

Conceptions of Justice System professionals on adoption by gay and lesbian couples

Concepções de profissionais do Sistema de Justiça sobre adoção por casais de gays e lésbicas

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Abstract

This exploratory and qualitative research aimed to understand how legal professionals and professionals working in the Public Ministry (psychologists, social workers, prosecutors, and judges) understand and notice adoption by gay and lesbian couples. Forty-one professionals were interviewed (six judges, three prosecutors, fourteen psychologists, and eighteen social workers), who work in ten judiciary districts of three Brazilian states, with the collected data being submitted to content analysis and interpreted according to the bioecological theory and local literature. For the professionals, adoption in Brazil is legally possible, but there are restrictions based on the propagation of moral values on the social imaginary. In general, they would more specifically assess, in these candidates, the possible repercussions of sexual orientation and adoption in their lives and in the lives of their families, worrying about the emotional safety of their future children. The importance of preparing candidates, children/adolescents, and professionals was emphasized, and these must act as agents of change to a cultural re-signification of preconceived conceptions.

Keywords: Adoption; Judiciary; Sexual and gender minorities; Stepfamily.

Resumo

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Este estudo exploratório e qualitativo objetivou compreender como profissionais que atuam no Judiciário e no Ministério Público (psicólogos, assistentes sociais, promotores e juizes) entendem e percebem a adoção por casais de gays e lésbicas. Foram entrevistados 41 profissionais (seis juizes, três promotores, 14 psicólogas e 18 assistentes sociais) atuantes em dez Comarcas de três estados brasileiros, sendo os dados submetidos à análise de conteúdo e interpretados pela teoria bioecológica e por literatura da área. Para os profissionais, trata-se de uma adoção juridicamente possível no Brasil, embora reconheçam que existem ressalvas pautadas na veiculação de valores morais no imaginário social. Em geral, avaliam-se mais especificamente nesses pretendentes as possíveis repercussões da orientação sexual e da adoção em suas vidas e de suas famílias, preocupando-se com a segurança emocional do(s) futuro(s) filho(s). Enfatizou-se a importância da preparação de pretendentes, crianças/adolescentes e profissionais, devendo esses operarem como agentes de mudança para uma ressignificação cultural de concepções preconceituosas.

Palavras-chave: Adoção; Poder Judiciário; Minorias sexuais e de gênero; Família adotiva.

In a growing process of expansion of the concept of family and of the redefinition of the culture of adoption, gay and lesbian couples are increasingly presented as a legitimate possibility of establishing a surrogate family. In the Brazilian context, adoption by these applicants is possible based on gaps in some parts of the country, given that legal frameworks (Senado Federal, 1988; Presidência da República, 1990), especially related specifically to adoption and the rights of children and adolescents (Presidência da República, 2009, 2017), do not explicitly mention the sexual orientation of the applicants as a veto point. Even though adoptions by Lesbians, Gays, and Bisexuals (LGB), for example, exist in Brazil through single, this study specifically focuses on adoption by gay and lesbian couples applicants (Ximenes & Scorsolini-Comin, 2018). These legal provisions, briefly mentioned in this paper, have ensured not only the legitimacy of these couples to adopt, but their growing representation in the Brazilian legal scenario.

However, some points of prejudice still seem to feed ideologies and prohibit the discourse of “everyone’s right” – to marry, to have children, to start a family, to have rights, and to receive protection from the State. This aspect is largely explained by the fact that, although the game of visibility of different configurations reinvents limits that comprise the descriptions of feeling part of the family, or trying to be part of the family, and social acceptance, these configurations still carry the stereotype of the *unknown*, when compared to the heteronormativity of the traditional family (Coitinho Filho, 2017; Foucault, 1999).

The scientific literature produced on this topic can still be considered recent, in line with the entrance of this discussion into the Brazilian legal scenario. Studies on adoption by gay and lesbian couples in the country cover the experiences of these adopters regarding the construction of the parental role and its legal implications (Coitinho Filho, 2017; Machin, 2016; Rosa et al., 2016; Tombolato et al., 2019), as well as the perception of the population and students who could become future social actors in the areas of Law, Psychology, and Social Work (Cerqueira-Santos & Santana, 2015; Mizaél et al., 2020; Santos et al., 2018).

Although professionals in the Justice System are essential in this field, there is a gap in relation to studies on the assessment, inspection, and decision-making in legal adoption qualification processes – carried out by psychologists and social workers, prosecutors, and judges, respectively – directed at those seeking adoption, considering the vicissitudes of this process (Cecílio & Scorsolini-Comin, 2018a, 2018b; Ximenes & Scorsolini-Comin, 2018). Another gap observed is that these few existing studies explore the universe of LGB, without including the trans category (transgender, transsexual, and transvestite) and even the queer, non-binary, and intersex population (Lira et al., 2016). This study presents itself as a contribution to thinking about the legal processes related to adoption in this context, but still addressing these reflections to the predominant public among these applicants, that is, LGB, also because this is still the scenario that has been more expressive in the Brazilian Justice System (Cecílio & Scorsolini-Comin, 2018a).

Considering the tensions in this field, do these professionals in the Justice System, who are responsible for successes and mistakes in the choice of “ideal parents” in the qualification process (Weber, 1997), in

order to prioritize safe and healthy bonds, start from a family ideal or do they present a relational ethic that entrusts these subjects with the freedom to express their socio-affective singularities? Can common sense fears, discussed in studies on the subject (Cecílio et al., 2013; Farr, 2017; Gato & Fontaine, 2011), that children of gay and lesbian couples would present possible psychosexual, cognitive, and affective impairment, in addition to being victims of prejudice, be found in the statements of the professional team? The international scientific literature points out that there is no evidence of differences between children/adolescents who grow up and develop themselves in families headed by heterosexuals or homosexuals (Golombok et al., 2014; Vecho & Schneider, 2005), highlighting the way in which sociocultural aspects built around homo-affective parenthood can direct the way such couples are referred and welcomed in the Justice System.

By understanding that meanings are built in the dynamism between people and society from experiences contextualized in a historical-temporal way and considering that culture would work both for the maintenance and for the transformation of norms and values, this study is in line with the bioecological model of development (Bronfenbrenner, 2011). According to this author, it is necessary to compare not only the developmental vertices such as the person, process, context, and time, but also the interaction between them, especially considering the complexity of certain phenomena. In this investigation, it is recognized the importance of looking at how professionals who work with the assessment and qualification of applicants build and attribute meanings about adoption by gay and lesbian couples, neutralizing, resignifying, and/or rejecting cultural suggestions in which they find themselves immersed. The bioecological model, in this sense, proves to be valid for allowing to portray and reflect not only on individual and subjective processes expressed by these professionals, but on how their practices are also presented in response to more immediate environmental circumscribers and also to broader contexts, such as culture and the effect of historical time.

This study is justified, therefore, as a possibility to investigate the knowledge, difficulties, and handling of these in the work of professionals in the Justice System on the issue, as well as how these aspects can influence decision-making processes in adoption, which constitutes a gap in the national scientific production (Cecílio & Scorsolini-Comin, 2018b; Silva, Silva, et al., 2017; Ximenes & Scorsolini-Comin, 2018). Therefore, the objective of this study was to understand how professionals (psychologists, social workers, prosecutors, and judges) who work in the Judiciary and Public Ministry understand and perceive adoption by gay and lesbian couples.

Method

This is an exploratory study with a qualitative research approach, following the recommendations of the Consolidated Criteria for Reporting Qualitative Research protocol.

Participants

Forty-one professionals working in the Judiciary and the Public Ministry participated in this study, including six judges, three prosecutors, 14 psychologists, and 18 social workers. The aim was to select only professionals who were directly involved in the assessment (psychosocial technical team), follow-up, guidance and inspection (prosecutors), and court decision-making (judges) on the qualification of candidates for adoption. It should be noted that not all the professionals interviewed went through the experience of qualifying gay and lesbian couples as eligible to adopt, given that the objective was not to compare these professionals who had or did not have such experience, but to apprehend the conceptions built on the theme regardless of their experience with that type of petition. It is noteworthy that professionals from 10 districts, located in the states of *Minas Gerais*, *São Paulo*, and *Goiás*, accepted to participate in the study. Table 1 presents the

main characteristics of the sample in terms of age, marital status, mean number of children, religious/spiritual belief, mean time since graduation, mean time in the current position, and whether they had experience with gay and lesbian couples. It should be noted that none of the participants reported having followed or learned about the processing of adoption petitions by trans, queer, or intersex applicants.

Table 1
Identification of the professionals interviewed (N = 41). Uberaba (MG), Brazil, 2017

Professional category	Mean age	Marital status	Mean number of children	Religious/spiritual belief	Mean training time/ in the position	Experience with adoption by gay and lesbian couples
Judges (n = 6)	47.16 years old	Married (5), Separated (1)	2.5 [1 has an adoptive child]	Catholic (3), Spiritist (1), Does not have (1), Did not identify (1)	20.16 years old/ 13.16 years old	n = 2
Prosecutors (n = 3)	43.6 years old	All married	1.33 [1 has an adoptive child]	Spiritist (1), Does not have (1), Did not identify (1)	21 years old/ 15.33 years old	n = 3
Social workers (n = 18)	41.61 years old	Married (9), Single (6), Separated (2), Widowed (1)	1.27 [2 have adoptive children]	Catholic (6), Evangelical (1), Spiritist (4), Spiritualist (3), Agnostic (1), Did not have / identify (3)	9.91 years old/ 18.72 years old	n = 11
Psychologists (n = 14)	44.8 years old*	Married (7), Single (3), Stable Union (2), Separated (1), Widowed (1)	1.53	Catholic (7), Did not have / identify (5), Spiritist (2)	12.89 years old/ 18 years old	n = 11

Note: * Two professionals chose not to inform their age.

Instrument

An interview script was used, developed exclusively for this study, consisting of 27 guiding questions. However, it should be noted that it was a semi-structured script, and based on the participants' responses, new questions could be presented by the researcher in the field, being added to this initial script. The script was applied face to face with each of the participants. It contained questions about how professionals interpreted family, adoption, and their performance in relation to this theme, at first, and then more specific questions about adoption by gay and lesbian couples, not only considering their perception on the subject, but also their possible experiences in this context. As an illustrative example, some questions were: "Tell me what you think about adoption by gay and lesbian couples", "How is the assessment of gay and lesbian couples done in the qualification process?", "Have you ever worked in an adoption process in which you needed to assess gay and lesbian couples who wanted to adopt? What are your perceptions? What did you feel?".

In this same script, there were specific questions about how these professionals performed the assessment of applicants for adoption in the case of gay and lesbian couples (specifically for psychologists and social workers), how was the decision process (specifically for judges), how these couples participated in the preparatory courses for adoption, as well as the experiences of each one in this theme. There were also specific questions about the professional training of each one, time of experience in the Justice System, and particularly with cases of adoption and adoption by gay and lesbian couples. In order to respond to the

objective of the present study, the answers that revealed the respondents' perceptions about adoption by gay and lesbian couples were analyzed in this section.

Procedures

The participants were recruited from the researchers' social contacts and also with the help of an adoption incentive group in which the first author participates as a collaborator and researcher, using the "snowball" technique, providing opportunities to meet new participants from the indication of professionals. The first contact with each volunteer was made by phone or e-mail, scheduling the interview according to the participant's availability. After signing the Informed Consent Form, the interviews took place in reserved rooms at the participants' workplaces, preserving all ethical precautions, being audio-recorded and later transcribed in full and literally, making up the analytical corpus. Participants will be identified by fictitious names. All contacts and interviews were conducted by the first author of the study, a psychologist, a cis woman, and a researcher in the field of adoption.

To carry out and organize these analyses, we used the reflexive thematic analysis procedures proposed by Braun and Clarke (2019). The interpretation of the data from the meanings produced by the reflective analysis was based on the literature in the area and on the bioecological model of Bronfenbrenner (2011), taking as reference the elements of the Person-Process-Context-Time model in a systemic perspective of understanding the developmental processes.

This study was approved by the Research Ethics Committee of the Federal University of Triângulo Mineiro, Protocol N°. 2360.

Results

From the reflexive thematic analysis, three themes were produced: 1) Of which adoption and which families are we talking about?; 2) Adoption by gay and lesbian couples: social imaginary and legitimation strategies; 3) Psychosocial and Legal Assessment: possibilities and limits in research. When mentioning the authors of the statements, in addition to the fictitious name, the profession and length of experience will be included, respectively.

What adoption and what families are we talking about?

In this thematic axis, we aim to present how professionals meant and contextualized the desire of LGB applicants to become parents, especially through adoption. We unanimously found in the professionals' statements the score of the family environment as the best context for a person, specifically a child/adolescent, to develop properly. Despite not having restrictions on number, gender, ethnicity, or consanguineous constitution, based on the discourse of "couples who want to be together by affinity, by affection" (Social Worker Mônica, 5 years of experience), eight professionals used the expression "*traditional family*" as a reference.

When talking about family compositions and how they see the growing demand of gay and lesbian couples for adoption on the national scene, some statements gained prominence such as that of Psychologist Ana Carolina (10 years of experience): "[adoption] is very welcome, because you need it, there are so many children [...] waiting for love, huh, a place to develop themselves [...] than in the institution". A second mention was made by two interviewees and illustrated in the statement of Prosecutor Lilian (13 years of experience): "Today we walk on eggshells, because it seems that everything we say sounds like prejudice.

And then there is a difficulty, yes, you open an adoption process and see two men or two women there”, referring to the fact that the new is scary and that “*it takes time to be better absorbed*”, the perception being reiterated that this insecurity seems to be more common in legal professionals, while for the technical teams “*it sounds more natural*”.

Regarding what they think and how they perceive the fact that the specific LGB public wants to exercise parenthood, one statement stood out with a rhetorical question, echoing the statements of another 12 interviewees: “Why do heterosexuals want to be parents?” (Psychologist Monalisa, 33 years of experience). Regarding the choice for parenthood to occur through adoption, the main justification (n = 25) was that homosexuals would be unable to naturally generate their children, and the demand could “maybe even be greater, because they already have a natural seal” (Judge Alessandro, 2.5 years of experience). Seeking other possible explanations, one was listed and criticized by Prosecutor Eduardo (15 years of experience) when he said that “parenthood can be used as a movement of affirmation”, but that one should be aware of this, given “that each theme, each flag has its space, [...] its claims”, suggesting that this attempt at recognition and a sense of social belonging is not viewed favorably.

In this sense, in general, what was observed in most of the statements (n = 26) is that adoption by gay and lesbian couples encompasses the possibility of “working” or “not working”, as well as other configurations, in the sense of claiming that there is no distinction in the way of looking at this audience, but for the adoption itself, if the applicants would come to present “conditions for exercising parenthood of a child, [...] to face the challenges that will come, the difficulties in the development of a child, from receiving someone with a different history” (Social Assistant Antônia, 22 years of experience).

Adoption by gay and lesbian couples: social imaginary and legitimation strategies

This theme presents reflections on the construction of meanings and conceptions attributed to adoption by gay and lesbian couples, discussing legal aspects and discourses conveyed for and against, in order to think about strategies to overcome the reservations with this adoption. In the interviewees’ opinion, the cultural beliefs attributed by society are not restricted only to the negative connotation associated with the homosexual orientation, but to other prejudices that can permeate the universe of adoption, such as the interracial issue between adopters and children (n = 6), adoption of children/adolescents with special needs (n = 3), and the family ideal (nuclear, heterosexual, and consanguineous).

Regarding adoption by gay and lesbian couples being legally legal and possible in Brazil, all professionals not only answered affirmatively yes, saying that it already happened with “single” applicants through four modalities – singular, unilateral, *intuitu personae*, or even in the “Brazilian way” (illegal) –, but they differed in the answers when the questions were added: “*Is it explicit in the law?*” and “*Do you believe it would need to be made explicit?*”.

In terms of these professionals’ beliefs about how society views adoption by gay and lesbian couples and the exercise of parenthood by these people, it was noted that all respondents are aware of the judgments surrounding the social imaginary that supposedly justify positions contrary to homoparenthood, especially the fact that the child would feel the absence of an opposite-sex reference. These arguments were mentioned based on the following premises: that homosexual people would be misfits; they would tend to sexually abuse children; they would influence children to become homosexuals; as well as blaming homosexual parents for their children being the target of prejudice (bullying).

Regarding the spaces or situations in which this family could be more exposed to attitudes of prejudice, 13 professionals (including eight psychologists) stated that it occurs at school or church, on outings, through jokes and whispers. With greater emphasis, almost unanimously, the adult world was appointed as the

environment in which prejudice is more installed, and “you are not born thinking that the different is bad, this has to be taught at some point” (Judge Alice, 10 years of experience). In addition, it prevailed the idea that children and adolescents could present some kind of harm if the applicant does not handle well the prejudices that will be presented by society, given that it is the family that “provides the insertion of this child in other contexts” (Psychologist Samira, 10 years of experience).

In defense of this family configuration, counter-arguments were listed by professionals, such as: presenting greater flexibility in family functions and roles, not based on socially stereotyped gender relations; not being sexual orientation that would explain or prove sexual abuse to be more perpetrated by homosexuals or heterosexuals, even attesting that these also frequently inflict suffering and violence on children; the fact that homosexuals are, in theory, children of heterosexuals, displacing the premise of “transmission” of homosexuality; that the construction of the notion of differences between the sexes would happen in the coexistence with other people in the family and society (child’s socialization process); and the idea that children would tend not to have prejudices, given that their parents would teach them to respect what is different.

Regarding the possibility of personal beliefs and social discourses being able to influence professional actions in the adoption qualification process, while ten professionals emphasized not imagining a possible influence, as long as the separation between the personal and professional world is made, from the point of view of 26 professionals, this is a possibility that may even receive interference from religious positioning. In this perspective, the idea that subjectivity is always a filter prevailed, given that, according to Social Worker Leila (12 years of experience): “we are a whole and when we come to work, we get here with a small backpack” , fruit of their values and experiences. Thus, two statements include suggestions: “before you interpret that, know how it reverberated in you” (Psychologist Laura, 4 years of experience); and: “it certainly influences, but the important thing is to be careful so that it is not decisive!” (Judge Kermit, 11 years of experience).

Psychosocial and Legal Assessment: possibilities and limits in research

Regarding the assessment stage, 28 professionals highlighted that the attention would be focused on: the motivations to exercise parenthood through this access route and the place to be occupied by the child in the family dynamics, observing the investments in care, protection, child’s affection, and education; the personal and socio-familial history of the applicant(s); whether they have relationships, how stable they are and how conflicts are usually resolved; the meanings attributed to adoption by candidates and by their closest support network, which can be permeated by myths and fantasies about this affiliation, many of them socially constructed and that evoke the way adoption is seen in our culture, for example.

When asked about what could prevent gay and lesbian couples from adopting a child or an adolescent, they unanimously answered that they would start from a general rule, considering “unfit” those who present: compromised mental health/severe mental health conditions; drug addiction; worrisome reputation; miserable situation; and motivations that are not sustained by the genuine desire to welcome a child as an offspring, but that would serve to silence the pain of grief, to do charity, to have a company, social pressure, among other reasons considered potentially damaging in the relationship construction/adaptation process. The candidates’ sexual orientation was not mentioned, and the following points were even made about the experience of sexuality: “the way in which a person exudes his sexual energy [...] is of no importance for adoption. [...] it is as unimportant as the fact that that person is a team A or team B supporter” (Judge Moura, 24 years of experience, and 15 other professionals).

It was asked whether the interviewees believed that the assessment should take place differently for homosexual applicants. Three placements emerged: (a) must occur equally (n = 8); (b) must occur differently (n = 4); (c) do not discern as exclusive views (n = 28). However, more than half of the interviewees (n =

24) mentioned that, in the context of the assessment, it would be important to investigate in depth some circumstances involved, such as: if the LGB applicants “do not have any issues” with their own sexuality; how the extended family accepts both sexual orientation and adoption as a way of accessing parenthood; and the way the couple will deal with possible prejudiced social repercussions and the security passed on to the child(ren).

In this sense, Psychologist Monalisa (33 years of experience) exemplifies these concerns, when she says: “The person who does not come out or has difficulty coming out, how will they orient their child? How is the person going to have tranquility, security, without showing that sadness to their child?”. Complementing it, she explains: “when we have a homosexual who does not have any issues about their sexuality, they deal with everything with their head held high, [...] it will reverberate in their relationship with the child and in society”. And she concludes: “The tendency is for the child to reproduce the parents’ feeling that something is not right. If you talk about that subject, if daddy or mommy cried, it must hurt... it hurts!”.

In order to understand how an adequate performance of professionals should take place with the LGB public and with the children who are part or will enter these families, two fronts of answers stood out. The first one suggesting “respect, a way of equal treatment” (Social Worker Dâmia, 8 months of experience), promoting a space of openness and welcoming, assuming that these applicants have already gone through countless situations of discrimination and prejudice. This view was shared by eight respondents. The second, that professionals must show themselves prepared to deal with the topic (n = 6). Thus, inappropriate would be “to be partial, [...] to let [...] personal morality interfere in this process or in your own understanding of the other” (Psychologist Paloma, 9 years of experience).

Discussion

As can be seen in Table 1, in the adoption qualification process, the professional categories and their respective functions are developed by: Psychologists and Social Workers, known as the interprofessional advisory and expert technical team, responsible for the psychosocial assessment, gathering subjective data and performing interventions that activate the social and support network of the family in process; Prosecutors, representatives of the Public Ministry, responsible for analyzing the legal requirements and inspection (of the removal of family power, the National Adoption Registry and the summoning of applicants); and Judges, fulfilling their judging function, responsible for assessing the technical opinions and being the authors of the final decision (Cecílio & Scorsolini-Comin, 2018a, 2018b).

Having made this consideration, it is worth remembering that the data analysis started from the understanding of human development according to the Bioecological Theory, as a set of processes by which the characteristics of the person and the environment interact, in a reciprocally more complex way, in a temporal perspective, considering the synergistic analysis of the four fundamental elements Person-Process-Context-Time (Bronfenbrenner, 2011). Thus, we consider that the conceptions, perceptions, and positions in relation to the theme emerge from the interaction of these elements, in a continuous and not watertight process.

The results of the present study showed that, concerning the best interests of the child/adolescent and relying on what the *Estatuto da Criança e do Adolescente* (ECA, Child and Adolescent Statute) provides regarding the right of every child and every adolescent to family life, the professionals defended the family as the most suitable environment for the development of these subjects when compared to institutional care (Presidência da República, 1990). However, two possibilities will be discussed here.

The first outlines a position against the institutionalization of children/adolescents, in which their proximal processes, understood as particular forms of interactions in microsystemic environments (foster care) that would operate as substrate of routinely established relationships, as well as progressively progressive

activities and roles assumed (Bronfenbrenner, 2011), they would be compromised by not achieving the stability and complexity needed in these interactions, which may inhibit the expression of competences, especially in the affective and social spheres, for example. Thus, institutional care would be conceived as a detriment to development. From another perspective, it was considered that families headed by gay and lesbian couples could be seen as “less bad” than the permanence of children in institutions, not being fully recognized as legitimate, but rather as solvers of social problems (Coitinho Filho, 2017).

The family was valued in the professionals’ statements. Characterized by the more immediate and significant relations and interactions established between members, this microsystemic environment was the target of definitions in an attempt to cover as many characteristics as possible, in order to avoid discriminatory and excluding aspects. However, it was possible to observe the use of expressions of comparison/reference to the “traditional family”, suggesting that this model is still lodged in the social imaginary (Silva, Silvia, et al., 2017) as being more natural and legitimate.

Some lines, such as that of a prosecutor about “walking on eggshells” and finding difficulties in the processes of gay and lesbian couples, should be highlighted as they trigger a personal difficulty in dealing with this demand, making a strong appeal not to be labeled as prejudiced, but as a product of a generation in which beliefs and moral values about homosexuality as a disease, deviation, or perversion were transmitted, with a gradual and slow process the change of conceptions (Bronfenbrenner, 2011; Mizael et al., 2020). This “walking on eggshells” can also be understood as a conservative reaction to the fact that discussions about gender are increasingly pressing in our society, so that it is not possible to depart from this reflection, especially in a context in which one works directly with families that also express and embody these social changes. At the same time, other statements resonate with more professionals, in the sense of respecting the desire of the LGB public to exercise parenthood, especially through adoption, encouraging the idea that anyone can have this desire, as if it were a life cycle process, but that these people would be at the mercy of another person to achieve their goal.

Regarding the perception of professionals about this possibility of being a family, adoption by gay and lesbian couples was treated as legally legal and possible in Brazil. Namely, two-way answers echoed. The first refers to the cascade effect, which started with the Adoption Law nº 12.010 (Presidência da República, 2009), which did not make explicit the family configuration composed of gay and lesbian couples as possible adopters, with the legal vacuum supposedly being overcome by the processing of other legal frameworks, such as the recognition of stable unions in 2011 by the Supreme Court of Brazil and the prohibition of notary offices refusing to perform civil weddings between gay and lesbian couples, in 2013, by the National Council of Justice. In this sense, jurisprudential readings that evoke the principle of “what is not prohibited is allowed”, seem to use the principle of the best interest of the child/adolescent as the scope, emphasizing the act of adopting as the main and impartial argument, that is, seeking the real advantages for adopting (Presidência da República, 1990). This aspect makes an analogy to the already established legal rules, given that the laws and values closely associated with them could gain legitimacy over time (in a macro-temporal perspective, considering the point of view of generations) and their application (in a micro and mesotemporal perspective for its punctual and periodic attribution during the stages of the process).

As for the second argument, this allows for the problematization that by explicitly stating the possibility of this kind of adoption in the law, for the opponents of this idea, it would raise a discriminatory flag that would supposedly open a breach to prejudice by announcing “the different”, which would need something to legitimize it (Araldi & Serralta, 2019). At the same time, stating this in the law would address this issue in the field of equity, with the aim of judicializing a right that, for heterosexuals, is already clear in the law, under a discourse of inclusion. The key point of this discussion seems to be that, by finally being recognized

as a family entity, one of the prerequisites for joint adoption, gay and lesbian couples could no longer be vetoed in the process, in this regard.

Regarding the knowledge of judgments that surround the social imaginary, supposedly justifying reservations to the so-called “homoparenthood” (Coitinho Filho, 2017; Silva, Sousa, et al., 2017), these perceptions were also found in several studies (Santos et al., 2018; Gato & Fontaine, 2011; Schumm, 2016; Tombolato et al., 2018; Ximenes & Scorsolini-Comin, 2018). In the bioecological theory, a possible explanation would be that these arguments would derive, at a procedural level, both from relationships established in the context in which people of contrary opinions grew up, were educated, and/or maintain immediate relationships today (microsystem), as well as sociocultural and ideological factors that permeate the construction of senses and meanings in society (macrosystem). In this sense, without considering that societies elaborate their own sexual grammar in their normative and excluding aspects, engendering sometimes prejudiced and heterosexist arguments, social discourses in which the child/adolescent would feel the absence of an opposite-sex reference can lead to the assumption that homosexuals would deny the differences between the sexes, leading to the misunderstanding of this as the core of identity representations (Lira et al., 2015; Pombo, 2019; Vecho & Schneider, 2005).

Despite the different prejudices in the adoption universe, it is essential for these participants that the family develop resources to deal with prejudice in the contexts in which they and their children are inserted. In other words, it is possible to understand that negative experiences, in certain microsystems and during specific periods of time (microtime), would end up influencing the proximal processes of those involved (characteristics of the person’s resources) and act in a unique way in each case. These processes could strengthen or weaken, for example, coping postures (strength-generating characteristic) simply because sexual orientation or homosexual behavior (characterized as a demand attribute) would generate, in certain people or occasions, reactions of disgust or prejudice. The children, therefore, seem to be seen as “deposits”, even if indirect (exosystem), of prejudice.

The arguments in defense of families composed of gay and lesbian couples corroborate the explanations retrieved in the scientific literature (Araldi & Serralta, 2019; Cerqueira-Santos & Bourne, 2016; Cohen & Kuvallanka, 2011; Domínguez et al., 2015 ; Farr, 2017; Fond et al., 2012; Gato & Fontaine, 2011). In the statements aligned with these arguments, it is possible to identify an effort to explain that children of gay and lesbian couples would not present psychosexual, cognitive, and affective losses, in an attempt to deconstruct unfounded theories and premises that end up stigmatizing these adoptees, as well as to build perspectives that not only embrace diversity, but remind us of the power of the socio-cultural construction of beliefs and roles (macrosystem).

About the possible influence of personal beliefs on professional practice, most respondents recommended a posture of care and permanent reflection. This can be explained by the fact that the proximal processes activate movements of continuity and change, sharpening knowledges and skills (devices of strength and resources) provided by the critical and adaptive sense that will guide reflections and professional attitudes (Bronfenbrenner, 2011).

Unlike other countries, such as the United States, where adoption can occur through an agency or private search, and not imply the “selection” of parents, based on little regulation (Rampage et al., 2016), the adoption qualification process in Brazil must meet certain requirements. Briefly, the process encompasses: the person must express their interest through the Children and Youth Court of their judiciary district; delivery documents to be filed at the notary’s office (the presence of a lawyer is no longer required); participation in the preparatory course for adoption, carried out in a non-standard way, up to each judiciary district; social and psychological (psychosocial) assessment; investigation of the legal situation of both children/adolescents and applicants, by the Public Ministry; authorization of the Judge, supported by the expertise of the technical

team; crossing of data between applicants and child/adolescent, in the local and national data systems; beginning of the coexistence stage in which interested parties are brought together and custody is granted, after a period of observation; assessment by the technical team and approval/rejection of applicants by the final decision of the Judge, which, when formalized, will have the names of the parents registered in the child's birth certificate, irrevocably.

The psychosocial (also called interprofessional) technical team is responsible for assessing candidates in one of the most important stages of the adoption qualification process (Cecílio & Scorsolini-Comin, 2018a). For the professionals interviewed in this study, the sexual orientation of the candidates is not an assessed variable, stressing that it is an intimate issue, not being open for a process of confession/elaboration on the sexuality of these applicants (Foucault, 1999), just as it is not investigated in heterosexual applicants. In the same sense, Lira et al. (2016, p. 28) highlight sexual orientation as “[...] just a cutout in view of the totality of possibility of the human condition”, and it will not dictate a parameter of whether the applicants will be good parents or not (Gato & Fontaine, 2011), but the type of care provided and the sense of belonging/social inclusion of all involved.

However, some professionals mentioned that, in the context of the assessment, it would be important to deepen some questions to understand whether LGB applicants would “not have any issues” with their own sexuality or deal with it in a veiled way – the coming out process (Freitas et al., 2017); how the extended family accepts both sexual orientation and adoption; and the way the couple will deal with possible social prejudice. Mentioning this, thus, reveals that homosexuality ends up being a variable that can be analyzed and considered in the qualification process, with mistrust and validation needs that would not be directed to heterosexual people or to configurations located in the spectrum of “normativity” and “tradition”.

The issue of secrecy in relation to the disclosure of sexual orientation, for example, seems to be listed as a risk factor, based on the idea that the difficulty of “talking about” and the “impossibility of a free expression of the network of affections that organizes the family” (Passos, 2009, p. 77) would increase the chance of the individual to present psychological and social problems, for example, by limiting the transition between the internal world and the external world, marked by fear and the threat of rejection. In contrast, disclosing their sexual orientation and the feeling of social acceptance could be seen as a developmental skill, contributing to a process of resilience of those involved (Freitas et al., 2017). The assessment of these aspects, possibly legitimated as risk or protective factors, indicate important differences in the way these applicants are assessed and in how “these new families” are perceived and accepted in the Justice System.

It should also be noted that these dimensions brought up by the respondents were not problematized in this research, in terms of the gender of the applicants or specifically addressed to couples composed of gay men, lesbian women, or bisexual men/women, for example. Perhaps further questioning in this regard could bring up possible prejudices or restrictions specifically aimed at gays, lesbians, or bisexuals. This may be an aspect to be further explored in the future, especially considering some stereotypes, for example, built about lesbian couples settled in care as a naturally female process (Lira et al., 2015) or even prejudices regarding abuse being more associated with gay men or, still, the fact that bisexuality is still an invisible category in our society (Jaeger et al., 2019).

In summary, it can be said that the difficulties of these professionals in relation to the theme refer, above all, to the handling of personal conceptions in relation to the family and to adoption during the assessment and decision process in relation to gay and lesbian couples who apply to adoption. In this reflection, although they are based on the need for neutrality and exemption to assess and judge, with recurrent references to legal aspects and changes in society, they often find themselves involved in conflicts about not only the conceptions built over time, but also about how the negative social imagery about the phenomenon continues to guide perceptions that can be converted into practices – whether in the assessment or decision-making. To mature

this tension between personal and professional aspects is not an outdated discussion, on the contrary: it can be useful in the sense that possible prejudices are recognized and, in fact, worked towards an action by the Justice System, legitimizing these couples and families.

Conclusion

Adoption by gay and lesbian couples cannot be analyzed separately from macro-social elements that are embodied in the practices of professionals in the Justice System. In terms of the views expressed by the participants about the theme, which is the focus of this study, even if homosexuality is not verbalized as an impediment to adoption and that professionals are based on an attempt at a supposedly neutral and unprejudiced action, differences in the way these couples are welcomed in the psychosocial assessment and decision-making processes regarding adoption still emerge, moments in which elements such as the possible “repercussions of sexual orientation” are analyzed or begin to guide the way in which these couples will be received, understood, and later assessed.

Thus, it is questioned whether the constant concern with the emotional security of the future child(ren), for example, highlighted by the professionals interviewed, would be a justification for investigating the applicants’ sexuality. In terms of handling this assessment, although we consider that absolute neutrality in the face of the topic can be configured as a fallacy, there is a reflective exercise by professionals in this regard. But there is still little evidence on how this neutrality can guide their work, or even how their own conceptions of what it means to be a family or about adoption by gay and lesbian couples can be considered or even actually cross their practices.

Even though many social and legal changes on this topic have been on the scene for over a decade, it is noted that this process cannot be automated and must be permanently discussed in the different forums in which these professionals are part. The development of the assessment and decision-making processes cannot occur apart from the professional’s own development. This development should not necessarily lead to exemption or neutrality as desirable postures, but to an action that, aware of these aspects that permeate the personal conceptions of these professionals, can be free from prejudice.

It is recommended that such reflections can be embodied by the professionals of the Justice System who work in these processes. Being an agent of change in this context would not only involve a cultural redefinition of prejudiced conceptions, at a macro-systemic level, but also microsocial changes that permeate the way each professional presents and positions themselves and reflects on their actions. The veiled prejudice that crosses the questioning in the territory of the applicants’ sexuality must be problematized not only as an element of the macrosystem that is located in the other(s), but also in those who place themselves at the service of the rupture with practices that promote the discrimination, disrespect, and also violence. Highlighting these markers and the way they cross views, assessments, and decisions is fundamental for professionals who work in this context. Expanding this debate in the Justice System also seems to be an important move. The legal possibility of adoption by gay and lesbian couples, in addition to an achievement, should be permanently debated, given that the professionals’ conceptions, their work instruments and the handling of these assessments will allow, in fact, the exercise of this right.

As for the limitations of this study, the fact that some professionals refused to participate proved to be a challenging element, leaving the invitation for further studies to be developed, including in the sense of mapping, in the national territory, demands, doubts, and questions presented by these professionals, as well as the experiences of this audience of applicants, in order to expand discussions in forums for training in higher education and development courses, such as study groups and technical training. Although the literature on this topic has grown in recent years, it is still concentrated on certain applicants, such as the

LGBs portrayed in this investigation. It must be emphasized, in future studies, that other audiences, such as trans people, may not only be invited to this discussion, but also be able to be represented in legal adoption processes in the Justice System. This will possibly represent new conflicts, but also the opening of powerful discussions in terms of guaranteeing rights and collating all forms family in contemporary times. Among the recommendations arising from this investigation, it is suggested, lastly, the possibility of longitudinal monitoring of psychosocial assessment processes, or even of reaching out to these professionals before and after the qualification of these applicants, which could be a way to apprehend difficulties and possible advances in this discussion.

Contributions

M. S. CECÍLIO was responsible for data collection. Both authors were responsible for the elaboration of the project that gave rise to the study, as well as for analyzing and writing the paper.

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