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Public authorities and the situation of abandoned or delinquent minors in the transition from the Empire to the Republic: between changes and continuities

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Abstract: This article addresses the relationships between the government and minors in the context of the transition from the Empire to the Republic. The literature review that gave rise to the article focuses on three types of devices used by the government to interfere in minors' education. These are: guardianship; institutions that cared for abandoned or delinquent minors; and minors' criminalization. Within this scope, the article highlights the discourse of the elites regarding the so-called "dangerous classes", reviews discussions on juvenile delinquency at the time, and stresses the importance of the Mello Mattos Code in implementing changes in the relationship between public authorities and minors.
Keywords: Brazil; minors; abandonment; delinquency; criminalization; public power.

1 Introduction

Building historical knowledge implies interactions between: (i) the historiographical conjecture of a time; (ii) the [material and symbolic] peculiarities of a given theme; (iii) the documental sources available to be consulted; and (iv) the objectives, theoretical perspectives, and methodological procedures chosen by the researchers. The dynamic of these interactions does not follow a pre-determined model because the historiographical work is established as a cumulative and creative construction. As it is cumulative, it allows the current generation of historians to appropriate knowledge, discussions, and doubts produced by other generations. And, as it is creative, it accepts the formulation of new questions and the proposal of multiple approaches.

In the specific case of this article, we recognize that there is a significant volume of studies approaching the situation of minors in Brazil during the Empire and the First Republic. The broad set of studies offers important contributions to understand how minors were treated by the State and by adult society, portraying historians' increasing interest in the theme. Nonetheless, the same set hinders the creation of

synthesis because the theme generally contemplates institutions that differ in intention and public. Furthermore, they present themselves as investigations with a regional scope.

Faced with this historiographical framework, we opted to revise the specialized bibliography aiming to build a synthesis about the changes that occurred in the treatment of minors in the transition between the Empire and the Republic. Our approach was influenced by the reflection developed by Prost (2017) regarding the need for historians to consider the possibilities of future contemplated by a given past. In this sense, we refute the idea that the treatment given by the State and adults to minors in the late 19th century and early 20th century was predefined, rather we opt to interpret it as a historical construction marked by changes in the social organization and broad discussions about the State's role in citizen formation. In that context, the Brazilian State used three devices to interfere in the formation of minors that, for different reasons, were not under family guardianship. They are: (1) guardianship granted and supervised by the Orphan's Court; (2) treatment in correctional colonies of different types; and (3) the criminalization of minors foreseen in the legislation of the time.

The three devices did not apply to all minors. Guardianship was a legal instrument used by the Orphan's Court to designate an adult to be responsible for supporting and educating an orphan minor. Initially, the Orphan's Court attended minors from the elite and dealt with issues regarding the orphans' heritage, the guardianship and their relationships with other family members. Later, during the Empire, since the promulgation of the Free Womb Law, the Orphan's Court also received the responsibility of designating guardians for the children of enslaved women born after 1871 (Cardozo, 2013).

The second device was applied to minors taken by police authorities either because they were in state of abandonment or involved in criminal acts. In both cases, these minors were sent to correctional facilities, military institutions, or asylums focused on children and young people. The lack of precision regarding the institution responsible for attending abandoned and delinquent minors, their overcrowding and these institutions' material precariousness marked Brazilian history in the end of the Empire and early Republic.

The third device approached in this article was the criminalization of minors based on the implementation of the legislation in action at the time. In this aspect, the starting hypothesis is that the criminalization of minors was more than a mere application of the law, as it involved different concepts regarding criminality and encompassed multiple ideas about how minors should be educated and inserted in the adult world.

2 The multiple meanings and uses of guardianship in Brazil during the transition from the Empire to the Republic

The thesis of incapability of a certain subject to provide for his/her own survival and legally answer for their acts is in the heart of the guardianship regime, whose origins, in the Portuguese matrix, date back to Manueline Ordinances, complied in 1446. In its original concept, the guardianship corresponded to the legal act through which the Orphan's Judge recognized the responsibility of an adult (guardian) over an orphaned minor (ward). In these terms, when applied to the Crown's subjects, its original aim was to "[...] substitute parental power and protect minors, these legally incapable subjects, until they reach the age of majority or become emancipated." (Rangel, 2022, p. 152).

During the history of Brazil, guardianship incorporated new aspects, being applied, in specific situations, to other social segments, besides poor and destitute orphans. During the Empire, a specific type of guardianship was applied to the so-called "free Africans" or "emancipated"[1] (Conrad, 1985; Moreira, 2005); and from 1871 onwards, guardianship was applied to the children of enslaved women born after the promulgation of the Free Womb Law (Mamigonian, 2017). Later, the Republic used the legal device of guardianship to establish the commitments and duties between the State and the native people (Cunha, 1998).

Regarding the naïve subjects[2], the application of guardianship also demanded the figure of a guardian and depended on a demand procedure that would be evaluated

[1] Both expressions ("free Africans" and "emancipated") were used to identify African illegally transported to Brazil.

[2] Translation note (T.N.): The term *ingênuo* (naive) was used by the Brazilian State to identify children from enslaved mother born after the Free Womb Law, promulgated on September 8, 1871. Legally, these people were born with the guarantee of receiving their freedom when reaching adulthood, however, between their birth and their age of majority, they were not fully free subjects.

by the Orphan's Judge and could be granted or not. In reality, the guardianship did not suspend the State's power and granted the guardian the possibility of exploring the ward's work, as long as it met the demands foreseen in the law.

To receive the guardianship of a free minor or a naïve, guardians should prove their suitability and have financial and physical conditions to provide sustenance and education for the minor. According to Urruzola (2014, p. 21) there three types of guardians: testamentary, legitimate or appointed. "Testamentary guardians were those named by testament; the legitimate were whose name due to the lack or incapability of testamentary ones, and the appointed were named by a Judge, due to the lack or incapability of one or another."

The implementation of guardianship implied signing the Guardianship Term. This document could be signed with or without the *soldada* contract, which was defined by the age of the ward and the existence (or not) of family bonds between the parts. Once foreseen in the Term, the *soldada* value [determined by the Orphan's Judge] should be delivered to the public funds and could be used by the government to grant loans (Cardozo; Moreira, 2016, p. 163).

According to the Empire's legislation, the guardian's commitment to the *soldada* was obligatory from ward's age of 14 years old. For wards between 7 and 14 years old, the demand of the *soldada* contract was a decision of the Orphan's Judge. Azevedo (1996) affirms that the lack of *soldada* obligation between 7 and 14 years old, and the recurrent use of child labor, mainly in household chores, contributed to the guardianship to become a way to legalize compulsory child labor. According to the author:

> Gradually, the guardianship – a mechanism to find families to orphans – and the *soldada* contract – a work relationship involving poor and abandoned children – became part of the same universe and were almost always used with a single objective: removing children from the streets to educated them through work (Azevedo, 1996, 25).

When analyzing the documental sources of the Orphan's Judge in Rio de Janeiro, Rangel (2020) showed that the *soldada* worked as "a type of saving" kept in a "public fund" until the individual reached the legal age or was emancipated, "[...] when they could ask for the value" (Rangel, 2020). With the consent of the Orphan's Judge,

the *soldada* could also be used to pay minors' medical expenses or pay for their funerals.

Considering the existence of the *soldada* device and not losing sight that minority is a temporary condition, it is not correct to think that the tutor could explore the wards' labor with 14 years old or more, without offering financial compensation. In this sense, we agree with Rangel (2020, p. 54) when affirming that *soldada* was a type of

> [...] remuneration made available to the orphan, in exchange for the service rendered, along with other duties inherent to the institute of guardianship, such as feeding, clothing, providing medicine in case of illness, besides the requirement to treat him well. It is, therefore, a sui generis service lease contract mediated by the judiciary because the contracted parties are orphans and minors.

In fact, when connected to a legal instrument to orphans' guardianship, the *soldada* regime was enacted as a specific type of "renting" the labor of the underaged ward — a location that was economically interesting for guardians, though also benefiting wards when they reached legal age or were emancipated. Foreseen in the Empire legislation and kept during the first decades of the Republic, the *soldada* was supported in the Labor Pedagogy and the idea that the underaged ward should be prepared to become an economically productive subject.

The studies conducted by historians, in different locations in Brazil, show that the demands for the guardianship of orphans, rejected, and naive subjects, in many cases, involved guardians' economic interests. These studies, though different in analytical procedures, in special scales, and samples, show the use of documents produced by the Orphan's Court and share an interest in understanding the relationship between minority, Justice, and the labor market. In this sense, we understand that studies are part of the study field about poor childhood.

The relationship between minority and work is present in Pinheiro's research that deals with the discussions about poor childhood in Rio de Janeiro between 1879 and 1899. The author consulted documents from the Orphan's Council and the reports from the Court's Chiefs of Police, Ministers of Justice, and Presidents of the Province of Rio de Janeiro (Pinheiro, 2003). The documents indicated the coexistence of multiple discourses about poor childhood education and the type of education minors should receive. In the author's opinion, with which we agree "the Free Womb Law was

a kind of driving force that made imperial leaders pay more attention" to the problem of poor children on the streets of the Court" (Pinheiro 2003, 45).

We should highlight the concern with the circulation of poor children in the streets of the Court, as well as the increasing number of rejected children, were not the result of the Free Womb Law. These concerns existed before 1871. As Conrad (1978, p.71) showed, those criticizing the law accused the imperial government of creating a situation that would result in the abandonment of thousands of children.

Data presented by Lima and Venâncio (1988) indicated that, in the capital of the Empire, the Free Womb Law, in fact, raised the number of black and brown children abandoned. Based on the documents from *Santa Casa do Rio de Janeiro*, the authors found out that: "From 1864 and 1881, the number of children handed to the *Santa Casa* nearly doubled, in the case of brown children (from around 130 to 260 a year), and tripled in the case of black children (from around 30 to 90 a year)" (Lima; Venâncio, 1988, p. 28).

The fast growth of rejected children in Court, shown by Lima and Venâncio (1988), though impressive, cannot be decontextualized from other factors that negatively impacted the life conditions of people in Rio de Janeiro. The increase in life cost, the constant epidemics, the competition for paid labor between immigrants and free black and brown people, and the sharp demographic increase in course in the imperial capital aggravated poor people's survival conditions.

The concern with rejected and poor children in the streets, observed in Rio de Janeiro in the final decades of the Empire, was also present in the city of Recife. According to Gabriel Navarro de Barros, in Pernambuco's capital, the promulgation of *Lei Áurea* provoked the fear of social loss of control in elite sectors – a fear recorded at the press in the time. When researching the documents of the Orphan's Court and the press from Pernambuco between May 1888 and the end of 1892, the author found out that the guardianship regime, though controlled by magisters, involved other spheres of public power: the police, the *Casa dos Expostos*, and the press also participated in the process. The latter position itself regarding the presence of children in the streets and discussing the behavior of guardians and wards (Barros, 2014). In Pernambuco, the transformation of the naïve into freed minors, resulting from the *Lei*

Áurea, raised fears that were recorded by the press and the Orphan's Court documentation (Barros, 2014, p. 165–166).

The fears recorded in the Pernambuco's press (Barros, 2014) and the documents of Court's authorities (Pinheiro, 2003) on this aspect can be considered local manifestations of a broader and complex question: the issue of the naïve person's future in the transition between enslaved and free work. In this sense, the studies conducted by Modesto (2018), Castilho (2018), and Zero (2004) in documents of the Orphan's Court offer important contributions to understand the relationships between minority, Justice, and the use of minors as labor.

Analyzing the documents of the Orphan's Court in the city of Belém, Modesto (2018) located 53 guardianship processes of naïve people between 1871 and 1889. On these processes, there were 75 minors, 47 of them were girls and 28 boys. The average age was concentrated between 08 and 12 years old (34. 66%) and between 12 and 21 years old (20%).[3] Data raised by the author indicates that in Belém (PA) there was a preference for girls' guardianship. In the age range criterion, the number coincides with the age that minors could be inserted into the labor market. From a total of 53 guardianship processes of naïve subjects located by the author, 27 were processed in 1888 and 26 in 1889 (Modesto, 2018). The concentration of processes in the two-year period 1888–1889 is an indication that the guardianship instrument was more recurrently used in the *Lei Áurea* year and in the first year after abolition. In the subset of 52 processes in 1888–1889, there are cases of former slave owners that asked for the guardianship of underaged naïve children born before abolition and, in the other sense, there are cases of mothers [freed by the *Lei Áurea*] that used the Justice to remove their children from the control of their former owners (Modesto, 2018).

In different Brazilian locations, after the abolition, the Orphan's Court was used by freed mothers that sought to guarantee the right for family guardianship of children who were under their former owners' guardianship. The same institution was used by former slave owners who asked for the guardianship of minors born before 1871.

[3] The total number of minors (75) is higher than the number of guardianship processes consulted (53) because more than one minor is cited in certain processes. The author also informs in the text that it was not possible to identify the age of 14 children among the total (Modesto 2018).

Fraga Filho (2006), in a study focused on the documents of the Orphan's Court in Bahia identified situations in which guardianship was used as a resource for former slave owners to guarantee the permanence of minors in their properties. The author affirms that, after the abolition, the agrarian elite from *Recôncavo Baiano* enacted a double movement to control the flow of freed people: on the one hand, it forwarded to the Justice the demands of guardianship for naïve subjects freed by *Lei Áurea* — aiming to keep bonds with the parents [former slaves] and children; and, on the other, pressured the government to approve laws to repress the crime of vagrancy (Fraga Filho, 2006).

Urruzola (2014) investigated guardianship processes in Rio de Janeiro, in the decade between 1880 and 1890. The author discovered that it was common in the guardianships demanded by former slave owners, the depreciation of the mother, considered poor and uncapable of guaranteeing their children' survival and education. When depreciating the mother, the applicant reinforced the discourse that attacked the dignity of freed mothers and increased the possibilities of receiving the guardianship of a given minor. When dealing with the aggressive logic of the discourse about freed women after abolition, Papali (2003) affirms that:

> [...] being considered incapable of "educating and caring for their children" conferred on the freed women, freed slaves or free poor a moral misery much greater than their material poverty. Moreover, such statements (and they were not few) when judging the presumed poverty and "incapacity" of poor women, left implicit, as a counterpoint, the material and moral wealth that the candidates for guardianship of their children thought they possessed (Papali, 2003, p. 157).

Besides the interests of former slave owners regarding the use of labor from minors born between the promulgation of the Free Womb Law and the promulgation of *Lei Áurea*, the guardianship processes post-abolition show the interest of freed mothers to keep family bonds, removing their children from the lives of former slave owners. In certain cases, the freed mothers asked the restoration of family guardianship and presented proofs that they could support and raise their children, in other cases, the mother recognized their poverty and requested that the Orphan's Court to grant guardianship to a family member [a Godfather or uncle], claiming they had more favorable economic conditions (Urruzola, 2014, p.125).

Castilho (2018) investigated the Guardianship Actions in the city of Pindamonhangaba in the state of São Paulo, between 1888 and 1892. He discovered that abolition led to an increase in the demand for guardianship and pointed out two factors that influenced this growth. On the one hand, there was the interest of former slave owners to keep under control the minors transformed into naïve children by the Free Womb Law; on the other, there was the interest of mothers who called upon justice to question guardianships arbitrarily given and to claim the right of maternal guardianship. According to Castilho (2018, p. 37): "The poor child and descendant of the *senzala* was the profile sought by guardians in the post-abolition period in Pindamonhangaba. The ingenuous were the most requested by tutors. The guardianship mostly took place over the children of former slaves".[4]

Zero (2004) researched the situation of tutelage children in the city of Rio Claro, between the years 1871 and 1888. Without neglecting the limitations and inaccuracies in the documental sources, the author elaborated the profile of the tutors and the guardians. Most of the 140 minors involved in the consulted processes were male (61%) and in the age range between 9 and 12 years (21%). This data suggests the preference among guardianship applicants for minors who had a higher probability of insertion in the labor market (Zero, 2004, p. 81). Regarding the guardian's profiles, only 18% (43 individuals) had a professional occupation specified in the processes. From a total of 43 guardians, "[...] farmers represent the highest number of guardians involved in the processes, 34.89%, followed by merchants, 20.93%, and public employees, 11.63%" (Zero, 2004, 85).

The studies mentioned, though a small sample of what is produced by Brazilian historiography, proves the existence of a relationship between the guardianship demands sent to the Orphan's Court in different places in Brazil and the concern with the future of naïve subjects before and after abolition. The same studies highlight the idea that guardianship should be granted to subjects able to support and "educate" minors. Nonetheless, in the context of transition between the Empire and the Republic, "education" did not necessarily mean attending a schooling institution. In the perspective of the time, the idea that the objective of the "education" was to prepare

[4] We highlight that the legal actions taken by the mothers of naïve subjects located by Castilhos in the documentation regarding Pindamonhangaba, have a different value as they stress the protagonism of black women after the abolition.

for a job stood out (Gondra; Schueler, 2008) and, within this logic, the precocious insertion of minor wards at work was considered natural.

3 The criminalization of minors in the transition from the Empire to the Republic

In the beginning of the Empire, during the works to create the 1824 Constitution, the term “child” was first introduced in the discussions about the State construction (Abreu; Martinez, 1997). However, in the first Brazilian *Carta Magna* the term was no included. Thus, the 1830 Penal Code legislated, for the first time, the child-youth issue. Article 13 foresaw the following possibility:

> Art. 13. If it is proved that minors under 14-year-old have committed crimes, acted with discernment, should be taken to correctional houses by the time that the judge rules, as long as the incarceration does go over their 17 years old (Brasil, 1876)

The legal excerpt highlights the existence of criminal liability from 14 years old onwards and the possibility of applying a sentence to subjects with a lower age, if proofs indicate their “discernment” ability of criminal actions. In these terms, the legislation granted the judge the competence to define if someone under 14 years old acted with or without “discernment”, and, based on this definition, the punishment would be applied.

The imperial legislation foresaw sending minors condemned by crimes to prisons and detention centers. Bandera (2015) analyzed a broad volume of documents that recorded the presence of minors in institutions, such as C*asa de Detenção da Corte*, the *Presídio de Fernando de Noronha*, the *Casa de Correção da Corte*, and the *Instituto de Menores Artesãos*. The author found a constant concern on the part of imperial authorities with teaching trades for minors sent to prison institutions and highlighted the problems derived from the coexistence between minors and criminal adults in the same environment.

Besides the prison institutions, the Empire also used military institutions to attend abandoned or delinquent minors. During the Empire, institutions such as the Navy Arsenal, the War Arsenal and the School of Apprentice Sailors received minors sent by police authorities or the Justice (Crudo, 2005; Venâncio, 2007; Castro, 2008; Bandera, 2015). In some cases, minors were handed by the families to the care of military corporations.

Regarding the presence of abandoned and delinquent minors in the military institutions of the Empire, Bandera (2015, p. 70) states that:

> In military institutions, apart from the risk of minors to suffer physical and sexual violences, there were several advantages regarding their past lives (which had poverty, abandonment, and/or misery as a common denominator and with no perspectives of improvement): learned a competitive profession in the market (though subaltern and with low earnings), received a salary (something equivalent to the current stipend), had to study in elementary education, besides receiving medical treatment and physical and moral education, permeated by liberal and catholic marks

We agree with Bandera's (2015) statement and recognized that, between mingling with adult criminals in a correctional facility and the contact with the military, the second option has some advantages. However, we highlight that sending abandoned or delinquent minors to the Navy Arsenal and the School of Apprentice Sailors was an undeniable proof that the imperial State did not have institutions specifically focused on attending this population segment.

Since 1889, with the Proclamation of the Republic, the problem of no adequate institutions to attend abandoned or delinquent minors started to be managed by a republican regime marked by an accentuated level of authoritarianism and the depreciation of the poor (Patto, 1999). In this context, the treatment given by the state apparatus to minors, in the First Republic, is part of a broader collection of preconcepts and violences against the poorest segments of the population.

The authoritarianism implemented by the Republican regime was influenced by the post-abolition conjecture and supported by the idea that it was necessary to use the law and the police force to contain the so-called "dangerous classes" (Azevedo, 1987; Abreu, 1996; Chalhoub, 1996; 2012). In the concept of the elites that ruled the young Republic, the control of "dangerous classes" was essential to maintain the order and to reach the desired modernization of Brazil.

However, it would be wrong to think of authoritarianism and depreciation of poor people as republican inventions. In the final decades of the Empire, two phenomena were in action. In the macro-legal sphere, at the dim of the Empire, the idea of containing the "dangerous classes" found support in the Project nº33/1888 written by the Minister of Justice Ferreira Vianna and approved in the Chamber of Deputies. The Proclamation of the Republic annulled the Project but did not stop the

legislators of the 1890 Penal Code to include, in article 399, the offense named vagrancy.

Aiming to fulfill the legal device of article 399, police authorities should identify and approach individuals that had no way to survive. In the absence of documents that proved their ability to support themselves, the individuals approached for the first time would receive a warning and sign a commitment term. When arrested once more for the same infraction, they would be judged as repeated offenders, sent to a correctional facility to be instructed to work and, after, reinserted in society (Article 400).

The logic of social reinsertion of subjects considered to be vagrants can be easily identified in the articles of the Penal Code previously mentioned. Nonetheless, besides this – or between the lines – there was also a logic that prioritized segregation and the punishment of subjects who did not fulfill the criteria of civility adopted by the Brazilian elite. Martínez-Soto (2000), when studying the treatment given to poor people in the city of Taubaté in the transition between the 19th to the 20th centuries, discovered that the flexibility of the vagrancy act facilitated the detention of broad segments of Brazilian society in the early 20th century. Besides the imprecise definition, vagrancy could lead to deprivation of freedom, thus, subjects had to prove their innocence.

The criminalization of vagrancy foreseen in the 1890 Penal Code was applied throughout the First Republic and its effect cannot be disconnected to the racial prejudice present in the behavior of Brazilian elites and middle-class sectors. As shown by authors such as Azevedo (1987), Schwarcz (1993); Chalhoub (1996), and Tiede (2006), the concern of controlling the black population intensified after the abolition. In that context, the legal and police apparatuses were used to police the behavior of marginalized social groups.

In the case of minors detained under the accusation of vagrancy, when not accused by other crimes, their destinies could be temporary detention of a Police State or sent to a correctional institution. In both cases, detention created a difficult situation for family members and could be used as a justification to suppress parental power.

A brief comparison between the Empire Penal Code and the 1890 Penal Code allows us to infer that there were no expressive changes regarding the criminalization of minors. The age for criminal responsibility remained unchanged and the possibility of applying punishments for minors who showed “discernment” of the infraction was

also kept. However, at a discursive level, a change started to gain shape from the increasing interest of jurists, physicians, and educators for the situation of abandoned and delinquent minors.

Juridically, the Decree nº 439, from May 31, 1890, can be considered a milestone in the creation of a Republic policy for minors. The aim of this document, signed by the President and the Minister of Justice and Internal Affairs was to establish "[...] the bases to organize the assistance of destitute childhood". The decree used the following definition of "destitute minors":

> 1º- The abandoned in the public road and that, taken to such establishments after the requisition of the police chief or the orphan's judge, were not claimed by parents, guardians, or protectors that can provide for their sustenance, within 15 days after the announcement by the respective director of the newspapers with the largest circulation, during that period;
> 2º- The orphans of mother and father, when their indigence is proved;
> 3º- The orphans of father, under the same condition;
> 4º- Those that, having father and mother, could not be supported and educated physically or morally, resulting in forced helplessness (Bandera, 2015, p. 190).

The Decree framed as "destitute" children, the poor underaged orphans, those abandoned in the public roads, those taken in the streets by police authority and those with no family member that is apt to support them. The legal definition applied to the "destituted" in the Decree nº 439 from 1890 legitimized the intervention of the State in the private scope, as it guaranteed the possibility of removing parental power for cases in which the person responsible was unable to provide (physical and moral) support and for cases in which the responsible person did not answer the "announcement" of police detention of a minor. In both situations, the authoritarian and repressive posture of the republican State impacted the everyday life of poor families.

In the last decade of the 19th century, the constant presence of minors in the streets and their involvement with vices and crimes was broadly denounced on the pages of the press, in several Brazilian cities. The press also published texts discussing the State's responsibility in containing child-youth criminality and the protection of subjects that should be under family guardianship and care.

According to Rizzini (2009), the discussion about the quality of the treatment given to the minors apprehended by the police had a greater repercussion from 1898 onwards, when the renowned jurist Evaristo de Moraes visited the old *Casa de Detenção do Rio de Janeiro* (Rio de Janeiro Detention House) and criticized the

treatment received by minors in that correctional facility. The criticisms included, besides the overcrowding and the precarious hygiene conditions at *Casa de Detenção*, the risks of mixing minors with adults who committed serious crimes and the lack of a rehabilitation work for the young detainees (Rizzini, 2009).

The concern with the need for an adequate environment for the education and recovery of minors taken by the police in the streets of the city was one of the reasons to create the *Escola Correcional Quinze de Novembro*. Inaugurated in Rio de Janeiro, in 1899, the institution was subordinated to the Chief of Police and was responsible for educating children taken from the streets of the federal capital. According to Rizzini and Gondra (2014, p. 572), at *Escola Correcional Quinze de Novembro*:

> [...] the interns learned Portuguese grammar, mathematics, drawing, notions of arts and music, as well as gymnastic exercises, mechanical trades, and agricultural works. It was a formation centered on work activities, such as in workshops and the field, considering the “disqualified people” to whom the institution was intended.

The emphasis on work activities marked the history of *Escola Correcional Quinze de Novembro* and was present in other public institutions responsible for the education of destitute minors in the national capital. This was the case of *Casa São José* and the *Instituto Profissional João Alfredo*. *Casa São José* was funded on August 9, 1888, by the then Minister of Justice Antônio Ferreira Vianna. The institution started its activities when the press denounced the precarious life conditions of children taken to the *Asilo de Mendicidade* (Machado, 2004). Created to be a boarding school for destitute children between 6 and 12 years old, it aimed to protect minors and offer primary education encompassing aspects of physical, moral, and civic education (Rizzini, 1993). In turn, the *Instituto Profissional João Alfredo* emerged as a public institution for the education and professionalization of destitute minors in a boarding school setting (Souza, 2014).

In the city of São Paulo, the public power also invested resources in the creation of institutions to attend abandoned and delinquent minors. In the capital of the countries’ richest state, in 1902, the state government created the *Instituto Disciplinar* and the *Colônia de Correção* (Lei nº 844, de 10 de outubro de 1902). Entering in these institutions would depend on legal determination and their facilities received two different publics: abandoned and delinquent minors (Santos, 1999; Fausto, 2001).

The regulation of *Instituto Disciplinar de São Paulo* determined that its aim to instill work habits, educate, and provide literary and professional instruction to minors between 9 and 14 years old, who had committed crimes with discernment; those over 14 and under 21 years old, criminally condemned, and "[...] young beggars, vagrants, vicious, abandoned children, over 9 years old and under 14" (Alvarez, 1989, p. 30). The age range attended by the public was broad what, in fact, implied the sociability between children, teenagers, and young people.

The same regulation prohibited the use of physical punishment. Nonetheless, Paula (2017) presented reports of violence practiced against minors by the supervisors of the *Instituto Disciplinar*. The same author highlights a contradictory aspect in the work of this institution: the admission of minors was conditional upon a court decision, but the practice of receiving minors sent by the Chief of Police or by the competent police authority, with no authorization from the Justice, continued (Paula, 2017).

The emergence of public institutions to attend destitute minors was part of a institutionalization process of assistance (Lapa, 2008). In this process, the actions promoted by a public power that aspired to be laic and liberal, coexisted with the forces of old social mobilization, such as charity and philanthropy. At the discursive level, republican leaders attributed to the State the role of promoting the desired social and economic mobilization but, in practice, the same State depended on philanthropic collaborations and charitable action, mainly in areas such as health, education, and social assistance

Regarding the care of abandoned or delinquent minors, an important political change was the creation of "*Serviço de Assistência e Proteção à Infância Abandonada e Delinquente*" [Assistance and Protection Service for the Abandoned and Delinquent Childhood] through the Federal Budget Law nº 4.242, from Jan. 5, 1921. Based on this law, the Federal government included in the budget the resources to create two new institutions to attend minors in Rio de Janeiro, it authorized the increase of *Escola Correcional Quinze de Novembro* and determined the appointment of a "judge of minors' private rights".

The creation of "*Serviço de Assistência e Proteção à Infância Abandonada e Delinquente*" shows the Federal Government's three concerns: (i) the lack of available places to attend minors; (ii) the need to guarantee resources to maintain the *Escola*

Correcional Quinze de Novembro; (iii) the intention to ensure a different legal treatment for minors, in the scope of the federal capital.

To broaden the capacity to attend well-fare public institutions was one of the possibilities to face the problem of destitute or delinquent minority. Another possibility discussed among jurists, physicians, and educators interested in the issues regarding underaged subjects was the change in legislation. In this respect, some understood that situations such as the abandonment of minors, child-youth criminality, and the exploitation of childhood labor demanded the creation of new laws. Other people argues that the problem was not in the laws, but the lack of policing, in the vices of the "dangerous classes", and the worsening of poor people's life conditions.

Among the jurists involved in the subject, the name of José Cândido de Albuquerque Mello Mattos stood out. Mello Mattos's experience as a Minors' Judge in the Federal District and the political contacts he held in the national capital favored the incorporation of his ideas in the text the resulted in the 1927 Minors' Code — also known as *Código Mello Mattos*. In the next section of this article, we will analyze some topics of this important legal document, contextualizing its content with the legal thought of the time.

4 Notes about abandoned and delinquent minors at *Código Mello Mattos*

On October 12, 1927, the Decree nº 17.943-A was implemented, putting in action the *Código Mello Mattos* (CMM- Code Mello Mattos). The content of the *Código* was debated for three years at the National Congress. Recomposing the trajectory of CMM, Morelli (1996, p. 84) affirms that its origin dates to

> [...] article 3º from the Federal Law nº 4242 de 1921, which authorized the government to organize an 'assistance and protection service for the childhood in-need. Its regulation took place in 1923. Three years later, in 1926, the Code received a broader writing and, in 1927, through the Executive Decree nº 17943-A, the first Minor Code would be ready and sanctioned.

The chronology proposed by Morelli seems coherent. However, we can find evidence of the legal thought that originated CMM at the end of the 19th century and, more specifically, in the ideas defended by the *Escola Positivista do Direito Penal* [Criminal Law Positivist School]. We do not aim to discuss the influence of the *Escola Positivista* on the Brazilian intellectuals formed in the end of the Empire and the early

Republic. Nonetheless, we highlight the interpretation formulated by Bandera (2015) about the relationships between the *Escola Positivista* and the treatment given to minors in Brazil. According to the author:

> The fundamental thesis defended by the *Escola Positivista* was that the priority of state interventionist action should be on the abandoned, destitute, and vicious minors to stop them becoming delinquents. Thus the emergence in Brazil and before that in Europe, of various legal instruments – state intervention in the parental power, the end of discernment and *soldada*, Minors' Court, and the Minor's Code – correctional institutions predominantly focused on the prevention of child-youth delinquency, seeking to prevent minors to become delinquents and, consequently, to protect society from the danger this represented (Bandera, 2015, p. 191)

Inserted in the paradigm of precocious crime prevention, proposed by Cesare Lambroso and other followers of the *Escola Positivista do Direito Criminal*, CMM established the criteria that should guide the State intervention in the attendance of minors/ and, in the center of these criteria, was the distinction between minors who belonged to a certain family model — and did not need State intervention — and those in an "irregular situation" because they were poor, abandoned, or delinquent (Brasil, 1997). In practice, CMM was guided for minors in "irregular situation" (Vianna, 1999; Zuquim, 2001).[5]

The proposal of a differentiate legal treatment based on the economic condition and the "moral" of the minors' families, adopted by CMM, was in synch with the imaginary of the elites regarding poor families. According to this imaginary, criminality would result from factors, such as poverty, vices, and a disregard for work. The same proposition justified actions, such as the suppression of parental power and the imposition of state guardianship – a guardianship that aimed to ensure minors' protection.

Concerning minors' criminalization, an important change was the suppression of criminal liability for minors under 14 years of age and the annulment of the justification of "discernment" to apply the penalty. Through article 68, CMM decriminalized minors' behavior and determined the procedures that could be adopted to attend this social group.

[5] According to CMM, underaged people (18 years old) who were exposed (Art.14 and ss); abandoned (Art. 26); or considered delinquent (Art. 69 e ss) would be in an irregular situation.

> Art. 68. The 14 year-old minor, author or accomplice of a crime or transgression, cannot be submitted to the criminal process of any type; the competent authority will only take precise information, recording them, regarding the punishable fact and its agents, the minors' physical, mental, and moral state, and the social, moral, and economic situation of the parents or guardians or people responsible for them.
> § 1º If the minor suffers any type of alienation or mental handicap, is epileptic, deaf-mute, blind, or due to its health state needs special care, the authority will order him or her to be submitted to the appropriate treatment.
> § 2º If the minor is abandoned, perverted, or be in danger of being so, the competent authority will provide its allocation to an asylum, an education house, a preservation school or will grant to a suitable person his education to the necessary time, as long as not over 21 years old (Brasil, 1927).
> § 3º If the minor was not abandoned, nor perverted, nor in danger of being so, nor needs special treatment, the authority will let them with the parents, guardians, or people responsible for them, and may do so under conditions considered useful.
> § 4º Are responsible for civil reparation of harm caused by the minor, the parents of people to whom their surveillance is legally responsible, except of proven it was not their fault or negligence. (Cod. Civ., arts. 1.521e 1.623.) (Brasil, 1927).

The document excerpt shows that, besides protecting children under 14 from criminal liability, CMM determined the adoption of specific procedures for this social group. The reading of article 68 allows us to affirm that the protection of children under 14 years old does not imply the lack of responsibly for the damaged caused by an act qualified as "crime or transgression", as the legislator, through § 4º, transferred the responsibility for the parents. With this procedure, the legislator eliminated the possibility of sending children under 14 to prison institutions — a practice criticized by several jurists for decades. However, article 79 foresaw an exception. In the cases in which the freedom of minors under 14 years old were threatened by the guardians themselves — being him "[...] designated perpetrator or crime of a qualified fact, crime or misdemeanor [...]" —, the Judge had the power to intervene. The law determined its placement in "[...] an asylum, an education house, a preservation school [...]", or grant guardianship to "a suitable person until they are 18 years old". (Brasil, 1927)

Cunha and Boarini (2010, p. 214) analyzed the punishment criteria implemented by CMM and affirmed that:

> The relevance is not at the minor's age, nor the crime committed. What should guide the judge's decision would be the family's characteristics and the delinquent himself, that is, "the minors' physical, mental, and moral state, and the social, moral, and economic situation of the parents". These characteristics, according to the legislation, indicated to the minors' judge the minors' dangerousness.

The prerogative to evaluate family conditions was a competence reserved to the Minor's Court and the assessment should be grounded in the law and the scientific knowledge from medicine and psychiatry. In this sense, CMM favored the association between medicine and law (Rizzini, 1997; Cunha; Boarini, 2010).

The procedures implemented by CMM were analyzed in detail by Camara (2010). The author shows that the Code was divided into two parts: in the first, there are the objectives of the law and its main conceptual definitions; in the second part, the legislator deals specifically with the organization of services to attend minors in the Federal District. CMM determined that, from the organization established in the Federal District, the states and municipalities should produce complementary legislation and provide the necessary means to ensure the protection of minors.[6]

Among the several points analyzed by Camara, we highlight five. They are: (1) the suppression of parental power from families that could not provide minors' survival; (2) the application of penalties foreseen in the Criminal Code for family behaviors that led to the damage of minors' health, moral, or life; (3) the regulation of situations in which the minors' work would be allowed; (4) the improvement in the characterization of the material and moral abandonment of minors; (5) the adoption of assistance and complementary security measure aiming to ensure minors' protection.

Each of the five points deserved special attention. Nevertheless, due to the limitations imposed by the nature of the text, the synthesis of these points seems to be the most adequate procedure. In general lines, CMM was a legal instrument in part innovative and in other parts conservative. The innovation was in aspects such as the priority given to minors' protection; the criminal liability for children under 14 years old; and the application of family behaviors that harm the physical and moral formation of subjects who are theoretically protected by the Code. The concern to produce data about the minors' history, the use of surveilled freedom, and the possibility to reduce the penalty depending on the behavior were also considered important innovations. In turn, conservativism was in the distinction between families who needed state intervention and those considered "normal"; in the need to prove parents or guardians'

[6] The division of CMM in two parts does not annul its national validity. It attended the legal ordering of a federalist republic, whose Constitution ensured administrative autonomy to the States. This means that the CMM promulgation, despite being a national legal landmark, did not impact in the same way all units of the Brazilian federation.

moral integrity, and the continuation of a lack of precision between social assistance and criminal punishment.

5 Final remarks

The transition from the Empire to the Republic was a period marked by large political and legal changes. However, when analyzing the relationships established between the public power and minors, within that time hiatus, we see that the changes were slow and gradual.

In the bibliography consulted, we find a broad number of facts and documents recording the persistence of authoritarianism and violence of the state apparel when treating minors. On the other hand, the studies developed by historians also mention the emergence of discussion about how the public power could interfere in the problem of abandoned or delinquent minority. *Grosso modo*, we can say that the development of the discussions was influenced by the reception of the ideas from *Escola Positivista* among Brazilian jurists; the depreciation of poor people, and the elites' fear of the "dangerous classes". It would also be possible to add to this conjecture the valuing of knowledge produced by medicine regarding minority, education, and criminality.

Regarding the three devices we analyze in the article, we highlight the polysemy that guardianship received since the Free Womb Law and after the abolition. In that context, the studies proved that many processes to demand guardianship were motivated by the intention of ensuring the control of the labor from naïve subjects.

The second device materialized itself in the practice of taking and sending abandoned and delinquent minors to penal, military, and asylum institutions. In this aspect, we see that, since the beginning of the Republic, public power promoted several actions to broaden and improve the service of abandonment and delinquent minors, as well as adopting criteria to select the public sent for the public institutions. Since 1927, with the promulgation of *Código Mello Mattos*, the state apparatus created a more favorable legal situation for the development of actions focused on that social segment.

The third device — which corresponds to the criminalization of minors — had few changes before 1927. During most of the period encompassed by our study, the application of the 1890 Criminal Code stood out and lingered the possibility of

punishment for children under 14 years old, through the verification of discernment. In the *Código Mello Mattos* this possibility was revoked and a procedure to hold the family accountable for the damage provoked by the minors involved in criminal acts was adopted. In practice, the families' criminal accountability, though based on the idea of protecting the minor, had difficulties to be applied as many minors involved in criminal situations had no family connections or had parents with no financial conditions to pay for the compensation demanded by Justice. Still, it is important to stress that *Código Mello Mattos* inaugurated a new paradigm in the conception and confrontation of child-youth criminality.

REFERENCES

ABREU, Martha Campos. **O império do divino**: festas religiosas e cultura popular no Rio de Janeiro, 1830-1900. Thesis (PhD in History) – Faculdade de Filosofia e Ciências Humanas, Universidade Estadual de Campinas, Campinas, SP, 1996. Available at: https://hdl.handle.net/20.500.12733/1583710. Acesso em: 25 fev. 2025.

ALVAREZ, Marcos César. **A emergência do Código de Menores de 1927**: uma análise do discurso jurídico e institucional da assistência e proteção dos menores. Dissertation (Master's in Sociology) – Faculdade de Filosofia, Letras e Ciências Humanas, Universidade de São Paulo, São Paulo, 1989.

AZEVEDO, Célia Maria Marinho de. **Onda negra medo Branco**: o negro no imaginário das elites do século XIX. Rio de Janeiro: Paz e Terra, 1987.

AZEVEDO, Gislane Campos. A tutela e o contrato de soldada: a reinvenção do trabalho compulsório infantil. **História social**, [s. l.], n. 3, p. 11-36, 1996. Available at: https://ojs.ifch.unicamp.br/index.php/rhs/article/view/85. Accessed Feb. 10, 2025

BRASIL. **Decreto Nº 17.943-A, de 12 de outubro de 1927.** Available at: https://www2.camara.leg.br/legin/fed/decret/1920-1929/decreto-17943-a-12-outubro-1927-501820-publicacaooriginal-1-pe.html. Accessed Nov. 12, 2025.

BRASIL. **Código Criminal do Império, de 16 de dezembro de 1830**. Collecção de Leis do Império do Brasil de 1830. Parte I. Rio de Janeiro: Typographia Nacional, 1876.

CARDOZO, José Carlos da Silva; MOREIRA, Paulo Robert Staudt. A importância de ser juiz de órfãos (Porto Alegre, século XIX). **Revista do Instituto Histórico e Geográfico do Rio Grande do Sul**, [s. l.], n. 151, p. 161-198, 2016. Available at: https://seer.ufrgs.br/revistaihgrgs/article/view/66769. Accessed: Feb. 21, 2025.

CASTRO, Reginaldo. **Companhia de Aprendizes Marinheiros do Piauí (1874-1915)**: história de uma instituição educativa. Teresina: EDUFPI, 2008.

CONRAD, Robert. **Tumbeiros**: o tráfico de escravos para o Brasil. São Paulo: Brasiliense, 1985.

CRUDO, Matilde Araki. **Infância, trabalho e educação**. Os aprendizes do Arsenal de Guerra de Mato Grosso. (Cuiabá, 1842-1889). Thesis (PhD in History) – Instituto de Filosofia e Ciências Humanas, Universidade Estadual de Campinas, Campinas, 2005. Disponível em: https://repositorio.unicamp.br/acervo/detalhe/344089. Accessed: Feb. 21, 2025.

CUNHA, Manuela Carneiro da. (Ed.). **História dos índios no Brasil**. 2. ed. São Paulo: Companhia das Letras, 1998.

BANDERA, Vinícius. **Ordenação social no Brasil**: liberalismo, cientificismo e "menores abandonados e delinquentes". Rio de Janeiro: Editora UFRJ, 2015.

BARROS, Gabriel Navarro de. **Órfãos pobres, desvalidos, "ingênuos ou menores?"**: infâncias "perigosas" e a vigilância dos Juízos de Órfãos de Pernambuco (1888-1892). Dissertation (Master's in History) – Centro de Filosofia e Ciências Humanas, Universidade

Federal de Pernambuco, Recife, 2014. Available at: https://repositorio.ufpe.br/handle/123456789/11638. Accessed: Feb. 15, 2025.

CAMARA, Sônia. **Sob a guarda da República**. A infância menorizada no Rio de Janeiro da década de 1920. Rio de Janeiro: Quartet, 2010.

CASTILHO, Matheus Henrique Obristi. **Liberdade vigiada**: tutelas e órfãos em Pindamonhangaba/SP (1888-1892). Dissertation (Master's in History) – Faculdade de Ciências Sociais, PUC-SP, São Paulo, 2018. Available at: https://tede2.pucsp.br/handle/handle/21808. Accessed: Sep. 08, 2025.

CHALHOUB, Sidney. **Cidade febril**: cortiços e epidemias na Corte imperial. São Paulo: Companhia das Letras, 1996.

CHALHOUB, Sidney. **Trabalho, lar e botequim**: o cotidiano dos trabalhadores no Rio de Janeiro da belle époque. 2. ed. Campinas: 2012.

CONRAD, Robert. **Os últimos anos da escravatura no Brasil**: 1850-1888. Rio de Janeiro: Civilização Brasileira, 1978.

CUNHA, Carolini Cássia; BOARINI, Maria Lucia. A infância sob a tutela do Estado: alguns apontamentos. **Psicologia: Teoria e Prática**, São Paulo, v. 12, n. 1, p. 208-224, 2010. Available at: https://pepsic.bvsalud.org/pdf/ptp/v12n1/v12n1a17.pdf. Accessed: Jun. 05, 2025.

FAUSTO, Boris. **Crime e Cotidiano**. São Paulo: Editora da Universidade de São Paulo, 2001.

FRAGA FILHO, Walter. **Encruzilhadas da liberdade**. São Paulo: Unicamp, 2006.

GONDRA, José Gonçalves; SCHUELER, Alessandra. **Educação, poder e sociedade no Império Brasileiro**. São Paulo: Cortez, 2008.

HAHNER, June E. **Pobreza e Política**. Os pobres urbanos no Brasil (1870-1920). Translation: Cecy Ramires Maduro. Brasília: Editora UNB, 1993.

LAPA, José Roberto do Amaral. **Os excluídos**. Contribuição à História da Pobreza no Brasil (1850-1930). São Paulo: EDUSP/Campinas: Editora Unicamp, 2008.

LIMA, Lana Lage da Gama; VENÂNCIO, Renato Pinto. Os Órfãos da Lei: o abandono de crianças negras no Rio de Janeiro após 1971. **Estudos Afro-Asiáticos**, Rio de Janeiro, v. 15, s. n., p. 24-33, 1988. Available at: https://app.uff.br/riuff/handle/1/12159. Accessed: Feb. 10, 2025.

MACHADO, Vilma Alves. **A casa de São José**. Instituição fundada por Ferreira Viana, em 1888 no Rio de Janeiro, para abrigar e educar crianças desvalidas para o trabalho. Dissertation (Master's in Education) – Centro de Educação e Humanidades, Universidade Estadual do Rio de Janeiro, Rio de Janeiro, 2004. Available at: https://link.ufms.br/L7Rf9. Accessed: Sep. 13, 2025.

MAMIGONIAN, Beatriz. **Africanos livres**. A abolição do tráfico de escravos no Brasil. São Paulo: Companhia das Letras, 2017.

MARTÍNEZ-SOTO, María Cristina. **Pobreza e conflito**: Taubaté, 1860-1935. São Paulo: Annablume, 2000.

MODESTO, Victor Hugo do Rosario. “Não há ingênuos e sim órfãos”: menores filhos de libertas no limiar da abolição em Belém do Grão-Pará. **História Unicap**, Recife, v. 5, n. 9, jan./jun. 2018. Available at: https://www1.unicap.br/ojs/index.php/historia/article/view/1201. Accessed: Jun. 24, 2025.

MOREIRA, Alinnie Silvestre. Liberdade tutelada: os africanos livres e relações de trabalho na Fábrica de Pólvora da Estrela, Serra da Estrela/RJ (c.1831-c.1870). Dissertation (Master’s in History) – Instituto de Filosofia e Ciências Humanas, - Universidade Estadual de Campinas, Campinas, 2005. Available at: https://repositorio.unicamp.br/acervo/detalhe/329298. Accessed: Nov.15, 2025.

MORELLI, Ailton José. **A criança, o menor e a lei**: uma discussão do atendimento infantil e da noção de inimputabilidade. Dissertation (Master’s in History) – Programa de Pós-Graduação em História, Universidade Estadual Paulista, Assis, 1996. Available at: https://www.aacademica.org/ailton.jose.morelli/7.pdf. Accessed: Sep. 15, 2025.

PAPALI, Maria Aparecida Chaves Ribeiro. **Escravos, libertos e órfãos**: a construção da liberdade em Taubaté (1871-1895). São Paulo: Annablume: Fapesp, 2003.

PAULA, Lina de. **Punição e Cidadania**. Adolescentes e liberdade assistida na cidade de São Paulo. São Paulo: Alameda, 2017.

PATTO, Maria Helena Souza. Estado, ciência e política na Primeira República: a desqualificação dos pobres. **Estudos Avançados**, São Paulo, v. 13, n. 35, p. 167-198, 1999. Available at: https://www.scielo.br/j/ea/a/vfdbdpstqSj3P9gLWcFRs7g/?format=html&lang=pt. Accessed: Jun. 08, 2025.

PINHEIRO, Luciana de Araújo. **A civilização do Brasil através da infância**: propostas e ações voltadas à criança pobre nos anos finais do Império (1879-1889). Dissertation (Master’s in History) – Departamento de História, Universidade Federal do Rio de Janeiro, Rio de Janeiro, 2003. Available at: https://link.ufms.br/MppD1. Accessed: Jun. 08, 2025.

PROST, Antoine. **Doze lições sobre a História**. Translation: Guilherme João de Freitas Teixeira. 2. ed. Belo Horizonte: Autêntica Editora, 2017.

RANGEL, Alan Wruck Garcia. Soldada e tutela de órfãos nas últimas décadas do século XIX. Legislação e prática judiciária. **Revista de Estudos Empíricos em Direito**, [s. l.], v. 7, n. 1, abr. 2020, p. 50-70. Available at: https://reedrevista.org/reed/article/view/359. Accessed: Feb. 21,2025.

RIZZINI, Irma. **Assistência à Infância no Brasil**: uma análise de sua construção. Rio de Janeiro: Ed. Universitária Santa Úrsula, 1993.

RIZZINI, Irene. Crianças e menores: do pátrio poder ao pátrio dever. Um histórico da legislação para infância no Brasil. *In*: RIZZINI, Irene; PILOTTI, Francisco. **A arte de governar crianças**: a história das políticas sociais, da legislação e da assistência à infância no Brasil. 2. ed. São Paulo: Cortez, 2009. p. 97-149.

RIZZINI, Irma; GONDRA, José Gonçalves. Higiene, tipologia da infância e institucionalização da criança pobre no Brasil (1875-1899). **Revista Brasileira de**

Educação, [s. l.], v. 19 n. 58 jul./set. 2014. Available at:: https://www.scielo.br/j/rbedu/a/KgDg9SHLsWSXxpgs3BLmmXb/abstract/?lang=pt. Accessed: Jun. 12, 2025.

RIZZINI, Irene. **O século perdido**: raízes históricas das políticas públicas para a infância no Brasil. Rio de Janeiro: Ed. da Universidade Santa Úrsula, 1997.

SANTOS, Marcos Antônio Cabral dos. Crianças e criminalidade no início do século. *In*: DEL PRIORE, Mary (Ed.) **História das crianças no Brasil**. São Paulo: Contexto, p. 210-230, 1999.

SCHWARCZ, Lilia Moritz. **O espetáculo das raças**: cientistas, instituições e questão racial no Brasil, 1870-1930. São Paulo: Companhia das Letras, 1993.

SOUZA, Maria Zélia Maia de. Assistência pública escolar para crianças e jovens desvalidos no Brasil da Primeira República. **Interfaces Científicas – Educação**, Aracaju, v. 2, n. 3, p. 37 – 47, 2014. Available at:: https://periodicos.set.edu.br/educacao/article/view/1571. Accessed: Feb. 15, 2025.

TIEDE, Lívia Maria. **Sob suspeita**: negros, pretos e homens de cor em São Paulo no início do século XX. Dissertation (Master's in History) – Instituto de Filosofia e Ciências Humanas, Universidade Estadual de Campinas, Campinas, 2005. Available at:: https://repositorio.unicamp.br/acervo/detalhe/361202. Accessed: Sep.20,2025.

URRUZOLA; Patrícia. **Faces da liberdade tutelada**: libertas e ingênuos na última década da escravidão (Rio de Janeiro, 1880-1890). Dissertation (Master's in History) – Centro de Ciências Humanas e Sociais, Universidade Federal do Estado do Rio de Janeiro, Rio de Janeiro, 2014. Available at:: https://link.ufms.br/OY6Vq. Accessed: Jan. 07, 2025.

VENÂNCIO, Renato Pinto. Os aprendizes da guerra. *In*: DEL PRIORE, Mary. **História das Crianças no Brasil**. 6. ed. São Paulo: Contexto, 2007, p. 192-209.

VIANNA, Adriana de Resende. **O mal que se advinha**: polícia e menoridade no Rio de Janeiro, 1910-1920. Rio de Janeiro: Arquivo Nacional, 1999.

ZERO, Arethuza Helena. **O preço da liberdade**: caminhos da infância tutelada – Rio Claro (1871-1888). Dissertation (Masters in Economic History) – Instituto de Economia, Universidade Estadual de Campinas. Campinas, 2004. Available at:: https://www.abphe.org.br/uploads/Banco%20de%20Teses/o-preco-da-liberdade-caminhos-da-infancia-tutelada-rio-claro-1971-1888.pdf. Accessed: Jan.15,2025.

ZUQUIM, Judith. **Infância e crime na história da Psicologia no Brasil**: um estudo das categorias psicológicas na construção histórica da infância criminalizada na Primeira República. Thesis (PhD in Psychology) – Instituo de Psicologia, Universidade de São Paulo, São Paulo, 2001. Available at: https://teses.usp.br/teses/disponiveis/47/47131/tde-08022007-123809/pt-br.php. Accessed: Jun. 12, 2025.

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