

## Contradictions in relation to sexual violence in the eyes of adolescents and the disconnect with the law defining “rape of vulnerable individuals”

Contradições acerca da violência sexual na percepção de adolescentes e sua desconexão da lei que tipifica o “estupro de vulnerável”

Contradicciones acerca de la violencia sexual en la percepción de adolescentes y su desconexión de la ley que tipifica la “violación de personas vulnerables”

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doi: 10.1590/0102-311X00218019

### Abstract

Article 217-A of Brazilian Law n. 12,015/2009 defines carnal knowledge or any other libidinous act with an individual under 14 years of age as “rape of a vulnerable individual” (statutory rape). Given the young average age at sexual initiation in current society, the study aimed to understand the adolescents’ views of sexual initiation, sexual assault, and the law that defines sex at this age as “rape of a vulnerable individual”. The authors used a qualitative approach with 13 focus groups totaling 132 secondary students from public and private schools in the city of Rio de Janeiro, Brazil. Data analysis used the webQDA software with a hermeneutic-dialectic approach that yielded three categories: feeling ready to initiate sexual activity, (in)vulnerability to sexual assault, and protective mechanisms. Girls associated sexual initiation with a romantic vision and feeling safe with and trusting the partner. Boys associated it with opportunity, regardless of other factors. Most of the students felt that when consent to the sexual act is mutual, regardless of age, there is no violence involved. At the same time, they wondered about the possibility of younger girls’ discernment to consent to having sex. Most of these adolescents disagreed with the protective measures established by the law, arguing that it is the family’s duty to provide this care. The contradictions in the adolescents’ views concerning vulnerability to sexual assault and rape of vulnerable individuals as defined by the law lead us to conclude that it is necessary to expand and improve sex education in general for Brazilian adolescents, besides creating spaces for discussion that can help improve these legal provisions.

*Sexual Behavior; Rape; Sexual Violence; Adolescence; Focus Groups*

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## Introduction

Adolescence is defined by the World Health Organization (WHO) as the life phase from 10 to 19 years of age, marked by profound biological, cognitive, emotional, and social changes. The phase is marked by greater autonomy and independence in relation to the family, when individuals experiment new behaviors and the first amorous relations frequently occur, with sexual initiation including intercourse <sup>1</sup>.

Sexual practice transcends the biological sphere, involving psychological and social aspects and ethical and legal issues. In Brazil, adolescents have been acknowledged as bearers of rights, including sexual rights, since enactment of the *Statute of Children and Adolescents* (ECA in the Portuguese acronym) in 1989 <sup>2</sup>. However, since 2009, the Brazilian criminal code defines carnal knowledge or any other libidinous act with an individual under 14 years of age as “rape of a vulnerable individual” <sup>3</sup>. That is, the legal provision assumes that an individual under 14 years of age lacks the maturity or full autonomy to consent to sexual relations.

Other countries besides Brazil have legislation concerning sexual initiation. For example, in the United Kingdom, sexual relations are only legally allowed starting at 16 years. In the British public health services, in cases when sexual initiation occurs before 16 years of age, an evaluation is performed to determine whether the adolescent is mature enough to safely exercise his or her autonomy. A set of guidelines are used for this purpose, called the *Gillick Competency and Fraser Guidelines* <sup>4</sup>, orienting professionals on the evaluation of the adolescent’s competency to make his or her own decisions with awareness of the consequences. When sexual intercourse involves an individual 13 years or younger, protective measures are mandatory <sup>5,6</sup>.

The scientific literature reports different definitions for early sexual initiation, not always similar to Brazil’s legislation. There is no consensus on the age at which initiation of sexual activity is recommended. Some authors suggest that any sexual initiation before 15 years of age should be considered early <sup>7,8</sup>, while others propose ages ranging from 13 to 18 years <sup>9</sup>. In the United States, Min et al. <sup>10</sup> define early initiation as under 15 years, while Kastbom et al. <sup>11</sup> set the age at 14 years.

While acknowledging the lack of standardization of definitions on early sexual initiation and the fact that they depend on the sociocultural context, various authors state that the younger the age at sexual initiation, the higher the probability of sexually transmitted infections (STIs) and HIV/AIDS <sup>12,13,14</sup>, unplanned adolescent pregnancy <sup>15,16</sup>, maternal mortality <sup>17,18</sup>, and cervical cancer <sup>19</sup>. Other consequences are psychosocial, such as alcohol and drug abuse and school delay and dropout, among others <sup>17,20,21</sup>.

The age limit of 14 years for defining “rape of a vulnerable individual” (statutory rape) creates dilemmas for health professionals and teachers working with adolescents. These professionals face situations in which a boy or girl under 14 years of age has engaged in consensual sexual intercourse, sometimes even with the family’s knowledge. In this case, which is legally considered statutory rape, the ECA determines in articles 13 and 245 that the case should be reported to the Children’s Board, and that the health professionals or teachers can suffer legal sanctions for failing to report. However, immediate reporting to the respective children’s rights agency may not be the best option for protecting these adolescents <sup>22</sup>.

The situation reveals a disconnect between the Brazilian legislation, researchers’ definitions of age limits for sexual initiation, and health professionals’ understanding of the issue. This reality illustrates the State’s biopower over persons, employing various techniques to subjugate bodies in order to control the population <sup>23</sup>. In this scenario, little is known about the adolescents’ own perceptions of the legislation, the age they consider adequate for sexual initiation, or even the consequences for their health. Some authors <sup>22,24</sup> report that the gaps in Brazil’s public policies on sexual and reproductive health in adolescence mainly involve lack of participation by the target public in the discussion and drafting of these policies.

Based on the above, we emphasize the importance of involving adolescents in this discussion to learn what they themselves think about sexual initiation and sexual violence. Are Brazilian adolescents familiar with the law that defines statutory rape? When do they believe sexual activity should begin? Are they aware of the consequences of sexual intercourse? The study draws on these questions

to understand adolescents' views concerning sexual violence, age at sexual initiation, and the law that defines sexual relations under 14 years of age as "rape of a vulnerable individual".

## Methods

This article is part of a larger study on violence in adolescence entitled *Rape of a Vulnerable Individual and Other Forms of Violence Against Adolescents*, using a mixed quantitative and qualitative approach. The study was performed with high school sophomores (second year of middle school) of both sexes in public and private schools in the 9th Administrative Region of the city of Rio de Janeiro, Brazil. The choice of this target public was based on the higher likelihood of their already having engaged in affective/sexual relations and the fact that they were still in the adolescent age bracket. The schools were randomly selected and the Administrative Region was chosen by convenience, since it is where the institution is located in which the research team works, and since there was already integration with the schools because of previous collaboration.

The study's qualitative component aimed at a more in-depth understanding of the phenomena's meanings. The technique we adopted was focus group discussion, allowing data collection through interaction among the individuals as a valuable resource for understanding the process of building human groups' perceptions, attitudes, and social representations and the relational context in which they are produced. All necessary care was taken to reduce the focus group's limitations and weaknesses in order to ensure balanced participation by all the group's members, aware that the knowledge construction results from a shared group view of the study theme and not that of participants' individual experience.

Data were collected in the 2016 school year during classroom hours, following agreement by the respective schools and consent by the students and their parents or guardians. The groups were organized randomly with the students that agreed to participate, with at least 6 and at most 12 members each. The group discussions followed a script with triggering questions on sexuality and sexual violence. On sexuality, the students were asked what they considered the appropriate time for sexual initiation, whether there were differences between boys and girls, and how they viewed sexuality in adolescence and its consequences. On sexual violence, they were asked how they defined it, the reasons for its occurrence and its consequences, and whether they were familiar with the law defining "rape of a vulnerable individual" and what they thought of the law. A self-completed questionnaire was distributed at the end of each meeting to collect sociodemographic data (age, sex, race/color, income, family composition, and parents' schooling) and information on sexual initiation and experience. Each group was conducted by two professionals (a moderator and an observer). The group meetings lasted an average of 60 minutes and were audio-recorded and transcribed later.

The entire study team, consisting of physicians, nurses, and social workers, participated in the data collection. There was no prior connection between the researchers and the students. The sampling criterion was saturation of the contents with guaranteed balance between public and private school students and between boys and girls. We stopped the meetings after the 13th group because we realized that the information was being repeated and no new data were emerging.

The data were analyzed with the webQDA software (<https://www.webqda.net/>) and based on the theoretical work of Denzin & Lincoln<sup>25</sup> and Minayo<sup>26</sup>, with the following steps: reading and comprehensive rereading of the textual data; search for similarities, agreements, and disagreements; classification of the reports based on emerging themes and cut-and-paste of the text; cross-sectional reading of the text to identify the meanings assigned by the subjects to the triggering questions; and comparative dialogue with the literature and elaboration of an interpretative synthesis. We did not use prior categories. The categorization was based on understanding the participants' narratives.

## **Ethical aspects**

The study complies with the ethical standards in *Resolution n. 466/2012* of the Brazilian National Health Council<sup>27</sup>. It was approved by the Institutional Review Board of the State University of Rio de Janeiro (UERJ) on September 18, 2015 (CAAE n. 48107514.2.0000.5282), and authorized by the Rio de Janeiro State Department of Education.

## **Results and discussion**

We conducted 13 focus groups, seven in public schools and six in private schools, totaling 132 students, 50% in each segment. Age ranged from 15 to 21 years, with most of the students (68%) 15 to 17 years of age. Girls were a slight majority, with 55% of the total. There were five all-male groups, five all-female, and three mixed. There were no differences in the quality of the debate between the different gender compositions of the focus groups, and the data were analyzed jointly.

Tables 1 and 2 show the study population's sociodemographic and family characteristics. Table 1 shows that boys were slightly older, the majority black or brown, with slightly lower family income, and with less schooling than girls. Sexual initiation at 14 years or younger was also more common in boys.

Table 2 shows that private schools had predominantly younger students (15-17 years) and more white students than public schools. Two-parent families were present in 50% of students in public schools and 67% of private school students. Private school students had parents with more average schooling and higher income than students in public schools. In relation to sexuality, the majority of the participants of both sexes in both the public and private school systems were already sexually active, and 33% of those in public schools reported sexual initiation at 14 years or younger.

Three categories emerged from analysis of the textual data from the focus groups meetings: (i) *Feeling ready for sexual initiation*; (ii) *(In)vulnerability versus sexual violence*; and (iii) *Mechanisms of protection*. The comments by the girls and boys agreed and disagreed on some points that will be discussed throughout the article. No relevant differences were observed in the comments by students from public and private schools in relation to the three empirical categories.

### **Feeling ready for sexual initiation**

This category includes the adolescents' perceptions of what they consider the appropriate time for sexual initiation, including age limits and differences between males and females.

According to nearly all of the participants, age is not the best criterion for sexual initiation, although some mentioned that individuals under 12 years of age are not mature enough to consent to sex. More important for them is to feel safe for the sex act and the pleasure resulting from it.

*"If you feel ready, you do it. Each person feels ready at a different age"* (female group, public school).

*"The person is doing it to please the other, because she feels comfortable doing it. And doing it with that person"* (female group, private school).

*"I think that when the person really feels comfortable to begin to have [sexual] relations, there's not really a well-defined age"* (male group, private school).

*"Like, at 12 years, the person isn't very conscientious or mature enough to understand. They just go along with others"* (female group, public school).

*"Twelve years isn't an age for having sex. I don't think anybody is conscientious enough at 12"* (male group, private school).

The understanding of being ready for sexual initiation is reached when they feel safe and secure, which varies between boys and girls, from one person to another, and according to the social group. Various participants acknowledged the influence of society at large, the surrounding community, and culture. Some adolescents expressed convictions based on religious beliefs that set age criteria for sexual initiation or rites of passage such as marriage.

*"I think... only with my husband. Only one person"* (female group, public school).

*"If you're 20 years old and a virgin, people that are a little younger, when they hear that, they say: I have to*

**Table 1**

Distribution of sociodemographic/family data by sex.

Variables	Female		Male	
	n	%	n	%
Age bracket (years)				
15 to 17	53	73	41	68
18 to 21	18	25	19	32
Not informed	1	2	0	0
Total	72	100	60	100
Race/Color				
White	37	51	24	40
Brown or Black	30	42	34	57
Indigenous, Asian-descendant, or not informed	5	7	2	3
Total	72	100	60	100
Sexual initiation				
Yes	47	65	38	63
No	25	35	22	37
Total	72	100	60	100
Age at sexual initiation (years)				
≤ 14	14	30	13	34
15 to 17	31	66	25	66
≥ 18	2	4	0	0
Total	47	100	38	100
Homosexual experience				
Yes	3	7	1	2
No	44	93	37	98
Total	47	100	38	100
Family income (minimum wages)				
≤ 3	29	40	28	46
> 3	36	50	24	40
Not informed	7	10	8	14
Total	72	100	60	100
Family organization				
Single-parent	30	42	15	25
Two-parent	35	49	42	70
Other	7	9	3	5
Total	72	100	60	100
Highest parents' school attainment				
Incomplete elementary	8	11	3	5
Complete elementary to incomplete secondary	3	4	5	8
Complete secondary to incomplete university	22	31	23	39
Complete university or more	37	51	26	43
Not informed	2	3	3	5
Total	72	100	60	100
<b>Total</b>	<b>72</b>	<b>100</b>	<b>60</b>	<b>100</b>

**Table 2**

Distribution of sociodemographic/family data by type of school.

Variables	Public schools		Private schools	
	n	%	n	%
Age bracket (years)				
15 to 17	36	54	58	88
18 to 21	29	44	7	10
> 21	1	2	0	0
Not informed	0	0	1	2
Total	66	100	66	100
Race/Color				
White	15	23	46	70
Brown or Black	47	71	17	26
Indigenous, Asian-descendant, or not informed	4	6	3	4
Total	66	100	66	100
Sexual initiation				
Yes	48	72	37	56
No	18	28	29	44
Total	66	100	66	100
Age at sexual initiation (years)				
≤ 14	16	33	11	30
15 to 17	31	65	25	68
≥ 18	1	2	1	2
Total	48	100	37	100
Homosexual experience				
Yes	2	4	2	5
No	46	96	35	95
Total	48	100	37	100
Family income (minimum wages)				
≤ 3	42	63	15	23
> 3	18	27	42	64
Not informed	6	10	9	13
Total	66	100	66	100
Family organization				
Single-parent	25	38	20	30
Two-parent	33	50	44	67
Other	8	12	2	3
Total	66	100	66	100
Highest parents' school attainment				
Incomplete elementary	11	17	0	0
Complete elementary to incomplete secondary	6	9	2	3
Complete secondary to incomplete university	35	53	10	15
Complete university or more	11	17	52	79
Not informed	3	4	2	3
Total	66	100	66	100
<b>Total</b>	<b>66</b>	<b>100</b>	<b>66</b>	<b>100</b>

*have sexual relations so I won't get teased. There's all that pressure to lose your virginity before you're 18"* (male group, private school).

*"Nowadays, everything points in that direction, bad company, the boyfriend that forces you, gets rough, and says he loves you but fools you"* (female group, public school).

*"I think in the poor neighborhoods, maybe, it's because of the lack of other things to do. Even some influences, like music, the funk music thing"* (male group, private school).

Another frequent remark on age at sexual initiation was the inequality between boys and girls and the different meanings they assign to it. The girls' narratives portrayed a predominantly romantic vision of sexual initiation and trust, time in the relationship, and the feelings involved. For boys, what matters is the opportunity, as illustrated in the following quotes:

*"I think boys are in more of a rush. A girl is more able to hold back, because first she's going to love, and then she gives herself to the guy. She doesn't go for it just for the pleasure"* (female group, public school).

*"A girl is more influenced by having to protect herself. She goes [into intercourse] when it's the right person, at the right time. She waits. A boy has to do it right away"* (male group, private school).

*"I think the family usually encourages boys more than girls [to have sex]"* (mixed group, private school).

*"If a woman is available, it's going to happen, period"* (male group, public school).

For the adolescents in our study, the feeling of readiness and security for sexual initiation was unrelated to an age limit or any specific social framework. This may reflect changes from past generations in which sexual initiation was conditioned on marriage. Some authors report that this change shows more freedom of choice and exercise of young people's autonomy and initiative<sup>28,29</sup>.

Ferrari et al.<sup>30</sup> also found that girls' sexual initiation was associated with commitment and feelings, in a study of young women that had experienced clandestine abortions, revealing the influence of gender roles. Meanwhile, this concept of feeling secure for sexual initiation in the sphere of an affective bond does not include other forms of security, in the sense of self-care, such as prevention of diseases and/or pregnancy and equal conditions in the relationship. This understanding differs from the health systems' and school systems' definitions of safe sex<sup>31</sup>.

Adolescents' full autonomy for safely exercising sexuality is achieved through their development, which depends on qualified information, among other aspects. Such information transcends the information from society and family, which sometimes suggests that talking about sex means encouraging children's sexual liberation<sup>29</sup>. The various social actors have difficulty discussing autonomy and sexual rights in adolescence, since Brazil's history is marked by gender inequality and an authoritarian and condescending stance towards "minors" (under 18 years), although they have become subjects of rights since the ECA was enacted<sup>32</sup>. What is considered normal at a given time in society may not be in another<sup>33</sup>.

### **(In)vulnerability versus sexual violence**

This category includes the participants' views of sexual violence and the acknowledgement (or lack thereof) of their vulnerabilities to this type of violence.

There appears to be a consensus on several points. Everyone agreed that sexual violence happens when one of the parties does not consent, and everyone shared the opinion that if there is consent, there is no violence, regardless of the age of those engaging in intercourse.

*"If she agreed, it's not violence"* (girl, mixed group, private school).

*"I believe an 11-year-old girl already knows what she's thinking"* (female group, public school).

*"A 14-year-old girl, for God's sake, there are 9-year-olds that know more things than me"* (female group, public school).

*"If the person is prepared and feels fine, it's not violence"* (male group, private school).

Exploring the issues in greater depth, some participants questioned the capacity of very young adolescents (always females) in discerning and understanding whether they are running some risk in consenting to sex and expressed doubt about whether or not it is violence when the age difference between the two individuals is large. This can also happen when the partner "forces himself" and the girl gives in, due to fear of "losing him".

In the specific debate on whether sexual initiation before 14 years of age constitutes violence, the participants expressed different opinions. Some felt that adolescents under 14 years feel capa-

ble of deciding (but as they gain more experience, they realize that they may have been victims in some situations).

*"I think an 18-year-old is more aware [commenting on a couple in which the boy is 18 and the girl is 13] The 13-year-old doesn't really know what she's doing. But she does on some things, she already has a notion. I'm not sure if I'd call it violence"* (male group, private school).

*"Like, these girls are just kids, really, when they're under 14. A few years later, they might feel they had been raped. Like, the person sort of forced me to do it, because he knew I'd probably agree, since I didn't have total control over my life"* (female group, private school).

*"At 13, a person doesn't necessarily know what's good, what's right, and what's wrong"* (girl, mixed group, private school).

*"She thinks she really wants it, but she's being influenced and coerced. It's difficult to judge whether you really want it, when you're being pressured and you're 13 years old"* (girls, mixed group, private school).

There was also disagreement on the definition of perpetration of sexual violence, which differed by gender. When questioned about rape of males, the boys found the question odd, since they did not see themselves as vulnerable to sexual violence by women. Some participants said it would even be a "dream come true" for a boy under 14 "to be forced" into sexual relations with an older woman.

According to the boys, men are only victims of sexual violence when it is perpetrated by another man. The girls did not comment on this, as if it were an issue that had nothing to do with them. Importantly, the students perceived that men were always the perpetrators of sexual violence and free for sexual initiation at any time. Meanwhile, women were viewed as sexual victims, but simultaneously held responsible for their own condition as victims, on grounds that they know what they are doing.

*"She wants to show off her body. And the guy also wants it. So, she's leading him on. She's giving him reason to do it, too"* (male group, public school).

*"I've already been sexually assaulted. I was at a show, and a guy came and grabbed me, kissing me"* (male group, private school).

*"You don't want to do the thing, and he goes and forces you to do it, or hits you to get it. And you say no, and the person keeps doing it. That's violence already"* (female group, private school).

Participants' views of sexual activity before 14 years of age suggest that the adolescents assign relatively less importance to consent when defining sexual violence. Over the course of the debate, these young people displayed little concern about the risks of sexual activity. For example, they said nothing about contraception or prevention of STIs.

Contrary to some studies<sup>1,34</sup>, some of our interviewees did not perceive vulnerability in the initial phase of adolescence. However, Gonçalves et al.<sup>20</sup> also found lack of concern over risks of sexual activity.

The adolescents' remarks largely expressed conflicts, doubts, and insecurities. Those that defended the younger adolescents' capacity for discernment may have identified their immaturity, but they still held the younger individuals responsible for the act. This observation appeared when they said that younger teens "consent" because "they know what they're doing". They blamed the victim for the violence, an attitude has also been observed in adults and even among health professionals<sup>35</sup>.

Moreira & Santos<sup>36</sup> and Biroli<sup>37</sup> contend that consent to sexual intercourse through seduction/coercion compromises the definition of sexual violence. These cases do not take the couple's power inequality into account, especially between partners with gender and power asymmetry. In addition, adolescents' knowledge on sexual issues is not always sufficient.

The boys in our study expressed a view of men as immune to sexual violence by women. This perception differs from the scientific evidence on male adolescents' vulnerability to statutory rape. According to data on the profile of victims in vulnerable groups, in 2016, of the 3,108 children and adolescents (0 to 17 years) who were rape victims, 493 were males (15.86%)<sup>38</sup>.

Lowenkron<sup>24</sup> discusses the issue of adolescents' vulnerability based on age. The author problematizes the criterion of "under-age" sexual activity and emphasizes that age as a category for the exercise of sexuality is interrelated with other categories like gender and social class. One cannot ignore gender inequalities in the notion of sexual consent. Reflecting on age of sexual consent by adolescents and the law on the "rape of a vulnerable individual" that is intended to protect them, the author emphasizes that age should not be the sole or absolute criterion for social and legal regulation of sexual autonomy by these individuals, since it is associated with diverse moralities. She suggests that the



definition of vulnerability based on age may actually serve to reduce the adolescent's autonomy via a biological marker. It is thus necessary to reconcile protection of an individual in development with his or her sexual rights, since the changes in legal provisions over time have shown that age cutoffs are insufficient and precarious.

### Protective mechanisms

This item addresses the students' perception of the law that defines rape of a vulnerable individual and the work done by the Children's Board.

Most of the adolescents were unfamiliar with the law, and many were surprised at the libidinous acts included in the definition of sexual violence. They did not view the age criterion as valid for defining the occurrence of sexual violence. That is, they questioned the State's power to regulate their sexuality. For them, early sex is commonplace and even encouraged in many communities. Individuals that do not begin sexual activity early are frowned on and/or excluded from the social group. Meanwhile, when the adolescent (always a female) consents to sex, the act is not considered rape. Some remarks illustrate this:

*"You see, when a 13-year-old girl gets pregnant, she's taking on a huge responsibility and she knows what she's done wrong. I don't think it's a crime"* (male group, public school).

*"In my opinion, the law is wrong. As soon as she knows right from wrong, she's doing what she wants, not because she's forced"* (male group, public school).

*"For the law to set an age on this, like, it's a mistake. Why? One thing is to kiss on the mouth by mutual consent. Another thing is with a 14-year-old girl you've never seen before, and you grab her and kiss her on the mouth. That's wrong"* (male group, private school).

*"If a girl wants to [have sex] with a guy, I don't know, 20 years old, if she feels comfortable with him, she has that right, you know?"* (female group, private school).

When asked about the roles and responsibilities of the Children's Board, the girls proved to be more knowledgeable. The girls that were most familiar with the Board were those who had been called in for some reason. Some of the adolescents viewed the Children's Board as a sort of police force and did not have a positive assessment of its work. As for reporting of suspected or confirmed cases of sexual violence, whenever the "victim" was under 14 years of age, some only agreed with such reporting if the partner was an adult. If the partner was also an adolescent, there was no need to report the case in their view. A study by Brito et al.<sup>39</sup> found the same pattern.

*"The day I went there [to the Children's Board], they called me in to talk. Later they just called my mother in. And, like, I thought it was cool. Because the psychologist listened to my mother's side, and the kid's side, and understood all of that"* (female group, private school).

*"It's to try to protect the kid somehow. Some kids don't have this kind of protection, and they can get it through the Children's Board, to be in a better place"* (girl, mixed group, public school).

*"I think the Children's Board protects kids under 14 years, because they still don't know what they're doing. That's why they consent [to sex]"* (female group, public school).

*"I think this business of the police [referring to the Children's Board] is bad, very dangerous. Because when a kid is 'messing around', they can call the Children's Board. So, it's just like police"* (male group, public school).

For some of the students, legal and State intervention in matters involving adolescents' sexual activity is inappropriate. For them, these issues do not concern the State, which should not get involved. It is the family that has the right and duty to solve these matters. The State should only intervene when the family is unable to do so.

*"How ridiculous! [mandatory reporting to the Children's Board in cases of presumed sexual violence]"* (male group, private school).

*"Like, I think for the State to poke into our lives all the time is bullshit. Because our life doesn't belong to the State. It's personal"* (male group, private school).

*"If the girl calls on the State, that's fine, but if the State goes after the girl, I'm against it. I think the Children's Board has to act when the family can't act for you, when the family has some problem"* (male group, private school).

*“If there’s penetration and the girl doesn’t want it, like, she can go to the precinct and report it. But if she wants it, that’s another story. If her parents didn’t say anything, you know? Because if she says she was raped and all, her mother has to take the steps”* (male group, public school).

The remarks showed that even when these youngsters were unfamiliar with the law, their position can be interpreted as “presumption of relative vulnerability” rather than “absolute vulnerability”, since they did not interpret the situation only according to age.

A study by Oliveira et al.<sup>40</sup> in the city of Ponte Nova, Minas Gerais, Brazil, on the perceptions of judges and lawyers concerning the effectiveness of *Law n. 12,015/2009* revealed several points of disagreement. Some contended that the rights of children and adolescents should always be absolute, that regardless of consent, carnal knowledge or any libidinous act with a minor is always a crime. Others questioned absolute presumption, stating that children’s and adolescents’ sexual maturation is influenced by culture and society, and that presumption should be analyzed in relation to legal parameters, the social reality, and common sense. The authors reached the conclusion that the legislation is insufficient and does not fully achieve its objective.

### Final remarks

Our study reveals a disconnect between the law and the individuals it aims to protect. In a sense this was foreseeable, since the biopower established by the State and based on its own interests aims to regulate, repress, and control rather than to serve the population’s needs and wishes. When reflecting on the conditions in which sexual initiation has occurred in Brazilians under 14 years of age, we can assume that the change in the criminal code in the definition of rape of a vulnerable individual aimed to expand the protection of children and adolescents. However, the actual protection of this age group since the law was enacted is questionable, due to the difficulty in enforcing it, since the legislation fails to consider the individuals’ own interests or life contexts.

Our results point to the adolescents’ unfamiliarity with this legislation. When the law is explained to them, they question the State’s power to interfere in decisions that are inherent to individual and family autonomy. These findings emphasize the need for educational and policy measures to expand and improve comprehensive sex education in this age group, to prepare them to exercise their sexuality freely, autonomously, and safely. Better communication and cooperation are needed between health services, schools, and the legal system for the identification and effective protection of victims of sexual violence, besides spaces for discussion that can lead to improvement of the legislation.

Finally, the study had some limitations, since it focused exclusively on a sample of adolescent secondary school students in a large city. In order to expand on the results, we recommend complementing it with the perceptions and experience of professionals that work with adolescents.

## Contributors

S. F. Costa participated in all stages of the research: elaboration, execution, drafting, and critical revision of the article's final version. S. R. Taquette coordinated the research project and participated in all stages of the article: elaboration, execution, drafting, critical revision, and approval of the final version. C. L. Moraes coordinated the quantitative stage of the research and participated in the drafting, critical revision, and approval of the article's final version. L. M. B. M. Souza participated in the elaboration, execution, drafting, and critical revision of the article's final version. M. P. Moura supervised the data collection and participated in the elaboration, execution, drafting, and critical revision of the article's final version.

## Additinal informations

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## Acknowledgments

The authors wish to acknowledge the study participants' collaboration: Juliane Escascela Garcia, Luca Zingali Meira, and Thenessi Freitas da Matta.

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## Resumo

O Art. 217-A da Lei nº 12.015/2009 definiu como crime de estupro de vulnerável a conjunção carnal ou outro ato libidinoso praticados com menor de 14 anos. Diante da baixa idade de início da atividade sexual observada na atualidade, objetivamos neste estudo compreender a concepção de adolescentes acerca da iniciação sexual, da violência sexual e da lei que a tipifica como “estupro de vulnerável”. Utilizamos método qualitativo por meio de 13 grupos focais com 132 estudantes do Ensino Médio de escolas públicas e privadas do Município do Rio de Janeiro, Brasil. A análise dos dados foi realizada com apoio do software webQDA, em uma abordagem hermenêutico-dialética que deu origem a três categorias: sentir-se apto a iniciar o sexo, (in)vulnerabilidade à violência sexual e mecanismos de proteção. A iniciação sexual para as moças está relacionada a uma visão romântica, a se sentirem seguras e terem confiança no parceiro, ao passo que, para os rapazes, está associada a oportunidade, livre de outros fatores. Para a maioria dos estudantes, quando o consentimento para a prática sexual é mútuo, independente da idade, não há violência. Ao mesmo tempo, questionam-se quanto à capacidade de discernimento das mais jovens para permitir o sexo. A maior parte discorda das medidas protetivas previstas na lei, por entender que é dever da família prover esse cuidado. As contradições na percepção dos adolescentes sobre a vulnerabilidade à violência sexual e o estupro de vulnerável previsto em lei nos levam a concluir que é necessário ampliar e qualificar a educação sexual de forma abrangente para adolescentes, assim como criar espaços de discussão que possam proporcionar aperfeiçoamento desse dispositivo legal.

Comportamento Sexual; Estupro; Violência Sexual; Adolescência; Grupos Focais

## Resumen

El Art. 217-A de la Ley nº 12.015/2009 definió como delito la violación de personas vulnerables, la unión carnal, u otro acto libidinoso practicado con un menor de 14 años. Ante la baja edad para la iniciación sexual observada en la actualidad, el objetivo de este estudio fue comprender la concepción de los adolescentes sobre: iniciación sexual, violencia sexual y la ley que la tipifica la “violación de una persona vulnerable”. Utilizamos el método cualitativo mediante 13 grupos focales con 132 estudiantes de enseñanza media de escuelas públicas y privadas del municipio de Río de Janeiro, Brasil. El análisis de datos se realizó con el apoyo del software webQDA, desde un enfoque hermenéutico-dialéctico que dio origen a 3 categorías: sentirse apto para iniciarse en el sexo, (in)vulnerabilidad ante la violencia sexual y mecanismos de protección. La iniciación sexual en el caso de las chicas está relacionada con la visión romántica, sentirse seguras y tener confianza en la pareja, mientras que, para los chicos, está asociada a la oportunidad, aparte de otros factores. Para la mayoría de los estudiantes, cuando el consentimiento para la práctica sexual es mutuo, independientemente de la edad, no hay violencia. Al mismo tiempo, se cuestionan respecto a la capacidad de discernimiento de las más jóvenes para permitir el sexo. La mayor parte está en desacuerdo con las medidas protectoras previstas en la ley, por entender que es un deber de la familia proporcionar ese cuidado. Las contradicciones en la percepción de los adolescentes sobre la vulnerabilidad a la violencia sexual y la violación de personas de vulnerables prevista en la ley nos llevan a la conclusión de que es necesario ampliar y mejorar la educación sexual de manera que abarque a los adolescentes, así como crear espacios de discusión que puedan perfeccionar este recurso legal.

Conducta Sexual; Violación; Violencia Sexual; Adolescencia; Grupos Focales

Submitted on 08/Nov/2019

Final version resubmitted on 01/Apr/2020

Approved on 02/May/2020