

Legal Psychological Assessment in Custody Processes in Brazil: Professional Practices*

Tayora Dantas** , Luísa Saavedra , & Paula Cristina Martins 

¹*Universidade do Minho, Braga, Portugal*

ABSTRACT – This research aimed to understand the structuring of psychological assessments in custody actions and, on the other hand, to identify the existence of homogeneity or heterogeneity in these practices. Twenty-nine Brazilian legal psychologists participated in this study and answered an online questionnaire built based on the literature. The analysis of the results was carried out through deductive and semantic Thematic Analysis, whose previous categories were created based on national and international guidelines. The most salient results indicate some divergences from the literature, but that its actions and dimensions are compatible with those found in the literature. Based on these results, a guide of systematized practices is proposed, aiming to promote greater uniformity in parental assessment.

KEYWORDS: forensic psychological assessment, psychological guidelines, shared custody, methods, parental responsibilities

Avaliação Psicológica Jurídica em Processos de Guarda no Brasil: Práticas Profissionais

RESUMO – Esta pesquisa teve como objetivos, por um lado, compreender a estruturação das avaliações psicológica em ações de guarda e, por outro, identificar a existência de homogeneidade ou heterogeneidade nessas práticas. Participaram neste estudo 29 psicólogos jurídicos brasileiros, que responderam a um questionário *online* construído com base na literatura. A análise dos resultados foi realizada através da Análise Temática dedutiva e semântica, cujas categorias prévias foram criadas com base em orientações nacionais e internacionais. Os resultados mais salientes indicam algumas divergências face à literatura, mas que as suas ações e dimensões são compatíveis com as encontradas na literatura. Com base nestes resultados, propõe-se um roteiro de práticas sistematizadas, visando promover uma maior uniformidade na avaliação parental.

PALAVRAS-CHAVE: avaliação psicológica forense, diretrizes psicológicas, guarda compartilhada, métodos, responsabilidades parentais

Forensic Psychology works in interface with the Law, mostly as an auxiliary knowledge to justice, being required to act ethically and forbidding any form of discrimination by sexual orientation, gender, or social class (Aguilhas & Anciães, 2015). On the other hand, Law is, as a rule, an instrument of reproduction of values, beliefs, and social stereotypes, and several authors have evidenced that social class, family, and gender issues, for example, influence custody processes (Casaleiro, 2017; Jorge, 2017; Melo, 2012; Parente & Manita, 2011; Pedroso et al., 2014).

Decisions in custody lawsuits are mostly influenced by psychological expertise (Casaleiro, 2017; Costa et al., 2009; Cunha, 2015; Parente & Manita, 2017). The construction of these expert opinions should be based on studies, the use of reliable instruments, the standardization of documents, constant scientific updating, and specialized training of forensic psychologists. In addition, it must provide an ethical and quality performance, based on a minimal intervention that prioritizes the best interests of the child (Colégio Oficial de Psicólogos de Madrid [COP], 2009; Rodríguez-Domínguez et al., 2015).

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** E-mail: tayoradd@gmail.com

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Psychological expertise admits an interventional practice, which goes beyond the verification of facts. Thus, the performance of the forensic psychologist should not be confused with other forensic areas, because for the psychologist there is no focus on searching for the absolute truth, but on promoting the welfare of the people involved (Brito, 2011).

At this interface between Psychology and Law the concepts of “trading zone” arise, referring to the modalities of dialogue and negotiation between different areas of knowledge and boundary work. The knowledge constructed in border spaces occurs when forms of knowledge and practices from different social worlds meet and transform each other. It is important to emphasize that this field of intersection implies both cooperation and demarcation of the respective disciplinary authorities, and it is in this zone of transaction that the knowledge of legal and forensic psychology is found (Casaleiro, 2013).

Legislative Situation in Brazil

According to current Brazilian legislation, which reflects a trend in Western societies, the child’s family cohabitation is a right that should be prioritized, seeking, whenever possible, equity between parental responsibilities (Conselho Federal de Psicologia [CFP], 2019; Kümpel, 2015; Parente & Manita, 2011). The international rule is increasingly shared custody, and it is no different in Brazil (Agulhas & Anciães, 2015; Kümpel, 2015; Nielsen, 2017). Effectively, the subject of shared custody was introduced by the Shared Custody Law (Law No. 11,698/2008 and amended by Law No. 13,058 in 2014), which places this modality as a priority choice. Its goal is to ensure equal maternal and paternal rights in the exercise of parenting, giving priority to the best interest of the child in family coexistence with both parents (Cherulli, 2015). Shared custody reaffirms dual parenting, dismembering conjugality from parenting (CFP, 2019).

The Brazilian National Legislation, at this moment, does not establish an objective list of requirements or dimensions that should be considered when establishing child custody, but it explicitly states that the magistrate may base his decision on technical-professional or interdisciplinary team guidance (Cherulli, 2015; Kümpel, 2015).

The performance of the psychology professional in the legal area, as an expert and technical assistant¹, is regulated by resolutions No. 08/2010 and No. 17/2012 of the Federal Council of Psychology (CFP, 2019). This points out that psychological expertise should present indicatives that subsidize the judge in the request made, taking into

account the legal limits of professional action. To this end, the professional must use instruments, methods, and techniques recognized by psychological science and prepare the expert report or report following resolution no. 06/2019 which regulates the issuance of written documents by the psychology professional (CFP, 2019).

The Federal Council of Psychology, the highest regulatory body of the profession in Brazil, provides the principles and technical and ethical standards for the performance of the psychology professional in various contexts and intends to discuss its performance with the judiciary (CFP, 2019). However, it does not establish a protocol or script that allows a structured performance, as found in the international literature (American Psychological Association [APA], 2010; COP, 2009).

This aspect is important, since this assessment allows legal practitioners to have a greater understanding of the personality, deficits, parental skills, and their direct implication with the facts, allowing a reasoned decision in the dispute (Agulhas & Anciães, 2015; Rodríguez-Domínguez et al., 2015). Considering this gap, we will analyze below the most relevant aspects for psychological assessment in custody actions, according to the international literature, to understand what is valued in different geographical contexts.

International Guidelines and Roadmaps for Legal Psychology

The *Guidelines for child custody evaluations in family law* (APA, 2010) provide important guidelines for the performance of the forensic psychologist in the context of custody evaluations, always emphasizing the best interests of the child. The evaluation should focus on the attributes of parenting, the psychological needs of the child, and the adjustment resulting from this interaction. It should be conducted promptly, always paying attention to the baseline question, from various methods of data collection, increasing the reliability and validity of any conclusions (APA, 2010).

In Brazil, the Federal Council of Psychology has, in addition to the Code of Ethics and specific resolutions, guiding texts for the psychologist’s performance in family courts (CFP, 2019). These publications point out that the procedures to be performed should be chosen by the professional autonomously, based on the needs identified in the specific case, among the methods and techniques recognized by psychological science (CFP, 2019).

In Portugal, the Portuguese Psychologists’ Order in the book “A prática profissional da Psicologia na justiça” (Ordem dos Psicólogos Portugueses [OPP], 2020), presents core discussions for the professional practice of Psychology, without providing a roadmap of procedures. The orientation of this Order (OPP, 2015) is that the objectives, time, and purposes of the psychological evaluation in a forensic context

¹ Technical assistant is the Psychology professional hired by one of the parties involved in the litigation to advise on the formulation of technical questions and on the analysis of the Psychological Document issued by the Expert Psychologist (CFP, 2010).

should be defined by the Court, and the conclusions presented in a document addressed to it, duly substantiated. This requires that the professional knows the judicial system and is limited to the issues of their specific competence, meeting the OPP Code of Ethics (OPP, 2015, 2017, 2020). In this country, we found manuals of forensic psychology (Agulhas & Anciães, 2015; Pereira & Matos, 2011), which bring roadmaps for the performance of psychology (see Table 1).

In Spain, the “Guide of good practices for the preparation of expert psychological reports on custody and visitation of minors” of the Colégio Oficial de Psicólogos de Madrid (COP, 2009) points out that the legitimacy of the expert is based on a work that is supported by impartial criteria, well-founded theories, proven research, reliable instruments, and effective actions. The professional must be based on three fundamental principles, which are: the best interest of the child; the recognition that the father and mother are, a priori, equally competent to exercise custody; and the importance of including the entire family group in the evaluation (COP, 2009). This guide presents a roadmap of action, with the minimum aspects to be followed, presented in Table 1.

The analysis of Table 1, shows a common structure for psychological evaluations in custody and parental responsibility cases. This begins with the analysis of

the request and the judicial process, interviews with the parents and children involved in the process, observation of interactions, test application, collection of collateral information of importance to the case, and, finally, the analysis and organization of the information in a document addressed, as a rule, to the judge or other requester (Agulhas & Anciães, 2015; COP, 2009; Pereira & Matos, 2011).

In general, analyzing the documents presented and the international literature, we understand that the psychology professional who conducts psychological evaluations in custody contexts should have interdisciplinary knowledge and the applicable legislation (APA, 2010; OPP, 2015, 2020), interview skills and knowledge of psychological methods and techniques, and be concerned about constantly updating their professional skills, knowledge, and abilities (APA, 2010; CFP, 2019; COP, 2009; OPP, 2015, 2020). The psychological expert evaluation begins with the knowledge of the judicial demand, questions, and objectives of the evaluation, as well as it should be tied to the best interests of the child (APA, 2010; CFP, 2019; COP, 2009; OPP, 2020).

As for the procedures, the methods and techniques recognized by psychology, or those that do not jeopardize ethical, technical, and scientific issues, are valid. Diversification in methodology and triangulation of

Table 1
Suggestive Routes Found in the Literature

Agulhas and Anciães (2015)	Pereira and Matos (2011)	COP (2009)
1 – Preparation: study and analysis of the procedural pieces, the definition of interveners, and methodology;	1 – Consultation of procedural data;	1 – Demand analysis;
2 – Individual interviews with the parents;	2 – Informed consent;	2 – Study and analysis of the process;
3 – Joint interviews with the parents: observation of inter-parental interaction, confronting different versions;	3- Semi-structured individual and/or joint interviews with the parents;	3 – Convocation of the people who will be evaluated and collaboration agreement;
4 – Observation of frat interaction: interaction patterns and affective bonds;	4 – Interviews with children: parental discipline, perception of parental conflict, interests, and preferences;	4 – Hypothesis formulation and research project: techniques and tests to apply;
5 – Individual interviews with the minors;	5 – Psychological tests: for adults, children, and adolescents, and specific symptoms;	5 – Psychological evaluation of the people who desire custody;
6 – Collateral information: formal and informal network;	6 – Observation of the interaction between parents and children and between siblings;	6 – Communication with other professionals in contact with the child and family;
7 – Observation of relational dynamics: parent-child interaction;	7 – Collateral information collection: family members, school, and other professionals involved.	7 – Integration of results, reformulation of hypotheses;
8 – Drawing up the report and issuing the opinion: systematization and analysis of the information.		8 – Elaboration of the psychological document about the child and his/her family/context;
		9 – Expert opinion on the child’s best interest;
		10 – Presentation of the document to the judge;
		11 – Ratification or appearance at trial, if necessary;
		12 – Follow-up, if applicable.

information is fundamental. This triangulation is important because it is an imposed evaluation, due to being put in a judicial issue. This way their manipulation of data is avoided to protect what they consider to be their rights (CFP, 2019).

When starting the procedures, informed consent should be requested, which aims to clarify to the participants the objectives and procedures of the assessment, obtaining their free and informed consent. As general guiding issues were found: the priority of the best interest of the child, parental equality, and the need to assess the entire family nucleus for a better understanding and positioning in front of the case (COP, 2009; Pereira & Matos, 2011; Rodríguez-Domínguez et al., 2015).

For the assessment, the following dimensions are relevant: family dynamics, bonds, the ability of one parent to foster coexistence with the other, participation in the child's education and absence of violence, parenting skills, and abilities, educational practices, communication dynamics, among others (APA, 2010; CFP, 2019; COP, 2009). It must be emphasized that there is no universality about what is adequate parenting, being important that the professional acts in an impartial and non-discriminatory way (APA, 2010).

As for the technical recommendations of the professional, when issuing the document it should take into account the limits of psychology's actions and be based on the best psychological interest of the child (APA, 2010; CFP, 2019), and may report if there is any psychological contraindication of a parent to exercise custody (CFP, 2019). Expert reports should be clear and credible, always weighing the objectives and questions posed by the Court, taking into account multiple sources, and diverse methodologies, and conducting analyses that consider the varied aspects of the problem (OPP, 2017; Sani, 2017). All information must be substantiated and substantiated (COP, 2009; OPP, 2015).

The professional practice in Brazil has shown that there is heterogeneity in the performance of legal psychologists who carry out psychological evaluations in custody proceedings, since the diversity of theoretical approaches, different practices, as well as the lack of a script or a systematized protocol to guide the professional step by step. This reality sometimes generates theoretical-practical inconsistencies, which may weaken the rights of individuals who resort to the judiciary to solve family litigation, especially the most vulnerable such as children and adolescents.

Maiorki (2014) proposed the construction of a protocol of procedures for psychological expertise in custody cases, composed of 10 instruments, seven mandatory and three complementary, which were applied to 11 families involved in custody disputes. The mandatory instruments were the Parental Relationship Assessment System (PARS), the Inventory of Parenting Styles (IEP), the Parental Alienation Scale (PAS), the Depression Inventory (BDI), the Stress

Symptom Inventory (ISSI) and the Childhood Stress Scale (ESI). The three complementary instruments were used only in cases involving indications of sexual abuse or psychological disorder, these were the Achenbach System of Empirically Based Assessment (ASEBA battery), the National Institute of Child Health and Human Development (NICHD) Protocol, and the Severe Antisocial Behavior in Childhood Scale (APSD). Maiorki (2014) concluded that the use of the researched instruments conferred greater quality and reliability on the expertise, as well as minimized possible influences on the practice of the professional expert, generating more ethical and appropriate judicial decision-making for the case.

Despite the benefits pointed out in the research (Maiorki, 2014), the protocol made the process complex and time-consuming. It is worth mentioning the increasing request for psychological evaluations in custody actions, which accompanies the growing number of divorces in Brazil and in the world, imposing a large number of simultaneous evaluations, sometimes delaying the diversification of methodologies and the use of psychological instruments that require more time for application and analysis.

Admitting this gap in the Brazilian literature, where no scripts were found that meet the cultural, technical, and methodological conjuncture specifically legitimated for Psychology in this country, the general objective of this work is to know the reality of the professionals who carry out these evaluations to propose a systematic evaluation protocol that aims to minimize cultural and professional biases and to favor the homogenization of the practice and the best interest of the children involved.

Given the previous literature review, considering the influence of psychological evaluations on judicial decisions in custody dispute processes in several countries, and taking into account the scarcity of studies on this theme in Brazil, as well as the absence of an organized script for the performance of these evaluations, the following question is posed: How are psychological evaluations performed in custody cases in Brazil?

Thus, this paper sought to understand, first, how forensic psychological evaluations are structured in Brazil to identify: (1) if there is heterogeneity in the practices, proposing a suggestive script for legal psychological evaluation in custody actions; (2) how the training and updating of the professionals who act as legal psychologists take place; (3) in which way the informed consent form is used or not; (4) what are the main psychological methods and techniques used; (5) what are the main dimensions evaluated; how is the technical positioning of the professionals about the custody modality and parental cohabitation. Finally, it was intended, based on the results obtained, to suggest a script for psychological evaluations in custody proceedings.

METHOD

Participants

Twenty-nine psychologists participated in this study. These participants work as expert psychologists and technical assistants in custody lawsuits from different states of Brazil. These professionals make up a non-probabilistic sample by convenience. This number of participants was considered adequate because the data started to be redundant, not bringing new information meaning that theoretical saturation was reached (Glaser & Strauss, 1967).

The respondents had a mean age of 43.6 years, in a range between 32 and 63 years; 26 professionals identified themselves as female, and three as male. The average time of graduation was 18.8 years (between eight and 38 years). As for the type of practice, 26 professionals declared they acted as experts and three as technical assistants. The average time they have worked in legal psychology was 9.5 years (minimum of two years and a maximum of 33 years; total responses to this question $n = 27$). Geographically, 11 professionals worked in the state of Sergipe, three in Bahia, three in São Paulo, one in Pernambuco, one in Goiás, two in Rio Grande do Sul, one in Distrito Federal, and one in Santa Catarina (total responses to this question $n = 23$).

Regarding qualification, only 10 professionals revealed that they were specialists in legal psychology. Of the rest, 11 had taken free refresher courses in legal psychology and eight said they had no qualifications in the area. Only one professional claimed to have a specialization at the master's level. The professionals mentioned that they seek to update through courses, reading books and scientific articles, congresses, and exchanges with their peers.

Procedures

Taking into account that the first objective of this study was to understand how forensic psychological evaluations are structured in Brazil, a questionnaire was developed for online application. This was built based on the survey and the bibliographic and documentary analysis of the subject under study, as mentioned in the theoretical introduction to this work. The questionnaire included 18 questions. The seven sociodemographic questions aimed at identifying data such as gender, age, time since graduation, time working as a legal psychologist, state of work in the federation, professional qualification, and updating. Eleven content questions were constructed. Nine open-ended questions concerned the referral issue, methods, dimensions, technical positioning,

factors for unilateral and shared custody, supervision, the influence of context, and conflicts of interest between parents and children. A closed-ended question regarded the use of informed consent. Finally, a five-point Likert scale question (1 being *not at all influential* and 5 being *totally influential*) was developed. This question aimed to assess the influence of seven aspects on psychological evaluations (gender of parents, socioeconomic status, family support, housing status, time to devote to the child, attachment, and emotional stability).

The project was submitted only to the Ethics Committee of Social and Human Sciences of the University of Minho, considering that it was the institution in which this work was framed. After approval by this Commission, the link to the questionnaire was shared by email and social networks for psychologists working as judicial evaluating psychologists in Brazil. The Informed Consent Form was at the beginning of the questionnaire. Data collection occurred in December 2020 and January 2021.

Data Analysis

The data analysis was carried out in a mixed manner. A simple quantitative analysis, through frequencies, was used for the closed questions, and a qualitative analysis for the open questions. The latter was based on Thematic Analysis, which seeks to identify and organize patterns of meaning (coding of excerpts from participants' responses) into themes that capture something important concerning the research objectives or questions (Braun & Clark, 2006).

The identification of the themes can be done at the inductive level (starting from the data and without predefined categories) or at the theoretical/deductive level. In this study, the latter level was used, since the analysis was guided by the categories previously defined by the literature and which were present in the questionnaire (Braun & Clark, 2006). In addition, the analysis was performed at the semantic level, i.e., the answers were analyzed at an explicit level not looking for latent meanings, because the material and the objectives of the study were not suitable for this type of analysis.

Thus, through Thematic Analysis the following themes were identified: methods, dimensions, technical opinion, factors for shared custody, and the influence of context.

The results and conclusions from the Thematic Analysis, which are presented below, are illustrated by excerpts from the questionnaires.

RESULTS

The results will be presented from the questions posed in the research, each question being presented in major themes and subthemes. The questions about informed consent, supervision, and dimensions (closed questions) were analyzed through frequencies, while the questions dealing with methods, dimensions (open question), technical opinion, factors that determine unilateral or shared custody, and the influence of context on the evaluation were analyzed through deductive thematic analysis.

Informed Consent Form

Of the professionals surveyed 15 do not use any type of informed consent and 10 stated that they ask for consent verbally. Three professionals use Informed Consent formally, while one professional pointed out that he only sometimes used Informed Consent.

Supervision

Regarding the performance of supervision, most professionals ($n = 26$) pointed out that they have supervision either with a more experienced professional or exchange and discussion of cases among peers. Three professionals stated that they did not seek any type of supervision. The time of training or performance in the area did not influence significantly the answers.

Reference Question

The professionals surveyed stated that they always have a reference question when beginning an assessment. This question may be clearly formulated by the requester, identified in the case file analysis stage, focus on parenting skills, or be based on the best interests of the child.

Psychological Methods and Techniques

As for the psychological methods and techniques used, we can divide them into five major subthemes: procedural analysis, interviews, observation, technical visits, and psychological instruments. The reference to procedural analysis appeared as a first action, even before the definition of the other procedures, as can be seen in the following excerpt: “Analysis of the procedural records, verification of the demand, the establishment of investigation objectives” (Woman, 42 years old).

As for the interviews, a diversity of possibilities was observed, as mentioned in the following excerpt: “Individual or joint interviews (when necessary) with claimants and defendants (who can be parents, grandparents, uncles,

siblings, godparents, etc.), with the children in question, professionals/institutions that are involved (babysitters/caretakers, psychotherapists, psycho-pedagogues, teachers, social workers, etc.)” (Woman, aged 45).

The types of interviews cited were playful, semi-structured, and interviews aiming to provide feedback to the appraisee.

The observation was the second most cited method and may occur in the waiting room or during procedures, in an institutional or home environment. The observations, when specified, were all unsystematic, divided into behavioral or environment: “Unsystematic observation focusing on the child’s interaction with the parties involved” (Woman, 42 years old).

The mentioned technical visits consisted of home visits (father, mother, grandparents) and the institutional ones: Reference Center for Social Assistance (CRAS), Specialized Reference Center for Social Assistance (CREAS), Basic Health Unit (UBS), Guardianship Council (CT) and school. However, the visits are not carried out in all cases, as can be seen in the following excerpt: “institutional visit (...) and home visit only in cases that suggest signs of risk or mismatches of information that this procedure can remedy/clarify” (Woman, 37 years old).

About the use of psychological instruments, personality tests were cited, such as the HTP (*House-Tree-Person*), Palographic test, Thematic Apperception Test (TAT), Personality Factor Inventory II (IFP II), Personality Factor Battery (BFP), Pfister’s Color Pyramids, and the Parental Relationship Assessment System (SARP). It was also pointed out the use of playful tools such as puppets or therapeutic cards, graphic projective activities such as free drawing, and drawing of the family.

Dimensions

We will consider as dimensions the various possible areas of influence on the exercise of guardianship. We identified three major subthemes, namely structural conditions, affectivity/attachment, and family dynamics/litigation.

In “structural conditions”, the most objective dimension of the analysis, the following aspects were identified: available time, family support, and socioeconomic condition.

As for the “Affection/attachment” in parenting, it is evidenced in the following sentence: “Attachment, affective availability, ability to understand the child’s needs and meet and respect them, health, development, affective, recognize their otherness” (Woman, aged 39). The family dynamics and the inherent conflicts include the parental styles, cultural differences, and “aspects of conjugality that interfere in parenting” (Woman, aged 39). The absence or presence of each of these dimensions will interfere positively or negatively with parenting.

In the closed question (five-point Likert scale), the following results were found: attachment to the child and emotional stability (both with $n = 16$) are the dimensions that most influence the positive technical position regarding the exercise of custody by the parents; available time ($n = 14$), housing conditions ($n = 14$) and family support ($n = 13$) were considered influential in this evaluative process; socioeconomic conditions ($n = 19$) and the parents' gender ($n = 17$) were indicated as not influential by most of the interviewees.

Technical Opinion

The question presented the relevance of the technical opinion about the type of custody, cohabitation, or who should exercise it. We found a lot of heterogeneity in these reports, with part of the participants ($n = 11$) stating that it depends on the concrete case: "In some cases, especially when there may be a situation of risk for the child" (Woman, aged 35) or "Only if during the procedures, it becomes clear that there is a need for a specific arrangement, which the judge will not know about if it is not pointed out in the report" (Woman, aged 33).

The professionals who said they offered technical recommendations ($n = 10$) diverged in their motivations, from more practical issues such as "facilitating the magistrate's decision" (Woman, aged 61) to technical ones "especially when the custody definition guarantees the principle of the best interest of the child" (Woman, aged 35).

The professionals who said they did not express themselves technically on custody ($n = 8$) mostly stated that this is a decision to be made by the magistrate: "These are legal matters" (Male, aged 49).

Factors that Indicate the (Im)Possibility of Shared Custody

The themes found in this question were obstacles and facilitators for shared custody. As subthemes of the obstacles were: risk situations "custody intended as a way to manipulate and/or maintain an abusive relationship with the other parent" (Woman, aged 42); affective absence: "no interest in custody" (Woman, aged 35) and "lack of desire" (Man, aged 37); and geographical distance: "they live in different states of the federation" (Man, aged 49).

As facilitators factors for shared custody were mentioned the consensus/dialogue between the parental couple such as: "when both are available to have a dialogue in favor of the child" (Woman, aged 32) and "the need of co-responsibility for the child" (Woman, aged 35); affection: "affective bonding of the child/adolescent with the parties" (Man, 49 years); ability and motivation for care: "constant coexistence and previous participation in the child's daily life" (Woman, 38 years) and also "ability to meet the minor's demand in the best possible way" (Woman, 52 years).

Influence of Context on Evaluation

Most of the participants ($n = 24$) stated that the context in which the evaluations were carried out interferes with their results, and should be considered when analyzing the data and writing the psychological document: "If the context offers privacy, favorable conditions for the interviewee's free expression, and, besides the environmental context, one should always consider the forensic context in which the evaluation is carried out" (Woman, 35 years old).

DISCUSSION

The results of this study point to considerable limitations in the training and updating of professionals who work in psychological assessment in guardianship processes: less than half of the professionals have specialization in the area, and there is a significant portion that has no specific course and the supervision is mostly done between peers. Professionals report seeking qualifications and updating in various ways (courses, seminars, and discussions among peers). However, these actions represent, in general, low involvement in academic qualification at the specialization and master level, and only one professional reported having an educational master's level. These data, referring to the low academic qualification of professionals were pointed out in a survey conducted more than a decade ago, demonstrating that there was no significant change in the level of qualification of professionals working in Legal Psychology (Lago & Bandeira, 2009). Although the supervision process has been pointed out as important, it is mostly carried out between peers. Supervision is a space to

discuss ethical and technical issues (Silva, 2006), helping the professional to maintain consistent work (OPP, 2020). However, the little academic training in this area raises some questions about the real effectiveness and deepness of this supervision. Perhaps it would be important to have periodic training in which concrete cases were questioned and discussed.

The heterogeneity regarding the use of informed consent (more than half do not use it) is another questionable practice, as this is essential for the establishment of a relationship of trust and contributes to reducing the resistance of the examinee (Agulhas & Anciães, 2015; APA, 2010; OPP, 2020). Given that, in general, people who undergo a legal psychological evaluation would not do so if there was no judicial determination, clarifications about the reasons and procedures to be adopted, as well as the limits to confidentiality and the need for communication to the Court, need to be put clearly to the participants (OPP, 2020; Rovinski, 2011).

The participants' practices which seem to be most in line with the literature relate to the issue of referral and psychological methods and techniques. As for the former, the results indicate that it is always present, and may come from the procedural records, from the indication of legal operators, or even, when there is no explicit issue, be based on the best interests of the child (APA, 2010). As for the methods by which the participants aim to perform the psychological expert evaluations, these are supported in national and international literature. The interview and observation were the most commonly mentioned methods, which is understandable considering that they allow the design of other procedures, for their low cost and high flexibility, both in terms of adaptation of the script, time, and space (Lago & Bandeira, 2009).

The use of psychological instruments also raises some questions, especially their infrequent use, already exposed in previous research (Lago & Bandeira, 2008): the non-indication of the constructs that are intended to be assessed and the great diversity between instruments applied. This aspect may be explained by several hypotheses: higher financial cost; longer time for application and analysis; deficit of instruments suitable for use in the Brazilian legal context (Lago & Bandeira, 2008, 2009), and, finally, eventual unfamiliarity with these instruments, their application and analysis.

Home or institutional visits were pointed out as complementary, although not frequent. Although conducting visits, as a complementary procedure, is important for the triangulation of methods and the variety of sources of information collection, (APA, 2010), it probably lacks some of the same problems as the use of assessment instruments: greater expenditure of time not always feasible with the excessive number of cases to be assessed.

As for the dimensions assessed, in the open question, emphasis was given to affections, family dynamics, and structural conditions, which are widely pointed out in the literature (Agulhas & Anciães, 2015; APA, 2010; CFP, 2019; Lago & Bandeira, 2008; Maiorki, 2014; Pereira & Matos, 2011; Rovinski, 2011; Sani, 2017). However, it should be noted that in the closed question, there were responses that pointed out as influence of the material conditions and even the sex of the alleged guardian. These data, although from a small part of the participants, point to social and gender biases pointed out in the literature as points that weaken the right to parental equality and the real needs of children (Casaleiro, 2017; Jorge, 2017; Kruk, 2017; Melo, 2012; Parente & Manita, 2011; Pedroso et al., 2014). This is one of the difficulties already identified in legal psychological evaluations, and it is important to recognize and avoid these biases (CFP, 2019).

Regarding the technical manifestation of the parental exercise and cohabitation agreements, many professionals pointed out that it is not the psychologist's competence to define such an issue. Although the definition of the type of

custody and establishment of cohabitation are objects of the jurist's action, the psychologist is responsible for manifesting the potentialities and difficulties of each parent, considering the relational issues and the binomial responsibility-need concerning the child in question and, thus, supporting the judicial decision (CFP, 2019; Sani, 2017). This understanding directly influences the issue of the factors that indicate the possibility or impossibility of the parental exercise of shared custody. Although the professionals pointed out the legal recommendation of shared custody as a priority choice, they only seem to justify their need to manifest themselves about custody when there are risk factors, by action or omission, obstructing or indicating the coexistence or sharing of parental responsibilities. As already mentioned, the regulatory bodies of the profession surveyed at the international level (APA, 2010; CFP, 2019; COP, 2009; OPP, 2015, 2020) point out the importance of the psychologist manifesting regarding elements that may subsidize the magistrate in his decision, whenever possible in a clear and reasoned manner, always prioritizing the welfare of those involved.

Regarding the influence of the context where the intervention takes place in the outcome of the intervention, the participants said they were aware of a possible bias in the data due to factors such as inadequate environment or difficulties in establishing privacy and confidentiality, corroborating the literature (Pereira & Matos, 2011).

Final Considerations

This research showed that the professionals who participated in the study demonstrated considerable heterogeneity between their practices, as well as gaps in some key aspects (non-specific academic training for the area; non-use of informed consent; little use of assessment instruments and home visits; lack of indications about the parental exercise). These issues may compromise the results of the assessments and enable gender, social class, or other biases. Thus, based on the answers to the questionnaires and anchored in the researched literature (Agulhas & Anciães, 2015; APA, 2010; CFP, 2019; COP, 2009; OPP, 2020; Pereira & Matos, 2011; Sani, 2017), we tried to build a proposal for a suggestive script of actions, in a standardized way for legal psychological evaluations in custody proceedings. This script is described in Table 2.

The definition of the methods, techniques, and psychological instruments to be used in a psychological evaluation in custody proceedings is closely linked to the characteristics of the specific case. Thus, the analysis of the case file is fundamental in defining who should be interviewed and/or observed. At this stage, it is also important to identify if it is a custody dispute due to evidence of incapacity, parental violence or neglect, parental alienation, or if the conflict stems from unresolved conjugal conflicts.

In general, it is essential to conduct interviews and observations with the parental couple, the child/children, parent/child interaction and between siblings (if any), and significant third parties in the child's history. In most

Table 2
Suggestive Script for Legal Psychological Evaluation in Custody Proceedings

Steps	Incidence
Procedural Analysis	Procedural Records.
Planning	Definition of the reference question.
	How? Interviews (type and questions), observations, instruments (selection), visits.
	For whom? Parents, children, guardians, collateral sources, and others.
Implementation	Where? Forum, home, institutional facilities.
	Conducting the interviews (informed consent form).
	Conducting the observations.
	Application of the instruments.
Review	Conducting home and institutional visits.
	Did the procedures answer the reference question and the questions?
	Identification of other collateral sources of information for triangulation.
Elaboration of the psychological report	Verification of the need for new procedures.
	Observation of the document structure according to the regulatory body.

cases, it is important to contact the institutions involved (assistance, education, and health areas). The contact with a clinical psychologist, if any, must be considered, always after informing the involved party about this exchange. Based on the interviews, the need for other interviews, institutional and home visits, as well as the application of psychological tests and instruments, may be defined.

Before each interview, people must be informed about the credentials of the evaluator, motivations for contact, purposes, procedures to be adopted as well as confidentiality limits, with the presentation of the informed consent form. The interventions with the parental pair require the evaluation of the inter-parental conflict, the evaluation of the parental capacity and practices, the bond, the family dynamics, the knowledge of the parents regarding the peculiarities of the child's life and routine, and the perception and capacity to meet the child's needs. In the approach to the child, it is important to evaluate the perception of the interparental conflict, the bond with each parent, and the extended families.

Concerning psychological instruments, in Brazil, it is important to emphasize the need for them to be authorized by the System for Evaluation of Psychological Tests, a digital platform of the Federal Council of Psychology that regulates the validity of psychological tests in Brazil. For legal psychological evaluations in custody proceedings, we can use instruments that include the assessment of parenting practices and interfamily bonding.

There are few psychological tests and instruments developed and/or validated for the Brazilian population, specifically for use in the psycho-legal context. Some of the instruments that may be suitable for use in legal psychological evaluations in Brazil, in custody proceedings, intend to assess the domains of the personality of those involved, the parental bond, and family dynamics, are validated for the Brazilian population, and have been pointed out in previous

research as being suitable (Agulhas & Anciães, 2015; Lago & Bandeira, 2008; Maiorki, 2014; Pereira & Matos, 2011). The following are some of the instruments that meet these characteristics.

The Parenting Styles Inventory (PEI) was developed specifically for use by legal psychology professionals to identify parenting styles and provide guidance to parents and care for families at risk and has been developed and validated for the legal psychology field. The Interview Script of Parenting Social Educational Skills (RE-HSE-P) and the Family Support Perception Inventory (IPSF) evaluate constructs related to family dynamics. For personality assessment, research and literature point to the Children's Apperception Test – Human Figures (CAT-H), the HTP (House-Tree-Person) drawing technique, the Personality Factor Inventory (IFP-II) and Pfister's Color Pyramids, and finally the Aggressiveness Tendency Assessment Scale (EATA) that seeks to measure parental pair aggressiveness. The System of Evaluation of Parental Relationship (SARP), although it is not a standardized psychological test, is characterized as an evaluation method that seeks to ensure greater uniformity in assessment procedures and facilitate communication in the legal context. It aims to assess the quality of the relationship between parents and children, or between children and their guardians, studying the capacity of parents to meet their children's needs for affection, care, protection, education, leisure, and safety (Maiorki, 2014).

During the procedures, it is possible to perform psychoeducational and guidance interventions, and after the procedures, other interventions can be suggested and then send those involved to other professionals. The document produced as a result of the expert procedures and their interventions must take into account the general well-being of those involved and specifically, the needs of children, according to the ethical principles (APA, 2010; CFP, 2005;

COP, 2009; OPP, 2020) and the regulations contained in Resolution no. 06/2019 of the CFP (2019). It is important to note that judges and lawyers show a favorable opinion towards assessments that are based on standardized protocols, with the use of diverse methodologies and triangulation of sources, carried out by professionals of recognized knowledge in the field of legal psychology, who take into account the context of the assessments and the needs of the children (Pereira & Matos, 2011).

The script proposed here is suggestive, that is, it does not offer rigid rules, on the contrary, it proposes to offer a path, built based on the specific literature of national and international organizations, as well as on the content of manuals in the area. It seeks to establish a more homogeneous form, based on scientific investigations, with the use of methodological triangulation, respecting the ethical and technical principles of the profession.

Limitations and Suggestions

The limitations of the study are that the thematic analysis does not allow generalizations and that the sample of professionals is very small within the universe of legal psychologists in Brazil, not being representative. However, from the data obtained through the instrument, it was possible to understand the use of methods and techniques for legal psychological evaluation in custody proceedings, to allow the construction of a suggestive guide of action, based on the indications in the literature.

Thus, as a suggestion for future research paths, it is important to apply the proposed script and analyze its evaluative robustness, validity, and reliability, to consolidate a methodological approach that contemplates the well-being of those involved ethically, especially children and adolescents and seeks more effective ways of parental coexistence.

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