

# Children and adolescents taken care by the state of Rio de Janeiro: is adoption the solution?

*Crianças e adolescentes acolhidas no estado do Rio de Janeiro: a adoção é a solução?*

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**ABSTRACT** The purpose of this article is to discuss whether adoption, in the form in which it is systematized in Brazil, by the National Adoption Register, may be the solution to the serious problem of child and adolescent in risk situation care, especially those living in the state of Rio de Janeiro. To this end, the secondary data of two official computerized systems were analyzed: the Child and Adolescent Module of the Public Ministry of the state of Rio de Janeiro, and the National Adoption Register of the National Council of Justice. It was concluded that, the way the system is designed, adoption is far from being the solution to the violation of the fundamental right to family life of these children and adolescents, and can, at very least, be a great opportunity, but only if changes occur in the criteria established by the National Council of Justice, of selection of children and adolescents according to their physical characteristics by those interested in adopting.

**KEYWORDS** User embracement. Adoption. Adolescent, institutionalized. Child, foster. Covert racism.

**RESUMO** A finalidade deste artigo foi debater se a adoção, na forma em que está sistematizada no Brasil, por meio do Cadastro Nacional de Adoção, pode ser a solução para o grave problema do acolhimento institucional de crianças e adolescentes em situação de risco, especialmente aqueles que vivem no estado do Rio de Janeiro. Para tanto, foram analisados os dados secundários de dois sistemas informatizados oficiais: o Módulo Criança e Adolescente, do Ministério Público do Estado do Rio de Janeiro, e o Cadastro Nacional de Adoção, do Conselho Nacional de Justiça. Concluiu-se que, da forma com que o sistema está concebido, a adoção está longe de ser a solução para a violação do direito fundamental à convivência familiar dessas crianças e adolescentes, podendo, quando muito, constituir uma grande oportunidade, e isso caso ocorram mudanças nos critérios estabelecidos pelo Conselho Nacional de Justiça, de seleção de crianças e adolescentes de acordo com as suas características físicas pelas pessoas interessadas em adotar.

**PALAVRAS-CHAVE** Acolhimento. Adoção. Adolescente institucionalizado. Criança acolhida. Racismo oculto.

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## Introduction

Adoption, as conceived by Brazil, may be the solution, or just one of the alternatives, for a drama that marks the history of many Brazilian children and adolescents: growing up in an institutional care entity – popularly known as shelters or orphanages – without living with a family.

Scholars from various areas have been pointing out the harms caused by the long stay of children and adolescents in institutional care entities, especially those of early age.

According to Passeti<sup>1</sup>, in institutions, children are raised without their own will, always prevailing the collective interest over their individualities, besides receiving unsatisfactory schooling and, often, directed towards the occupation of positions considered to be of low-level within the society.

In the same vein, Cuneo<sup>2</sup> states that institutions are not the natural space for the integral development of children and adolescents, who are suddenly cared for by people who are strangers to them, and without the stimuli that only individualized attention could provide them, forming precarious affective and emotional bonds, with serious damage to the formation of their psychological integrity.

Ariès<sup>3</sup> emphasizes that, since the beginning of the Modern Age, the family has played a central role in the formation of children and adolescents, becoming no longer just an institution of rights and becoming an entity in which its members are united by love and focused on care and affection for their children.

In this context, as one of the forms of placement in surrogate family is that it exhorts adoption (article 28 of the Child and Adolescent Statute – ECA, Law n° 8.060/90<sup>4</sup>), hoping to be the solution to this serious violation of human rights of so many children and adolescents, kept away from a healthy and indispensable family life, which ends up causing serious damage to their psychological integrity and, therefore,

to health, as they are in the process of full education and development.

In the national judicial order, adoption is regulated by ECA<sup>4</sup>, with the modifications introduced by Laws n° 12.010/09<sup>5</sup> and 13.509/17<sup>6</sup>, emphasizing the creation and implementation of the national register of children and adolescents available for adoption and persons interested in adopting them (article 50, 5th paragraph of the ECA)<sup>4</sup>.

Even before the first modifications to the adoption institute, introduced by the legislator, the National Council of Justice (CNJ), the supervisory body of the Judicial Branch, had already created the mentioned National Adoption Register (CNA)<sup>7</sup>, through Resolution CNJ n° 54/2008<sup>8</sup>.

There are 9,419 children and adolescents and 45,182 adoption-qualified applicants enrolled in the CNA<sup>7</sup>.

Adoption continues on the agenda of the day.

At the National Congress, a Draft Law of the Senate (PLS n° 394/17)<sup>9</sup> is pending which aims at creating a statute of its own to address adoption.

What happens is that, for a child and adolescent to be considered adoptable, and then entered on the register as available for adoption, his/her parents must be previously deprived of family power, by means of a lawsuit, unless they are deceased or agree with the placement of their children in a substitute family (article 166 of ECA)<sup>4</sup>.

The removal of children and adolescents from their families, through the protective measure of institutional care, does not mean that parents have been deprived of family power, and, therefore, that they are able to be adopted and inserted in the CNA.

In this way, initially, it was sought to investigate, in the state of Rio de Janeiro, the main motivations that led to the removal of the children and adolescents sheltered from their families, to know if such reasons could lead to the extinction of the family power of parents with the referral of children and adolescents for adoption.

In this first stage, as research material, data related to children and adolescents sheltered in the state of Rio de Janeiro were used, provided by the Public Prosecutor's Office of the State of Rio de Janeiro (MPRJ), through the computerized system called Child and Adolescent Module (MCA)<sup>10</sup>, because there is no automatic synchronization tool within the CNA<sup>7</sup> yet, in order to know the profiles (color/race/ethnicity; age group and sibling group) of all children and adolescents in the Country and in each state of the federation and, among them, those already available for adoption.

In a second moment, as the objective of the research is to know if adoption can be the solution for the institutional reception in the state of Rio de Janeiro, all the children and adolescents sheltered were considered adoptable, which is not the case, comparing three of its main characteristics (color/race/ethnicity; age group and sibling group) with the profile desired by those eligible for adoption, by extracting the information contained in CNA<sup>7</sup>.

It was based on the following hypothesis: adoption is not the solution to the problem of foster care for children and adolescents and, if the CNA criteria are rethought, it could also become a real hope for those who are welcomed into family life.

## The true face of institutional sheltering in Brazil

Brazilian children and adolescents are routinely removed from their families and sent, under the responsibility of the State, to some public or non-governmental institution, as a protective measure of institutional reception, as a result of a risk situation caused by action or omission of society or the State; absence, omission or abuse of parents; or their own conduct (articles 98 and 101, items VII and VIII of ECA<sup>4</sup>).

The history of Brazil is marked by the removal of children and adolescents from their families of origin. On January 14, 1738, it was founded, by Romão de Mattos Duarte, in the Holy House of Mercy, the House of the Exposed, which allowed parents to handover their children to the State, throwing them, without any identification, especially those of young age through a large rotation wheel<sup>11</sup>. With the first Minors Code of 1926 (Decree n° 5.083)<sup>12</sup>, replaced a year later by the Mello Mattos Code (Decree n° 17.943-A)<sup>13</sup>, the phase began in which deprivation and poverty became synonymous with delinquency and, consequently, institutionalization of children and adolescents. This period, known as the Irregular Situation Doctrine, lasted when the Minors Code of 1979 (Law n° 6.697/79)<sup>14</sup> was repealed, in 1990, and its apex was the Minors Assistance Service (SAM) and the National Foundation for the Welfare of Minors (Funabem)<sup>15</sup>.

With the arrival of the Federal Constitution of 1988 (FC)<sup>16</sup>, the edition of (Law n° 8.069/90)<sup>4</sup>, and the ratification of the United Nations Convention on the Rights of the Child (CIDC – Decree n° 99.710/90)<sup>17</sup>, a new paradigm emerged for child and youth care, known as the Integral Protection Doctrine. Since then, children and adolescents have been considered as subjects of rights, who should receive priority treatment from the State, the community, society and family, so that they can have full physical and psychological development, as they are in a peculiar condition of development (article 227 of the FC)<sup>16</sup>. Thus, fosterage of children and adolescents became exceptional and provisional, regardless of deprivation of liberty (art. 101, sole paragraph of the ECA)<sup>4</sup>.

Even with the arrival of the new paradigm, the fosterage of children and adolescents by the State, especially in institutions, remains present, as one of the first measures for a disfavored childhood and youth.

Indeed, the culture of the institutionalization of poor children, which began in the colonial period, continued throughout the

twentieth century as an option for a needy population who continued to experience with their children the stigma of poverty imposed by the State, given the lack of effective implementation of family-oriented public policies<sup>18</sup>.

National Plan for the Promotion, Protection and Defense of the Rights of Children and Adolescents to Family and Community Life, of December 2006<sup>19</sup>, described this sad reality, already in the current century, when it defined families in situations of vulnerability or social risk, such as family groups that face negative socio-cultural conditions to the fulfillment of their duties, with threats or flagrant violations of their rights.

In recent years, with the enactment of Laws n° 12.010/09<sup>5</sup> and n° 13.509/17<sup>6</sup>, ECA<sup>4</sup> has undergone profound changes, with the aim of reducing the permanence of children and adolescents in the foster care institutions and, consequently, making them available for adoption if they cannot return to their families. Among the many changes, the following stand out: a) the entry and exit of children and adolescents from the institutions will only take place through judicial decision and guidance (article 101, paragraphs 2 and 3 of ECA<sup>4</sup>); b) the establishment of an individual care plan for each child/adolescent sheltered (article 101, paragraph 4 of ECA<sup>4</sup>); c) the introduction of a maximum period for the reevaluation of the fosterage measure – 6 months, in 2009, for 3 months, starting from 2017 (article 19, paragraph 1 of ECA<sup>4</sup>); d) the maximum length of institutional fosterage – 2 years, in 2009, for 18 months, from 2017 (article 19, paragraph 2 of ECA<sup>4</sup>); e) the preference in the maintenance or reintegration of the child or adolescent in their family, in relation to any other measure (article 19, paragraph 3 of ECA<sup>4</sup>); f) a maximum period of up to 90 days to search the extended family (article 19A, paragraph 3 of ECA<sup>4</sup>); g) the referral for adoption of newborns not sought within 30 days by their families (article 19A, paragraph 10 of ECA<sup>4</sup>); h) the lack or shortage of material resources, by itself, does not constitute grounds for the removal of the child

from his/her family, and must be included in official aid programs (article 23 and sole paragraph of ECA<sup>4</sup>); i) the prevalence of the family, the promotion of rights and the protection of children and adolescents (article 100, sole paragraph 10 of ECA<sup>4</sup>); and j) the period of 15 days for the action of the removal of family power by Public Prosecutor's Office and 120 days for the conclusion of the lawsuit (articles 101, paragraphs 10 and 163 of ECA<sup>4</sup>).

Faced with so many changes, it can be seen, at least from the formal point of view, that the institutionalization of children and adolescents must always be exceptional and provisional. It is also noted that the legislator has been indicating other options, such as family care (article 101, item VIII of ECA<sup>4</sup>, introduced by Law n° 12.010/09<sup>5</sup>), priority over the institutional, as well as sponsorship programs for institutionalized children, to minimize the stigmas of institutionalization (article 19-B of ECA<sup>4</sup>, added by Law n° 13.509/17<sup>6</sup>).

Considering that, except in cases of parental agreement or orphanhood, it is necessary the previous dismissal of the family power, through own legal action, in front of the parents, so that the received ones are available for adoption, it will be necessary to understand, primarily, the main reasons that motivate sheltering children and adolescents, moving them away from their families of origin (art. 166 of the ECA<sup>4</sup>).

## Reasons for reception and the causes of deprivation of family power

According to the Civil Code (art. 1638 of the CC)<sup>20</sup>, the loss of family power may occur due to the following causes: immoderate punishment; abandonment; practice of acts contrary to morals and good manners; irregular delivery of the child for adoption; or in the case of homicide, femicide, serious bodily injury or death, rape, or varied crime against sexual dignity, with the penalty of imprisonment

against the other holder of family power, son, daughter or descendant.

According to data from the 22nd census of the MCA<sup>21</sup>, which ended on December 31, 2018, 1,650 children and adolescents are growing far from their families in Rio de Janeiro, of which 1,515 are in institutional care and 135 in family care. Of these, only 166 are eligible for adoption.

In turn, it is also stated in the alluded census<sup>21</sup> that the main motivations for the care of children/adolescents in the state, among others, were: negligence (35.64%); abandonment (8.18%); homelessness (8.00%); due to their conduct (6.18%); physical or psychological abuse (5.76%); suspicion or sexual abuse (3.94%).

The neglect category (35.64%), mentioned as the main reason for institutional care, consists in the lack of compliance with a duty of care due to the omission of the agent, in this case, the parents. According to the Civil Code, negligence, that is, the omission of parents, by itself, cannot give rise to the removal of family power, except in cases of repeated practice of omissive conduct by the agent (articles 1637 c/c 1638, III of the CC)<sup>20</sup>.

Likewise, it is verified that, alone, two other motivations mentioned by the 22nd MCA<sup>21</sup> census – homelessness (8.00%), due to their own conduct (6.18%) – will not give rise to the extinction of family power, as only indirectly related to some conduct attributed to parents.

Consequently, only abandonment (8.18%) and the sheltered being the victim, either from physical/psychologist abuse (5.76%) or sexual abuse (3.94%), may lead to the dismissal of family power and the availability of the fostered ones for adoption.

Therefore, as a rule, children and adolescents referred to state care, due to the motivations presented for the application of the protection measure, are not suitable for adoption, because there is no cause for the removal of family power from their parents.

Therefore, institutional care cannot be understood as synonymous with children and

adolescents available for adoption.

Nevertheless, Brazil has massively promoted placement in surrogate family through adoption, as the great answer to the question of care for children and adolescents.

## The National Adoption System and some state initiatives

On April 29, 2008, the CNJ, the supervisory body of the Judicial Branch, issued Resolution CNJ n° 548 implementing a National Adoption Bank, which consolidated the data on all judicial functionalities in the Country, related to children and adolescents available for adoption and those eligible for adoption in Brazil.

In practice, CNA<sup>7</sup> is a great information manager, which seeks to cross-check the characteristics of children and adolescents available for adoption with the preferences of registered applicants from all over Brazil, known as qualified. Thus, since its implementation, the CNJ has always authorized, in CNA<sup>7</sup>, that the qualified choose children and adolescents by the following criteria: age; sex; group of brothers; race/color/ethnicity; with or without physical and mental disability, HIV and other diseases.

According to ECA<sup>4</sup> (article 50, paragraph 13, items I, II and III), any adoption will only be granted to qualified candidates in the CNA, except in three legal situations: 1. unilateral adoption (stepfather or stepmother adopt the stepchild), 2. requests made by relatives with whom the adopting partner lives and maintains affectionate bond; 3. requests made by those holding custody of a child, or adolescent over the age of 3.

Even after the regulation of a national system by Law n° 13.010/09<sup>5</sup>, the Legislative Power, besides introducing news through Law n° 13.514/17<sup>6</sup>, continues to debate in the National Congress Draft Laws (PL) on the subject, with the objective of further fostering

the adoption of sheltered children and adolescents. The Draft Law (PLS) n° 394, of 2017<sup>9</sup> is emphasized, which establishes an Adoption Statute, subtracting the ECA matter, which has always systematized all the rights of children and adolescents.

Within the Executive Branch, which is responsible for instituting public policies in favor of Brazilian children, adolescents and families, there are also incentives for adoption. For example, the state government of Rio de Janeiro, through State Law n° 3.499/2000<sup>22</sup>, created the A Home for Me program, instituting an adoption-aid for the state civil servant occupying a public job, effective position or commission post, civilian or military, active or inactive, adopting an orphaned or abandoned child or adolescent.

The Judiciary Branch is moving in the same direction, through the initiative of its various Courts of Justice, in organizing various adoption campaigns. Examples of good practices include the Adopt One Winner projects, of the State Court of Justice<sup>23</sup> of Rio de Janeiro; Adopt a Good Night, of the State Court of Justice<sup>24</sup> of São Paulo; Waiting for You, of the State Court of Justice<sup>25</sup> of Espírito Santo; and Let Love Surprise You, by the State Court of Justice<sup>26</sup> of Rio Grande do Sul.

The MPRJ itself, in 2017, created its own system of active search for children available for adoption called I Want a Family<sup>27</sup>.

Recently, the CNJ, through Resolution n° 289, of August 14, 2019<sup>28</sup>, implemented the National Adoption and Fosterage System (SNA), still under testing, revoking Resolution n° 54, of April 29, 2008, who created the CNA.

## Methodology

The children and adolescents taken care by in the state of Rio de Janeiro were elected as the target audience of the research. For this purpose, the MCA<sup>10</sup> secondary multifocal empirical data, the results of the 22nd census<sup>21</sup> of the sheltered of Rio de Janeiro state, ended

in December 31, 2018, were collected as instruments. The MCA<sup>10</sup> consists of a data system managed by the MPRJ, with detailed information of all children and adolescents sheltered in the state of Rio de Janeiro, which is fed daily by the Tutelary Counselors, the Judicial Branch and the Public Prosecution's Office itself. Semi-annually, the MPRJ performs censuses of this population, ending the 22nd compilation<sup>21</sup> of public access on 31 December 2018.

As the research question consists of verifying if adoption can be the solution to the problem of the institutional care of the state of Rio de Janeiro, as well as the small number of children and adolescents taken care by in the state able to adopt (only 166, according to data from the 22nd census of MCA<sup>21</sup>), which represents just over 10% of the total number of sheltered ones, it was decided from the following premise to allow the presentation of data: all 1,650 taken care by who were enrolled in MCA<sup>21</sup> (100%) were available for adoption on December 31, 2018.

In order to verify the real opportunities for the public sheltered in the state of Rio de Janeiro to be adopted, three of its characteristics were chosen for analysis: color/race/ethnicity; integrate a sibling group and age group.

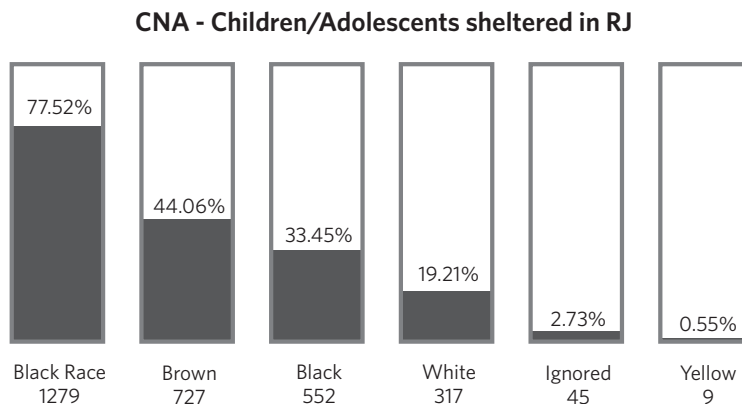
This information on the sheltered was compared with the preferences of adoption-enabled throughout Brazil, registered in the CNA, since children and adolescents are available for adoption to any authorized in the Country, respecting the chronological order of registration of the applicant.

Data collected from the CAN, on adoption-enabled preferences, were also extracted on December 31, 2018, because the 22nd census of the MCA<sup>21</sup> ended on that date.

## Results and discussion

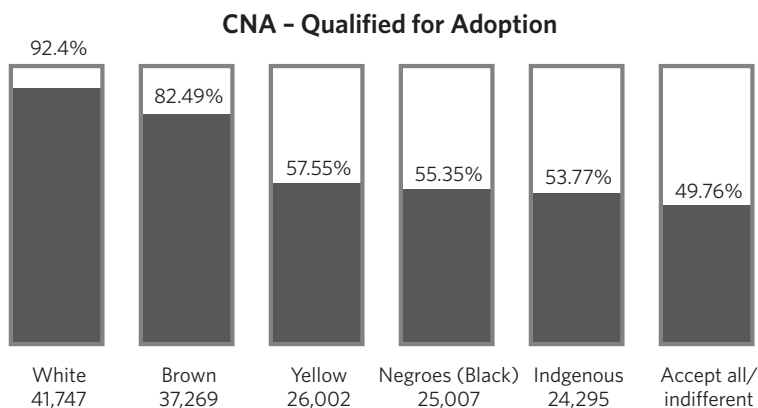
Data will be presented in three groups, using *figures 1 and 2*, keeping the categories and variables used in the official databases of the 22nd census of MCA<sup>21</sup> and CNA<sup>7</sup>.

Figure 1. Relationship between color/race/ethnicity of children/adolescents sheltered in the 22nd Census of the Child and Adolescent Module



Source: Elaborated on the basis of the 22nd Census of the Child and Adolescent Module<sup>21</sup>.

Figure 2. Preferences of the qualified for adoption from all over Brazil from the National Adoption Register



Source: Elaborated on the basis of the 22nd Census of the Child and Adolescent Module<sup>21</sup> and the National Adoption Register<sup>7</sup>.

Some difficulties deserve to be pointed out before the analysis of the results.

The first is that CNA<sup>7</sup> does not adopt the black race/ethnicity nomenclature, as did the 22nd census of the MCA<sup>21</sup>, according to the definition of the Racial Equality Statute (article 1, item IV of Law n° 12.288/10)<sup>29</sup> as the group of people who called themselves black and brown, according to the classification adopted

by the Brazilian Institute of Geography and Statistics (IBGE).

In addition, the inclusion of children and adolescents data, based on color/race/ethnicity, is performed by third parties, the professionals who feed the systems, (hetero-declaration), and not by themselves (self-declaration), as determined by the Racial Equality Statute<sup>29</sup>.

The third is the inaccuracy of such information, since color/race/ethnicity are relational concepts, depending on several factors to be categorized, not just simple physical appearance. For example, the definition of someone considered dark/black or brown/race/ethnicity for someone domiciled in the Southern region may be different from that given by a person living in the Northern region.

Finally, the impossibility of simply adding the numbers of those who accept children/adolescents of the color/race described in CNA<sup>7</sup> as black and brown, for the purpose of finding the quantitative of those who accept the sheltered of the black race column (black and brown) of the 22nd census of the MCA<sup>21</sup>, because, when adopters choose their preferences, they can point to more than one color/race/ethnicity, which is the rule.

That said, analyzing the results, it is observed that the majority of those sheltered in the 22nd Census of the MCA<sup>21</sup> are black (77.52%), considered the junction of brown (44.06%) and black (33.45%), whites representing only 19.21%. On the other hand, the percentage of those who accept adopting dark/black (55.35%) or brown (82.49%) children is much lower than those who accept white (92.4%).

Thus, the opportunities for a sheltered who is classified as white/race/white to find someone who wants to adopt him/her are much greater than those of black race (black and brown). Consequently, the sheltered ones of black color/race/ethnicity (black and brown) tends to stay longer in the foster care and, depending on other factors (age group and sibling group), with little chance of being adopted.

According to the data analysis, this choice of color/race/ethnicity of a child authorized by the CNJ in CNA<sup>7</sup> constitutes the practice recognized as institutional racism.

According to Jurema Werneck<sup>30(543)</sup>, institutional racism

would be equivalent to institutional actions and policies capable of producing and/or maintaining the vulnerability of individuals and social groups victimized by racism.

For Thula Pires<sup>31(257)</sup>, institutional racism, as a consequence of the actions of the institutions,

necessarily stems from the high degree of naturalization of the racial hierarchy and the stereotypes that infer a certain group while asserting the superiority of the other.

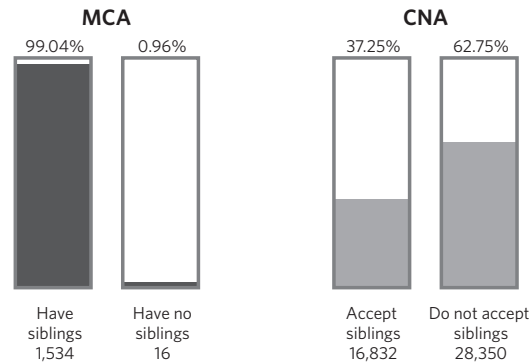
It is emphasized the absence of voluntariness for the institutional racism to be configured, since it is only a consequence of the institutions' acting, in this case, the authorization granted by the CNJ for children and adolescents to be chosen in this way.

It is recorded, furthermore, that the percentage of qualified people who accept children/adolescents classified as brown (82.49%), that is, closer to white, is much higher than those categorized as dark/black (55.35%). This phenomenon is known as 'colorism' or 'pigmentocracy', which consists in checking the amount of privilege, or harm, that is granted to black people, based solely on skin color, that is, the lighter the shade very close to white, the greater the privileges you will enjoy compared to those with darker skin tone<sup>32</sup>. In this case, brown children and adolescents, more similar to the dominant pattern desired by the empowered – white children/adolescents – will have more chances of adoption than dark/black ones.

It is also important to highlight, considering the high number of qualified in the Country (45.182), that, if only people who accepted to adopt regardless of color/race/ethnicity (22.483 – 49.76%) were enrolled in CNA<sup>7</sup>, there would be enough candidates to the adoption of all children and adolescents sheltered in the state of Rio de Janeiro (1,650 – 22nd Census of the MCA<sup>21</sup>), and those from Brazil already registered with the CNA (9.419)<sup>7</sup> (figure 3).



Figure 3. Relationship between the sheltered by groups of siblings from the 22nd Census of the Child and Adolescent Module and the preferences of those eligible for adoption of the National Adoption Registry



Source: Elaborated on the basis of the 22nd Census of the Child and Adolescent Module<sup>21</sup> and the National Adoption Register<sup>7</sup>.

While only 16 (0.96%) children and adolescents sheltered in the state of Rio de Janeiro have no siblings, the majority of those qualified express a preference not to adopt children and adolescents with siblings (62.75%).

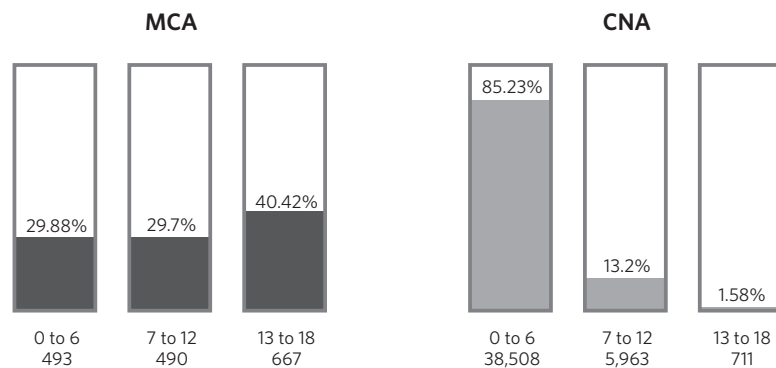
It is noteworthy that, if only those qualified who accepted to adopt a group of siblings were admitted to the CNA, there would be more than twice the number of applicants to adopt all Brazilian children and adolescents registered in CNA<sup>7</sup>(9,419), perhaps of those received in the state of Rio de Janeiro (1,650 – 22nd census of the MCA)<sup>21</sup> (figure 4).

It is noted that 85.23% of those eligible for adoption from all over Brazil desire children up to the age of 6 years, while this public represents only 29.88% of children and adolescents who are sheltered in the state of Rio de Janeiro.

The adoptions in the state of Rio de Janeiro, therefore, in their majority, will be late (from 7 years of age).

It should not be overlooked that, in view of the large number of qualified already enrolled in the CNA, new qualifications for young children (from 0 to 6 years old) are unnecessary.

Figure 4. Relationship between children/adolescents sheltered by age group in the 22nd Census of the Child and Adolescent Module and the preference of those qualified for adoption of the National Adoption Register



Source: Elaborated on the basis of the 22nd census of the Child and Adolescent Module<sup>21</sup> and the National Adoption Register<sup>7</sup>.

## Final considerations

Failure to respect the fundamental right to family life of children and adolescents, with their inclusion and maintenance under a foster care scheme by the State, especially in institutions, is a serious problem of the lack of effective and continuous implementation of public policies, which guarantee the most vulnerable families minimum social rights – housing, health, education and work opportunity.

The most vulnerable Brazilian families need to be treated by the State through preventive actions, and with concrete opportunities for access to family planning programs, this is because the numbers show that almost all of the foster children of the state of Rio de Janeiro have siblings.

For the fosterage of children and adolescents to be exceptional and, when unavoidable, provisional, as determined by the law, it will be necessary an effective sociocultural transformation, so that all operators of the rights guarantee system see before the drastic measure the negative effects on the formation of the psychological integrity of those who have gone through some experience of institutionalization.

It was found that the main event giving rise to child and adolescent fosterage in the state of Rio de Janeiro was the neglect of parents, which could be avoided, if there was effective monitoring of the most vulnerable families by the municipalities, through their care services of the primary care teams of the Family Health Strategy, with the indispensable participation of the Tutelary Councils. Only this way the protective measure of sheltering, whether family or institutional, would be a last form, since the possibilities of maintaining children and adolescents in their family are already exhausted.

As a matter of urgency, therefore, as well as increasing the number of Guardianship Councils of the vast majority of the municipalities that make up the State, the existing councils should be properly structured, so

that society sees the adviser as an indispensable agent for the system of guarantee and protection of rights, especially because he/she is on its tip, kicking off to the welcoming, almost always without knowing the family reality of that child or teenager.

One must not lose sight of the fact that, when children and adolescents stay for long periods of time, family bonds inevitably break, since many families, faced with the precariousness of resources, end up restricting their relationship with their children to mere visits, at best, weekly.

It is reiterated that the reception measure should be emptied, and only applied to peculiar situations, in which the child and adolescent are in serious danger of staying with their parents and without the possibility of remaining in the care of other relatives.

Adoption, as one of the forms of placement in substitute family, even if it is not the solution, can, surely, be a great hope for children and adolescents who are sheltered by the State.

As the CNA was established in favor of children and adolescents waiting for a family, its criteria for selecting children should be re-discussed, as they favor the interest of adults rather than those of the sheltered, subjects of rights for whom the register was created.

This is because there is no legal provision that establishes the duty of the State to provide children through the adoption institute, much less with the characteristics desired by adopters. If there were not so many children and adolescents living without a family, adoption would certainly not be so widespread in the Country.

The color/race/ethnicity criterion, of sociocultural content, should not be part of a computerized data crossing system, due to its notorious inaccuracy, especially between race and black categories. In addition, the choice of children based on this category, as shown, characterizes the practice of institutional racism by the CNJ, which is the creator and manager of the CNA.

Adoption, therefore, should have no color, since adoptive affiliation has at its core the absence of physical similarities between parents and children. This reality should not be masked, and those who have been deemed eligible for adoption by the State must be prepared to face together with their children all the prejudices that adoptive affiliation holds for them, especially in cases of interracial adoption.

We need to consider whether the State is still interested in empowering people who are interested in adopting only young children and who do not have siblings, since, in their majority, the vast majority of those sheltered do not have these profiles.

The time has come to invest in the skilled CNA who have made the choice to adopt children and adolescents regardless of color/race/ethnicity; who accept groups of siblings and are open to late adoptions. In them we must place our hopes and encourage them to meet the sheltered ones who are waiting for the love of a family.

Due to the number of applicants already registered with the CNA, which is four times the number of children and adolescents available for adoption, the suspension of new applications for qualification for adoption, except in cases of those interested in necessary adoptions (sibling groups, late, children/adolescents with disease or disabilities), presents itself as a reality that should be debated with society.

The process of enabling the adoption, even if partially decentralized, with the participation of the adoption support groups, remains costly to the State, and ends up generating frustration for those who do not find their idealized child and impute this mismatch to a supposed state bureaucracy.

The doors of the institutional care entities have to be opened, so that, supervised by the technical teams, those authorized for adoption have effective contact with the reality of the children and adolescents welcomed, and, from this encounter, may the love that unites

parents and children arise. The ECA already recommends the visitation to care entities, but little importance to qualified and competent judgments in childhood and youth are giving to this fundamental step for the process of building affectionate bonds.

In conclusion, only with the establishment of an even smaller funnel at the door of the care system, and a profound change in the profile of the qualified for adoption, the institutionalization of children and adolescents may no longer be a current problem in Brazil. Furthermore, if there are no changes and the exclusion of some of the CNA criteria, established without a legal basis, the adoption, as organized in the Country, will have a restricted application, taking much more account of the interests of those who intend to adopt than that of children and adolescents waiting for a family. Perhaps it is no coincidence that it first appeared in a legal order in the Old Age, long before any rights to children and adolescents were recognized, which happened only at the end of the twentieth century.

Finally, it should be noted that adoption is, first and foremost, an act of love that must be surrounded by ethical issues and extreme responsibilities. The dignity of children and adolescents is a defining and indicative mark that the issue of adoption must always be seen in the midst of human rights.

## Collaborators

Espindola SP (0000-0001-8271-7889)\* has substantially contributed to the conception, study design, acquisition, analysis and interpretation of work data; preparation of preliminary versions of the article and critical review of important intellectual content; final approval of the version to be published; has agreed to be responsible for all aspects of the work in order to ensure that issues related to the accuracy or completeness of any part of the work are properly

investigated and resolved. Viana MB (0000-0001-9411-2086)\* has substantially participated in the conception, planning, analysis and interpretation of data; has participated in the critical review of the content and approval of the final version of the manuscript.

Oliveira MHB (0000-0002-1078-4502)\* has substantially participated in the conception, planning, analysis and interpretation of data; has participated in the critical review of the content and approval of the final version of the manuscript. ■

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