Children’s worlds in the family court – beyond the implementation of participation rights

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The paper intends to present and discuss a multiple case study results, held in 4 family courts, which included a documentary analysis of 446 lawsuits. Through a sociological analysis of Law, in action, aiming to deconstruct and overcome terminologies and symbolic negativities, describing and interpreting children’s participation rights.

Is widely acknowledged that measures have been taken to better incorporate UNCRC Article 12, however we cannot confirm that professional practices follow at the same pace – in fact child’s fundamental rights are acquired, in the speech as in the legal framework, but in action the practices are still far from corresponding to the same designs.

Research acknowledge that this jurisdiction is a breeding ground for prejudices, nourishes an endemic culture of non-participation, and is, therefore, permanently violating children’s rights insofar as it does not listen, or listens but does not consider their contributions. Time, space and communication are symptom and symptomatic of an institutional attitude that devalues, distances, disregards and is not child-friendly.

Those life stories showed that to many children have their childhood monetarized, scrutinized and prescribed by technicians. Also highlight that age, gender, ethnicity, socioeconomic status, family context, geographic location has diverse and varied effects on child’s recognition and on the involvement degree and participation that he/she has in family judicial proceedings.

Institutionalism, formality, a discursive tendency, and individualization also characterize children’s participation. However, we cannot detach this from a system structured and thought by and for adults. Even based on child-centered approaches, they still do not address child inclusion and their active involvement in decision-making.

Notwithstanding children’s rights, childhood and child’s conceptualizations have clear repercussions on the praxis, as much as it is perceived that they remain ambiguous as a social practice, and within family law persists a childhood image associated with lack of capacity and by their minority.

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