Paper presented at the RCSL-SDJ Conference 'Law and Citizenship Beyond the States', Lisbon, 10-13 September 2018
Plenary Session 1 *Researching Law and Justice in Portugal: National Trends, International Connections*
"Critical Perspectives on Children's Rights and Justice for Children", by Maria João Leote de Carvalho, CICS.NOVA FCSH/NOVA, Portugal

CRITICAL PERSPECTIVES ON CHILDREN'S RIGHTS AND JUSTICE FOR CHILDREN

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Children: still a 'minor' issue?

"The place of childhood in contemporary times is a place of **change.** Modernity has established a childhood norm, largely defined by the **constituent negativity**: the child does **not** work, does **not** have direct access to the market, does **not** marry, does **not** vote or is elected, does **not** make relevant decisions, is **not** punishable by crimes (**not** criminally responsible). This norm is based on a structured set of **institutions, rules** and **prescriptions** which frame the 'education' of the child, especially in the school and family."

(Manuel Sarmento interviewed by Delgado & Muller, 2006, *adapted translation*)

Throughout the ages, the debate about the child, essentially of philosophical, historical, psycho-pedagogical or sociological nature, has given rise to a succession of images and notions, sometimes contradictory, which are reflected in the conceptualization of child and childhood in the present. In the transition to the 19th Century, the children began to be the object of social and judicial interventions separate from the adults, provoking a growing interest in the following decades. The emerging political differentiation between "childhood in danger" and "dangerous childhood" (Digneffe, 1995: 38) required innovative State actions through the development of the Family and Child Laws. Thus, since then, the social regulation and control of children's lives has become increasingly central in the definition of public policies (Garland, 2001; Sarmento, 2012).

As Sarmento (cit. in Delgado & Muller, 2006) argues, the constituent negativity is the key feature in the definition of childhood, which makes the children invisible in the public arena. In Portugal, as in other countries, childhood tends to be regarded in the political agenda as a 'minor' issue, except when the excessive and distorted mediatization of any case involving young offenders or maltreated children gives them greater visibility. A similar trend seems to be registered in the field of Sociology of Law, with a lower number of researchers focused on children's issues compared to other fields of Law.[1]

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[1] In the RCSL Annual Meeting 2018 programme, the terms "child", "children", "childhood" or "youth" are, in total, mentioned less than 10 times, in relation to papers presented by Portugal (Family Law, Children's Rights, Juvenile Justice), India (Juvenile Justice), Japan (Legal Education), Mozambique (Justice Child Policy), and Cape Vert (Public Policies). Regarding the term "family/families", there is also a reduced number of papers from Portugal (4), Italy, and Japan.

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The intricate interplay between law, age and childhood is fundamental in this area of the sociolegal studies. Childhood is no longer understood as mere biological or homogeneous reality; instead, it is regarded as a social category that aggregate a plurality and diversity of conditions and ways of life, some of which are socially diametrically opposed (Almeida, 2009; Carvalho, 2013a). In contemporary societies, it is not possible to analyse the concept of child without thinking of its legal definition, specifically within the framework of international law. The need to examine how age is used in the legal construction of childhood leads to a better understanding of social change and of the role the legal norms play in children's social worlds; therefore, in the lives of the adults to whom they interact. Law is the first social arena in which citizenship and human rights need to be recognised; otherwise, there would not be a basis upon which people could claim and enjoy the fundamental rights they are entitled to as human beings (Luhmann, 2009).

There has been a long evolution since the 18th Century, when children were viewed and treated as adults in miniature (Qvrotup, 1990, Almeida, 2009, Carvalho, 2010). However, it seems that the State continues to have serious difficulties in finding a balance between the notions of 'being' and 'becoming', which are intrinsic to the concept of childhood (Uprichard, 2008; Qvortrup, 2009). In face of the Law, does the child tends to be conceived as "human becoming" – seen as a 'minor', an 'adult in the making', who is lacking the competencies of the adult that he/she will become -, or as "human being" – understood as a social actor in his/her own right, and a member of society actively constructing his/her own childhood?

Both approaches are complex and problematic, and neither is by itself entirely satisfactory (Uprichard, 2008). The first notion ('becoming') values what children will deliver once in the future, highlighting the undergoing development and the need of social control, conventionally considering the child is not yet full member of society (James & Prout, 1990; Qvortrup, 2005). On the other hand, it implies that each child has the potential to grow and develop. The second one ('being') focus on the children's social roles addressing the social circumstances that delimit the spatial-temporal contexts where they live (Qvortrup, 2009).

As the process of 'being' a child and 'becoming' an adult is irreversible, legal thinking cannot be coherent if it is regarded aside from the paradoxes that shape children's lives in contemporary societies as a result of intense social, demographic and political changes in the last decades. If it is true that adults tend to agree that children must be educated in freedom and democracy, what society tends to provide for them mostly is in terms of their control, discipline and management (Qvortrup, 1990). The legal contemporary idea of childhood should address the childhood temporality and be worked concerning the confluence of the changes occurring in all fields of social life, in which the child expresses him/herself in the condition of "multiple others, in relation to adults, due to the variety of social conditions" (Sarmento, 2004: 11).

Plurality, fluidity and flexibility are three interrelated conditions in these (new) children's social worlds. As autonomy is a distinctive developmental task in the transition to adulthood, a significant challenge the legal systems currently face is the change in the extent and nature of experiencing childhood: "children are growing up earlier, but increasingly being emancipated later" (Pappámikail, 2010: 398). In some areas, such as in criminal justice, in different countries, at a certain age the child may be treated and sentenced as

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adults (e.g. Portugal), while in other countries young adults (over 18 years-old), may be sentenced under the Child and Youth Justice Law in specific circumstances (e.g. the Netherlands, until the age of 24 years). Childhood is, indeed, a complex sociolegal research object and in permanent mutation.

The (re)discovery of the social risks affecting children clearly revealing how the lives of many of them, all over the world, are influenced by various constraints, opposite interests, and even world views. The growth of the sociological interest in children gave birth to the field of Sociology of Childhood and Childhood Studies in the 1980s. This process cannot be dissociated from the international development of the modern children's rights movement (Freeman, 2012), which is reflected on the prevailing 'child rights-based research approach' in the field of Sociology of Law when the focus is childhood.

Children's cultures and social worlds are framed by legal norms, in which age-appropriate needs, developmental vulnerabilities, specific interests and human rights are integrated. At the core of this trend is a period of over 90 years of advocacy in children's rights worldwide, in which it stands out:

The Geneva Declaration, by the League of Nations (1924)

Children's rights started to be internationally recognised after the 1st World War, with the adoption of the Geneva Declaration. For the first time, it was recognized and affirmed the existence of rights specific to children and the responsibility of adults towards children.

Declaration of Children's Rights, by the United Nations (UN) (1959)

Following the Universal Declaration of Human Rights, a non-binding declaration adopted by the UN General Assembly in 1948, the Declaration of Children's Rights was the first major international consensus on the fundamental principles of children's rights.

Convention on the Rights of the Child (CRC), by the United Nations (1989)

The UN General Assembly adopted the CRC on the 20th November 1989, and it came into force on 2nd of September 1990, after being ratified by the required number of States. The CRC is the first international legally binding text recognizing all the fundamental rights of the child. It is the most rapidly and widely ratified international human rights treaty in history; currently 196 countries are party to it. This Convention has set up a new legal category of childhood by defining more precisely the term 'child' as "any human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier (Article 1°)" The recognition of the 'child's best interest' is one of its main guidelines.

The leading role played by human rights in the field of international law has been decisive to challenge children's rights violations and abuses, by pushing for legal reforms to improve national social and justice systems when the State itself does not respect or fails to enforce them. It is not only a question of providing essential goods for an appropriate development, such as food, sanitation, education or care, among others; it is imperative to consider the

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need of protection in all the dimensions of the children's lives, adapted to age and maturity, which means assistance must be granted to them individually and as social group (Fernandes, 2009). States that have ratified the CRC are bound to it by international law and required to report and appear before the UN Committee on the Rights of the Child,[2] which is in charge on monitoring and examining the progress concerning CRC implementation and the status of children's rights in each country.

The gap between the "law-in-books" and the "law-in-action" (Santos, 1986: 180) is probably the critical challenge contemporary societies face regarding childhood. According to the CRC, children are and must be seen as social actors and not just as the passive subjects of social structures and processes; they are "active in the construction and determination of their own social lives, the lives of those around them and of societies in which they live (James & Prout, 1990: 8). This means that all intervenient in children's lives, must develop a new way of social (and judicial) thinking as the child must be conceived and treated as independent subject with rights, instead of the traditional view as mere object in need of assistance and charity (Tobin, 2012).

Within this framework, this paper aims to discuss the state of the field of Sociology of Law and Justice in Portugal concerning children's rights and justice for children and revealing possible connections between current trends in the country and issues of global relevance.

A better world for children. Does Law matter?

Worldwide, children are affected by violations of their rights in multiple contexts every day. So, the debate on how children's rights are brought from the international scenario (universal level) to the national arena (particular level), and how this transformation affects the perception of the rights by individuals, social groups and the State, is relevant to sociological research (Quennerstedt, 2012). Many times, it seems that law is not enough when political, social, cultural and judicial, circumstances work against the promotion of the child's wellbeing (Pedroso & Branco, 2010).
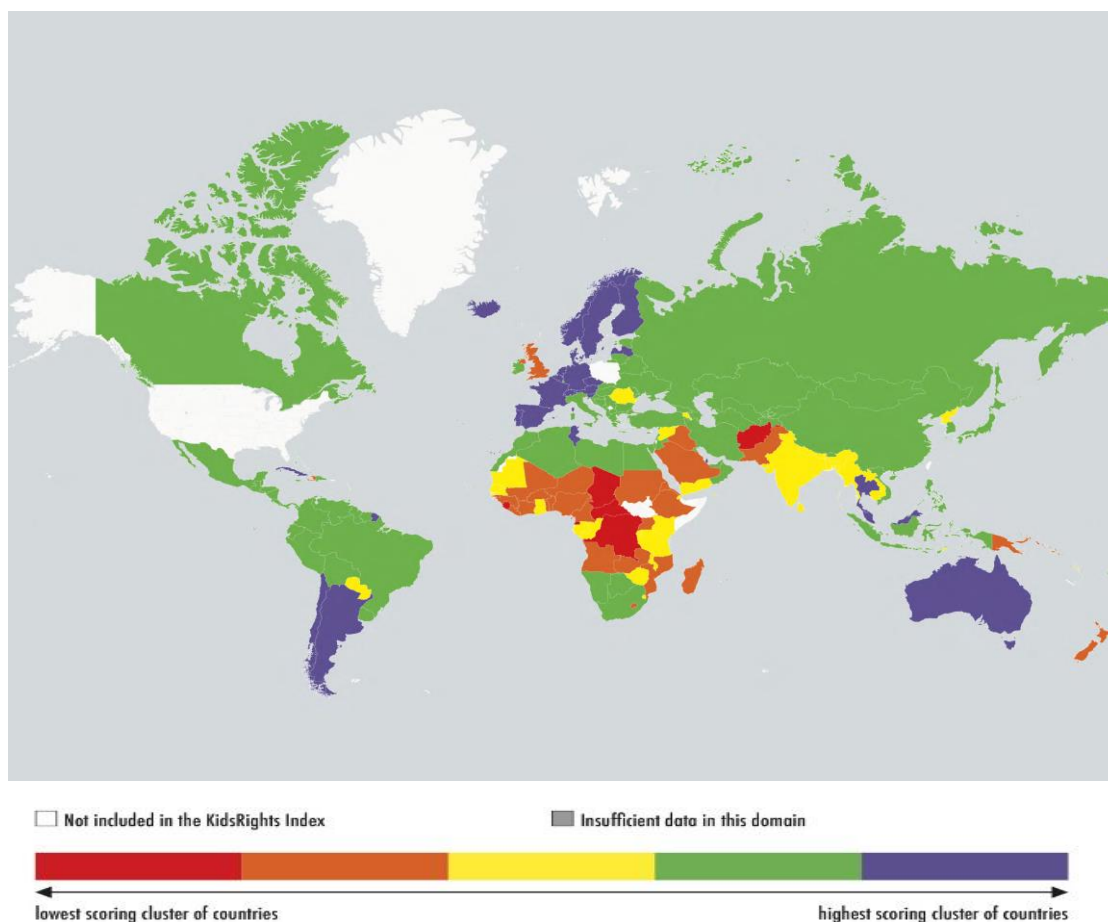
The need to take actions to advance children's rights across the world is clearly presented on the map KRI - KidsRights Index 2018 (Figure 1), created by the KidsRights Foundation, in cooperation with Erasmus University Rotterdam (Erasmus School of Economics and the International Institute of Social Studies). The KRI is the annual global index which rates a country's progress in implementing children's rights covering five domains – the Right to Life; the Right to Health; the Right to Education; the Right to Protection; and the Enabling Environment for Child Rights –, with a total of 20 indicators, of which 13 are quantitative and seven qualitative.[3] The higher the score is, the more the rights of the child in the country are real and respected. This ranking includes all the UN member States that have ratified the CRC and for which sufficient data is available, a total of 182 in 2018.[4]

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[2] Composed of members from countries around the world.

[3] Quantitative data is collected from UNICEF (www.data.unicef.org) and UNDP (www.hdr.undp.org/data) and qualitative data published by the UN Committee on the Rights of the Child in the detailed individual country reports, the so-called *CRC Concluding Observations* (KidsRights Foun[3] The KRI combines indicators that measure both quantitative rights, such as in relation to education and the right to life, as the more qualitative rights such as non-discrimination and participation. dation, 2018).

[4] The KRI is visually illustrated in coloured world maps using five colours representative of five different clusters, which display a more or less similar performance level, as each cluster concerns countries for which the scores belong to the same distribution (KidsRights Foundation, 2018).

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Figure 1 Map KidsRights Index 2018

Source: The KidsRights Foundation (2018)

Portugal has experienced great advances on the enforcement of children's rights in the last two decades, which reflects in the 3rd rank position at the KRI 2018,[5] placed after Norway (1st) and Iceland (2nd). This means the country has a "very good situation" in this field, internationally recognized as one of the most positive in the world.

Table 1 Portugal score at the KidsRights Index 2018

PORTUGAL	Rank	Score
OVERALL RANK	3	0.954
LIFE	23	0.968
HEALTH	2	0.993
EDUCATION	10	0.920
PROTECTION	31	0.973
CHILD RIGHTS ENVIRONMENT	2-3	0.917

Source: The KidsRights Foundation (2018)

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[5] In 2017, Portugal was evaluated as the KRI global frontrunner (KidsRights Foundation, 2018).

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In 2018, Portugal stands out (Table 1) in relation to the Right to Health,[6] and in enabling a Child Rights Environment – which is measured by the level to which the country has operationalized the general CRC principles in children's lives (e.g. non-discrimination; best interests of the child; respect for the views of the child; child participation) and by "the extent to which there is a basic 'infrastructure' for child rights policy, in the form of enabling national legislation, mobilization of the 'best available' budget, collection and analysis of disaggregated data, and state-civil society cooperation for child rights" (KidsRights Foundation, 2018). On the other hand, in what concerns the Right to Protection[7] and the Right to Life,[8] the Portuguese rank position was less positive, even if, still a "very good situation" at international level. In relation to the Right to Education,[9] the country achieves a top 10 rank position, which is remarkable, especially considering the low level of schooling and literacy among the Portuguese population in the 1970s. As previously mentioned, since 1990 the CRC is an integral part of Portuguese Law, and State and communities are both responsible for its enforcement.

The process of ratifying the CRC by the Portuguese State in 1990 supported the need for its implementation,[10] which has led to a broader evaluation and deep critical reflection on the efficacy and limits of child policy in all the domains of the Portuguese society. Major reform in Child Law took place in 1999 and, as a result, the social systems, namely health, welfare, educational and justice structures have made significant changes, and international standards have been integrated into the legal frameworks.[11] Current Child policy and laws integrate the tools and procedures for exercising informal and formal social control, framed by the definition of criteria and socially accepted norms consecrated by international law, embodying the guarantee to protect the rights of the child as foreseen by the CRC (Tomás, 2011).

In the first decade of the 21st Century, considerable resources were allocated to ensure better education, health, welfare, education and justice for children all over the country and significant reforms were taken in these fields. Nevertheless, the new legal and institutional mechanisms seem to be insufficient or unable to solve some of the most significant social issues (Santos, 1995) affecting children's lives.

Child poverty rates have remained always high and among the highest in the European Union (EU) and within the framework of the Organization for Economic Cooperation and Development (OCDE). This condition has gained new and dramatic contours in recent years. Portugal has been deeply affected by the global financial crisis and entered a period of great recession, which has led to the enforcement of severe austerity measures that have been directly reflected in the decrease of resources in the field. The logic of budgetary

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[6] Based on the % under 5 year olds suffering from underweight (8%), immunization of 1 year old children (98%), % of population using improved sanitation facilities (urban and rural) (99.7%), % of population using improved drinking water sources (urban and rural) (100%).

[7] Based on child labour rate (3.4), adolescent birth rate (9.9), and birth registration.

[8] Under 5 years mortality rate (2.8 deaths per thousand live births), life expectancy at birth (81.5 years) and maternal mortality rate (6.9 per hundred thousand live births).

[9] Based on the expected years of schooling girls (16.5), expected years of schooling boys (16.6), gender inequality in expected years of schooling (absolute difference between boys and girls).

[10] The CRC was signed by Portugal on the 26th of January of 1990, approved for ratification by the Resolution N° 20/90 of the Assembly of the Portuguese Republic and published in the Official Gazette of Portugal (*Diário da República*), Series I, n.º 211, 12th of September of 1990. Portugal has also ratified the three optional CRC Protocols.

[11] According to the Constitution of the Portuguese Republic (Article 8) 'the rules and principles of general or customary international law are an integral part of Portuguese law' (§1) and the 'rules provided for in international conventions that have been duly ratified or approved, shall apply in national law, following their official publication' (§2).

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cutbacks became central in the State's administration of public policies and the political measures taken regarding children originate from the need to reduce expenses, regardless the nature and specific interventional demands (Carvalho, 2014). As in Ireland and Greece, from 2011 to 2014 the Portuguese Government was forced to accept loan packages with the troika of the European Commission, European Central Bank and International Monetary Fund, conditional on delivering huge cuts in social expenditure (Moore, 2013).

In this context, previous social and economic vulnerabilities exacerbated and serious difficulties direct and indirectly affected a higher number of families and children in the country (Wall et al., 2015). Social rights were reduced, unemployment and poverty rates increased, and basic rights affected, such as educational, welfare and health rights, with negative impact on children´s lives (Sarmento et al., 2014). Less resources negatively influenced the enforcement of a 'child's rights perspective' in all policies related to childhood and youth, including the access to the Family and Child justice (Carvalho, 2014).

However, the country was able to maintain what can be called as a basic legal 'infrastructure' for making and enabling national legislation regarding children's rights, which is now expressed in the 3rd rank position at the KRI 2018. Nonetheless, much more must be done to improve the quality of life of all the children and overcoming social inequalities and child poverty.

Children in Portugal: demographic and societal trends

Analysing the social condition of children in the Portuguese society implies, first, to take into account Portugal entered late into modernity when compared to other European countries (Viegas & Costa, 1998). The establishment of democracy with the April Revolution, in 1974, was the turning point. Ever since, intense and fast changes have occurred, namely in its demographic and structural composition and in population life styles, both having impacts on children's experiences (Almeida & Vieira, 2009).

The sociological perspectives on childhood in Western societies have pointed out that the lower the demographic percentage of children in the total population, the greater seems to be the adult concern about their situation (Qvortrup, 2014). Because of the continuing trend of families to have less children currently than in the past, children are becoming an increasingly scarce resource in Portugal. Over the last four decades, the country has recorded a sharp decrease in the number of resident children (0-18 years old).[12] The decline has been registered in all the regions, although in different rhythms. This situation stems from a double aging of the Portuguese society's age structure that reaches both its base and the top: the continued fall in the birth rate has been counteracted by the increase in longevity, with the consequent growth of older age groups representativeness (Figure 2).[13]

With a population of 10.300.000 individuals in 2017, the 0-14 years age group represented 13.8% as the 65 years and older group rose to 21.3%.[14] The continuous decrease of children in the Portuguese territory over the past decades is a reality that has

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[12] In the 1960s, Portugal had one of the highest fertility rates among the European countries (3.1 children per woman aged 15–49); by 2015 this number had declined to 1.2 children per woman. The decreasing birth rate is one of the most accentuated in Europe (PORDATA, 2018).

[13] In 1990, the age group "*+65 years*" represented 11.3% of the total resident population (PORDATA, 2018).

[14] The 15-24 years age group represented 10.6%, the 25-54 years 40.6%, and the 55-64 years 13.4% (PORDATA, 2018).

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turn into the most serious challenge the country currently faces threatening economic growth and the provision of public services, such as health, welfare, care or pensions. The main problem is not that families have no children, but rather not having more than one child due essentially to precarious economic situation and difficulties of young couples to have better living conditions (Valente Rosa & Mendes, 2014; Freitas et al., 2017).

Figure 2 Portugal: Resident population, by major age groups (1960-2017)
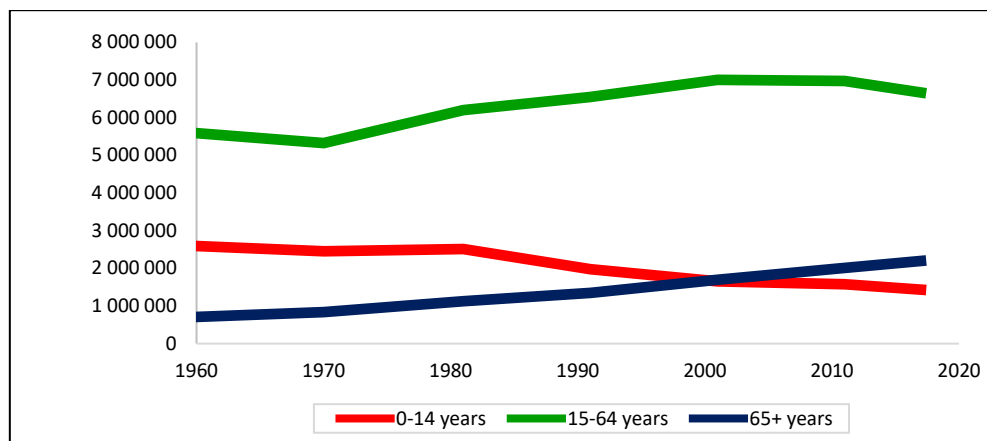
Source: PORDATA (2018)

Figure 3 Portugal: Resident population, by age group 0-14 years and place of residence (2016)
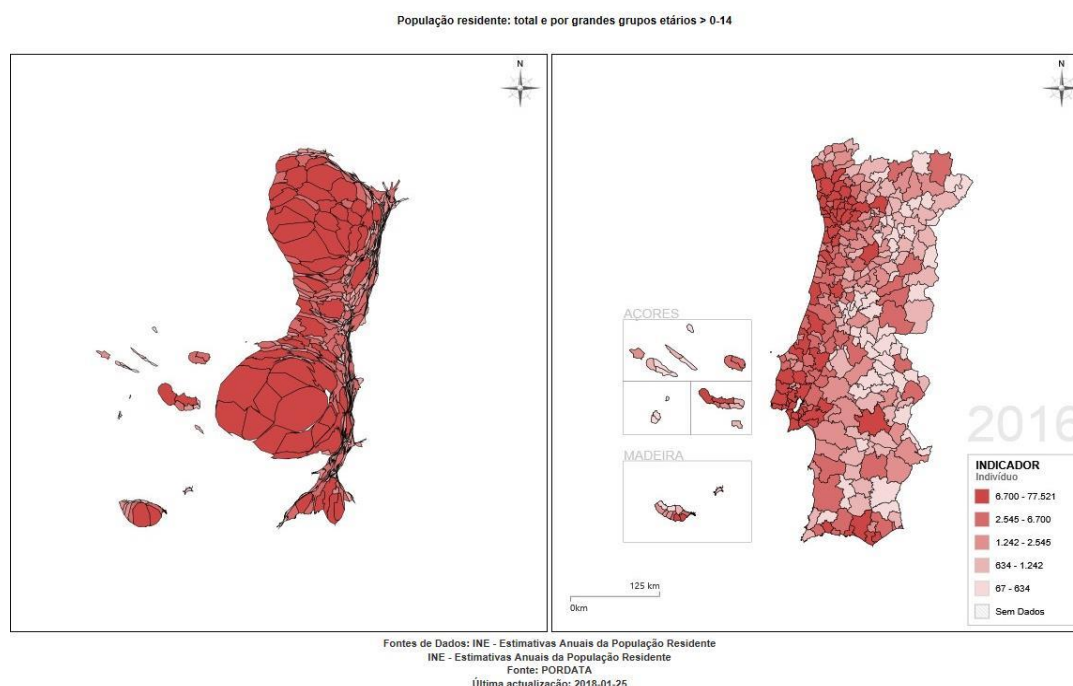
Source: PORDATA (2018)

In the EU, almost half of all households with children had only one child (47%); a similar proportion is registered in Portugal and the country has one of the lowest percentage of families with three or more children (6%) (EUROSTAT, 2018). Therefore, as in many other Western societies, there is the emergence of a childhood lived in the singular (Almeida &

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André, 2004). Moreover, this trend is aggravated by an unequal presence of children in the country (Figure 3), with regions where their existence is just residual. The rural desertification of the interior contrast with the over representation of children in the two major metropolitan areas, Lisbon and Oporto.

Another important feature is related to the demographic dynamics within these age groups: without immigration in the last decades, the whole country would present an overrepresentation of older children, but in reality, it is not so, on account of the immigrant families' birth rates, especially those of African-origin, who tend to perpetuate the fertility models of their countries and cultures, bearing more children than the other ones (Almeida & André, 2004). It is also important to considerer the rising number of Portuguese people who have emigrated in recent years, due to the deterioration of economic conditions and increasingly unemployment. Registered emigration in the last six years, evolving people of all ages and social backgrounds, including the most qualified ones, rose to levels unseen since the 1960s (PORDATA, 2018).

Currently, there is not only a bigger social and cultural diversity; with increasing household changes, children are experiencing a wide variety of concurrent and more complex family relationships. The number of single-parent families and reshaped families has grown over the last decade, having now a strong presence within the Portuguese population – especially with an overrepresentation of female single parents. This is a context marked by the long-time influence of catholic traditions, currently combined with new flexibility and fluidity concerning the family values: marriage has decreased, fewer children, a reduction in families' size; yet, family remains central in social life (Almeida, 2009; Pedroso & Branco, 2010; Pedroso, 2011; Wall et al., 2015; Meysen & Kelly, 2018).

The new generations enter later in the labour market, most in more precarious conditions than their parents, and marry and decide to have children later (Vieira et al, 2015). The Portuguese children are now more educated and qualified: it is significant that great part of them, when reaching the end of adolescence, already have surpassed their parent's education levels.[15] Some other changes are becoming visible, namely an increase in population enrolled in higher education, in particular women who are already the majority of students and graduates in universities (Vieira et al., 2015). There are many ongoing remarkable shifts in the evolution of the educational system, however, modernity's late emergence is negatively reflected in some indicators, such as the school drop-out rate, which remains higher (12% when a decade ago was almost 40%) than the EU average.

Over the last four decades, Portugal has made strong progresses towards gender equality by eliminating sex discrimination from its legislation, and by taken measures to put into practice a gender equality agenda and policies for a more positive action (Monteiro & Ferreira, 2016). Although the deep changes regarding the role and social position of women in society, social dynamics and the multiplicity of challenges and risks still influence genderised social roles and the construction of children's identity. Within a gender typing culture, children's socialization results in different gender roles and behaviours sustained in gender-based beliefs, in which the reproduction of gender inequalities emerge as an intergenerational problem in many families (Besemer, 2012; Duarte & Carvalho, 2017).

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[15] In 2009, it was set up the enlargement of compulsory schooling to 12 years of age and frequency of educational institutions or training up to 18 years.

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Compared to other European countries, social inequalities are a distinctive image of Portugal, associated with high levels of poverty and social exclusion, most particularly in childhood as well as among the elderly, another group of increased risk. The economic gap among families of different social origins is greater than ever and children are the most vulnerable group towards poverty (Sarmento et al., 2014). Overall, the Portuguese child poverty rates (27% in 2016) are among the highest in the EU affecting mostly children with three or more siblings, in single-parent families or in households headed by an unemployed person. Social and territorial inequalities affect children's access to basic services. In recent years, health services, Courts, schools have been closed as State services have been cut back in the interior and rural areas and centralised.

The Portuguese field of Sociology of Law in relation to children

"I think these people [social workers and other practitioners] do not think well. They have the idea that children are in need of a psychologist, but I think it is the opposite! My foster mom wanted to get me a psychologist and I told her 'you're the one who beat me and it's me who needs to go to the psychologist?!...' And then she beat me again!'." *16 years-old boy, placed in custody for 6 months in the closed regime and 18 months in the semi-open regime in a Portuguese Educational Centre, from the Ministry of Justice* (Carvalho & Serrão, 2014: 165).

Not only the demographic and social framework previously described puts under pressure the field of Sociology of Law in Portugal; the words of this 16 years-old boy sentenced to a liberty-deprived measure by the Youth Court in reason of his delinquent practices, highlights the ambivalences and the difficult balance sociologists face for having to consider the multiplicity of controversial issues crossing the relation between the State and social action when researching children's rights and justice for children. Therefore, taking as reference the 2030 UN Agenda for Sustainable Development, four major areas could be identified as dominant on the research of these matters in the country:

- social change & the (new global) culture of control;

- power, conflict, and children's citizenship;

- Law & State: the place and the role of the State in children's lives;

- International Law *vs* national Law and practices.

New emerging questions defying law enforcement. The complex age-childhood-law triangle requires a critical reflexive attitude that entails an assumption of the responsibilities the State, communities and individuals share in the legal, social, cultural, economic and political spheres towards children's citizenship. Conflict and power relations between social groups – and among different generations –, shape the exercise of children's citizenship in a global context marked by a new culture of control and security.

The privatization and the deinstitutionalization of family relations are multidimensional realities. The 'weakening' and dilution of informal social control and the increase of individual and collective expectations about the justice system are interrelated and there is

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a greater demand for control and regulation of children' s lives. It is to the mechanisms of formal social control that functions, until recently informally ensured in the communities, are transposed to. Due to historical and sociocultural reasons, this trend has been exacerbated in Portugal. The State has a central role because individuals and communities tend to expect that the official entities will solve basic children's socialization problems when, in other countries, some of these matters tend to be worked out in families and local communities.

Social and gender inequalities in children's lives stay unsolved after major legal and judicial reforms, which shows that law is not enough to face some important social issues, and a more proactive citizenship and participation from the civil society in the political and social spheres is required. The low level of civic and political participation has been, over decades, a multifaceted problem in the Portuguese society (Santos & Nunes, 2005). In fact, the social forces tend to be poorly organized, and often play a minor role in the production of Law (Guibentif, 2014).

The Portuguese legal framework is recognized as one of the most advanced in the world regarding the international standards on children's rights, but, the social reality defies the principle that State should only intervene in indispensable cases (Moura, 2000). In the same way as registered in other fields of Law (Dias, 2016), it seems that judicial reforms and changes took place more on a legislative level – and up to a point in the Court sentencing practices –, than in terms of societal culture and overall performance of the family and child legal systems, in which are included not only the Courts, but the multitude of stakeholders, experts and social subsystems involved, with diverse responsibilities in the children's local communities (Pedroso, et al., 2014; Casaleiro, 2016; Meysen & Kelly, 2018).

The gap between "law-in-books" and "law-in-action" (Santos, 1986: 180) is partially explained by the structural selective law application in children's lives based on the differentiated access to justice, in a process in which gender and social inequalities continue to play a major role. If "effective access to justice can thus be seen as the most basic requirement – the most basic 'human right' – of a modern, egalitarian legal system which purports to guarantee, and not merely proclaim, the legal rights of all" (Garth & Cappelleti, 1978: 185), without an equal and effective access to Family and Child Law and justice, rights cannot be guaranteed to all the children in the country, and citizenship cannot be fully exercised (Pedroso et al., 2011).

The Child Law ineffectiveness in certain areas and the characteristics of the State justice apparatus are interrelated. The options consecutive Governments have taken by not regulating fundamental child protection legal measures as required by the Child Law – such is the case of the children's residential care or foster care, among others –, places the lack of regulation as one of the most significant limitations in law enforcement. Therefore, law is neutralized and cannot be fully applied by the Courts neither by other official entities involved in children's proceedings. As Boaventura de Sousa Santos (1986: 180) argued, it seems that, in Portugal, "the State that produces the formal and official legality is also in a way (through negative policies) the producer of informal, non-official legality'".

This situation aggravated during the financial crisis period, when the precarious social conditions and reduced material and human resources in public services and NGO resulted in less child protection (Meysen & Kelly, 2018). The lack of trust of the population in the

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efficacy and efficiency of the Child Law enforcement affects social cohesion and cannot be dissociated from the amplified and distorted mediatization of certain cases, mostly with negative outcomes, which often result in media scandals with the Courts, community services and individual professionals being put under more pressure. Children's rights regarding the protection of privacy, identity and personal data are often violated, not only by the media, but also by the families and other intervenient in the judicial proceedings.

Child policy public discussion is conducted in an environment full of conflicting interests, in which are included the ambivalences of the policy makers and the local communities to face (or not) their own responsibilities. Many times, individual professionals and specific services are scapegoated (Meysen & Kelly, 2018) when one of the core problems in this field is the lack of commitment from the State to take the proper decisions and actions to fully enforce the approved legislation, and to create or provide the required resources for the implementation in due time.

Thus, promoting Family and Child Law and justice systems to face evolving challenges, debating the relation between Law enforcement and social and gender inequalities, and how Children's Rights, participation and inclusion are put into practice, emerge as relevant research lines in this field of Sociology of Law. Contributions from Sociology of Childhood and Childhood Studies have a significant role in providing inputs, especially concerning the methodological and ethical challenges of research on and with children. These contributions cannot be ignored based on the new way of thinking whereby children are conceived of as rights holders.

Interdisciplinary approaches converge, and new collective challenges emerge. As result of the Call for the attribution of the title of Collaborative Laboratory (CoLAB) by the FCT – Foundation for Science and Technology, it was recently approved the "ProChild CoLab Against Child Poverty and Social Exclusion" (July 2018), which includes a group of more than 60 senior researchers affiliated to the Academic Associates, from 7 universities and 15 FCT R&D units involving different scientific domains (such as Sociology of Law and Law), besides promoting the recruitment of other professionals at full-time. The ProChild CoLab is an unprecedented opportunity in the social, technological and political arena in Portugal to overcome the persistent cycle of intergenerational poverty, violence and inequality, and to offset the negative outcomes of being exposed to child poverty and social exclusion. It is a major enterprise aiming to bridge the gap between digital technology innovation, biological and social sciences, social intervention, and Child public policy and law, which starts with more than 20 associates and partners from the civil society, the private sector and the State.

The research debate with the most important Portuguese legal structures, such as the Family, Child and Youth Courts, the Public Prosecution services, the Children and Youth's Protection Commissions and the Ministry of Justice, among others, is open and quite vivid. This is a field in which many other professionals, apart from the legal ones, take part: thus, the tensions in multidisciplinary cooperation between professionals arise as an important research theme. Both systems and individuals need orientations on how to engage and value cooperation and multi-agency work, based on trustful working relationships not only among them, but also with the child and family they work with (Meysen & Kelly, 2018).

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National and international networking has been decisive to empower the social and legal systems, in particular with other Portuguese speaking countries (e.g. Brazil, Angola, Cape Verde, Mozambique, among others). There is a permanent dialogue between differentiated social and cultural contexts extending the possibilities of establishing bridges to strengthening legal and justice systems to meet the new (and old) challenges they face recognizing children's citizenship. On the other hand, the lack of research focused on cost-benefits analysis of Child Law and policy, and the constraints associated to the existent data, restricted in several issues, could be regarded as important constraints crossing this research area.

Critical perspectives on children's rights and justice for children in Portugal

Facing the new children's digital worlds

One of the paradoxes that describe childhood in Portugal is related to life styles associated to the late arrival of contemporary European consumption patterns, mainly reflected in the children's use of the Internet and the new media: the highest rate in the EU in terms of the percentage of children having a laptop (63.0%), the greatest number of young girls and boys access the Internet in the privacy of their bedrooms (67.0% when the EU average is 49.0%), which exposes them to greater risks. [16] Besides, around 94% of Portuguese children aged 3 to 8 years use television and tablet as a 'babysitter' or comforting instrument (Ponte et al., 2018).

In recent years, children's social worlds have characterised by the move from the 'physical' territories, where children were associated to different ways of visibility and mobility in the public space, often related to social origin and place of residence, to the innovative and challenging 'virtual' territories. From the traditional childhood cultures in public spaces, research now must also attend the conflicts and power relations in the children's digital environments. Children emerge as active consumers and economic agents placed. What is the role and the place of Law in these new children's social arenas is a question that should be more openly debated.

On one hand, parents want to keep their children off the streets, aiming to protect them from a wide variety of what seems to be social dangers in public spaces; on the other hand, they promote the confinement of their children to their bedrooms and homes, 'locking' them up in digital playgrounds where the possibilities to travel to an infinite virtual world, at their own will, are endless (Almeida, 2009; Ponte et al., 2018; Simões, 2018).

This postmodern scenario is associated to very low informational literacy levels amongst the Portuguese adult generations bearing poverty childhood memories and, so, promoting the willingness of providing their children all the material comfort that themselves lacked in the past (Ponte, 2012). As a result, many of the families are not able to provide adequate supervision to children when accessing the digital worlds (Carvalho, 2018a).

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[16] Project EUKids Online is available on www.eukidsonline.net. The number of children having laptops in Portugal cannot be dissociated from the effects of some educational policies in the first decade of the 21st Century when the access to the new media and technologies become a priority, mainly by the promotion of an easy acquisition of a laptop specifically created for basic education students (called *Magalhães*). The goal was to provide a laptop to all school children with low or even no cost to families.

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The current context of counter-terrorism

Obviously, all these phenomena influence children's socialization. The new online risks and victim-aggressor relations are reflected in the increasing of cyberbullying acts evolving peers and of cybercrime, in which the child is victim of other crimes (e.g. sexual exploitation, privacy violation, extorsion, among others). On the other hand, new forms or organizing and disseminating delinquent practices are currently carried out by children and youth in digital social media, and new constraints to criminal investigation have emerged.

The DarkNet is still an unknown and hidden territory – though widespread all over the world and with easy access –, and evidence from other countries show how young people can get involved in radicalization, violent extremism and terrorism within this side of the (Dark)Web (De Jongh et al., 2018; Salvan, 2018).[17] The challenges of child protection on the DarkNet are vast and constantly evolving demanding a contextualized approach.

In the current global counter-terrorism context, registered youth radicalization motivated by left/right-wing or Islamic extremism is rare in Portugal. Although, the models of violent extremism and its global dissemination influence children's lives everywhere, as portrayed in Figure 4.

Figure 4 Portugal: violent extremism influence on children's lives

Source: Carvalho (2018b)

After being suspended from school in disciplinary proceedings for violently assaulting his colleagues, the 12 years-old boy, attending the 3rd grade in a State school in the Lisbon Metropolitan area, made a friend requested to the class teacher on the Facebook presenting himself, in the display photo, as terrorist of the Islamic state. This was his Facebook photo for a long time (Figure 4), and the family was aware of that without taking any action to prevent it (Carvalho, 2018b).

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[17] The commonly known DarkNet is a complex entire online parallel world which content is not available in cyberspace by using the standard search engines, requiring specific software, configurations or authorizations. DarkNet user's identities as well as their locations stay anonymous and cannot be tracked due to the layered encryption system.

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Even children who do not directly observe violence often have knowledge of violent incidents within their communities or worldwide, either by hearing or being repeatedly told about it, which affects children's views of the world and themselves, their expectations, and their biopsychosocial development (Bartlett 2002). Every generation has its reference violence model's; this is not a new social problem. The substantial change is on the way these models are currently wide spread all over the world through the social media reaching a wider public, many times without any adequate parental supervision.

Regarding the prevention of juvenile radicalisation – a core issue in the EU –, little is known about the few identified Portuguese foreign fighters and their children, most of them used to live abroad before travelling to war zones. A similar trend is acknowledged in relation to the unaccompanied minors entering Europe, who could have entered or be living in Portugal. The President of the Portuguese Council for the Refugees has recognized that, over the last few years, from 10% up to 20% of child refugees who have entered Portugal as asylum seekers have disappeared, most all of them of African-origin (Tito de Morais, 2016). A similar trend happens in the other EU countries.

Child trafficking is a major concern in the country, specially involving children from Africa, Eastern Europe and Brazil. This is not a new phenomenon, but cases identified in recent years by the EUROPOL have demonstrated how the Portuguese geo-strategic position enhances the action of child trafficking networks, including for sexual exploitation or child labour. Therefore, the new global threats raise new security concerns and the emergence of a global justice order that goes beyond the frontiers of the State is a reality that children face in their lives.

Child Law and policy

In Portugal, a major reform concerning the Child Law and policy took place after the enforcement of the CRC. Culminating a long process of debate and work started in 1996,[18] the system was evaluated as inadequate and ineffective, quite inoperable in relation to the social problems it was supposed to address. As a result, among other important changes two new laws were approved in 1999 – the Promotion and Protection Law for Children and Young in Danger (LPCJP),[19] and the Educational Guardianship Law (LTE, which can be regarded as the Portuguese Juvenile Justice Act, a third perspective falling in between a welfare model and a punitive one) –,[20] came into force on the 1st of January 2001, and both have undergone changes in 2015.

The essential idea was to distinguish the situation of children in danger,[21] that legitimizes a State's protection intervention (LPCJP), from the needs and situation of the children in

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[18] By the *Comissão de Reforma do Sistema de Execução de Penas e Medidas* chaired by Anabela Rodrigues, Professor at the Faculty of Law from the University of Coimbra.

[19] Law N.º. 142/2015 of 8th of September, which constitutes the second amendment to Law No. 147/99, 1st of September.

[20] Law N.º. 4/2015 of 15th of January, which constitutes the first amendment to Law n.º 166/99 of 14th September.

[21] The LPCJP (Article 3º) considers that children are in danger when: "a) are abandoned or left to themselves; b) suffers physical or psychological abuse or is a victim of sexual abuse; c) do not receive the care or affection appropriate to their age and personal circumstances; d) are at the care of other people, during a period of time in which it was observed the establishment with them of strong relation and connection and simultaneously associated with the non-exercise by the parents of their parental functions; e) is involved in activities excessive or inappropriate to their age, dignity and personal well-being or prejudicial to their fully development; f) is subject or exposed, directly or indirectly, to behavior which seriously affect their safety or emotional balance; g) assume behavior or indulges in activities or consumption that seriously affect their health, safety, training, education or development without the parents, legal representative or who has custody preclude them

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conflict with the law, between 12 and 16 years old, who commit an offence qualified by the penal law as crime and, as a result, justify another kind of intervention, an educational one (LTE) (Gersão, 2000; Bolieiro & Guerra, 2009; Pedroso et al., 2017). Depending on the nature of the offences committed by a young person who is 12 years of age or older, on his/her social and educational needs, and on other specific criteria, both differentiated interventions could be simultaneously applied to the same individual since, as in many cases, both needs are often related (Rodrigues & Fonseca, 2010).

The tendency towards the 'criminalization' in child protection and welfare systems has been registered in Western societies (Wright et al., 2017), and Portugal is no exception. The number of the so-called 'crossover youth' – those who are dually involved in the child welfare and juvenile justice system –, is increasing, and currently this field represent one of the most stimulating for sociological research.[22] The interactivity between the legal systems is well defined by the Portuguese Law, but the State and the local community practices do not often converge, which reinforce the relevance of discussing an integrating sociolegal model.

Worldwide, children are amongst the most vulnerable social groups to violence and crime (Shuval et al., 2012). Violence is a global public health problem that needs to be prevented (Krug et al., 2002). This is a complex and multifaceted social problem and children's exposure to violence can take myriad forms depending on individual and collective perceptions. In Portugal, in the last decade, every year around 70.000 children were under the intervention of the Children and Youth's Protection Commission (CPCJ)[23] and another significant number was involved in Family and Child Court proceedings because they fulfilled the legal requirements provided by the LPCJ to the be regarded as being in a danger situation, mainly victims of neglect or some type of violence.

In 2012, for the first time since the 1999 Child Law Reform took place, the situation most represented in the new cases referred to the local CPCJ and the Courts was 'children's exposure to models of deviant and/or violent behaviour' and not 'negligence'. Included in this category are domestic violence and the abusive consumption of alcohol, drugs and other licit or illicit substances by their parents or legal guardians. This is a significant shift that cannot be dissociated from the effects of the economic crisis affecting the families (Carvalho, 2016). Child protection measures are mainly applied supporting the child own family (+90% of the total in each year), but with increasing household changes and wide variety of concurrent and more complex family relationships (Pedroso et al., 2011), the

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properly to remove this situation; h) has foreign nationality and is placed in a public, cooperative, social or private care institution with cooperation agreement with the State, without authorization of residence in national territory."

[22] Accordingly, to the official data from the Directorate-General of Reinsertion and Prisons Services (DGRSP), which is the auxiliary body of the judiciary administration concerning the enforcement of juvenile justice measures, in 2017 (May), there were 152 youth placed in custody at Educational Centres, from the Ministry of Justice. Of these, 111 (76%) had already started a promotion and protection proceeding, and 63 (57%) were placed in residential care in the protection system when they had entered to start the measure of internment in the Educational Centre as result of the Youth Court sentence.

[23] The Children and Youth's Protection Commissions are non-judicial official institutions, with autonomy, located in every municipality, and are composed by representatives of local entities, such as the administration State services, social services, education and health services, police authorities, youth associations, and others. The Commission interventions depends on the consent of the parents, legal guardian or de facto guardian, and is also required the non-opposition of the child aged 12 years or older. These Commissions can apply child protection measures (except regarding future adoption), but only when having an agreement in the terms mentioned above. If there is no agreement or if the required consents are withdrawn, this entity must report the case to the Public Prosecution services. The Public Prosecutor monitors and assesses the activity of the CPCJ and has the legal duty to represent children by bringing to Court the cases when more protection of their rights is required. The court can apply protective measures by agreement or by a judicial order, after a trial (judicial debate, as it is called by the LPCJ) (Bolieiro & Guerra, 2009).

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children's position in the family is in the middle of parental disagreements and breakdowns, many of them ending up in Family Courts and new conflicts emerge (Casaleiro, 2016).

Children's residential care represented more than 96% of the total of the child protection measures applied outside family in 2017. In disregard to the CRC and national Child law principles, is still being applied to children below the age of 3 years-old. This situation is aggravated by the lack of regulation of this measure, as required since the law came into force, in 2001. On the other hand, foster care is rare (less than 1% in the total of the protection measures) due to limited legal orientation and the lack of political investment to promote the existence of the necessary resources to put into practice an effective alternative to residential care. These are clear examples of how the structural mechanisms of the neutralisation of the law (Santos, 1986) not only shape the Court and CPCJ practice's, but also promote a widespread public mistrust on the State competence to address children's issues.

In search for an age

Tensions between sociological and legal insights on the concepts of children and social control are the focus of debate in Europe (Cartuyvels & Bailleau, 2014; Pruin & Dünkel, 2015). Interaction between societal change and legal structures is a key aspect of social life (Luhmann, 2004). The permanent dramatization and politicization of offending in Western societies suggest we are living in a unique social setting, in which children have become more violent than ever (Muncie, 2008; Moore, 2013; Galland, 2011; Dünkel, 2014; Goldson, & Muncie, 2015), related to the idea the perpetrators always tend to be successful and the social control institutions are rarely effective (Santos et al., 2010; Carvalho, 2015). This perspective ultimately undermines the confidence of individuals in such institutions and erodes social cohesion (Roché, 2004).

Deep changes in the transition to adulthood emerge, but criminal offenses continue to be committed disproportionately by young people, mainly from certain territories, who are more likely to be processed by police than any other population group (Carvalho, 2010), 2014, 2018a). Although they are not responsible for most of the criminal recorded offenses, the prevalence of offending tends to increase from late childhood and reach to a peak in the teenage years, from 15 to 19, declining in the early 20s (Loeber et al., 2013).

The Portuguese situation deserves a special analysis based on the prevailing distinction between the civil and the penal majority (Santos et al., 2010; Carvalho, 2017; Pedroso et al., 2017). The minimum age of criminal responsibility (MACR) is 16 years old,[24] which is also the minimum age for criminal majority, but the age of civil majority is 18 years. The Portuguese justice system combines different kinds of intervention regarding children in conflict with the law taking into account three age ranges: under 12 years-old; 12-15 years-old; and 16-21 years-old. Portugal has a strict juvenile justice model, which does not allow for exceptions in the enforcement of criminal laws and does not foresee the prosecution of

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[24] The establishment of MACR in Portugal respect the guidance provided by Article 40(3) of CRC (States parties have the obligation to set a minimum age of criminal responsibility below which children shall be presumed not have the capacity to infringe the penal law), the Rule 4 of the Beijing Rules (the beginning of MACR shall not be fixed at too low an age level, bearing in mind the child biopsychic development and the level of maturity), and General Comment n°10, para. 30-35, Committee on the Rights of the Child (the MACR below the age of 12 years is considered by the as not internationally acceptable).

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juveniles for certain offences only.[25] Below the age of 16 years, it is not possible to sentence children in criminal or penal terms.

Despite following the concept of child defined by the CRC considering the age of 18 years to reach civil majority in Portugal, youth who commit offences at the age of 16 fall under the general penal law and are regarded and judged as adults (Article 19 of the Portuguese Penal Code), which strengths the violation of the international standards (Kilkelly, 2011; Carvalho, 2014).[26] As a result of the Penal Code Reform of 1982, a Young Adult's Special Penal Regime (RPEJA) is applied to those aged from 16 to 21 years,[27] defining some specific mitigating regulations as alternative to a prison sentence for certain cases. However, the law cannot be fully enforced because the necessary conditions for it, such as specific detention centres, have never been built (Rodrigues & Fonseca, 2010), in which represents another example of the neutralization of the law (Santos, 1986). So, at the age of 16 and 17 they can be sentenced to imprisonment in the same detention facilities as adults. The law promotes reduced sentences and, in 2007, house arrest (including electronic monitoring) was added as a measure eligible for application to young adult's offenders (Dünkel & Pruin, 2012).

In the face of the principles and guidelines of the CRC, mostly in what concerns Article 37°, the Portuguese State has been regularly notified by national and international entities about the dangers of accommodating the 16-17 year-old youth in cells with adults. The international standards regarding this matter have not been not fully implemented (Muncie, 2008; Bolieiro & Guerra, 2009; Rodrigues & Fonseca 2010; Kilkelly, 2011, Pruin, 2011; Carvalho, 2014). Over the last decades, the young adults have been a forgotten group not only in Portugal, but all over the world (Farrington et al., 2017). The Portuguese judicial practice on young adults is still being ruled by a law dating back from the 1980s not regarding the social changes in youth lives since then. Moreover, there is a lack of data concerning the sentencing process and further evaluation is required (Santos et al., 2010; Carvalho, 2018a).

Children under 12 years of age who commit an offence qualified by the penal law as crime are considered to be in danger. The LPCJP is applied and can only be implemented in terms of protective measures. This means that they receive the same treatment as child victims, and the State can only intervene in indispensable cases if the parents or legal guardians are not able to remove the danger, either by discovering circumstances that can cause serious damage to their normal development and the carrying out of other important rights recognised to children.

Children from 12 to 16 years of age who commits an offence qualified by the penal law as crime can be subject to educational measures, as defined by LTE. The Portuguese youth justice system differs from most other EU countries, giving less importance to the offence than to the need for the offender to be educated on the fundamental community values that have been violated by the illicit act. The educational measures can be enforced until the age

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[25] Embodied the guidance provided for Article 40 (3) (4) of the CRC, Portugal has a specific youth justice system separated from adults until the age of 16 years-old.

[26] Portugal does not follow the guidance provided by the Committee of the Rights of the Child defending every child under the age of 18 years at the time of the alleged commission of the offence must be treated by the rules of juvenile. This provision is also defended by the Rule 17. of the European Rules for juvenile offenders subject to sanctions or measures (young adult offenders may, where appropriate, be regarded as juveniles and dealt with accordingly. A similar position has been taken by the Committee on the Rights of the Child in para. 86 of General Comment No. 10.

[27] Article 19° of the Portuguese Penal Code.

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of 21 and are graded according to their intensity and divided into community measures and liberty depriving measures. The 1999 Child Law Reform introduced the principle of the juvenile offenders' responsibility, but it has remained focused on the application of educational measures and has not signified a rising punitive trend. The youth justice system could be described in what Bailleau and Fraene (2009: 6) considered a "tendency towards bifurcation – a soft approach in most cases and tougher actions against a limited number of adolescents undergoing a custodianship order". The proof of the facts of a criminal offence is indispensable to the lawsuit, but merely by itself it is insufficient being also required the evaluation of the young offender's need for 'education in the law'.[28]

Recent evidence obtained by Portuguese researchers within the ongoing PROMISE project,[29] shows how the selectivity of the Portuguese justice system concerning children in conflict with the law remains a problem that needs to deserve more attention from the State and local communities.

> "In the trajectories of young people with State measures, especially those under the Youth Justice Act, the conflicts they faced were closely related to structural contingencies and inequalities, such as socioeconomic, territorial or gender disadvantage, stigmatization based on behaviour or place of origin, and social and educational marginalization." (National Report, Matos et al., 2018).

Social, gender and territorial inequalities continue to characterize the life trajectories of most of the children to whom a youth justice measure is applied (Duarte & Carvalho, 2017; Pedroso et al., 2017). There is an overrepresentation of male, foreign, poor and young people mainly from the social deprived (sub)urban neighbourhoods (Carvalho, 2014). On the other hand, a more positive note is related to the sentencing practices: it is possible to identify a general trend towards an increase diversification of LTE non-institutional measures as alternative to depriving liberty measures applied by the Courts in the last decade (Carvalho, 2018b).

Worldwide, a neoliberal vision in juvenile justice administration tends to prevail, which moves away risk management from the State and collective responsibility in the most diverse spheres of social action, transposing it to individual responsibility (Wacquant, 2009). The inequalities in access to opportunity structures are frequently ignored and a climate of economic rationalism is exacerbated in the management of juvenile justice

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[28] At the core of the LTE is Article 6 of the European Convention on Human Rights, which guarantees the right to a fair trial and guarantees the right of an accused individual, adult or child, to participate effectively in his trial. A major improvement brought up by the Children and Youth Justice Reform (1999) has been the introduction of the young person defense lawyer, in all the judicial proceedings in which is required his/her participation. The police can only take the responsibility of identifying and presenting him/her for interrogation led by the Public Prosecutor. A child alleged suspected of having committed a fact qualified by the penal law as crime, cannot remain more than three hours in a police station for purposes of identification. At any time of the proceeding, the child has the right to contact in private with the judge, with the Public Prosecutor and his/her defense lawyer.

[29] PROMISE-Promoting Youth Involvement and Social Engagement – Opportunities and challenges for conflicted young people across Europe (funded under the European Commission's Horizon 2020 Research and Innovation Programme, Grant Agreement no. 693221) investigates how young people's, often negative, responses to these problems create conflict, and how, instead, their responses can provide opportunities for positive social engagement. It is running from May 2016 to April 2019, involving 12 collaborating centres in 10 different European countries and is coordinated by a research team of the University of Manchester led by Prof. Jo Deakin (Centre for Criminology and Criminal Justice, School of Law). In Portugal, it is being developed by a research team from the Universidade Católica Portuguesa Oporto, led by Prof. Raquel Matos, and the author of this paper is member of the International Advisory Group. More information available at: http://www.promise.manchester.ac.uk/en/home-page/

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reflected in budgetary cuts in State resources and in the devaluation of scientific knowledge and on the relationship costs-benefits analysis (Moore, 2013).

Due to the scarcity of data and of rigorous systems for collecting information in this area in many countries (Muncie, 2008; Rodrigues & Fonseca, 2010; Pruin, 2011), including Portugal (Rodrigues & Fonseca, 2010; Santos et al., 2010; Carvalho, 2016, 2017; Pedroso et al., 2017), a deeper knowledge and evaluation of juvenile justice and sentencing proceeding is limited and aggravated by a distorted and excessive mediatization that tends to amplify the social perception that children and youth offending are increasing when, in reality, the available data does not confirm such trend.

Looking ahead: relating neuroscience and sociology

Law is of relevant interest when considering the possible consequences that the newest finding in scientific fields, such as biomedicine and neuroscience, could have on children's lives. These are research areas closely interrelated to the sociolegal impacts of new technologies on human dignity, quality of life and personal data protection (Luño, 2013). It is not only a question of debating, from the Law perspective, which values must be protected before certain biotechnological studies could be carried out; it is imperative to understand the new challenges associated to the sociological field brought the public and political agenda.

Recent advances in neuroscience promote a deeper understanding of how children's adversity experiences alter brain development and could affect the functioning of the neurocognitive systems and their present and future relationships (Perry, 2004; Duncan et al, 2012). But children are not raised within a vacuum (Brito & Noble, 2014); the social context where they live significantly works for or against their biopsychosocial development (Corsaro, 1997; Laub & Sampson, 2006; Qvortrup et al., 2009).

Evidence shows that the stress of living in social deprived conditions, impoverished linguistic environments, growing up poor and regular exposure to trauma and violence are some of the most important key-factors affecting children's brain development (Noble, 2017a). The long-term consequences can include a wide range of issues, from mental health and physical health problems to relational, educational and employment difficulties or even possible greater involvement in delinquency.

The complexity of children's lives in contemporary urban settings is expressed in the coexistence of multiple ways of life and adversity experiences that is generally associated with different social status corresponding to different contexts or territories. However, it is a fact that not all children respond to the social conditions in the same way and the effects of the environment on brain development are not just negative ones, which makes crucial the need for a more articulated discussion between sociological and neuroscience insights on children lives (Sharkey & Sampson, 2015; Noble, 2017b).

If growing poor, as it happens to many children in Portugal, may diminish the development of a child's brain, we need to understand the emerging relationships between social inequality and brain function in childhood, and to identify which are the key-factors mediators in this process. Models of social and justice public policies should be informed on the role the larger environment of poverty plays in children's development and the State

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and the local authorities must rethink their specific role and responsibilities in the perpetuation of child's poverty and social exclusion. New strategies are required and policy evaluation within an interdisciplinary framework is needed, including identifying from the children's point of view, what they consider to be the most significant adversity experiences affecting them, as portrayed in Figure 5.

Figure 5 My neighbourhood

"This here is a man running over a little boy... On the other side is the youngster who killed the other near my house. He went home to pick up the gun and then came back and killed him… In the building there is a man shooting at his wife. He pushed her away and she fell out of the window. The neighbours called the firemen and there's nothing more… I don't like living here. There are too many sad things and it's very sad to live here. It's like this…" [girl, 9 years old, 3rd grade, White Neighbourhood] (Carvalho, 2010: 165)

Legislators must use scientific evidence from domains such as sociology and neuroscience, among others, to impact the effect of Law and public policies in child development, especially in children's involvement in violence and delinquency. The State and the local communities have responsibilities to promote a 'child rights perspective' in all the measures related to childhood, which includes reforming urban environments within a child-sensitive framework.

Law and Citizenship: a final comment

The challenges and constraints children's rights and justice for children impose on the Sociology of Law in the Portuguese society are far from being fully outlined in this paper. In the present global context, it is possible to identify a wide variety of situations relating to children in Portugal. Social changes directly affect the organization of social systems and ways of life, raising a new representation of childhood, with different impacts according to the social group, cultural origin, region and the context considered. Premodern, modern and postmodern representations of childhood are altogether and paradoxically present in the Portuguese society, which represent a big challenge for law enforcement and the State and local communities and well for researchers.

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In view the fact that changes are not just in one dimension, neither a linear process (Almeida, 2009), despite the overall rank position of Portugal at the KRI 2018, it is relevant that for some social groups, an ideal of children welfare is still far from being achieved, which should deserve more attention from the Sociology of Law researcher's.

Above all, it must be taken into consideration that children cannot be seen in the reducing perspective of mere users of any social or justice service or Law; they grow and develop within the systems (Carvalho, 2018b). Considering the need to build sustainable communities, children should be given a voice on citizenship and Law issues. Given the level of risk in children's lives worldwide, it is important to identify how children perceive the influence of law and public policies on their lives, the logics and the meanings assigned by them to their own actions in their daily social practices, and what specific factors place them at greater risk. Studying children's lives based on a theoretical framework that views children as social actors highlights the need to attend to children's voices from their own field of action and location and enables researchers to understand the active part they play in social dynamics and legal change (Corsaro 1997; Almeida 2009; Carvalho 2013b).

But, it is necessary to go beyond the most common approach of hearing or listening to what children have to say and provide them with the additional possibility of participating as active member in the construction of the society. We conclude this paper by reaffirming the importance of the discussion of children's issues to societies' well-being and Law progress, making ours the words of António Nóvoa (2010: 111, *adapted translation*): "nothing better defines a society than the way we take care of these children and youth we label as "problematic", "different", "at risk", and so on. (...) The educational relation is often difficult, but we must all assume responsibility. (...) Our path is not the institutionalization of violence, but the construction of dialogue, of respect, of the word. And nothing helps more than lucid informed knowledge and a critical understanding of the past and present realities".

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