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ARTICLE

Ethics, autonomy and research in education:
raising questions about Brazilian regulations on the conduct of researchers*

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ABSTRACT

The aim of this article is to analyze the regulation of the conduct of research in Education, as part of the Human and Social Sciences, from three approaches: a critical hermeneutical analysis of the regulation that regulates the conduct of Human and Social Sciences researchers in Brazil, which seeks to show the inadequacy of the regulations produced by the National Health Council (*Conselho Nacional da Saúde*); the international contextualization of the Brazilian case, also in terms of regulation, and the introduction of the results of an exploratory research that aimed to know the opinions of a sample of doctoral students of postgraduate education programs in Brazil, evaluated with concept 6 or 7 of Coordination of Superior Level Staff Improvement (*Coordenação de Aperfeiçoamento de Pessoal de Nível Superior*), on ethics in the formation of *stricto sensu* postgraduate and its relation with regulation.

KEYWORDS

ethics; research; regulation; education; resolution CNS no. 510/2016.

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ÉTICA, AUTONOMIA E PESQUISA EM EDUCAÇÃO: QUESTIONAMENTOS À REGULAÇÃO BRASILEIRA DA CONDUTA DOS PESQUISADORES

RESUMO

O objetivo do presente artigo é de analisar a regulação da conduta da pesquisa em educação, como parte das ciências humanas e sociais, com base em três abordagens: uma análise crítica hermenêutica da normativa que regula a conduta dos pesquisadores das ciências humanas e sociais no Brasil, por meio da qual se busca mostrar a inadequação da regulamentação produzida pelo Conselho Nacional da Saúde; a contextualização internacional do caso brasileiro, também em matéria de regulação; e a introdução dos resultados de uma pesquisa exploratória que objetivou conhecer as opiniões de uma amostra de doutorandos de programas de pós-graduação em educação do Brasil, avaliados com conceito 6 ou 7 da Coordenação de Aperfeiçoamento de Pessoal Nível Superior, sobre a ética na formação da pós-graduação *stricto sensu* e sua relação com a regulação.

PALAVRAS-CHAVE

ética; pesquisa; regulação; educação; resolução CNS n. 510/2016.

ÉTICA, AUTONOMÍA E INVESTIGACIÓN EN LA EDUCACIÓN: CUESTIONES SOBRE LA REGULACIÓN BRASILEÑA DE LA CONDUCTA DE LOS INVESTIGADORES

RESUMEN

El objetivo de este artículo es analizar la regulación de la conducta de investigación en educación, como parte de las Ciencias Humanas y Sociales, a partir de tres abordajes: la presentación de un análisis crítico hermenéutico de la normativa que regula la conducta de los investigadores de las Ciencias Humanas y Sociales en Brasil, a través del cual se busca mostrar la inadecuación de la reglamentación producida por el Consejo Nacional de Salud (*Conselho Nacional da Saúde*); la contextualización internacional del caso brasileño, también en términos de regulación, y la introducción de los resultados de una investigación exploratoria que buscó conocer las opiniones de una muestra de doctorandos de programas de posgrado, evaluados con concepto 6 o 7 de la Coordinación de Mejora de Personal de Nivel Superior (*Coordenação de Aperfeiçoamento de Pessoal de Nível Superior*), sobre el tema de la ética en la formación del programa de posgrado *stricto sensu* y su relación con la regulación.

PALABRAS CLAVE

ética; investigación; regulación; educación; resolución CNS n. 510/2016.

INITIAL CONSIDERATIONS

The *Nota sobre a resolução sobre a tipificação da pesquisa e a tramitação dos protocolos no Sistema CEP/CONEP (*Note on the resolution regarding classifying research and protocol procedures in the System CEP/CONEP), of the National Association of Graduate Studies and Research in Education (*Associação Nacional de Pós-Graduação e Pesquisa em Educação* – ANPEd), of May 2nd, 2019, following the manifestation of the "*Recusa do Fórum de Ciências Humanas e Sociais e Sociais Aplicadas, Letras e Artes (FCHSSALA) ao convite da CONEP*" (Rejection by the Forum of Human, Social and Applied Social Sciences, Letters and Arts (FCHSSALA) of the invitation by CONEP), of March 11th, 2019, shed new light on the troubled issue of regulating the conduct in research in the field of education, as part of the Human and Social Sciences (HSS) in Brazil.[1] This was confirmed by both manifestations that resulted from the motion of the *Fórum de Ciências Humanas e Sociais e Sociais Aplicadas* (Forum of Human, Social and Applied Social Sciences), of September of 2018, which supports: *the collective removal of* Human, Social and Applied Social Sciences (*Ciências Humanas e Sociais e Sociais Aplicadas — CHSSA*) *institutions from the CONEP system* and *the establishment of a research ethics evaluation system in CHSSA, to be adopted thereafter by all researchers and institutions in the area*, which may culminate in HSS rupture with the CEP/CONEP system (*Comitê de Ética em Pesquisa/Comissão Nacional de Ética em Pesquisa* — Research Ethics Committee/National Research Ethics Committee).

Our intention in the present article is to add arguments to this debate based on a study of the regulation of conduct in research (improperly called regulation of research ethics)[2] by addressing three aspects:

1. a critical hermeneutic analysis of the norm that regulates the conduct of HSS researchers in Brazil, aiming to demonstrate the inadequacy of the regulation produced by the National Health Council (*Conselho Nacional da Saúde* — CNS);
2. the international contextualization of the Brazilian regulation of HSS; and

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[1] A panorama of approval requirements by the resolution CNS no. 510/2016, which currently regulates HSS, may be consulted in: Duarte (2015, 2017), Edler (2015), Sarti (2015), Santos and Jeolás (2015), Sobottka (2015), and Zaluar (2015), discussed CHSSA in general; and, specifically for the area of Education , see Mainardes (2014, 2016, 2017). For studies prior to the approval of this resolution, see Carvalho and Machado (2014), De La Fare, Machado and Carvalho (2014) and the book organized by Santos and Karnopp (2017). ANPEd presents a section on its institutional website dedicated to the topic of Research Ethics, in which a long list of articles on this topic is presented, some of which are cited in this article. Available at: http://www.anped.org.br/etica-na-pesquisa/textos-e-videos. Accessed on: May 20, 2019.

[2] We are aware of the differences between Ethics and the reflective exercise inherent to the research that it requires and the regulation of the conduct of researchers via the norm, an issue previously discussed in other publications (Savi Neto and De La Fare, 2019). We understand that CEP/CONEP focuses on the second option and, thus, we use this expression.

3. the presentation of the results of an exploratory study that aimed to determine the opinions of a sample of doctoral candidates from graduate programs in education in Brazil, evaluated with a Coordination of Superior Level Staff Improvement (*Coordenação de Aperfeiçoamento de Pessoal de Nível Superior* — CAPES) score of 6 or 7, on ethics during their *stricto sensu* graduate studies and its relation to the regulation.

ON THE COMPETENCE OF THE CONSELHO NACIONAL DA SAÚDE — OR REASONABLENESS

Of all the material produced on the regulation of HSS research in Brazil, we claim that the main point of this discussion is the inadequacy of a regulation produced within the scope of the Health Sciences being applied to HSS research. In this sense, it is necessary to consider that normative improprieties, in general, may be due to a lack of competence, either normative, when a sphere of power legislates on a topic outside of its legal authority, or technical, which occurs when, even with legal authority, the legislator lacks knowledge on the matter.[3] Analyzing the relevant works involving the issue under analysis, most concentrate on the lack of technical competence by the CNS to establish a regulation for the field of HSS, since this council's regulation adheres to the biomedical paradigm, which is foreign to research in HSS.

In this context, we will begin with a legal hermeneutics of CNS resolution no. 510/2016, understanding hermeneutics as "[...] the technique of interpretation that, through principles, criteria, and guidelines, which leads the exegete to the perception and discernment of the actions, pretexts, and circumstances experienced in the social body" (Souza and Borile, 2017, p. 351). Based on a critical analysis,

> [...] doing legal hermeneutics means undergoing a process of understanding the Law. Doing hermeneutics means to distrust the world and its certainties, to look askance, breaking with a/the traditional-objectifying legal hermeneutics, prisoner of the (idealist) epistemological paradigm of the philosophy of consciousness. *With this/the (new) hermeneutic understanding of the Law, the possible-meaning-of-a-determined-text is recovered and not the reconstruction of the text from a founding-primordial-signifier*. (Streck, 1999, p. 200)

In the case analyzed here, the goal of the hermeneutic process was to investigate the competence of the CNS, in pursuit of a reasonable foundation of the norm, both within and beyond the legal framework, with the hypothesis being a dispute of power between different fields, in which an asymmetry of power prevails.

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[3] While one of the authors of the present article has a legal background, this hermeneutic exercise proposed here is accessible to any citizen. Although the law naturally contains technical terms from the legal world, it should be clear enough for any citizen to understand it.

Considering this asymmetry, the CNS imposes its regulatory power on HSS as legitimate and natural. Interpretation means to distrust the norm and its self-justifying legitimacy. This kind of occurrence is rarely seen in the political-regulatory context, and in this sense:

> It is thus worth emphasizing that this set of problems is forged within what can be called a legal establishment, which acts in a diffuse way, in search of a kind of "standardization of meaning", which, according to Bourdieu and Passeron, is directly related to a regulatory factor of power, *the power of symbolic violence*. It is about power being capable of imposing meanings as legitimate, concealing the power relations that are at the foundation of power itself. (Streck, 1999, p. 69)

The legal hermeneutic analysis of CNS resolution no. 510/2016 seems to make sense especially given the potential break of the associations that represent HSS with the CEP/CONEP system. To this end, we will begin with an interpretation based on the legislation's text, which establishes in its first article:

> This Resolution presents the norms applicable to research in the Human and Social Sciences whose methodological procedures involve the use of data obtained directly from participants or of identifiable information or from that which can lead to greater risks than those in everyday life, as defined in this Resolution. (Brasil, 2016)

In a Democratic State of Law, regulatory powers are not random. They result from a rational-regulatory organization whose main source is national constitutions. To this end, the constitutional organization establishes a hierarchy among norms, aiming to prevent or rectify that an authority with inadequate legislative power interferes with a norm of a specific competence or even promulgated by a hierarchically superior authority. Such an issue would be subject to a thorough legal analysis, however, for the sake of the argument to be defined in the present article, we will focus on the logical-legal notion that, in the Democratic State of Law, there must be an organized distribution of regulatory powers whose source is the Federal Constitution. Given the above considerations, we claim that a resolution cannot create powers autonomously and apart from those expressly stipulated in the Constitution or by Law. In line with this, we return to the text of the resolution, more specifically to its summary, which indicates the legislative basis to be regulated by it:

> The Plenary of the National Health Council at its Fifty-Ninth Extraordinary Meeting, held on April 06 and 07 of 2016, exercising its procedural powers and attributions provided by Law No. 8.080, of September 19, 1990, by Law No. 8.142, of December 28, 1990, by decree no. 5.839, of July 11, 2006. (Brasil, 2016)

In other words, according to CNS resolution no. 510/2016, the CNS has the authority to legislate on the matter in the resolution in question based on federal laws no. 8.080/1990, no. 8.142/1990, and on decree no. 5.839/2006. The first question that can be raised is that the best legislative technique suggests an express indication of which article of the aforementioned regulatory instruments grants the CNS the authority to enact resolution no. 510/2016. In the absence of an express indication, we must carefully read the three norms in their entirety.

In summary, law no. 8.080/1990 clarifies that it "[p]rovides the conditions for the promotion, protection and recovery of health, the organization and functioning of the corresponding services, as well as other measures", which, at least at first sight, is quite far from regulating the research in the field of HSS. This Law is divided into five titles, namely:

1. general provisions;
2. the Unified Health System (*Sistema Único de Saúde* — SUS);
3. private health care services;
4. human resources (referring expressly to human resources in the area of health in article 27); and
5. financing.

In none of the fifty-five articles, grouped under the aforementioned titles, is there any mention of regulating conduct in research, much less in HSS.

In turn, the summary of law no. 8.142/1990 claims that it "[p]rovides for community participation in the management of SUS and on the intergovernmental transfers of financial resources in the area of health, as well as other measures". This law expressly establishes a theme quite different from conduct in research and would not even have space for it in its seven articles.

Finally, we analyzed decree no. 5.839/2006, which "[p]rovides for the organization, responsibilities and electoral process of CNS, as well as other measures". This short decree, in the second of its sixteen articles, comes closer to the topic in question:

> Art. 2 , CNS is responsible for:
> [...]
> VII — monitoring the process of scientific and technological development and incorporation *in the area of health, in compliance with ethical standards* compatible with the sociocultural development of the Country; [...]. (emphasis ours)

Therefore, from the analysis of the three regulatory instruments provided by CNS resolution no. 510/2016, as a foundation for the authority of the CNS to regulate the conduct of research in the field of HSS, there is only one article one of a decree that attributes authority to the CNS regarding "*compliance with ethical standards*" expressly in the area of health. Given the above, we claim that legislative power for the CNS cannot be found in the norms cited by CNS resolution no. 510/2016 to regulate research in HSS. However, we will follow this analysis to add more arguments to the debate.

Advancing in the study of this resolution, focusing on the so-called *considerations*, it is possible to find that: "[w]hereas Resolution 466/2012, in article XIII.3, recognizes the specific ethical characteristics of research in the Human and

Social Sciences and others that use methodologies specific to these areas, given their particularities". From this claim, it is possible to infer that CNS resolution no. 510/2016 borrows legislative power from CNS resolution no. 466/2012, which is inappropriate, since resolutions are regulatory instruments complementary to matters established by Law, which is not the case. This interpretation of misappropriation is reinforced in the final articles of CNS resolution no. 510/2016:

> Art. 32. This provision is applied to items VII, VIII, IX, and X, of CNS Resolution No. 466, of December 12, 2012, when applicable and without prejudice to the provision in this Resolution.
> Single paragraph. In situations not contemplated by this Resolution, the ethical principles contained in CNS Resolution No. 466 of 2012 will take precedence.

Upon examining CNS resolution no. 466/2012, in order to find clues on the regulatory power of CNS over research in HSS, there are no other laws aside from those previously analyzed: no. 8.080/1990 and no. 8.142/1990. The CNS itself also makes reference to international norms and to other resolutions, highlighting resolution no. 196/96, which was revoked by resolution no. 466/2012. Though it was revoked, Resolution 196/1996 brings at least two important elements to the current analysis: it legislates on research involving human beings without distinction (Health Sciences and HSS) and it repeals resolution no. 01/1988, which is a key interpretation for the understanding of the whole imbroglio.

Resolution no. 01/1988 is important, as it appears to be the missing link in this tumultuous regulatory chain. This is because the aforementioned resolution, from its inception, and differently from the resolutions that followed it, states:

> The National Health Council, in using the power conferred upon it by Decree No. 93.933, of January 14, 1987, DETERMINES THAT: it approves the norms *of research in health*.
> CHAPTER 1 — NORMS OF RESEARCH *IN HEALTH*
> Art. 1 The goal of this Resolution is to regulate *research in the area of health*. (emphasis ours)

The clarity with which the Ministry of Health regulates research procedures in the area of health continues throughout the text. This issue deserves a more complete analysis, considering the long history of CNS and the myriad of norms that have already been repealed since its creation by decree no. 378, of 1937. According to the CNS website, "[u]ntil 1990, it was an advisory organization to the Ministry of Health, whose members were nominated by the Minister of State" (CNS, 2019). Considering that the change in the role of the CNS occurred after 1990, as stated by the passage above, such modification was promoted by laws no. 8.080/1990 and no. 8.142/1990.

However, this regulatory expansion, which enabled the advancement of the CNS, orchestrated in the updating of resolution no. 01/1998 to Resolution 196/1996, thus encroaching on HSS authority, is not supported by the aforementioned 1990 laws. It is worth noting, upon reviewing CNS resolutions between

1990 and 1996, that most of them remain strictly within the legal attributes of a resolution, addressing demands inherent to the area of Health and regulating CNS powers as established by law. Among the various CNS resolutions, resolutions no. 170/1995 and no. 173/1995 stand out; the former created a task force to update resolution no. 01/1998 and the latter approved the work plan for this task force. This work plan clearly expresses that: "The central object of the review regards the ethical aspects of research in health involving human beings" (Brasil, 1995b). Something happened between the approval of resolution no. 173/1995 and the preparation of the final version of CNS resolution no. 196/1996, which inappropriately projected the regulation onto the field of HSS.

Considering the absence of legislative power on the part of the CNS to regulate the conduct of researchers in HSS, it is important to investigate the foundation, legal or otherwise, for such legislative confusion. Analyzing all the legislation involved once more, this time with less hermeneutical rigor, it is possible to notice that laws no. 8.080/1990 and no. 8.142/1990, throughout most of the text, are implicitly founded on the "preservation of the autonomy of people in defense of their physical and moral integrity" (art. 7, item III, of law no. 8.080/1990). Based on a broad interpretation, one could state that the CNS has the legal power to regulate conduct in research in the Health Sciences and, also, establish the principles of mandatory observation for the preservation of people's physical and moral integrity in any study involving human beings. This interpretation would legitimize the CNS to establish research procedures in the area of Health and, only, what are the principles to be observed in HSS research. Notice that there is a significant difference between regulating a process in order to preserve principles and to only establishing the principles that should be observed.

If, on the one hand, the aforementioned laws of 1990 allow this interpretation to be understood as the most correct one, the same occurs when analyzing the international legislation expressly cited by the CNS resolutions, especially no. 196/1996, no. 466/2012, and no. 510/2016, precisely regarding the protection of human integrity. The three resolutions are said to be founded on the following norms: the Nuremberg Code (1947), the Declaration of Human Rights (1948), the Declaration of Helsinki (1964 and its later versions in 1975, 1983, 1989, 1996, and 2000), the International Covenant on Economic, Social and Cultural Rights (1996), the International Covenant on Civil and Political Rights (1996), in addition to other minor international norms and those specific to bioethics. When analyzing the international norms invoked as a foundation for the CNS Resolutions, it is possible to perceive they are norms founded on ethical principles to be respected and not on processes that would guarantee the preservation of ethical principles.

The regulatory concept that underlies the international norms cited by the CNS is more reasonable than the interference of power they practice. It is natural for the Health Sciences to establish fundamental principles related to physical and moral integrity and for these principles to be observed by all fields of research. However, it is not reasonable for the Health Sciences to advance upon the regulation of research procedures that, in addition to not guaranteeing compliance with fundamental principles, also end up stifling and compromising HSS research by imposing an inadequate model. In this sense, Isabel Carvalho (2018, p. 156), in her presentation of the book *Ethics and education research*, authored by Rachel Brooks (United Kingdom), Kitty te Riele (Australia), and Meg Maguire (United Kingdom), states:

> The authors do not ignore or disqualify the principlist perspective of Biomedical ethics, but they recognize the limitations of the pretension of universality of predetermined frameworks in relation to the variability of specific cultural contexts where research is conducted.

It is worth highlighting that, if the regulatory interpretation made here missed out on some nuance and the CNS effectively does have legislative competence to regulate the HSS research process, its technical competence to do so still remains to be investigated. To investigate for technical competence also means to question its reasonableness. Is it reasonable for the CNS to regulate the research process in the Human and Social Sciences? Even if the law, through one of its legal fictions, granted legal power for this council, could this overt regulatory interference be considered reasonable?

Beyond pure logical reasoning, which seems more than enough to affirm that it is not reasonable for a norm from a Health organization to regulate the HSS research process, appealing to international experiences is a good alternative for considering whether the aforementioned regulatory interference is reasonable. While we are aware that the pure and simple importing of foreign experiences is impossible without proper adaptation to the national reality, the paths taken by other countries, especially by those in a more advanced stage of social welfare, work, at least, as guides.

THE BRAZILIAN REGULATORY NORM IN THE INTERNATIONAL CONTEXT

For the specific objective proposed in the present article, it is not a matter of carrying out a comparative study in all its breadth, but only of looking for arguments in order to consider the reasonableness of the norm in question. Mark Israel and Iain Hay (2006, p. 40) identified three recurring issues in the processes of regulating conduct in research at the international context, based on a study carried out in the countries of North America, Australasia (region that includes Australia, New Zealand, New Guinea and some smaller islands in eastern Indonesia), South Africa, and some parts of Europe:

> First, many early regulatory initiatives were responses to crises, often caused by biomedical research practices. [...] Second, in several of the countries surveyed, ethical review strategies based on biomedical experience are being applied in the work of social scientists. [...] Third, approaches to ethical regulation appear to have been dominated by either a “top-down” (the United States, Canada, Australia, Norway) or a “bottom-up” (United Kingdom, New Zealand, South Africa, Denmark) character.). (Israel e Hay, 2006, p. 40)

Of these three recurring issues, the first two have already been the subject of our attention and we can say that the Brazilian case corresponds to the international experience, as acknowledged by the author Mark Israel (2015).

> By resisting the development of a "double standard" between developing and developed nations, Brazilian regulations enable the colonization of social sciences research ethics by bioethics [...] Not surprisingly, Resolution 466/12 was rejected by associations of Brazilian anthropologists, sociologists, and political scientists who are working with CONEP toward a new draft for social scientists.

Having said this, we will focus our attention on the third of the recurring issues in the regulations in the international context, which refers to the two main ways to approach regulations: *top-down* and *bottom-up*. In the year of the aforementioned research, 2006, the authors observed that national systems oscillated between extreme centralization, as in the case of the United States, to the opposite, decentralization, as in the case of Denmark, with great independence given to the researcher to evaluate the mechanisms for verifying compliance with ethical principles in research. In the middle of these two extremes, tending more to the latter model, the authors observed the growing prominence of representative entities, associations and non-governmental institutions as participants in the process of defining principles applicable specifically to their respective local languages. As a result of their detailed analysis, the authors were able, in 2006, to state that "The future may hold even more broadly applied regulation, with the emergence of new supranational approaches (for example, the European Research Area)" (Israel and Hay, 2006, p. 40). This prediction by Israel and Hay (2006) has been confirmed, at least, within the scope of the European Union. It is, for example, the case of the norms established by the European Commission, as part of initiatives by the European Research Area (ERA).

This case is especially interesting for comparison purposes due to the representative number of member countries of the European Union (28, in addition to 15 countries that participate as *observers*) and the high degree of research development in its member countries. The European Commission has functioned as a repository of norms that establish standards of research conduct with a view to standardizing research activities conducted within its scope. This is the case, for example, of the document *Ethics in Social Science and Humanities*, of October 2018. Among the principles established in the aforementioned documents, we find the following:

> Research participants' rights are anchored in fundamental human rights and fundamental ethical principles that govern all scientific research. In the context of research funded by the European Commission, the key sources of EU and international law are the **Charter of Fundamental Rights of the European Union** and the **European Convention on Human Rights (ECHR)** and its Protocols (for other texts). Other important sources are the **UN Declaration**

> **of Human Rights** and the **UN Convention on the Rights of Persons with Disabilities (UN CRPD)**. Additional central policies and widely accepted declarations that codify principles of research ethics and ethical treatment of research participants include the **Nuremberg Code**, the **Helsinki Declaration**, and the **Belmont Report**. *Although these codes originate in the biomedical field, they encompass the central principles that apply to all human research.* (italics ours)

The interpretation expressed in the aforementioned document endorses the argument made in the first part of this paper, that establishing fundamental principles is different from regulating the research process. In this sense, the document reinforces the ethical principles applicable to every and any research study, while always preserving the distinctions applicable to the field of HSS. This understanding is clear in several parts of the document (CE, 2018), some of which include:

> HSS research is diverse and relies on a multitude of research methods, all of which need specific attention to ethics. (CE, 2018, p. 5)

> Social sciences and humanities research relies on methods that may, unintentionally, produce findings outside the scope of the original research questions. Fieldwork, observations, and interviews can yield information that goes beyond the scope of the research design, thus presenting the researcher with a dilemma: whether to preserve confidentiality or to disclose the information to relevant authorities or services. (CE, 2018, p. 14)

> The likely risks and harms in HSS research may differ from those in clinical research. It is important to understand their nature and likelihood in order to set up an appropriate collaboration with participants and measures for their protection. (CE, 2018, p. 18)

> Research ethics issues in HSS research are diverse and, at times, very complex. (CE, 2018, p. 19)

However, more important than the mere recognition of the particular characteristics of HSS, which is also found in the CNS resolution, this document was conceived and written by representatives of the area, specific to the field of research, with a more informative and reflective approach, rather than a regulatory positivist approach, as in the case of the CNS. The document is founded on guidelines that reflect on the responsibility of the researcher and on the aforementioned characteristics of the area, such as, to cite an example:

> A particular characteristic of HSS research is that the methodologies are dynamic, progressive, and developmental. This means that anticipating all risks related to a research endeavor at the proposal stage may be very difficult. Nevertheless, you need to devote time to think through your research design and make a risk assessment that considers the risks from the perspective of the individual and society. (CE, 2018, p. 18)

More than establishing regulatory norms, the document is concerned with informing researchers about the specificities of their field of research and calling on them to assume the responsibilities resulting from their choices. At the end of each section of the text, there are examples, concepts, and texts of a reflective nature. Such concern is manifested even more clearly in the *Checklist for higher-risk HSS research* (CE, 2018, p. 20), listing research situations that involve higher risk and, at the end, suggesting precautions to mitigate these risks.

According to the path suggested by the norms of the European Commission, traditional institutions in Europe have followed the practice of these so-called *checklists*. As examples, we can cite the University of Porto, Oxford University, and Cambridge University. It is worth mentioning that using this model of regulation clears the way for all those involved in the research to share responsibilities, on the one hand, and increases the autonomy of these same agents, on the other. It is important to note that we are aware of the limitations of the European model, as well as of the criticisms made by Mark Israel (2015). Nevertheless, as previously stated, it is not a matter of importing or overvaluing a model, but about finding elements to consider in the Brazilian case.

Using a more frequently shared system allows us to consider that, in this model: state authorities concentrate on fundamental issues and do not spend time or resources on minor bureaucratic issues, which is compatible with its naturally less-specialized staff; the representative entities of the class, associations, etc., the quintessential place for specialists in their respective areas, establish more detailed regulations, compatible with their smaller range of operation; research institutions, as entities closer to and more directly involved with the development of the research, conduct the processes of evaluating compliances with general and specific norms (in two successive stages, used only if necessary: on the program and institutional levels); and the researchers, true experts of their research and the parties most interested in its progress, are obliged to learn the norms and attest to their compliance.

This is what happens, for example, in research institutions in the United Kingdom and Portugal, within the scope of HSS. The organic units (faculties) of the University of Porto, for example, subscribe to specific norms according to their area. The Faculty of Psychology and Education Science subscribes to the Code of Ethics of the Order of Portuguese Psychologists for projects in the area of Psychology, and in Education, to the Ethics Charter of the Portuguese Society of Education Sciences (FPCEUP, 2019). The evaluation process starts with an analysis by the researcher and their advisor. If applicable, the process is filed and sent to the Ethics Committee of the Faculty of Psychology and Education Sciences and, only if necessary, considering the nature of the research, the process is sent to the Ethics Committee of the University of Porto. In this case, the work will include reviews by the advisor and the Ethics Committee of the area and will have as a reference a standard created by the respective entity with technical competence on the matter. Consequently, there will be a greater understanding of the research, thus coming closer to a more bottom-up flow, as observed by Israel and Hay (2006).

The effects of sharing responsibilities, rather than a mere consequence, should be at the heart of governmental concerns. Scientific development, which is highly desired by the States, depends primarily on the possibility of building identities unique to the different fields of knowledge so that research can follow the facts as closely as possible, without losing sight of pertinent ethical principles. If the CNS intends to recognize the particular characteristics of HSS in all of its resolutions, it should rightly stop unduly interfering with the regulatory processes so that this subject can be discussed exclusively by researchers with (regulatory and technical) competence on the matter.

This is a fundamental process of creating, developing and strengthening an identity that should belong exclusively to the researchers in the area, without ignoring multi-, inter- and transdisciplinary aspects, and understanding the seriousness of researchers who would not use this autonomy to disrespect other areas of knowledge. This fundamental process is referenced in a quote by António Nóvoa in the first part of the Ethics Charter of the Portuguese Society of Education Sciences, as the development and achievement of the Educational field, in the sense of forming an identity and seeing this identity recognized and respected in society. As such:

> [...] the identity of Education Sciences is also developed, we must emphasize, by joining a prominent scientific community, in which they produce the criteria for the meaning of their professional and scientific activities. The emergence of a second identity is essential to consolidate a scientific-educational community and to define a specific transversal characteristic of education, which progressively establishes common investigative practices and conducts. (Nóvoa, 1991)

Developing an identity depends on distinguishing the self from the other. While HSS fall within the CNS, they will not assert the full potential of their identity. This separation is fundamental, acknowledging that which is not HSS, in order to establish and strengthen that which characterizes HSS. Not allowing areas of knowledge to develop their autonomy is one of the most efficient ways to hinder scientific development. Such is the interpretation expressed in the introduction to the document by the European Commission entitled *Research Ethics in Ethnography/Anthropology* (CE, 2015, p. 1):

> The contribution that can be made to the advancement of human knowledge by the SSH disciplines may be obstructed or undermined if inappropriate ethical review criteria are applied to research proposals. The ethical review should be well informed, fair and transparent while seeking full justification for the proposed research.

While granting more responsibility to representative associations and entities enables (and encourages) areas of knowledge to develop their identity, thus favoring scientific development, this process results in increased responsibility for the central figure of the scientific process, the researcher. Developing researcher identities in the early years of the educational process is a fundamental step in scientific development. If students get used to being passive over the course of their education and repeat this passivity when they carry out their research, having only to exhaustively meet concrete protocols, the researcher is less likely to develop an identity and the necessary feeling of social responsibility for and about their research.

THE PERCEPTION OF DOCTORAL CANDIDATES

In order to broaden the reflective potential of this paper, our theoretical analysis will be considered together with answers to a questionnaire created by the Research Group on Ethical Development and Research in Education, a group that has previously carried out two studies on this same topic whose purpose was to gather the opinions of leaders and vice-leaders of research groups in the area of Education, registered in the National Council for Scientific and Technological Development (*Conselho Nacional de Desenvolvimento Científico e Tecnológico* — CNPq), the results of which have been published (De La Fare, Carvalho e Pereira, 2017; De La Fare e Savi Neto, 2019). For the present article, the instrument previously used was rewritten and adapted so that, this time, it could be answered by doctoral candidates from the nine Graduate Programs in Education in Brazil, with CAPES scores of 6 and 7, namely: in the Southern region, the Pontifical Catholic University of Rio Grande do Sul (PUC-RS, score 6), the Federal University of Rio Grande do Sul (UFRGS, score 6), the University of the Sinos River Valley (Unisinos, score 7); the Federal University of Paraná (UFPR, score 6); in the Southeastern region, the State University of Rio de Janeiro (UERJ, score 7), the Federal University of Minas Gerais (UFMG, score 6), the Federal University of Rio de Janeiro (UFRJ, score 6), the Federal University of São Carlos (UFSCar, score 6), and São Paulo State University "Júlio de Mesquita Filho" (UNESP, score 6). Overall, 461 e-mails were sent out with the questionnaire and 78 responses (20%) were received. The questionnaire is consisted of 20 questions, eleven of which are closed and nine are open-ended.

The first seven questions concern general information and allowed us to characterize the group of respondents. The majority are women (58, 74.3%), with the dominant age range among the candidates being 31 to 40 years (35, 44.9%), and most are graduated in Human Sciences, excluding Pedagogy (30, 38.5%), while other 18 (23.1%) graduated specifically in Pedagogy. Most had a master's degree in Education: 62 (79.5%). There are 37 (46.1%) candidates with grants in the group, 15 (19.2%) of whom rely on grants only to pay for tuition and 21 (26.9%) receive compensation in the form of a grant. Most, 41 (52.6%), are doctoral candidates in Public Universities. Their admission years in the doctoral program are as follows: 29 (37.2%) in 2018; 15 (19.2%) in 2017; 19 (24.4%) in 2016; 11 (14.1%) in 2015; 2 (2.6%) in 2014; and 2 (2.6%) before 2014. 63 (70.8%) work as teachers, of which 23 (29.5%) are exclusively in Basic Education, 21 (26.9%) are only in higher education, and 19 (24.4%) teach on both levels. The research carried out in their theses addresses the following topics: 19 (24.4%) Teacher Training; 15 (19.2%) Foundations of Education; 13 (16.7%) Educational Policies; 7 (9%) Curriculum and Didactics, in addition to 24 others that refer to unique topics, different from those listed here.

Question eight was addressed to those candidates who already worked as teachers, asking: *At the education level(s) in which you work as a teacher, is/was there* *any available training regarding ethics?* Among the 63 who already work as teachers, 45 (71.4%) stated there was no offer of training on ethical issues in their workplace and 18 (28.6%) answered yes.

Question nine was about offering training on ethical issues over the course of their academic history, with the possibility of choosing more than one answer: 43 (55.1%) claimed to have participated occasionally in ethical training in events, during the master's program; 36 (46.2%) in similar situations in the undergraduate program; 24 (30.8%) in a specific course in the undergraduate program; 18 (23.1%) believed that, in their undergraduate program as a whole, the course contents were fundamentally guided by ethical concerns; 15 (19.2%) in study groups during their master's program; 9 (11.5%) in a specific course in their master's program; and 8 (10.3%) in their scientific initiation research group.

Question 10 asked the candidates' opinions about whether, in their understanding, the courses in their undergraduate and/or master's program were founded on ethical concerns. Though this was presented as an open-ended question, it evoked an initial position between *yes* or *no*. Upon interpreting the answers, we can claim that 51 (65.4%) were compatible with *yes* and 27 (34.6%) leaned more toward *no*. It is worth highlighting the dedication by the doctoral candidates to substantiate their answers, which allowed us to indicate some recurring issues, namely: the Teacher is the one responsible for providing an ethical foundation to discussions, the importance of internships and the respective courses for understanding ethics applied to practice, greater concern in the master's program compared to the undergraduate program regarding ethical foundations, and reference to undergraduate programs, other than pedagogy (philosophy, sociology and psychology), committed to ethical foundations.

Similarly to the previous one, question 11 asked about their perception on the ethical foundation of courses in the doctoral program. Their answers were similar to those of the previous question, particularly the perception of greater concern with the ethical issues in the doctoral program than in the previous levels of education, which explains the increase in *yes* answers. The results were 54 (69.2%) *yes*, 19 (24.3%) *no*, and 5 (6.5%) did not feel confident enough to answer because they were just starting the doctoral program.

These opinions demonstrate the perception of how the topic is approached in the educational environment on the part of the responding doctoral candidates, data that become even more representative when interpreted in conjunction with the study by Nunes (2017), which observed in a documentary investigation that the topic is scarcely formalized in the syllabuses of 8,892 courses in the *strictu sensu* graduate programs in education in Brazil, available on the Sucupira Platform.

Question 12 asked about the possibility of training and/or discussing ethical issues in the research groups in which the doctoral candidates participate: 40 (51.3%) believed that there were possibilities and they were sufficient; for 9 (11.5%), there were possibilities, but they were insufficient; 7 (9%) claimed they did not participate in research group meetings; 3 (3.8%), their research group did not hold meetings; 2 (2.6%) responded that this topic was not discussed in their research group; 9 (11.5%) chose the option *others*, referring particularly to the fact that they had recently joined their respective groups (as well as being recently admitted into the doctoral program).

Regarding the main way the candidates further investigated the topic of ethics (question 13), they answered: 45 (57.5%) *I read books and articles*; 13 (16.7%) *I have not studied the topic further*; 5 (6.4%) *I look for training opportunities*; 4 (5.1%) *I look for information in the media*; 11 (14.3%) *others*, with a range of answers.

Asked whether they had ever faced an ethical dilemma, presenting examples if they had (question 14), only 46 of the 78 respondents answered, with 29 (63%) saying they had already faced ethical dilemmas and 17 (37%) said they had not. Among the interesting answers, we chose one due to its representativeness in relation to the others and due to its relevance in relation to the arguments presented so far:

> The fact that the Ethics Committee at [name of the University] is linked to the Health Department greatly compromises the prospects of the projects in our area. My project went through five reviews until it got a favorable decision. It was embarrassing; it completely delayed my research schedule, due to random and bureaucratic issues. It effectively had nothing to do with the ethical scrutiny of the research. (Doctoral candidate 23)

The statement above is very significant and touches on one of the fundamental arguments that justify the separation of HSS, which is the specificity of its research and research methods. This issue is mentioned in the document *Research ethics in ethnography/anthropology*, by the European Commission, in the following way: "Ethical codes must be 'interpreted' and put into practice by the researcher in the light of the substantive research topic and methodology employed" (CE, 2015, p. 2). The doctoral student's response, analyzed together with the quote from the document by the European Commission, highlight two important and interconnected issues: regarding the research, the delays and consequent disruptions caused by an inadequate model of research evaluation and, regarding the researcher, preventing the true stakeholder and expert on the project from developing their autonomy. It is precisely in this separation between the framework of principles and the design of the research project, in the need to interpret and adapt, that researchers can establish themselves as more independent and autonomous, which inadequate and excessively explicit regulations eliminate.

Question 15 asked whether the doctoral candidates had already submitted a research project for evaluation by a Research Ethics Committee. Respondents answered: *yes, only once* 32 times (41%); *never* was chosen 28 times (35.9%); and *more than once,* 18 times (23.1%). For those who answered that they had already submitted a project, 50 (64.1%), we asked why they followed this procedure (question 15.1). And the answers were: 36 (72%) were *directed by the institution and/or advisor*; 13 (26%) *by the conviction that this is the path to be followed*; 1 (2%) by determination of the funding agency. Question 15.2, for the same group, was in relation to the use of Brazil Platform (*Plataforma Brasil*): 6 (12%) answered that filling out the data is fast and the data filling system is user-friendly; 17 (34%) said the process is slow and the system is not user-friendly; filling out the data was considered fast and not user-friendly by 7 (14%); and filling out the data was considered slow and the Platform page user-friendly by 20 (40%).

Question 16 asks the doctoral candidates if they believe resolution no. 510/2016 adequately addresses the specific characteristics of research in the Human and Social Sciences, requesting justification for their answers. Although presented as an open-ended question, it can be stated that 40 (51.3%) of them said that this Resolution did not adequately address the specific characteristics of the research in HSS and 16 (20.5%) answered that it did. It is meaningful that: 22 (28.2%) answered that they were not familiar with the Resolution or did not have enough information to give an opinion; all positive responses either came without a statement of reasons or with a statement of reasons based on the fact that the Resolution explained in its initial section that HSS was included. Respondents who answered *no* showed more in-depth knowledge about the ongoing debate.

We can speculate that the candidates' representative unfamiliarity with the Resolution in question confirms our theoretical analysis in the sense that the model for research regulation in HSS in Brazil was imposed from top to down, without the benefit of legitimacy upon its fundamental application. In addition to the problems inherently caused by imposing norms foreign to the reality of their respective beneficiaries, it is reasonable to conclude that the troubling situation created, which has persisted since before the publication of the Resolution, that is, for at least 3 years, has been responsible for the natural resistance of researchers and professors to motivate students from the graduate programs to learn about the norm.

Do you believe that research in Human and Social Sciences can lead to some type of risk for its participants? If so, which one(s)? This was question 17. Though it was an open-ended question, it was possible to separate the respondents into 57 (73.1%) who answered *no* and 13 (16.7%), *yes*, while 8 (10.2%) others did not answer. Question 18 asked the candidates' opinion on classifying research according to the types of risk involved, as regulated by resolution no. 510/2016. Again, though it was open-ended, it was possible to separate the respondents into those who believe the classification was not appropriate for HSS, which totaled 32 (41%), and those who thought it was, 11 (14.1%). In general, the reasoning for the answers followed that of the previous question, with a significantly higher number of doctoral candidates who said they did not have enough information to answer, 35 (44.9%). It should be noted the constant presence of the following expressions in the answers, including from those who gave their opinion: *I think, it seems that, I believe*, evidencing a greater distance between the regulation of the area and the researchers close to the final phase of graduating.

Question 19 (open-ended) asked the researchers opinion about ethics in research to be related mainly to education, to regulation or to both, asking for a justification of their answers: 51 (65.4%) claimed that it is linked to both; 22 (28.2%) indicated education alone; 3 (3.8%) said only to the regulation; and 2 (2.6%) said they did not have enough information to answer.

Finally, the last question of the questionnaire on the topic of ethics (20) asked the doctoral candidates about how they see ethics in their everyday life, asking for the concept and the foundation. Due to the quality and diversity of the answers and considering the scope of the present article, these results will be presented at a future time.

As a conclusion of our analysis of the answers, it is possible to affirm that most of the doctoral candidates of the graduate programs considered to be excellent by Capes share an understanding with ANPEd, in the sense that CNS resolution no. 510/2016 is not suited to the specific characteristics of research in the educational field. This position also prevailed in the aforementioned research, in which research group leaders from the area gave their opinions (De La Fare and Savi Neto, 2019).

FINAL CONSIDERATIONS

Considering the above, there are enough legal and technical foundations to justify a separation of ANPEd, as a part of HSS, from the centralized and inappropriate regulatory control imposed by the CNS. This process is being published together with specific documents that strengthen the development of and the debates on this topic (ANPEd, 2019), in addition to finding support in law and common sense. It is also in agreement with the top international experiences and is an important step towards strengthening the identity of the field of research in HSS and Education, which will have the same effect on researchers. Such an effect is especially desirable for researchers in training, so that they can establish their identity according to the specific characteristics of their field, precisely based on the separation from regulations that do not apply to, or that preclude, investigation.

The aforementioned technical and legal foundations, as well as those of an international comparative nature, are supported by the answers from the doctoral candidates in Education. All these arguments combined appear to be more than enough to reinforce ANPEd's position, consistent with the opposition of the FCHSSALA, in the sense of separating from the CEP/CONEP system and from the invasive supervision of the CNS. This moment is timely and must find support in similar movements in other countries, since:

> Social scientists are angry and frustrated. Still. They believe their work is being constrained and distorted by regulators of ethical practice who neither understand social science research nor the social, political, economic and cultural contexts within which researchers work. In many countries, including Australia, Brazil, Canada, India, New Zealand, the United Kingdom, and the United States, researchers have argued regulators are imposing, and acting on the basis of biomedically driven arrangements, which make little or no sense to social scientists. (Israel, 2015)

These decisions are important and fundamental steps, but will not be the definitive solution for the issues faced in terms of compliance with ethical concerns in research. While experiencing different stages of autonomy in relation to the powerful biomedical structures around the world, the international experience shows that developing the identity of fields of research specific to HSS and its respective researchers is a constant battle. In this sense, the regulatory autonomy of HSS is a necessary step, though not the last one. As we have defended in a previous article (Savi Neto and De La Fare, 2019), the goal to be pursued is that of researcher autonomy and the reduction of bureaucratization in research practices.

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