

Scientific
Journal of
**Applied
Social and
Clinical
Science**

**OVERSHARENTING:
EXCESSIVE EXPOSURE
OF CHILDREN AND
ADOLESCENTS ON THE
INTERNET IN FACE OF
THE PERSONALITY
RIGHTS OF CHILDREN
AND THE CIVIL
RESPONSIBILITY OF
PARENTS**

Clarisse de Oliveira Lyra

All content in this magazine is licensed under a Creative Commons Attribution License. Attribution-Non-Commercial-Non-Derivatives 4.0 International (CC BY-NC-ND 4.0).



Abstract: This scientific article addresses the phenomenon of oversharenting, characterized by the oversharing of images of children and adolescents carried out by their own parents. Thus, this research aims to analyze the civil liability of parents in the face of excessive exposure of children on the internet, considering the minor's personality rights, in addition to the principle of the child's best interests. The methodology adopted in this study comprises bibliographic and documentary research, as well as content analysis. The result is that personality rights are closely linked to fundamental rights which, due to the practice of oversharing, are violated, and parents may be held liable for abuse of rights and possible harm caused to their children.

Keywords: Overexposure. Children. Teenagers. Personality Rights. Civil Responsibility of Parents.

INTRODUCTION

Due to the expansiveness of the so-called "digital era" and the resulting technological advances, it is currently difficult to find someone who does not have an active profile on any social network. In the 20th century, the internet emerged with the aim of changing the form of human interaction and work and since then it has become increasingly part of individuals' daily lives. A priori, the internet was treated with care, as it was an unknown environment, completely different from what currently occurs.

It is through social networks that, especially during the Covid-19 pandemic, people maintained their social relationships, promoting instant and global integration, even at a distance. Currently, through these networks, many parents share their daily lives, sharing information, photos, videos, routines and data, both personal and those of their

1 "The biggest fight in the current market is for attention", by Renato Bernhoeft. Economic value. Available at: <https://mobile.valor.com.br/node/5133620>. Accessed on: May 23, 2023

children. That is, when they don't try to turn minors into child celebrities.

In this sense, family relationships began to be alarmingly impacted by the digitalization process and the so-called "care market"¹. Attitudes such as exposing their routine, travel, company, what they are eating, are forms of social reaffirmation, and can develop in infants a feeling of influence and social approval. However, a child or adolescent still in the development phase does not yet have the basic discernment to distinguish what is safe or right to be exposed on social media.

It is in this scenario that the phenomenon called oversharenting occurs, marked by the unrestrained sharing of children's images on social networks carried out by parents or guardians of children and adolescents, thus exceeding the sphere of their rights, directly affecting the very personal rights of children. Parents, holders of parental authority, are always responsible for ensuring the best interests of minors, exercising family power to the extent assigned to them. This raises the question that we intend to answer throughout this study: is oversharing a parental right or a violation of the privacy and image of children.

In order to achieve the proposed objective, which is to answer the previous question, this research was subdivided into four topics. The first brings the historical evolution of the technological revolution to the present day. The second deals with the phenomenon of oversharenting, concept, effects and consequences. The third topic addresses the personality rights of infants in light of the Brazilian legal system. Finally, the fourth topic aims to understand the limits of parents' family power and their civil responsibility towards children and adolescents in the face of possible damage caused by excessive exposure on social networks.

In order to achieve these objectives, the

methodologies adopted in this study include bibliographic and documentary research, as well as content and morphological analyses. The research can be classified, in terms of approach, as qualitative, and in terms of descriptive and explanatory purposes.

TECHNOLOGICAL REVOLUTION: CYBER AGE AND DIGITAL LIFE

In the past, some futuristic predictions about current times were imagined and disseminated to the population, from the utopia of a perfect society to surprising transformations, as can be seen in the film trilogy “Back to the Future”, or even in the cartoon “The Jetsons”, even dystopian nightmares of social control through the means of technology, as in the works of George Orwell. Despite futuristic prediction exercises, in one way or another, these predictions have been replaced by a contemporary scenario of technological and digital preponderance, marked by a fusion of different types of technology present in a solid and uncontested manner in countless areas of human life.

From creative exercise to established fact, modern society has undergone countless changes, in which innovations are constant and the rupture of pre-determined models occurs increasingly quickly, resulting in a series of modifications in social, economic and cultural structures, especially in the way in which individuals relate to each other.

This way, says Schwab ²:

We currently face a wide range of fascinating challenges; Among them, the most intense and important is the understanding and modeling of the new technological revolution, which implies nothing less than the transformation of all humanity. The scale and scope of change explains why today's disruptions and innovations are so

significant. The speed of innovation in terms of development and disruption is faster than ever.

It is important to highlight that the aforementioned context was not achieved instantly, the disparate moments of human history prove the improvements and benefits that were brought by the series of industrial and technological revolutions, which had significant effects on social development.

In the mid-18th century, as a result of the invention of steam engines and the construction of railways, the first industrial revolution occurred, moving from an agricultural context based on manual production, to a new scenario with mechanical bases. Followed by the second industrial revolution, in the second half of the 19th century, which made mass production possible, with the implementation of the use of electricity in industrial environments and production lines.³

The changes in progress were imminent and radical, it was then that during the 20th century there was the third industrial revolution, marked by the advent of the digital or computer revolution, which contributed to the development of electronics, robotics, computers; caused infinite changes in society's behavioral patterns, especially with the creation and popularization of the internet in people's daily lives.

It is in the midst of the third industrial revolution that the ascendancy and power of telecommunications and information technology can be observed, reaching such importance that it culminates with the fourth industrial revolution, characterized by cybernetic systems, cloud computing, nanotechnology, artificial intelligence (AI), mobile and universal internet enabling interconnectivity and global globalization.⁴

2 SCHWAB, Klaus. A quarta revolução industrial. São Paulo: Edipro, 2016. 15 p. Tradução de: Daniel Moreira Miranda.

3 *Ibidem*

4 RODRIGUES, Horácio Wanderlei; BECHARA, Gabriela Natacha; GRUBBA, Leilane Serratine. Era Digital E Controle Da

According to Rodrigues⁵ *et al*,

The emergence of this new situation, simply called the digital era, has profound impacts, transforming society as a whole, especially in the way people interact, establish their businesses and relationships.

Modern society is closely linked to the technological innovations conceived in the third and fourth industrial revolutions, the world that goes hand in hand with technology, where people, their cultures, economy, personal and work relationships depend on digital connection, a fact that was undoubtedly confirmed during the Covid-19 pandemic.

Life happens digitally as much as it happens in the real world. Currently, due to interconnectivity and globalization, people can almost defy the laws of physics and be in several places at the same time, after all, it is possible to be physically in one place and virtually in others.

In the words of Bolzan⁶, ““Social Networks are means of interaction via the Web where users communicate and express themselves by transmitting all types of content, filled with sensations, often repressed in the current life system.” Various technologies allow the digital environment to be rich, both positively and negatively, enabling individuals through social networks to interact, give opinions, develop events, promote their work, share their daily lives, among others in an immediate and global way., the flow of people and information on the internet is immense.”⁷

The immediate access and ease provided by the use of digital platforms, such as:

Instagram, Facebook, WhatsApp, TikTok, YouTube, provide opportunities for worldwide connections between individuals, where they browse and feed the cyber environment on a daily basis, where they share any type of content, which can be viewed by any social media user wherever they are, simply by being connected to the internet.

The aforementioned transformations had immense repercussions on social relations since the culture of virtuality was inserted into the daily lives of the population. Individuals share a portion of their lives, deeds and achievements, not leaving out the entire parental phase.

However, as technological improvements unfolded, the vulnerabilities of users of digital platforms also increased, especially in terms of intimacy and privacy. The possibility of data leakage or breach of confidentiality is not an uncommon episode in social networks, due to the large accumulation of information contained in the digital space, so the private nature of networks ends up collapsing. Therefore, it is possible to confirm that society is currently in the fourth industrial revolution, characterized by excessive access and use of online information.

OVERSHARENTING: CONCEPT, EFFECTS AND CONSEQUENCES

Oversharenting or just sharenting is an English term that comes from the union of the words “share” which means sharing and “parenting” which means parenting or exercising parental/family power; In other

Informação. Revista Em Tempo, [S.l.], v. 20, n. 1, nov. 2020. Available on the website: <<https://revista.univem.edu.br/emtempo/article/view/3268>>. Accessed on: May 19, 2023.

5 *Ibidem*

6 BOLZAN, Lúcia Helena Stela. Amparo legal ao uso da imagem em vídeos na internet. Trabalho de Conclusão de Curso (Curso de Especialização na Educação) -Centro Interdisciplinar de Novas Tecnologias na Educação, Universidade Federal do Rio Grande do Sul, Porto Alegre, 2010. Available on the website: <<https://www.lume.ufrgs.br/bitstream/handle/10183/141361/000991706.pdf?sequence=1>>. Accessed on: May 19, 2023.

7 SIQUEIRA, D. P. NUNES, D. H. (2018). Conflitos Digitais: Cidadania E Responsabilidade Civil No Âmbito Das Lides Cibernéticas. Revista Jurídica Da FA7,15(2), 127-138. Available on the website: <https://periodicos.uni7.edu.br/index.php/revistajuridica/article/view/810>. Accessed on: May 19, 2023.

words, it is the exaggerated sharing of images of children and adolescents by their own parents. The Macmillan Dictionary conceptualizes it as a term used to describe the excessive use of social media by parents to share content based on their children.

As previously mentioned, many social and family relationships have changed with the advent of the internet, older generations have followed the entire emergence and evolution of social networks and their exponential growth, while currently children and young people are born inserted in this context, in a reality that is often harmful and with unknown consequences.

According to Antunes and Tizzo, “oversharenting is the practice of excessive sharing of family life, that is, parents exposing their children without any or little consideration.” immoderate manner, body formation, heartbeat, sex, name and weight through ultrasounds posted on social media and viewed by countless viewers. It is through these same profiles on digital accounts that parents and family members publicize births, first steps, first words, the school the children attend, parties and trips. The entire routine of the child and family is exposed on social media.

Regarding the participation of children and adolescents in social networks, Gasparino⁸ stated that:

Around 23% of children begin their digital lives when their parents post prenatal exams on the internet, 81% of children under two years old already have some type of profile on the internet, 7% of babies and young children have an address of e-mail created by their parents, 5% of babies up to two years

of age have a profile on a social network and 70% say that the objective of the exhibition is to share moments with friends and family.

At the national level, there are countless cases of celebrities, celebrities and digital influencers who share their daily lives with their followers, making them intimate experts of their personal and family lives. This way, they end up exposing their children to digital media at an increasingly earlier age, in most cases since pregnancy. For example, the daughters of the couple Zé Felipe and Virgínia Fonseca, Maria Alice and Maria Flor, aged 2 years and 7 months, respectively, who together have 7.6 million followers on their Instagram profile. The same happens with Lua, daughter of ex-BBB's Viih Tube and Eliezer, who at just 1 month old has 1.9 million followers on her profile on the same social network.

Already presenting the effects of oversharenting, around 3 years ago there was a popular campaign in defense of the child YouTuber “Bel para Meninas”, who at the time was 14 years old and still produced children’s content not compatible with her age, supposedly forced by mother. The campaign ended up drawing the attention of police authorities, the Guardianship Council and the Public Ministry.⁹ Some followers suspected that the girl was being exposed to a humiliating situation. Bel later published a video stating that she is not forced into any exposure.

Thus, a study carried out on the direct image of children and adolescents on the internet whose parents are digital influencers, Affonso¹⁰ teaches that:

“The freedom of expression of a parent who is a digital influencer is entirely conditioned

8 GASPARINO. L. (ORG.). Proteja nossas Crianças e Jovens. 2021. Available on the website: <<https://doczz.com.br/doc/245821/proteja-nossas-crian%C3%A7as-e-jovens>>. Acesso em: 20 de maio de 2023.

9 CORREIO 24 HORAS. ‘Bel para Meninas’: delegacia da criança abre inquérito e caso será investigado pelo MP. Available on the website: <https://www.correio24horas.com.br/noticia/nid/bel-para-meninas-delegacia-da-crianca-abre-inquerito-e-caso-sera-investigado-pelo-mp/>. Acesso em: 25 de maio de 2023.

10 AFFONSO, Filipe José Medon. Influenciadores Digitais e o Direito à Imagem de seus Filhos: Uma Análise a partir do Melhor Interesse da Criança. In: Revista Eletrônica da Procuradoria Geral do Estado do Rio de Janeiro - PGE-RJ, Rio de

by the limits imposed by the principle of the best interests of children and adolescents on the exercise of their family power, even more so when it comes to existential rights, such as image and privacy”

In this context, it is noteworthy that the legal impasse arising from sharenting consists of the fact that the information, videos and photos displayed on social networks last for several years, and can be accessed at any time, from anywhere on the planet, either by the holder of the data or posting, or by third parties. It turns out that these data can later have negative impacts on the lives of previously exposed infants.

Thus, the often-unconscious practice of oversharenting can cause several consequences in family and parental relationships, such as: violation of the intimacy and privacy of children, early adultification, loss of autonomy, spontaneity and childhood innocence, among many others. The overexposure of minors in the digital environment increases their vulnerability, since they are subject to countless risks. These images can be used out of context, causing embarrassing situations and unpleasant contacts for minors.

Furthermore, the exacerbated exposure of children to the digital world has immense potential to bring about changes in the characteristics of childhood and youth, as these children and adolescents are still in the formative phase, lacking complete discernment and having a certain amount of fragility. It is not uncommon for parents, holders of family power, to use social networks to create a kind of digital photo album for their children, who

soon gain a legion of fans and followers, in addition to an entire digital identity created by their parents, which makes them become narrators of children's lives. Minors do not understand the impacts caused by the public life imposed on them by their parents through social networks, and they often grow up with adult responsibilities, as children's profiles are often used for commercial purposes.

Minors, due to being exposed in the digital world, are likely to suffer virtual aggression, as in addition to the aforementioned effects, the hyperexposure of children can lead to the phenomenon of cyberbullying, UNICEF¹¹ defines it as “cyberbullying is bullying carried out through digital technologies. It can occur on social media, messaging platforms, gaming platforms and cell phones. It is repeated behavior intended to scare, enrage or embarrass those who are victims.” The unfortunate practice of cyberbullying can and does contribute to the development of psychosocial disorders.

In the legal field, the consequences of both oversharenting and parents exposing their children's lives are still little discussed. It is noted that there is a great lack of awareness and reflection regarding these events and the new responsibilities of parental authority in the digital age. Exaggerated sharing of their children's images gives the impression that parents feel obliged to publicize their family moments in order to demonstrate happiness, without thinking about how this will reflect on the well-being and rights of their children.¹²

Therefore, it is noticeable that the

Janeiro, v. 2, n° 2, maio/ago. 2019. Available on the website: <https://revistaeletronica.pge.rj.gov.br:4432/comum/code/MostrarArquivo.php?C=MjI5>. Acesso em: 25 de maio de 2023

11 UNICEF. Cyberbullying: O que é e como pará-lo. O que os adolescentes querem saber sobre cyberbullying. Available on the website: < <https://www.unicef.org/brazil/cyberbullying-o-que-eh-e-como-para-lo#:~:text=Cyberbullying%20C3%A9%20o%20bullying%20realizado,envergonhar%20aqueles%20que%20s%C3%A3o%20v%C3%ADtimas.>>. Accessed on: May 20, 2023.

12 FERREIRA, Lucia Maria Texeira. A superexposição dos dados e da imagem de crianças e adolescentes na Internet e a prática de Sharenting: reflexões iniciais. Revista do Ministério Público Accessed on: May 25, 2023. o Estado do Rio de Janeiro n° 78, out./dez. 2020. P. 165 – 183. Available on the website: https://www.mprj.mp.br/documents/20184/2026467/Lucia_Maria_Teixeira_Ferreira.pdf. Accessed on: May 25, 2023.

phenomenon of oversharenting has become habitual and recurrent among parents, who often do not reflect the present and future risks that such behavior may cause in the lives of children and adolescents who were asked if they would like or not to have your image and privacy exposed on the internet.

THE PERSONALITY RIGHTS OF CHILDREN AND ADOLESCENTS IN THE LIGHT OF BRAZILIAN LEGISLATION

Brazilian doctrine is very rich in authors who talk about personality rights. In this sense, Ehrhardt Jr defines personality rights as:

Those subjective rights recognized to the person to guarantee their dignity, that is, to protect their physical, psychological and intellectual aspects, among others that cannot be measured economically, because they relate to their own condition as a person, that is, to what is theirs. significantly more intimate.

In short, it is possible to state that the list of personality rights is those inherent to the dignity and integrity of the human person, as described in article 1, item III of the Federal Constitution, which is supported by article 2 of the Civil Code¹³, “civil personality begins from birth alive; but the law protects the rights of the unborn child from conception onwards.” It is then understood that based on the general and principled characteristics, personality rights are innate, absolute, non-transferable, imprescriptible, unseizable,

13 BRASIL. Lei nº 10.406, de 10 de janeiro de 2002. Institui o Código Civil. Diário Oficial da União: seção 1, Brasília, DF, ano 139, n. 8, p. 1-74, 11 jan. 2002. Available on the website: <http://www.planalto.gov.br/ccivil_03/leis/2002/110406compilada.htm>. Accessed on: May 22, 2023

14 *Ibidem*

15 ANTUNES, Larissa Aparecida. TIZZO, Luis Gustavo Liberato. Oversharenting: a exposição imoderada da criança e adolescente nas redes sociais e a responsabilidade parental. Londrina – PR. Editora Thoth, 2022. P.

16 BRASIL, Lei nº 8.069, de 13 de julho de 1990. Dispõe sobre o Estatuto da Criança e do Adolescente. Brasília, DF, ano 102. Available on the website: https://www.planalto.gov.br/ccivil_03/leis/18069.htm>. Accessed on: May 22, 2023.

17 GUERRA, S. Direito fundamental à intimidade, vida privada, honra e imagem. 2004. 14 f. Professor of Law, Unigranrio, Rio de Janeiro, 2004. Available on the website: <http://www.publicadireito.com.br/conpedi/manaus/arquivos/anais/recife/direitos_fundam_sidney_guerra.pdf>. Accessed on: May 22, 2023

lifelong, necessary and opposable erga omnes.¹⁴ Therefore, it is clear that personality is the individual’s protective institute, which is closely related to the human condition, regardless of the relationship or moment in life.¹⁵

Thus, the protection of the personality rights of children and adolescents, in addition to being deeply linked to the dignity of the human person, has an express constitutional guarantee, in article 227, of being an absolute priority for the family, society and the State. The privileged protection of infants’ very personal rights arises from the fact that they are still in training since they are in a vulnerable situation.

In view of this, the Child and Adolescent Statute was created,¹⁶ giving full and priority protection to the rights of infants as a result of being in a vulnerable situation, as they are beings in formation and development. Articles 15 and 17 of the ECA ensure the guarantee of the very personal rights of minors, taking into consideration, their best interests.

As an addendum, the Civil Code in its article 20 ensures the right to image in the list of personality rights, including the normative provision that the disclosure, manipulation and capture of the image of any person will only be lawful through their express authorization, undue exposure entails liability and compensation for damages caused. This post War¹⁷ teaches that:

The right to image is considered inviolable, directly aimed at defending the human figure, protected by the guarantee of

preventing anyone from using it improperly without your prior consent. This misuse may be of a photograph or display of the image in a film or commercial advertisement, for example. For the use of the image of a specific person to be lawful, it must be done with their consent; otherwise it will give rise to immediate liability for undue exposure, resulting in compensation for the damage.

The jurisprudential understanding of the Superior Court of Justice, in relation to image protection, is that “it does not depend on proof of damage to compensation for the unauthorized publication of an image of a person for economic or commercial purposes.”, this is what the Precedent provides. Number: 403¹⁸. This way, it is clear that the offense to the image or its unauthorized use results in moral and property damage subject to compensation, generating civil and criminal liability.

Regarding the right to the image of children and adolescents, they are under the responsibility of their parents, holders of family power, who have the power-duty to care for, care for and protect their children, according to the provisions of art. 1,634 of the Civil Code. Family power aims to protect, direct, educate, guard and defend the interests of children.

FAMILY POWER AND CIVIL RESPONSIBILITY OF PARENTS IN CONFLICT WITH THE OVEREXPOSURE OF CHILDREN ON THE INTERNET

Family power consists of exercising the rights and duties of parents towards their children, in their interests until they reach

18 BRASIL, Superior Tribunal de Justiça. Súmula nº 403. Diário de Justiça: seção 2. Brasília, DF. October 28, 2009. Available on the website: <https://www.stj.jus.br/docs_internet/revista/eletronica/stj-revista-sumulas-2014_38_capSumula403.pdf>. Accessed on: May 22, 2023

19 MORAES, Maria Celina Bodin de. A caminho de um Direito Civil Constitucional. Revista de Direito Civil, volume 65, 1993, p. 21/32.

20 PERLINGIERI, Pietro. Perfis do direito civil: introdução ao direito civil constitucional. Trad. Maria Cristina de Cicco. Rio de Janeiro: Renovar, 1997. P. 258.

21 LÔBO, Paulo. Direito Civil: Famílias – Vol. 5. 10 Ed – São Paulo: Saraiva Educação. 2020. P.313.

the age of majority or are emancipated. The institute has changed significantly over the years, following the evolution of family relationships, moving away from the original concept of “national power”, which concentrated power and authority with the head of the family. After gradual cultural and normative advances, there is no longer a father’s power over his children, but rather a natural authority of fathers in relation to their children.

According to Maria Celina Bodin de Moraes¹⁹, “the interest to be protected is no longer that of the organized group as the support of the State, and of the existing relations of production, but of the conditions that allow the human person to fulfill himself intimately and affectively, in this small social group”.

Since in the conception of family functionality, based on affection, this must be the main tool for child and youth development, valuing the dignity, personality, training and education of children. According to Pietro Perlingieri²⁰, parental authority “assumes more of an educational function than that of asset management, and is a task aimed at promoting the creative potential of children”. In the same sense, Paulo Lôbo’s words²¹:

Parental authority is, therefore, understood as a consequence of parenthood and not as a particular effect of a certain type of parentage. Parents are the legal defenders and natural protectors of their children, the holders and custodians of this specific authority, delegated by society and the State.

It is possible to derive from article 227 of the Magna Carta a basic set of duties

attributed to the family, such as the duty to ensure children and adolescents the right to life, health, food, education, leisure, culture, dignity, respect, freedom and family and community coexistence, among others. In turn, article 229 of the aforementioned legal diploma states that parents have the duty to assist, educate and raise their minor children.

On the other hand, in infra-constitutional legislation, it is necessary to highlight the importance of the Child and Adolescent Statute in view of the rules it brought with the aim of explaining and enabling the effectiveness of guarantees and rights especially guaranteed to children and adolescents, based on basic principles such as prevalence interest, the full protection and absolute priority guaranteed to them. With regard to parental authority, the ECA works in conjunction with the Civil Code, seeking greater enforcement of the rules, in order to better serve children and adolescents.²²

When dealing with civil liability, Gagliano and Pamplona Filho²³ state that it is a “harmful activity of someone who [...] violates a pre-existing legal norm, thus subordinating himself to the consequences of his act.” In view of this, there is a division between contractual civil liability, which deals with non-compliance with positive obligations, and non-contractual civil liability, based on the unlawful act and abuse of rights, articles 186 and 187, respectively, of the Civil Code.

With the trivialization of social networks, children and adolescents began to be exposed to the digital environment, resulting in numerous risks, and the general rule of civil liability must therefore be applied, starting in principle from the damages caused to them.

22 SANTOS, Grazielle Bomfim. EDLER, Gabriel Octacílio Bohn. Oversharenting: A Superexposição Da Imagem Das Crianças E Adolescentes Nas Redes Sociais E A Responsabilidade Civil Dos Pais. Revista Ibero-Americana de Humanidades, Ciências e Educação-REASE. Available on the website: < <https://periodicorease.pro.br/rease/article/view/5973/2294>> Accessed on: May 23, 2023.

23 GAGLIANO, Pablo Stolze. PAMPLONA FILHO, Rodolfo. Novo curso de direito civil, vol. 3: responsabilidade civil. 16 Ed. São Paulo: Saraiva Educação, 2018. P. 59.

24 DINIZ, Maria Helena. Course of Brazilian civil law. 19. ed. São Paulo: Saraiva, 2005. V. 7, p.42

According to Maria Helena Diniz²⁴, civil liability arises when its requirements are met, namely:

- a) existence of an action, commissive or omissive, legally qualified, that is, which presents itself as an illicit or lawful act, as alongside guilt as the basis of civil liability there is risk; b) occurrence of moral or material damage caused to the victim; c) causal link between the damage and action, which constitutes the triggering event for liability

It is noteworthy that the right-duty of parental responsibility can be considered an abuse of rights, once its holders exceed the socially assigned limits. Thus, it is possible that parents who expose their children excessively and continuously abuse the right to freely dispose of the image, private life and intimacy of their children, which may cause moral damage due to the offense against the very personal rights of others, once the causal link is present. between conduct and the offensive result.

Objective civil liability is based on articles 927 and 187 of the Civil Code regarding the abuse of rights and the obligation to repair the damage, with the following wording: “the holder of a right who, when exercising it, manifestly exceeds the limits imposed by its economic or social purpose, by good faith or good customs.” Furthermore, it must be noted that according to Statement Number: 37 of the Civil Law Conference, it is stated that “civil liability arising from the abuse of rights is independent of fault and is based solely on objective-finalistic criteria”.

The central point of the issue is exactly understanding whether parents or guardians,

when sharing the image of children in an exaggerated way on their social networks, given the potential effectiveness of causing embarrassment and damage, can be held responsible for an illegal act or abuse of rights.

Favorably for parents, the precedent of the Federal Supreme Court, ADPF number: 130²⁵ In the ruling, the ministers highlighted that it is imperative to first enable the “free” and “full” expression of thought, creation and information and, only then, demand from the offender any possible disrespect for the constitutional rights of others, “although they also densify the personality human.” Using this concept to family relationships and parental authority, it would be the right and duty of parents to guide their children in ways that they believe are best for their development.

On the other hand, as already mentioned, children and adolescents are beings in formation and therefore enjoy full protection and the guarantee of absolute priority. It is common for the judiciary to consider parents’ decisions to be the most beneficial for their children, since they are the holders of parental authority. However, it is not impossible that this training context may lead to excesses and offenses against the rights of children and adolescents caused by their guardians.

Several legal provisions guarantee infants their rights, as well as access to the judiciary, such as articles 141 and 142, sole paragraph of the ECA. Furthermore, it is the responsibility of the Public Prosecutor’s Office, see article 201, V, VIII, IX and X of the Child and Adolescent Statute, to represent minors in the judicial sphere in the event of any violation of their rights by their legal guardians.

It is possible that during the process the judge will need to adopt criteria to regulate

the child’s exposure on social media, given the violation of the child’s very personal rights on digital media. In this sense, we urge you to emphasize the importance of the General Data Protection Law – Law number: 13.709/18²⁶ – which after 2 years of *vacatio legis* began to take effect in mid-2021. With its edition, Brazil became part of a block of more than 130 countries that have personal data protection laws.

The LDGP is inspired by the GDPR, the European Union’s data regulation law, such devices deal with informational self-determination, aiming to allow data holders real people power over their own information and effective control of their data. Furthermore, the aforementioned normative texts were published with the aim of offering greater protection and “stronger” rights to people, especially children, as they are recognized as the most vulnerable.

Therefore, it is possible for parents to respond for abuse of rights and be held civilly liable if they exceed the legal limits of their children’s right to image in the digital environment, since this is their own right and must not be exceeded since children are fully protected.

FINAL CONSIDERATIONS

Taking into consideration, the debated topic, this article aimed to analyze whether oversharing would be a parental right or a violation of the privacy and image of children. The results achieved demonstrated that due to the improvement of technologies, personal and family relationships have undergone several changes, in such a way that people simply publish their personal lives, information and daily lives, in addition to their entire parental lives, on social media.

25 BRAZIL. Federal Court of Justice. Allegation of Non-compliance with Fundamental Precept Number:130. April 30, 2009. Available at: <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=AC&docID=605411>.> Accessed on: May 24 2023

26 BRAZIL. Law 13,709/18, of August 14, 2018. General Personal Data Protection Law (LGPD). Available at: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/L13709.htm Accessed on: May 25, 2023.

Overexposure of children's images automatically leads to the practice of oversharenting, which causes numerous consequences for children and adolescents and ends up violating their rights to image and privacy.

It is extremely important that parents ask themselves about their choices when publishing information about their children in the digital world, as this may have negative repercussions on the rights and psychosocial aspects of these children. Even parents with good intentions are unaware or do not adequately evaluate the sharing of their posts on social media including their children or teenagers, without considering how these posts can affect their education and general well-being.

Therefore, the rights of children must be respected and any violations will lead to the good use of legal guarantees based on the fundamental right to personality and the principle of the best interests of the child, as well as the Child and Adolescent Statute. If there is a repeated practice of oversharing and, consequently, the constant violation of the personal rights of minors, parents will be subject to liability for abuse of rights, being held liable in the civil sphere.

Finally, the right to privacy, intimacy, image and the protection of personal data of children and adolescents are fundamental rights, the defense of which constitutes the constitutional and legal duty of parents, society and the State, notably in the face of the frenetic and uncontrolled evolution technological. It is up to those with parental authority to be aware of and take precautions regarding the risks of sharenting - specific educational programs aimed at children, adolescents, young people and families are essential for this - paying closer attention to the exercise of this authority.

REFERENCES

AFFONSO, Filipe José Medon. **Influenciadores Digitais e o Direito à Imagem de seus Filhos: Uma Análise a partir do Melhor Interesse da Criança**. In: Revista Eletrônica da Procuradoria Geral do Estado do Rio de Janeiro - PGE-RJ, Rio de Janeiro, v. 2, n° 2, maio/ago. 2019. Available on the website: <https://revistaeletronica.pge.rj.gov.br:4432/comum/code/MostrarArquivo.php?C=MjI5>. Acesso em: 25 de maio de 2023

ANTUNES, Larissa Aparecida. TIZZO, Luis Gustavo Liberato. **Oversharenting: a exposição imoderada da criança e adolescente nas redes sociais e a responsabilidade parental**. Londrina – PR. Editora Thoth, 2022. P.

BOLZAN, Lúcia Helena Stela. **Amparo legal ao uso da imagem em vídeos na internet**. Trabalho de Conclusão de Curso (Curso de Especialização na Educação) -Centro Interdisciplinar de Novas Tecnologias na Educação, Universidade Federal do Rio Grande do Sul, Porto Alegre, 2010. Available on the website: <<https://www.lume.ufrgs.br/bitstream/handle/10183/141361/000991706.pdf?sequence=1>>. Accessed on: May 19, 2023.

BRASIL, Lei n° 8.069, de 13 de julho de 1990. **Dispõe sobre o Estatuto da Criança e do Adolescente**. Brasília, DF, ano 102. Available on the website: https://www.planalto.gov.br/ccivil_03/leis/18069.htm>. Accessed on: May 22, 2023.

BRASIL, Superior Tribunal de Justiça. **Súmula n° 403**. Diário de Justiça: seção 2. Brasília, DF. 28 de outubro de 2009. Available on the website: <https://www.stj.jus.br/docs_internet/revista/eletronica/stj-revista-sumulas-2014_38_capSumula403.pdf>. Accessed on: May 22, 2023

BRASIL. **Constituição da República Federativa do Brasil**. 5 de outubro de 1988. Brasília, DF: Centro Gráfico, 1988. Available on the website: < http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm>. Accessed on: May 22, 2023

BRASIL. **Lei 13.709, de 14 de agosto de 2018. Lei Geral de Proteção de Dados Pessoais (LGPD)**. Available on the website: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/L13709.htm Acesso em: 25 de maio de 2023.

BRASIL. **Lei n° 10.406, de 10 de janeiro de 2002. Institui o Código Civil**. Diário Oficial da União: seção 1, Brasília, DF, ano 139, n. 8, p. 1-74, 11 jan. 2002. Available on the website: < http://www.planalto.gov.br/ccivil_03/leis/2002/110406compilada.htm>. Accessed on: May 22, 2023

BRASIL. Supremo Tribunal Federal. **Arguição de Descumprimento de Preceito Fundamental n° 130**. 30 de abril de 2009. Available on the website: <https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=AC&docID=605411>.> Acesso em: 24 de maio de 2023

CONJUR. **Leia o acordão que derrubou a Lei de Imprensa**. 7 de novembro de 2009. Available on the website: <https://www.conjur.com.br/2009-nov-07/leia-integra-acordao-stf-derrubou-lei-imprensa>. Acesso em: 24 de maio de 2023.

CORREIO 24 HORAS. **‘Bel para Meninas’: delegacia da criança abre inquérito e caso será investigado pelo MP**. Available on the website: <https://www.correio24horas.com.br/noticia/nid/bel-para-meninas-delegacia-da-crianca-abre-inquerito-e-caso-sera-investigado-pelo-mp/>. Acesso em: 25 de maio de 2023.

DICIONARY, Macmillan **Oversharenting** Available on the website: <<https://www.macmillandictionary.com/us/dictionary/american/sharenting>>. Acesso em: 20 de maio de 2023.

DINIZ, Maria Helena. **Curso de direito civil brasileiro**. 19. ed. São Paulo: Saraiva, 2005. V. 7, p.42

EHRHARFT JR, Marcos. **Direito Civil: LICC e Parte Geral – Volume 1**. Salvador. Ed. Juspodium. 2009. P. 187.

FERREIRA, Lucia Maria Texeira. **A superexposição dos dados e da imagem de crianças e adolescentes na Internet e a prática de Sharenting: reflexões iniciais**. Revista do Ministério Público do Estado do Rio de Janeiro n° 78, out./dez. 2020. P. 165 – 183. Available on the website: https://www.mprj.mp.br/documents/20184/2026467/Lucia_Maria_Teixeira_Ferreira.pdf. Acesso em: 25 de maio de 2023.

GAGLIANO, Pablo Stolze. PAMPLONA FILHO, Rodolfo. **Novo curso de direito civil, vol. 3: responsabilidade civil**. 16 Ed. São Paulo: Saraiva Educação, 2018. P. 59.

GASPARINO, L. (ORG.). **Proteja nossas Crianças e Jovens**. 2021. Available on the website: <<https://doczz.com.br/doc/245821/proteja-nossas-criancas-e-jovens>>. Acesso em: 20 de maio de 2023.

GUERRA, S. **Direito fundamental à intimidade, vida privada, honra e imagem**. 2004. 14 f. Professor de Direito, Unigranrio, Rio de Janeiro, 2004. Disponível em: <http://www.publicadireito.com.br/conpedi/manaus/arquivos/anais/recife/direitos_fundam_sidney_guerra.pdf>. Accessed on: May 22, 2023

MORAES, Maria Celina Bodin de. **A caminho de um Direito Civil Constitucional**. Revista de Direito Civil, volume 65, 1993, p. 21/32.

PERLINGIERI, Pietro. **Perfis Do Direito Civil: Introdução Ao Direito Civil Constitucional**. Trad. Maria Cristina de Cicco. Rio de Janeiro: Renovar, 1997. P. 258.

RODRIGUES, Horácio Wanderlei; BECHARA, Gabriela Natacha; GRUBBA, Leilane Serratine. **Era digital e controle da informação**. Revista Em Tempo, [S.l.], v. 20, n. 1, nov. 2020. Available on the website: <<https://revista.univem.edu.br/emtempo/article/view/3268>>. Accessed on: May 19, 2023.

SANTOS, Grazielle Bomfim. EDLER, Gabriel Octacílio Bohn. **Oversharenting: A Superexposição Da Imagem Das Crianças E Adolescentes Nas Redes Sociais E A Responsabilidade Civil Dos Pais**. Revista Ibero-Americana de Humanidades, Ciências e Educação-REASE. Available on the website: <<https://periodicorease.pro.br/rease/article/view/5973/2294>>. Acesso em: 23 de maio de 2023.

SCHWAB, Klaus. **A quarta revolução industrial**. São Paulo: Edipro, 2016. 15 p. Tradução de: Daniel Moreira Miranda.

SIQUEIRA, D. P. NUNES, D. H. (2018). **Conflitos digitais: cidadania e responsabilidade civil no âmbito das lides cibernéticas**. Revista Jurídica Da FA7,15(2), 127-138. Available on the website: <https://periodicos.uni7.edu.br/index.php/revistajuridica/article/view/810>. Accessed on: May 19, 2023.

UNICEF. **Cyberbullying: O que é e como pará-lo. O que os adolescentes querem saber sobre cyberbullying**. Available on the website: <<https://www.unicef.org/brazil/cyberbullying-o-que-eh-e-como-para-lo#:~:text=Cyberbullying%20%C3%A9%20o%20bullying%20realizado,envergonhar%20aqueles%20que%20s%C3%A3o%20v%C3%ADtimas.>>. Acesso em: 20 de maio de 2023.