

## (Over)Sharenting: between hypervulnerability and the expansion of kidfluencers<sup>1</sup>

### (Over)Sharenting: entre a hipervulnerabilidade e a expansão dos influenciadores digitais mirins

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#### Abstract:

The scope of this study is to analyze the term *(over)sharenting* from the perspective of the kidfluencer, given the hypervulnerability situation in which they find themselves, especially due to the economic exploitation that the dissemination of their image entails and, at the same time, seek to find a healthy midterm of this exposure, aiming the development growth of these children and teens, without committing excesses and violations to their rights. In order to promote the present research, the hypothetical-deductive methodology and the bibliographic research technique were adopted. It is concluded that an alternative to be built is viable, between hypervulnerability and the expansion of child digital influencers, which meets both the pressing need to protect the hypervulnerable condition that they are, and to promote the expansion of their development as a child and adolescent, from the perspective of the principle of full protection.

**Keywords:** child and teenager; hypervulnerability; kidfluencer; sharenting; oversharenting; artistic child labour.

#### Resumo:

O presente estudo tem por escopo analisar a prática do *(over)sharenting* sob a perspectiva do influenciador digital mirim, diante da situação de hipervulnerabilidade em que se verificam, em especial pela exploração econômica que a veiculação da imagem dessas crianças e adolescentes acarretam. Ao mesmo tempo, busca-se um meio termo saudável da aludida exposição, para que se possa viabilizar o desenvolvimento pessoal dos influenciadores mirins, sem o cometimento de excessos e violações de seus próprios direitos. Com a finalidade de promover a presente pesquisa, adotou-se a metodologia dedutiva e a técnica de pesquisa bibliográfica. Conclui-se, assim, pela viabilidade de uma alternativa a ser construída, entre a hipervulnerabilidade e a expansão dos influenciadores digitais mirins, que sejam atendidas tanto à premente necessidade de proteção

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*da condição de hipervulneráveis que são quanto à promoção da expansão de seu desenvolvimento enquanto criança e adolescente, sob a ótica do princípio da proteção integral.*

**Palavras-chave:** *criança e adolescente; hipervulnerabilidade; digital influencers mirins; sharenting; oversharenting; trabalho infantil artístico.*

## 1 Introduction

The technological level of the Internethas reached a degree of synergy with the human being, and with the functioning of the human mind, with a range of interrelationships never seen before. Nowadays, life takes place online, much more than in the physical world, a fact that has only worsened with the coronavirus pandemic, which imposed the use of the internet to establish communication with the outside environment, even with those resistant to modernity. Thus, it is through the Internetthat experiences and main events of daily life are shared, as well as lucrative and professional possibilities are opened, such as their own and autonomous market. One practice that has become common is that of co-parenting, the so-called *(over)sharenting*, a fact that in itself draws the attention of the Right. However, there is an aggravating factor: the use of the child or adolescent as an object of profitability through the Internet.

*(Over)sharenting* is usually analyzed from the internal perspective of the family, given the need that people have, more and more, to share their lives on the networks, especially parents and children. However, this practice is analyzed from the perspective of child digital influencers, given the situation of hypervulnerability in which they find themselves, especially due to the economic exploitation that the dissemination of the image of these children and adolescents entails, as well as the attempt to find a healthy middle ground of this exposure, aiming at the expansion of their personal development. without committing excesses and violations of the rights and guarantees of these people.

The study is justified by the importance of promoting a better understanding of this new reality, based on the changes in the labor and consumer market, combined with the growth of digital media and the influence of the media, in which every child and adolescent with access to the network has become a potential provider of digital content. In order to promote this research, the deductive methodology and the bibliographic research technique were adopted, especially based on the doctrine on the subject, in addition to journalistic news on cases pertinent to the analysis of the problem exposed.

To this end, the key concepts on the guiding principle of vulnerability concern must first be assigned: the principle of equality. At the time, it should be noted how the conceptual difference between formal equality and material equality is important for the achievement of the notion of vulnerability that must be protected by law. Based on these concepts, in addition to pointing out the normative-constitutional importance of material equality, it is possible to draw brief lines on vulnerability, as a phenomenon that requires protection, as well as the seriousness of the problem of hypervulnerability.

Subsequently, it seeks to explain the meaning of the practice of *(over)sharenting*, analyzing it from the perspective of the child digital influencer. Specific cases are presented below to illustrate the exposure of children in the media. It begins with the television presenter, Maisa Silva, to address the prohibition of child labor and the relaxation of this prohibitive general rule, by Convention No. 138 of the International Labor Organization (ILO), the Consolidation of Labor Laws (CLT) and the Statute of the Child and Adolescent (ECA). Then, the case of Bel para Meninas, which gained notoriety from the movement created by the *hashtag* #salvembelpameninas, will be exposed , in order to highlight the situation of hypervulnerability experienced by child digital influencers, in the face of the lack of regulation and state control for this type of activity, thus allowing excesses and violations of rights and guarantees of the constitutional and infraconstitutional order to children. girls and adolescents. Often, by the parents or guardians themselves.

Finally, criticism is presented regarding the legislative defenselessness to which digital influencers are subjected, in order to make it clear that the protection of the State is as important as it is urgently necessary for the effectiveness of the principle of comprehensive protection of children and adolescents, especially with regard to this hypervulnerable category in which children's digital influencers find themselves.

## 2 Vulnerability in the law

The concept of vulnerability in law has its roots and derives from the principle of equality.

The Federal Constitution enshrines the right to general equality under article 5, guaranteeing to all those in the country the inviolability of their equality. Equality, therefore, is not only a fundamental right, but a structuring value of the democratic-constitutional commitment established in the Charter of the Republic, which also provides for the construction of a free, just and supportive society. Free to develop, just to recognize dignity in oneself and

in others, attributing to them their right, and supportive and fraternal, to belong to the homeland.

Equality as a value is not only one of the liberal conquests of the revolutionary period of the eighteenth century, being one of the fundamental rights of the first generation, but also marks the characteristic of the rights of the second generation, these being rights of equality. Rights in the equality dimension are characterized by an economic, social and cultural bias. These rights, especially after the advances in constitutional jurisdiction achieved in the post-war period, seek the realization of material equality, and not only formal equality before the law (Bonavides, 2004, p. 564-565).

For Aristotle (2001, p. 101-105), equality is the intermediate term between extremes, considering not only the same (egalitarian) part, but that the parts embody justice, being, if necessary, more for some and less for others. And no less fair. Objects are distributed according to the criterion of justice and equality, not only formal equality. And this is because "if people are not equal, they will not receive the same things" (Mascaro, 2016, p. 78-81). What matters is the justice of the specific case.

The manifestation of the *Ius*, of what tends towards justice, can only be the product of the action corresponding to the realization of equality (LOPES, 2004, p. 92). Treating equals equally and unequal unequals, therefore, is the recognition that there are situations in life that, permanently or not, impose fragility on subjects, whether for reasons of age, health or economic, and this unbalances each and every one of the legal relationships to which these vulnerable people are part (Marques; Miragem, 2012, p. 117).

In Brazil, private law after the nineteenth century suffered a double and strong influence. On the one hand, it received the aforementioned liberal influence, recognizing equal dignity to the population, and establishing the criterion of *æqualitas* (formal equality) for civil relations. On the other hand, the concern for the material realization of justice also won, thus establishing *æquitas* (material equality), translated into the rebalancing of the relationship between individuals, making the clearly most vulnerable the most protected in certain legal situations (Marques; Miragem, 2012, p. 113-115).

And, although historically the protection of the vulnerable is one of the objectives of the conception of a democratic legal order, the modern notion of protection of the vulnerable gains strength with the emergence of the Theory of Fundamental Rights, more specifically, in Brazil, with the promulgation of the Federal Constitution.

For Alexy (2015, p. 396), the right to equality requires that all legal norms be applied with the concern that their application results in real equality of treatment before the law, and

that discrimination against people in equal legal position be prohibited. A detachment from this concern would give rise to norms that are incompatible with the purpose of the law. The rebalancing of equality issues, however, has the limit of rebalanceable factual issues, so that it is not possible, through the law, to provide health, intelligence or beauty, what can be relativized are the effects of this by law, respecting natural limits.

Thus, in Alexy's theory (2015, p. 398), equality is the provision of the incidence of the same norms, and, therefore, of the same legal consequences, by complying with the hypothesis of factual incidence, described in the norm, and not conditioned to the quality or characteristic of the agent who practiced the act itself, or that demands something from the State. However, this formal concern must be linked to the material foundation of equality, as determined and committed to in the constitutional text. Thus, Alexy (2015, p. 400) states that there are no equal inequalities, nor universal factual inequalities, so the legal system must be concerned with both the assessment of equality and the possibility of differentiation of treatment. Material equality is the substrate of valuation in its fair measure, in which the unequal or vulnerable individual receives differentiated and privileged treatment, not to benefit him, but to put him on an equal footing with another who is not disadvantaged or to protect him. In Brazil, differential treatment is a democratic clause since the constitutional text.

The norms of the Federal Constitution, then, are densified in the legal system through laws dedicated to the protection of specific vulnerable groups, as is the case of the protection of consumers by the Consumer Protection Code, of the elderly by the Statute of the Elderly, and also, in addition to other cases, that of the special protection of children and adolescents by the ECA. In addition, given that the interpretation and application of the law must be done under the aegis of the Federal Constitution, as well as in a coherent and systematic manner, preserving the meaning and concept of law materially provided for by the legal system, it must be guaranteed that the interpretative scope of the norms in Brazil is. Whether they are vulnerable or not, they must take into account the existence of the vulnerable and the possibility of unjust harm that can be protected. Thus, vulnerability becomes the interpretative scope of the legal system.

In this sense, equality as a rule establishes the prohibition of discriminatory treatment, as a principle, establishes the duty to promote an egalitarian state and, as a postulate, structures the "application of the Law according to elements (criterion of differentiation and purpose of distinction) and the relationship between them (congruence of the criterion and reason for the purpose)" (Ávila, 2016, p. 192-194).

The possibility of unequal treatment is part of the principle of equality, prohibiting only the unequal treatment of people (Mello, 1993, p. 35). This is what the rules do, they create discriminated situations, each having a legal solution that better fits the purposes of the normative prescription, protecting those who must be protected, because they are affected by different legal regimes. It is understood, then, that for some there are certain rights and obligations that are not demanded or guaranteed to others, and this is the material meaning of equality (Mello, 1993, p. 12).

What cannot be admitted, Sarlet (2020, p. 625-626) will say from the lens of Mello (1993, p. 11-12), is the existence of rules or decisions that legally discriminate against indiscriminate issues, introducing intolerable discrimination into the legal concept of a given legal system. Thus, according to the lens of Alexy (2015, p. 409), if there is no sufficient reason to allow unequal treatment, equal treatment is mandatory, just as, if there is not a sufficient reason to allow equal treatment, unequal treatment is mandatory to the extent of inequalities. This reality, however, imposes an argumentative burden of demonstrating the degree of inequality and attributing, thereafter, the criterion of comparative vulnerability, as well as the legal consequence or mitigation mechanism.

The recognition of the need for material equality led to the maturation of discrimination against equal persons, to the extent of their inequalities, favouring them with an artificial balance, legally formatted for the legal security of civil relations. This movement is the result of a perception that formal equality does not eliminate situations of injustice, and that is precisely why the commandment of equality is to prohibit arbitrary treatment, which damages the fluidity of the dignity of the human person in the sense of a Constitutional Rule of Law (Sarlet, 2020, p. 60-616).

In the classical division of the dimensions of fundamental rights, equality can be divided into a negative dimension, in the sense of requiring the State not to treat subjects in disagreement with the demands of equality, and, in a positive or provisional perspective, so that people have equal access to policies, goods and services of the State. The right to equality in the benefit facet has an additional dimension: that the State promotes the compensation of equality through affirmative policies and actions, that is, a duty of State action in the normative, political and factual spheres to mitigate inequality. The treatment of vulnerability can be classified as a judicial and judicial policy, a commitment of the State to protect the vulnerable.

Thus, the recognition of situations of vulnerability, and their effective protection through rules and decisions, materializes the material facet of equality, since it positively discriminates against those who need more protection, especially when it protects the hypervulnerable. This

is the core of the social rebalancing offered by the Democratic State. In specific terms, within the framework of the issue at hand, the inequality of children changed substantially in the international paradigm in 1959, when the United Nations Assembly, through the Declaration of the Rights of the Child, affirmed that children, due to their physical and intellectual immaturity, need special protection and care. that is, adequate legal protection. both before and after childbirth.

In the Federal Constitution, Article 227 offers special protection to children and adolescents, stating that "it is the duty of the family, society and the State to guarantee children, adolescents and young people, with absolute priority, the rights to life", to health, food, education, leisure, etc. to professionalization, culture, dignity, respect, freedom, family and community life, "in addition to safeguarding them against all forms of discrimination; exploitation, violence, cruelty and oppression". As mentioned, although the Federal Constitution protects this class of vulnerable people, it is necessary to densify the constitutional norm, ensuring its operability. The Constitution, on this point, is fully applicable, but it does not establish a Comprehensive Protection Policy for children and adolescents.

This responsibility was due to Law No. 8,069/90, by which the Court of Auditors raises the category of vulnerability of this class of persons to *the category* of absolute priority of legal-constitutional protection. In particular, Article 3 of the ACE establishes that children and adolescents enjoy all the fundamental rights inherent to the human person, without prejudice to their full protection, ensuring them all opportunities and facilities, so that they can develop physically, mentally, morally, spiritually and socially, in conditions of freedom and dignity. Thus, the vulnerability of children and adolescents is an interesting object of analysis, since it constitutes a totally transitory vulnerability, and that acquires a differentiated status among vulnerabilities, being able to be classified as a hypervulnerability.

Hypervulnerability is a jurisprudential concept, as Marques and Miragem (2012, p. 192) explain, which functions as a positive corollary of the prohibition of unjust discrimination, which interconnects the dimensions of personality development, human dignity, equitable treatment, and material equality. It is therefore a symbol of language that highlights the complexity and potential seriousness of the situation and therefore justifies different treatment by the State and the law.

Thus, while vulnerability is a state of the person that is related to the inherent risk of the person in society and in the market, being a situation that weakens him or her as a subject of rights, hypervulnerability is the recognition that this fragility can be even greater, that is, a vulnerability that is enhanced both in relation to the non-vulnerable and in relation to the

vulnerable themselves. It can be said that hypervulnerability arises either from a worsening of vulnerability, due to the impossibility of discernment and protection, as in the case of children and adolescents on the internet, or from the sum of personal vulnerabilities, such as a celiac consumer in a restaurant without information about a possible gluten in the composition of the food (Konder; Konder, 2020, p. 94).

This hypervulnerability of children and adolescents is best visualized when the entire burden of care and protection for them is contrasted with the uncontrolled flow of information on the Internet. Children and adolescents can be both objects of exhibition, that is, that their image is transmitted on the network, and they can be exposed, as Internet users. Both situations deserve a closer look at the law.

Therefore, the hypervulnerability of children and adolescents can be justified in two ways. Both because of the sum of two vulnerabilities, their innate, and because of the vulnerability of the internet user, especially exacerbated by the new concern of the General Data Protection Law with the subject of personal data, and because of the mere finding that children and adolescents, although they are well versed in the use of new technologies, They do not contain the degree of maturity necessary to be considered "standard" Internet users. And even these, when they relate to e-commerce, are not considered standard users who do not deserve any differentiated protection.

### **3 (Over)sharenting, digital child influencers and hypervulnerability of children and adolescents**

In this topic of the work, we seek to explain the meaning of the term "(over)sharenting", analyzing it from the perspective of the child digital influencer. Subsequently, the case of television presenter Maisa Silva is presented, in order to address the prohibition of child labour and the relaxation of this prohibitive general rule, by ILO Convention No. 138, the CLT and the ECA. Finally, the case of Bel para Meninas, which gained notoriety from the movement created by the *hashtag* #salvembelparameninas, is exposed, in order to highlight the situation of hypervulnerability experienced by child digital influencers, in the absence of state regulation and control for this type of activity, thus allowing excesses and violations of the rights and guarantees of the constitutional and infraconstitutional order of children. girls and adolescents, often by the parents or guardians themselves.

### 3.1 Broad outlines on children's (over)sharenting and digital influencers

The starting point of this topic is to understand the meaning of the English expression *sharenting*<sup>2</sup>, which represents the union of two words, *share* and *parenting*. The literal translation of this expression into Portuguese would be something similar to "shared parenting". It is possible, however, to make small adjustments in the literality, to understand the term as the "custom of parents or legal guardians to publish information, photos and data of minors who are under their guardianship in internet applications" (Eberlin, 2017, p. 258).

Likewise, according to the teachings of Filipe Medon (2021, p. 33), "it is the dysfunctional exercise of freedom of expression and parental authority of parents, which end up undermining the personality rights of their children on social networks". In this sense, it is worth mentioning that the exchange of data of children and adolescents by parents or guardians on the Internet is not necessarily based on a premise of violation of rights. That is, to some extent, sharing can occur within the boundaries of what is considered healthy for everyone involved: children/teens and parents/guardians.

In other words, from this perspective, what is sought to be combated would not be precisely *sharenting*, but rather *oversharenting* (Steinberg, 2020), "insofar as the use of the first expression could carry the unwanted connotation that any form of sharing would be bad, when, in reality, what is sought to be curbed is thoughtless and harmful excess" (Medon, 2021, p. 36). In other words: the problem is not in exposure, but in overexposure.

The legal development derived from the practice of (over)sharenting, as Eberlin explains, "refers to the personal data of children that are inserted into the world wide web over the years and that remain on the Internet and can be accessed long after their publication, both by the data subject (child at the time of disclosure) and by third parties" (Eberlin, 2017, p. 258). In this sense, the exaggerated exposure of information about children and adolescents can represent a threat to their privacy, private life and image, rights that are constitutionally guaranteed by the Federal Constitution of 1988, in its article 5, paragraph X<sup>3</sup>. In these situations, there is a real

<sup>2</sup> According to Steinberg (2020, p. 10), the term *sharenting* was first used in a Wall Street Journal article in 2012, and was added in 2019 to the list of approved words in Scrabble.

<sup>3</sup> Article 5 – All are equal before the law, without distinction of any kind, guaranteeing Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, in the following terms: [...] X - The intimacy, private life, honour and image of persons are inviolable, guaranteeing the right to compensation for material or moral damages resulting from their violation.

collision of fundamental rights: the right to freedom of expression of parents or guardians *versus* the right to privacy, privacy and image of children<sup>4</sup>.

In addition, Filipe Medom (2021) warns of the risks that the practice of *(over)sharenting* can entail: i) kidnapping and identity theft; ii) harassment of pedophiles; iii) collection of personal data that can be used to the detriment of that developing person in adulthood, through automated decision-making mechanisms anchored in intellectual intelligence; and iv) danger of adultization and early hypersexualization<sup>5</sup>.

The issue is so worrying that even the Brazilian Society of Pediatrics (2021) published a definition of *sharenting*, in the Practical Update Guide, n. 2:

[...] They are photos or images of children with names or identification data that are published by their parents or anyone, often without the intention of abuse, but that are shared publicly due to lack of security and privacy criteria on social networks, and become distorted elements and transformed by predators into crimes of violence and abuse in international pedophilia or pornography networks.

This phenomenon, despite the fact that its study is incipient in Brazil, is usually analyzed from the perspective of its consequences derived from the habit of constantly sharing the children's routine. The great current legal problematization has to do with the understanding of the effective protection instruments that are usable to inhibit or repair the effects of overexposure, that is, what can be done legally when sharing becomes disproportionate, excessive, and dysfunctional (Medon, 2021, p. 30-36).

In this study, we chose to analyze the phenomenon referred to from the perspective of children's digital influencers, given the situation of hypervulnerability in which they find themselves, especially due to the economic exploitation that the dissemination of the image of these children and adolescents entails.

It is cultural that parents feel almost the need to share with others the growth of their children. When we experienced an "analogue" reality, it was a 3x4 photo of each child in their wallet that, invariably, many take pride in all the accomplishments of their successors. However, given the exponential growth of Internet access by users<sup>6</sup> and the consequent

4 In 2020, the São Paulo Court of Justice judged the request of a father, who asked for the removal of a photo published of his son by the mother. Faced with this situation, the judges understood that the mother's right to freedom of expression did not violate the child's right to privacy, intimacy, and image (São Paulo, 2020).

5 On the subject, it is recommended to read the article: TEIXEIRA, Ana Carolina Brochado; MEDON, Felipe. The hypersexualization of children and adolescents on the internet and the role of parents: freedom of expression, parental authority and the best interests of the child. [END OF REFERENCE]

6 According to Brazil's Internet Steering Committee, due to factors such as reduced network access costs, the spread of mobile connections made through mobile phones, the expansion of public Wi-Fi networks , and the

production and exchange of personal data in the virtual world, parents stopped uploading photos on physical papers and began to publish all this information online. Meanwhile, some began to expose their children more than others and make a financial profit from this exposure, giving rise to the term "child" digital influencer.<sup>7</sup>

To get an idea of how much a digital influencer can achieve in economic benefit on social networks, it is enough to consult the *ranking* made by Forbes magazine<sup>8</sup>, which exposed the 10 highest-paid YouTubers in the world, considering only the values perceived in 2020. This list included two children: Ryan Kaji, in first place, with earnings of US\$29.5 million, and Anastasia Radzinskaya, in seventh place, with US\$18.5 million (Berg; Brown, 2020).<sup>9</sup>

Ryan Kaji is a 10-year-old boy who rose to fame opening presents in front of the camera and commenting on each one of them. His channel name was Ryan ToysReview and it debuted in 2015 (when Ryan was just 3 years old). She currently has a children's channel called Ryan's World, with more than 35 million subscribers (KAJI, 2019). According to the Forbes magazine article, most of Ryan's business comes from licensing deals for more than 5,000 products under the Ryan's World brand, which offers everything from children's bedroom décor and action figures to masks and *walkie talkies* (Berg; Marrón, 2020).

Anastasia Radzinskaya, or Nastya, as she likes to be called, is also a girl, at seven years old and born with cerebral palsy. In an interview conducted by the website Russia Beyond (Riabikova, 2019), with the girl's parents, they say that they took their daughter to numerous specialists and devoted themselves entirely to her. Thus, at the age of two, Nastya no longer showed signs of the disease. With the initial idea of avoiding a relapse of cerebral palsy and monitoring their daughter's development, the parents of the *youtuber girl* decided to develop their daughter's acting ability in front of the cameras. After six months of filming, *YouTube* paid the family an amount of 20,000 rubles (the equivalent of \$1,300). At that point, parents realized

emergence of digital platforms available for mobile devices, there has been a noticeable increase in the number of internet users in the country over the past decade. "We went from 39% of the Brazilian population using the Internet in 2009 to 70% in 2018, which represents an estimated 126.9 million people with ten years or more connected to the Internet" (Steering Committee of Internet in Brazil, 2018).

<sup>7</sup> It is worth mentioning that the activity of the digital influencer, whether a child or not, has not yet been subject to regulation in Brazil, although there is already a legislative initiative in this regard, namely: Bill No. 2,347, of 2022.

<sup>8</sup> In the article, the methodology used in the ranking is reported: "[t]he earnings estimates are from June 1, 2019 to June 1, 2020. The amounts collected do not take into account taxes and the fees of agents, businessmen and lawyers were not deducted. Earnings estimates are based on data from Captiv8, SocialBlade, and Pollstar, as well as interviews with industry experts. For the purposes of the list, Forbes defines YouTube stars as someone whose primary form of digital and media income comes from the platform."

<sup>9</sup> It should be noted that both Ryan Kaji and Anastasia Radzinskaya have already appeared in the *ranking* of the 10 highest-paid YouTubers of 2019. At that time, Ryan had 23 million subscribers and an income of US\$ 26 million, while Anastasia already had 107 million subscribers and a turnover of US\$ 18 million (Berg, 2019).

they could build a business and completely changed their focus on *YouTube*. Currently, the children's digital influencer has more than 106 million subscribers (Radzinskaya, 2021).

Considering these numbers, it is not difficult to understand why, currently, becoming a *youtuber* is the dream of many children and teenagers. Who wouldn't want to become a millionaire just by filming their daily routine? Opening gifts? Getting to know restaurants? Traveling? And what do all these activities have in common? Overexposure, that is, the phenomenon of *(over)participation*. However, this concern about the exacerbated exposure of children and adolescents has not arisen now, with the new technological possibilities, exemplified here by *youtubers*. Who doesn't remember Maisa Silva, a television presenter?

### **3.2 Maisa case: the prohibition of child labour *in the face of the relativisation of article 406 of the CLT***

Maisa became famous at a very young age, she was only three years old when she was discovered by a television channel. In 2009, when she was seven years old, she left the stage of the auditorium program in which she participated every Sunday. The first time, because the presenter called another girl with her face painted to scare her and, the following week, she cried when she hit her head on a camera, after having been called fearfully by the presenter of the program (Porfirio, 2009).

At that time, the Justice of Osasco/SP prohibited the child actress from participating in the program, accepting the ministerial request to revoke the license for the artistic work previously granted to the station. The Office of the Procurator for Children and Adolescents argued that the constant display of the girl violated the TCE, also alleging that the girl's participation did not respect the right to liberty and respect for the dignity of the developing human being (Porfirio, 2009).<sup>10</sup>

<sup>10</sup> At this point, it is also mentioned that, due to these facts, the Public Ministry of Labor (MPT) filed a Public Civil Action against the television station where Maisa worked, with a claim for compensation in the amount of R\$ 1,000,000.00 (one million reais). According to the aforementioned agency, the station would have disrespected the labor law that allows the work of minors (MPT asks SBT to pay R\$ 1 million for the Maisa case, 2009). However, it was found that both the single judge and the Appeals Panel rejected the MPT's requests, since they understood that it was not a collective right but an individual one, considering the situations that occurred during the auditorium program as isolated events (BRASIL, 2014). As a result, Maisa continued to work on television shows, remaining at the station she started until she was 16 (sixteen) years old.

And from there the question arises: is child labor not prohibited? This is what is verified in Article 7, paragraph XXXIII, of the Federal Constitution of 1988<sup>11</sup>, and in Article 403 of the (CLT),<sup>12</sup> which prohibit any type of work for minors under 16 years of age, except as an apprentice, from the age of 14, which was not the case with Maisa.

However, ILO Convention No. 138<sup>13</sup>, the ECT and the CLT, relativized the possibilities of work at an earlier age. The article of the CLT that provides for this flexibility in the prohibitive general rule is article 406, *caput*<sup>14</sup>, which conditions the possibility of child labor, in the case of Maisa, artistic work, to judicial authorization.

In other words, the television station had to file an action for judicial authorization for Maisa to operate, under the terms of Article 149 of the ECA<sup>15</sup>, which was revoked in 2009, due to the situations previously narrated, by the Justice of Osasco/SP. But what is sought to draw attention here is that, for these cases provided for by law, there is some kind of control, a minimum of state protection. This is because the contractor must comply with a series of requirements, including undoubtedly a limit on the hours of dedication of these children and/or adolescents, perhaps therapeutic follow-up, nutritionist, private lessons, all this in order to demonstrate the minimum care and responsibility necessary according to the scrutiny of the Public Ministry and the Judiciary to obtain a judicial authorization permit for child labor.

But what about digital influencers of children and teenagers? Who takes care of them? Who will be able to protect them, many times, from their own parents?

<sup>11</sup> Article 7 The rights of urban and rural workers, in addition to others aimed at improving their social condition, are: [...] XXXIII - Prohibition of night, dangerous or unhealthy work for minors under eighteen years of age and of all work for minors under sixteen years of age, except in the condition of apprentice, from the age of fourteen.

<sup>12</sup> Article 403. All work for minors under sixteen years of age is prohibited, except as apprentices, from the age of fourteen.

<sup>13</sup> Article 8 — 1. The competent authority, after consultation with the employers' organizations of workers concerned, if any, may, by means of permits granted in individual cases, authorize exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for purposes such as participation in artistic performances. 2. Such leave shall limit the number of hours of employment or work and shall establish the conditions under which it shall be admitted.

<sup>14</sup> Article 406 – The juvenile judge may authorize the minor to perform the work referred to in paragraphs "a" and "b" of paragraph 3 of article 405: I – provided that the performance has an educational purpose or that the work in which he participates is not likely to be detrimental to his moral formation; II - provided that it is certified that the minor's occupation is indispensable for his or her own subsistence or that of his or her parents, grandparents or siblings and that there is no damage to his or her moral formation.

<sup>15</sup> Article 149. It is the responsibility of the disciplinary judicial authority, by ordinance, or to authorize, by permission: [...] II - the participation of children and adolescents in: a) public performances and their rehearsals; b) Beauty contests.

### 3.3 Bel case for girls: the effectiveness of article 18 of the ECT from the #salvembelpomeninas movement

Following the line of this topic, with an approach to the subject from real situations, the case of the *youtuber* Bel is presented, a 14-year-old teenager who shares her routine with her family on her channel - with more than seven million subscribers - (Magdalena, 2021). In 2020, netizens drew attention to the alleged mistreatment suffered by the teenager from her mother, such as forcing her daughter to drink a cod milkshake with egg and, after the girl vomits up, the mother, in addition to laughing, also pours the mixture on her daughter's head, among other videos that showed a flagrant excess on the part of the mother<sup>16</sup>. From this, the *hashtag* #salvembelpomeninas was created, through which the case gained notoriety. Some media outlets report the participation of the Guardianship Council and the Public Prosecutor's Office in the case (Batista Jr, 2020). However, although attempts have been made to gather more information on the development of the case, it has not been possible to locate it.<sup>17</sup>

The case of Bel for Girls, as well as so many others in which there is an obvious excess on the part of parents or guardians, since in the vast majority of the time they are the ones who handle this type of figures – this is verified with Bel, Ryan and Anastasia – invariably refer to Pereira's teachings: "[t]he child as a 'subject' and not as an object of the rights of the adult reflects, perhaps, the greatest challenge for society itself and for the Justice System" (Pereira, 1999. p. 31).

It is possible that a good part of these excesses on the part of parents and guardians occur due to lack of knowledge. That is, the lack of knowledge of the rights that children have, as children and adolescents, even if they are subject to parental authority (which is not absolute and does not make the child or adolescent the property of the parents).

These rights and guarantees are provided for in the Constitution, especially in article 227, which advocates the principle of comprehensive protection and imposes, as a duty not only of the family, but of society and the State, to guarantee the child, adolescent and young person, with absolute priority, the right to life, health, to food, education, leisure, professionalization, culture, dignity, respect, freedom and family and community life, in addition to safeguarding

<sup>16</sup> It should be noted that the vast majority of the videos, especially the aforementioned one - in which Bel's mother forces her to have an egg shake with cod - were removed from the teenager's You Tube channel shortly after the repercussion created by the *hashtag* #salvembelpomeninas.

<sup>17</sup> It is important to note that, even after all the commotion on social networks, with the #salvembelpomeninas, Bel's No You Tube channel is still active, and there is no news that it has received any type of block from the platform or legal channels.

them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

In the same vein, article 17 of the ACE establishes that every child and adolescent has the right to respect, which consists of the inviolability of physical, mental and moral integrity, including the preservation of image, identity, autonomy, values, ideas and beliefs, as well as personal spaces and objects. In addition, the Federal Constitution itself considers the privacy, private life, honour and image of individuals to be inviolable, in accordance with the provisions of article 5, paragraph X, of the Federal Constitution.

In view of this, it is possible to affirm that the Bel case for the girls is an express violation of the aforementioned articles and that the movement initiated by the #salvembelparameninas is the materialization of the provisions not only of *Article 227* of the Federal Constitution, but also of Article 18 of the ECA. since it is everyone's duty to guarantee the dignity of children and adolescents. By safeguarding them from any inhumane, violent, terrifying, humiliating or shameful treatment.

Bel's case was exposed, in order to demonstrate the difference in protection between her and Maisa. This is because Maisa's situation is framed as a hypothesis of exception to the prohibition of child labor, regulated by the CLT and the ECA, as explained. However, you don't need to ask for authorization to be a children's digital influencer in Brazil. On the contrary, the procedure is extremely simple. It is enough to join a social network, often violating the terms of use of the platforms, which as a rule do not allow users under 13 years of age<sup>18</sup>, and start producing content. If there is a financial return or even other types of advantages (in exchange for products, services, or simply for the opportunity to expose the image, aiming at the recognition of the work and the possibility of new contracts), you have a digital influencer.

Bel's situation only caught the attention of the authorities after a movement of Internet users on social networks, with the use of the *hashtag* #salvembelparameninas, therefore, when the rape had already occurred. That is, there is no prior control in order to prevent new excesses and violations from occurring with other children and adolescents in the virtual world. How many times did the adolescent have to be subjected to humiliating and shameful treatment – to say the least – for the competent authorities to take cognizance of her case? How many other "Bel for girls" suffer the same violation of their rights and continue without the protection guaranteed to them by the Law of Economic Guarantees and the Federal Constitution, especially the provisions of Article 227?

<sup>18</sup> As is the case with YouTube (TERMS OF SERVICE, 2023) and Instagram (TERMS OF USE, 2023).

## 4 By way of conclusion: critical views of young digital influencers from the perspective of total protection

Faced with the new reality that the Internet imposes on the world, on families and on the right, it was necessary to question the parameters for the protection of children and adolescents, vulnerable by nature in any situation, as objects of exposure or exposed to the world wide web.

Based on a philosophical-constitutional analysis, the paradigm of vulnerability was deconstructed, identifying its root of principle as the right to equality. However, a more acute issue of equality was necessarily underlined to justify a differentiated protection, in inequality, privileging some and not others. In this way, it was discerned between formal equality and material equality, as well as identifying that equality between two people or groups of people can be measured in degrees, as well as that vulnerability is an identification of unusual fragility in the average person. Thus, consumers, the elderly and children and adolescents deserve differentiated protection.

Thus, once the reasons related to the very notion of vulnerability had been identified, it was possible to construct the reasoning that children and adolescents, conceptually vulnerable, become hypervulnerable when they connect to the internet, both when they are in the position of object of exposure, by parents, school, etc., and when they use this door to the digital world as users.

Therefore, the meaning of the term *(over)sharenting* was explained, analyzing it from the perspective of the child digital influencer. Then, the case of the television presenter Maisa Silva was presented, addressing the prohibition of child labor and the relaxation of this prohibitive general rule, by ILO Convention No. 138, the CLT and the ECA. Finally, the case of Bel para Meninas was presented, which gained notoriety from the movement created by the *hashtag* #salvembelparameninas, demonstrating the situation of hypervulnerability that child digital influencers experience, in the absence of state regulation and control for this type of activity, thus allowing excesses and violations of the rights and guarantees of the constitutional and infraconstitutional order of children. girls and adolescents, often by the parents or guardians themselves.

Thus, in view of the events that occurred with the adolescent Bel, it becomes evident that there is a regulatory vacuum that must be filled by the Law, that is, an individual is receiving an unjust violation of rights, and the State is indebted to this protection. And what is worse, the

person is an adolescent, a vulnerable person, who needs stronger protection than would normally be given. However, this teenager is suffering an unfair violation of rights in the digital environment and by her own mother. If Bel isn't considered hypervulnerable, who could be?

Hypervulnerability is a key concept to draw the attention of the Right, and of the operators of the Right, to the fact that these issues, if they are not already protected by law, must be dealt with with total urgency in a Democratic State of Law.

Therefore, it is necessary to integrate the protections offered by the special rules related to the case: the labor law, of the CLT, with the rule for the protection of children and adolescents, through the ECA.

In addition, it is the duty of the family, society and the State to guarantee children, adolescents and young people, with absolute priority, the right to life, health, food, education, leisure, professionalization, culture, dignity, respect, freedom and family and community life. in addition to safeguarding them from all forms of negligence. discrimination, exploitation, violence, cruelty and oppression.

One way to make the right of these young digital influencers effective would be the creation of specific legislation that regulates this profession. In this regulation, considerations related to respect for children and young people, the recognition of the importance and potential profitability of the activity, as well as the forms and legal instruments capable of maintaining an adequate commercial relationship between these children and adolescents and streaming and content dissemination platforms could already be internalized. Thus, in this same regulation, concern about limitations on *marketing contracts* was intensified, reinforcing, for example, that a child or adolescent cannot work tirelessly until a certain quality is reached. Everything must be done with caution, and fully protecting the child and adolescent.

This can be seen by Law no. 2020-1266 of 19.10.2020, enacted in France, which, in a pioneering way, regulated the activity of digital influencers or *child YouTubers*, under 16 years of age. Legislative requirements include: (i) the need for a prior licence to carry out the activity; ii) the limitation of the working day; (iii) the determination that income from a certain amount be deposited into an account until the youth reaches the age of 18; iv) The obligation to make filming schedules compatible with the school schedules of children and adolescents.

In addition, French legislation provides for the right of child digital influencers to request directly from the platforms, without the need for their parents' consent, the removal of their

videos, in a mechanism similar to the right to be forgotten<sup>19</sup>. The law also establishes penalties of up to 75 thousand euros (equivalent to R\$ 397,500.00) and imprisonment of up to five years for anyone who records videos for profit with a child or adolescent under 16 years of age without government authorization. Advertisers who do not respect the rule of deposit in blocked savings accounts (item iii above) can also receive fines of 3,750 euros (equivalent to R\$ 19,875.00).

Without legislative moves like the example suggested above, the State will always seek to remedy the damage already caused, as in the case of Bel, who only came to the attention of the authorities after several videos in which the teenager was subjected to humiliating, shameful and perhaps even criminal treatment by her mother. The idea of regulation points precisely to the measures that must be taken before starting the "work" activity, in order to prevent damage, without the need to remedy it, proclaiming these young people traumas, injuries and family and individual problems of the most general.

The human being is complex and individually unique. The phase of youth is the most sensitive for the maturation of the being as a being, that is, of that person as an adult in which he or she will become. It is the phase of building values, culture, respect for rights and freedoms, as well as the recognition of a role in society.

In this sense, another hypothesis of protection would be through the State Public Prosecutor's Office, with the creation and implementation of a specialized prosecutor's office in the field of education and youth, in the field of the articulation and protection of children and adolescents. In this specialized prosecutor's office, there could be the designation of civil and criminal monitoring of digital influencers. In this way, in the regionality of the Guardianship Council responsible for the domicile of the child or adolescent *influencer*, the Public Prosecutor's Office would have the opportunity to investigate each situation, collecting data and documents, gathering a collection of videos, analysing contractual issues and intervening, if necessary, both in the family and as *a custus legis* in the contractual interest of the influencer minors.

Thus, it seems clear that it will not be only with legislative movements or institutional adjustments of the Public Prosecutor's Office that there will be an effective improvement in the protection of the situation in question. They will of course be able to mitigate many situations, avoid a lot of damage. But the defense that healthy exposure is possible, between the

<sup>19</sup> In this sense, Filipe Medon (2022): "At the same time, France has a double reason, by combining repressive and preventive mechanisms: it establishes the possibility of control of data by its true owners, bringing with it the obligation to expose to risks, in addition to regulating the activity proposed practically at a professional level".

hypervulnerability and the expansion of children's digital influencers, requires a basic philosophical-legal assumption, that these influencers are recognized inside and outside the home as effective subjects of rights, entities endowed with autonomy, limited by age, and full human dignity, even in the digital world. With this, the paradigm is changed, and it is possible to protect children and adolescents from digital exploitation, as well as, and at the same time, allow them to benefit from the whole development issue that a digital influencer performance brings. Thus, in addition to the financial issue, digital influencers can have once-in-a-lifetime opportunities to have a profession, such as Anastasia Radzinskaya, who was born with cerebral palsy and is now a high-ranking international children's digital influencer. In addition, in addition to the theme of opportunity, the Brazilian Maísa, who since the age of three has been developing the communication skills of a true professional speaker, is remembered.

There are benefits and there are risks, as with everything. The important thing, therefore, is to find a balance between the regulatory vacuum and a total limitation on the feasibility of children and adolescents being digital influencers in Brazil as a way of putting into practice the doctrine of comprehensive protection.

## REFERENCES

ALEXY, Robert. **Theory of fundamental rights**. Translated by Virgílio Afonso da Silva. 2nd ed. São Paulo: Malheiros, 2015.

ARISTOTLE. **Nicomachean Ethics**. 5. ed. São Paulo: Martín Claret, 2001.

ARISTOTLE. **Politics**. 3rd ed. São Paulo: Martins Fontes, 2006.

ÁVILA, Humberto. **Theory of principles**: from the definition to the application of legal principles. 17. Rev. and current Ed. São Paulo: Malheiros, 2016.

BATISTA JR., João. Withdrawal of videos and analysis of the MP: progress of the "Bel para Meninas" case. **See, [S. l.]**. May 22, 2020. Available at: <https://veja.abril.com.br/blog/veja-gente/justica-determina-a-remocao-de-todos-os-videos-do-canal-bel-para-meninas/>. Access date: 6 Mar. 2023.

BERG, Madeline. The highest-paid YouTubers of 2019. **Forbes Brasil**, [S. l.], 26 Dec. 2019. Available at: <https://forbes.com.br/listas/2019/12/os-youtubers-mais-bem-pagos-de-2019/>. Access date: 4 Mar. 2023.

BERG, Madeline; BROWN, Abram. Top 10 Highest-Paid YouTubers of 2020. **Forbes Brasil**, [S. l.], 18 Dec. 2020. Available at: <https://forbes.com.br/listas/2020/12/10-youtubers-mais-bem-pagos-de-2020/>. Access date: 4 Mar. 2023.

BONAVIDES, Paulo. **Course on Constitutional Law**. 15. ed. São Paulo: Malheiros, 2004.

BRAZIL. [Constitution (1988)]. **Constitution of the Federative Republic of Brazil**.

Brasilia, DF: Presidency of the Republic, [2023]. Available at [http://www.planalto.gov.br/ccivil\\_03/constituicao/constituição.htm](http://www.planalto.gov.br/ccivil_03/constituicao/constituição.htm). Access date: 4 Mar. 2023.

BRAZIL. **Decree No. 3.597 of 12 September 2000**. Promulgates the Convention 182 and Recommendation 190 of the International Labour Organization (ILO) on the prohibition of the worst forms of child labour and immediate action for its Elimination, concluded in Geneva on June 17, 1999. Brasilia, DF: Presidency of the Republic, [2023]. Available at: [http://www.planalto.gov.br/ccivil\\_03/decreto/D3597.htm](http://www.planalto.gov.br/ccivil_03/decreto/D3597.htm). Access date: 4 Mar. 2023.

BRAZIL. **Decree-Law No. 5,452 of May 1, 1943**. Approves the Consolidation of Labor Laws. Brasilia, DF: Presidency of the Republic, [2023]. Available at: [http://www.planalto.gov.br/ccivil\\_03/decreto-lei/del5452.htm](http://www.planalto.gov.br/ccivil_03/decreto-lei/del5452.htm). Access date: 6 Mar. 2023.

BRAZIL. **Law No. 8.069 of 13 July 1990**. It establishes the Statute of the Child and Adolescent and provides for other provisions. Brasilia, DF: Presidency of the Republic, [2023]. Available at: [http://www.planalto.gov.br/ccivil\\_03/leis/l8069.htm](http://www.planalto.gov.br/ccivil_03/leis/l8069.htm). Access date: 6 Mar. 2023.

BRAZIL. Superior Labor Court (8. Panel). **Interlocutory appeal in cassation appeal no. 98000-62.2009.5.02.0382**. Aggravating circumstance: Public Prosecutor's Office of Labor of the 2nd Region. Aggravating circumstance: TV SBT Canal 4 de São Paulo S.A. Rapporteur: Judge Marcio Eurico Vitral Amaro, January 7, 2014. Available at: <https://jurisprudencia-backend.tst.jus.br/rest/documentos/7857a6954dd97b18657d40503cdc8d67>. Access date: 6 Mar. 2023.

BRAZILIAN INTERNET STEERING COMMITTEE. Research on the use of information and communication technologies in Brazilian households: households with ICT, 2018. São Paulo: Internet Steering Committee, 2018.

BRAZILIAN SOCIETY OF PEDIATRICS. **Practical Guide to update**, [S. L.], n. 2, p. 1-14, 6 Apr. 2021. Available at: [https://www.sbp.com.br/fileadmin/user\\_upload/\\_22969c-GPA\\_SemAbusos\\_MaisSaude.pdf](https://www.sbp.com.br/fileadmin/user_upload/_22969c-GPA_SemAbusos_MaisSaude.pdf). Accessed on: 23 June 2023.

EBERLIN, Fernando Büscher Von Teschenhausen. Sharenting, the freedom of expression and the privacy of the children in the Digital Environment: the Paper of the Suppliers of Applications in the scenario legal Brazilian. **Magazine Brazilian of Public Policies**, Brasilia, v. 7, n. 3, p. 255-273, 2017 DOI:<https://doi.org/10.5102/rbpp.v7i3.4821>

HOW ARE TSUNAMIS FORMED??? | EducationalVideo for Kids with Ryan ToysReview!. Produced by Ryan's World. [S. l.: s. n.], 10 ago. 2019. Available in: <https://www.youtube.com/watch?v=G2cznwPY13M>. Access date: 6 Mar. 2023.

KONDER, Carlos Nelson; KONDER, Cíntia Muniz de Souza. Is the legal concept of hypervulnerability necessary for law? In: TEIXEIRA, Ana Carolina Brochado; MENEZES,

Joyceane Bezerra. **Gender, autonomy and vulnerability: legal repercussions**. Indaiatuba, SP: Editora Foco Jurídico, 2020. pp. 91-102.

LOPES, José Reinaldo. **The word and the law**: law, order and justice in the history of modern legal thought. 34. ed. São Paulo: FGV Editora, 2004.

MARQUES, Claudia Lima; MIRAGEM, Bruno. **The new private law and the protection of the vulnerable**. São Paulo: Revista dos Tribunais, 2012.

MASCARÓ, Alysson Leandro. **Philosophy of Law**. 5 ed., rev., current and ampl. São Paulo: Atlas, 2016.

MEDON, Felipe. (Over)sharenting: the overexposure of the image and personal data of children and adolescents based on specific cases. **Brazilian Journal of Civil Law**, Belo Horizonte, v. 31, n. 2, p. 265-298, April/June 2022.

MEDON, Felipe. (Over)sharenting: the overexposure of the child's image and data on the Internet and the role of parental authority. In: TEIXEIRA, Ana Carolina Brochado; DADALTO, Luciana (coord.). **Parental Authority: Contemporary Dilemmas and Challenges**. 2. ed. Indaiatuba: Foco, 2021. pp. 351-375.

MEDON, Felipe. (Over)sharenting: the overexposure of the image and data of children and adolescents on the Internet and the instruments of preventive and repressive protection. In: LATERÇA, Priscilla; FERNANDES, Elora; TEFFÉ, Chiara de; BRANCO, Sérgio. (coord.). **Privacy and data protection of children and adolescents**. Rio de Janeiro: Rio de Janeiro Institute of Technology and Society, 2021. p. 29-59.

MELLO, Celso Antônio Bandeira de. **Legal content of the principle of equality**. 3rd ed. São Paulo: Malheiros, 1993.

MPT asks SBT to pay R\$ 1 million for the Maisa case. **Conjur**, [s. l.], 26 May 2009.

Available in:

<https://www.conjur.com.br/2009-mai-26/mpt-sbt-pague-milhao-ferir-lei-maisa>. Access date: 6 Mar. 2023.

NASTYA and her 7-year-old birthday party. Produced by Anastasia Radzinskaya. [S. l.: s. . n.], 2021. 1 video (13m). Available at: <https://www.youtube.com/channel/UCJplp5SjeGSdVdwsfb9Q7lQ>. Access date: 6 Mar. 2023.

INTERNATIONAL LABOUR ORGANIZATION. **Convention No. 138**. About Minimum age for admission to employment. Geneva: ILO

1973. Available in:

<http://www.tst.jus.br/documents/2237892/0/Convenção+138+da+OIT++Idade+m%C3%ADnima+de+admissão+ao+emprego>. Access date: 6 Mar. 2023.

PEREIRA, Tânia da Silva. The principle of the "best interests of the child": from theory to practice. **Revista Brasileira de Direito de Família**, Porto Alegre, v. 1, n. 1, p. 31-49, April/June 1999.

PORFIRIO, Fernando. The justice system prohibits Maisa from participating in a television program. **Conjuro**, [S. l.], 22 May 2009. Available in:  
<https://www.conjur.com.br/2009-mai-22/justica-proibe-maisa-participar-programa-silvio-santos><https://forbes.com.br/listas/2020/12/10-youtubers-mais-bem-pagos-de-2020/>. Access date: 6 Mar. 2023.

RIABIKOVA, Victoria. Nastia, Russia's most popular YouTuber who has been diagnosed with cerebral palsy. **Russia Beyond**, [S. l.], 31 Dec. 2019. Available in:  
<https://br.rbth.com/estilo-de-vida/83284-nastia-a-youtuber-mais-popular/>. Accessed on: 6 March 2023.

SARLET, Ingo Wolfgang; MARINONI, Luiz Guilherme; MITIDIERO, Daniel. **Course on Constitutional Law**. 9. ed. São Paulo: Saraiva Educação, 2020.

SÃO PAULO. Court of Justice of the State of São Paulo. 6th Chamber of Private Law. **Civil Appeal No. 1015089-03.2019.8.26.0577**. Summary: Illegitimacy of a party. Content Provider. Facebook.. Publication on social networks [...]element. Appellant: Bento Augusto da Cunha Santos Filho. Defendant: Karyne Ribeiro de Medeiros Martins. Rapporteur: Des. Vito Gugliemi, Jul 13. of 2020. Available at: <https://www.jusbrasil.com.br/jurisprudencia/tj-sp/894073295/inteiro-teor-894073332>. Accessed on: 23 June 2023.

STEINBERG, Stacey. **Growing Shared: How Parents Can Share Smarter on Social Media and What You Can Do to Keep Your Family Safe in a World Without Privacy**. Naperville: Reference Books, 2020.

TERMS OF SERVICE. Youtube, [S. l.], [2023]. Available at:  
<https://www.youtube.com/static?gl=BR&template=terms&hl=pt>. Access date: 6 Mar. 2023.

TERMS OF USE. **Instagram**, [S. l.], [2023]. Available at:  
<https://www.facebook.com/help/instagram/581066165581870>. Access date: 6 Mar. 2023.

WANDERLEY, Ed. MP is triggered after the public denounced the youtuber mother of the channel 'Bel para meninas'. **State of Minas**, Belo Horizonte, May 21, 2020.