working before being 18 years old, is found to be highly related with low educational levels. Over time, this occurrence has decreased, which can be related to the approval of Law 8069 on 13/07/1990, the Statute of the Children and Adolescents⁽¹⁵⁾, guaranteeing protection to childhood, like in its article

60, which mentions "Children under 16 years old are forbidden to hold any kind of job, except if in the condition of apprentices".

Families seem to live permanently in crisis, with multiple problems that are renewed with each new generation, maintaining and sometimes exceeding its specificities. Besides, the younger members take on roles that are very similar to those played by the previous generations.

Their homes, very precarious, are concentrated in collective dwellings, whose reduced spaces house many people from several family groups.

Criminal actions from drug dealing, muggings, homicides, robberies followed by murder and others, committed by adolescents, establish very interesting dynamics with justice and its procedures within the judicial environment. This whole set of factors can be analyzed as a group of situations of the microsystem, rooted in the macrosystem of higher orders, the institutional structures and associated ideologies.

Still in the person/time axis and the different events that involve the person in development, families were observed to present several problems with chronicity, where the cycle of multiple problems renews itself at every new generation, by a mechanism that can be named relational heredity, developed in two axes, time and space.

Although this range of family occurrences has been interpreted, by choosing terms like multiplicity of problems and instability to compose some of its many characteristics, we should note, however, that such marks seem not to be shared by the families, since they spoke about them as something natural, even when verified through time, over the generations, as very important experiences of instability, despair, abandonment and violence, permeated with circumstances of fear and need for self-protection, these placed as forms of distancing and removing family cohesion, favoring the maintenance of dysfunctional relational patterns. The findings permitted affirming, within the cores of the ecologic system person, process, context and time, that these families have members who have lost resources over the generations. Therefore, they have become more and more vulnerable, unable to break this feeble relational heredity.

The interviewed families present an interesting geographic mobility, and constant changes of their places of residence, associated to the strategy

of life improvement, but with little success, which corroborates the findings of previous studies⁽¹⁶⁾. The analysis of the interviews shows that the average family has already held jobs in the rural area, whether cutting down sugarcane during harvest seasons, or preparing the soil between harvests. Their course has always been instable, lacking stable jobs, complaining about health problems that make it difficult to reinsert themselves in the job market.

I worked a lot during childhood, and now I lost my strength, I have no condition to work. The doctor told me that I have ulcer, that's why my stomach hurts so bad, and also because of drinking (F9).

A very broad panorama of health problems is detected, with alcoholism being the most highlighted, in members of all families, men and women, children and adolescents. Alcohol was also verified to be associated with situations of violence in the family context.

Although drug addiction was observed in members of all generations in all families, the highest incidence was found in the younger generations. In most families, one or more drug addicted child was observed, in the age range from 8 to 17 years.

The cases of drug addiction are also associated to criminal practice, temporarily going missing and theft practiced by adult members, which resulted in repeated imprisonment. In the families, some members have been imprisoned, and others are in prison, serving sentences of different lengths.

FINAL CONSIDERATIONS

It can be stated that there have been changes in the structure of these families over time, considering the four cores of the ecologic system: person, changes regarding the biological, physical and psychological characteristics in interactions with the environment; process, referring to how the experiences from mutant properties of the immediate environments should be interpreted, where the developing person is inserted, and also regarding time. In this chronosystem, the first change is about the mode related to the persons and their proximal processes, that advance over time, and the second, referring to the passage of time in the historical context.

The definition of the family outlined in our study is about changes of diffuse relationship patterns,

internal breakdowns and external interferences that interface with current times.

The ecologic approach in our study inspires a reorientation of the advancement in research with families and the implementation of public policies towards it.

Concluding, the families present alterations from a historic moment to the next, under distinct

variables and with specific complexities, regarding the capacities of discovering, maintaining or changing the properties of their development in the environment. Judicial interventions in cases of family violence need to consider the new legal devices on other procedural bases. The perception of the families about judicial interventions is conformed in non-resolution, considered hermetic, slow and arbitrary.

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