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**LEMOS BRITTO AND
THE ISSUE ABOUT
MINORS IN BRAZIL**

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Abstract: José Gabriel Lemos Britto was one of the pioneers in the struggle to defend the reform of the Brazilian prison system at the beginning of the 20th century, with emphasis on legal protection for children and adolescents. This analysis aims, above all, to examine his ideas and whether they had any influence on the creation of the 1927 Minors Code. Victims of racial and social prejudices since the end of the 19th century, abandoned children have become themes of eugenic discourses due to the need to create strong and healthy workers for the future of the nation. Contemporaneously with the discourse of the weakening of the “race” that these children represented due to the “degeneration of their stray and alcoholic parents”, this research aims to carry out a survey of some works by Lemos Britto to analyze whether eugenic thinking had an influence on their practices professionals.

Keywords: Minors, eugenics, race.

LIFE AND WORK OF JOSÉ GABRIEL LEMOS BRITTO

José Gabriel Lemos Britto (1886-1963) is a well-known name in the history of Brazilian law, including his name in two prisons, one in Rio de Janeiro and the other in Bahia. However, when looking for something about his life, he hardly finds anything. In fact, Lemos Britto was self-taught. A lawyer by training, he worked in different fields, such as journalist and parliamentarian, and wrote works on various subjects. From works in Law, his area of training, to works in History, Romance, Poem, Economics, Sociology, among others. There were more than thirty literary works.

From its collection the following titles were found:¹

- Névoas (versos) - 1903;
- Cartas do Norte. Bahia: Typ. Bahiana, 1907;
- Guerra do Paraguay. Narrativa histórica dos prisioneiros do vapor “Marquez de Olinda”. Bahia: Litho-typ. e Encadernação Reis, 1907;
- Conferencias e Estudos. Em autoria conjunta com Clóvis Bevilacqua. Bahia: Cincinnato Melchiades, 1915;
- As Lições da historia: com uma carta do jurisconsulto Desembargador Ezequiel Ponde do Superior Tribunal de Justiça do Estado. Bahia: Typ. Bahiana, de Cincinnato Melchiades, 1917;
- Paginas sul-americanas: precedidas de uma carta do estadista e internacionalista argentino, Sr. Dr. Estanislau Zeballos. Bahia: Tip. Bahiana 1917;
- Renascimento civico: o Batalhão de Atiradores Bahianos na parada nacional de 7 de setembro. Em autoria conjunta com Catharino. Bahia: Typ. Bahiana, de Cincinnato Melchiades, 1917.
- Colonias e prisões: no rio da prata. Bahia: Livraria Catilina de R. dos Santos, 1919.
- Na barricada; campanha da libertação da Bahia. Bahia: Typ. Bahiana, 1920.
- Atravez de quatro seculos; estudos esparsos. Rio de Janeiro: Typographia do Annuario do Brasil, 1922.
- Nossa independencia; paginas escriptas para as crianças brasileiras. Rio de Janeiro: Typographia do Annuario do Brasil, 1922.
- Pontos de partida para a historia economica do Brasil. Rio de Janeiro: Typographia do Annuario do Brasil, 1923.
- Pela patria, no estrangeiro (paginas de oratoria americana). Rio de Janeiro: Book Publisher: Leite Ribeiro, 1924 (em espanhol).

1. With the exception of the work “Mist”, which was mentioned by Süsskind in Complete Works, all other works were found on the site: World Cat.

- Os sistemas penitenciários do Brasil. Ministério da Justiça e Negócios Interiores. Rio de Janeiro: Imprensa nacional, 1924.
- Homenagem prestada pela Delegação do Brasil ao quarto Congresso pan-americano da criança. Em autoria conjunta com Sylvino Gurgel do Amaral; Brazil. Delegação ao quarto Congresso pan-americano da criança em Santiago de Chile, 1924. Rio de Janeiro: Typ. do "Jornal do commercio", 1925.
- A neutralidade do Brasil em face do direito internacional. Rio de Janeiro: Typ. da Revista do Supremo Tribunal, 1925.
- Congresso internacional de economia social de B.A. Rio de Janeiro, 1926.
- Solano López e a guerra do Paraguay. Rio de Janeiro: Typ. da Escola 15 de Novembro, 1927.
- Solano Lopez e a guerra do Paraguay: replica ao livro de igual titulo do escriptor mexicano Carlos Pereyra. Rio de Janeiro: Typ. da Escola 15 de Novembro, 1927.
- Do Brasil, em Portugal: conferencias realizadas em Lisboa, Porto, Coimbra e Vianna do Castello, em janeiro e fevereiro de 1928 Rio [de Janeiro]: [publisher not identified], 1928.
- La mise en liberté des condamnés: écrite ... pour le Congrès Pénal, International de Prague. Rio de Janeiro, 1930 (em francês).
- Succincte exposition sur l'évolution penal au Brésil. Rio de Janeiro: Imprensa Nacional, 1930 (em francês).
- Portugal que eu vi. Rio de Janeiro: F. Briguier, 1931.
- Psychologia Do Adulterio. Rio de Janeiro: Ed. Livraria Jacintho, 1933.
- A nova constituição brasileira (promulgada em 16 de julho de 1934): precedida de uma noticia historica e seguida de um amplo indice alphabetico remissivo. Rio de Janeiro: Jacinto, 1934.
- A questão sexual nas prisões. Rio de

Janeiro: Livraria Jacintho, 1934.

- A gloriosa sotaina do primeiro imperio: frei Caneca. São Paulo: Book Publisher: Nacional, 1937.
- Do poder de agradecer. Rio de Janeiro: Imprensa Nacional, 1942.
- A nova Lei de menores. (Decreto-lei n. 6.026, de 24 de novembro de 1943)

Preceded by an introduction, authored by Dr. Lemos Britto, member of the Review Committee of the Code for Minors, and accompanied by the following instructive documents: Ministerial Order of the Minister of Justice appointing the Committee; Statement of reasons given by Minister A. Marcondes son to the President of the Republic and Statement that accompanied the project prepared by the Commission: fundamental bases for a Code for Minors, authored by Judge Saboia Lima, President of the Review Commission; followed by the part of the Criminal Code, the Code of Criminal Procedure, the Law on Criminal Misdemeanors, the consolidation of the Labor Laws, the Code of Minors and the Code of Civil Procedure, which intersect with it, and an alphabetical cross-reference. Author: Alexandre Marcondes Machado; José Gabriel de Lemos Britto; Brazil.; Brazil. Review Committee of the. Publisher: Rio de Janeiro Freitas Bastos, 1944.

- O crime e os criminosos na literatura brasileira. Rio de Janeiro: J. Olympio, 1946.
- Terceira Conferência Penitenciária Brasileira: realizada sob a presidência de honra do Presidente da República, Gaspar Dutra ; presidência efetiva do Ministro do Justiça e Negócios Interiores ... Adroaldo Mesquita da Costa; vice-presidência do Presidente do Conselho Penitenciário e Inspetor Geral Penitenciário ... José Gabriel de Lemos Britto, de 21 de março a 2 de abril de 1949. Em autoria conjunta com Adroaldo Mesquita da Costa; José Gabriel de Lemos Britto; Book Publisher.: Rio de Janeiro: Departamento de Imprensa Nacional, 1952.

- Rui Barbosa and the equality of sovereignties: prayer given, on behalf of the Federation of Academies of Letters of Brazil, on November 5, 1950, in the library room of Rui Barbosa, in the house of his name. [Rio de Janeiro]: [Olympic Press Publishing], 1954.

- Complete works. Assistance to minors, criminal law, prison science and practice. Ministry of Justice and Home Affairs. Documentation Service. Publisher: [S.l.]: Ministry of Justice and Internal Affairs, Documentation Service, v. I and II, 1959 (WORLD CAT).

According to this relationship, one can observe the vast literary work of Lemos Britto and the wide range of subjects he addressed. From poetry to the History of Brazil, wandering through Economics until reaching Law, everything in depth. Analyzing it as a whole would be a Herculean task. The attention of this work will focus only on specific issues in four of these works: a) The penitentiary systems of Brazil; b) The sexual issue in prisons; c) Crime and criminals in Brazilian literature and; d) Complete works. Assistance to minors, criminal law, prison science and practice.

And what specific issues are these? The trajectory and work of Lemos Britto and its reformist impact, both in the Brazilian penitentiary system and in his performance in relation to the problem of delinquent children, seeking to know if there was, on the part of the author, direct attention to the issue of drafting the Minors Code de 1927. Understand if the author's actions and attitudes are close to the discourse of creation and improvement of the "Brazilian race".

From this perspective, analyzing his administration and his actions in the direction of Escola Quinze de Novembro, in Rio de Janeiro, is a way of understanding his way of thinking about the issue of offending children and adolescents. In a previous analysis, there

was a certain admiration of the author with the criminologists and criminal anthropology theories of the Italian Cesare Lombroso. Since Lombroso is an admirer of eugenic theories, it is worth investigating to what extent Lemos Britto's thought does not converge with the theories defended by famous Brazilian eugenicists and his contemporaries, such as Renato Kehl, for example. Analyzing their speeches and ideas and comparing them with the speeches of Kehl, or of doctor Nina Rodrigues, a great defender of Lombrosian theory in the country, it is interesting to analyze the extent to which Lemos Britto's thought may have been influenced by the ideals of building "race Brazilian".

Much of his life can be found in the accounts of third parties, such as Carlos Süssekind de Mendonça, who prefaced "*Obras completas*", work edited by the Ministry of Justice and Internal Affairs, which gathered, as Lemos Britto himself says, "(...) scattered writings to publicize (...)". According to Süssekind, José Gabriel Lemos Britto was born on August 23, 1886. He does not report his birthplace, but he was probably born in the city of Salvador, capital of the state of Bahia. In 1907, he graduated in Law from the Faculty of Law of Bahia and, according to this author, lived intensely in law, journalism and politics (LEMOS BRITTO, 1959, vol. 1, Presentation).

More accounts of his life are found in a work published by Joelma Jesus Oliveira and Maria da Conceição Reis Teixeira who describe him as a lawyer, journalist, graduated in law from the Faculty of Bahia, parliamentarian, orator, poet, playwright, novelist, sociologist, historian, criminologist and writer from Bahia. According to the authors Lemos Britto was the founder of "O Imparcial", a daily newspaper that circulated in the city of Salvador, capital of the state of Bahia, between May 1918 and May 1947.

This periodical emerged as a media vehicle for conservatives in Bahia – an intention expressed in the header of many initial editions – intended to support Ruy Barbosa's candidacy. In this sense, it seems that the contribution of José Gabriel de Lemos Britto was great, who, according to the authors, “decidedly [was] a militant and active conservative in those times of transition and political effervescence”. Despite having circulated for twenty-nine years, “O Imparcial”, according to the authors, was under the direction of Lemos Britto for a few years, as he moved to Rio de Janeiro, commenting on the transfer of the jurist in the year of 1920 (OLIVEIRA; TEIXEIRA, 2013: 124-125).

What is interesting is that Süsskind, when commenting on the journalistic life of Lemos Britto, at no time reports on the foundation and its performance in the periodical “O Imparcial”. He comments on the jamming of the civilist newspapers “Diário da Bahia”, “A Bahia” and “Diário da Tarde” and says that he practiced law in passing.

“In passing, he practiced law. But, at no time did he abandon militant journalism, going up to the direction of several newspapers, such as his *Diário da Tarde*, jammed in 1912, *Correio da Manhã*, from Salvador, still occupying the post of editor-in-chief of *Jornal Moderno* and from *Jornal de Notícias*. In fact, I cannot resist the desire to establish a fact that is worth defining this irresistible tendency of Lemos Britto for the struggles of the press: still at the boarding school in Salvador, directed by the eminent educator Dr. Adolfo Frederico Tourinho, Lemos Britto founded a tiny periodical, entitled *O Ipiranga*, in partnership with a colleague named Alcebiades Conceição, both spending their meager allowances on printing the important organ, whose circulation was one hundred copies...” (LEMOS BRITTO, 1959, vol. 1, p.II and III).

Not even when he comments on his friendship with Rui Barbosa, does he mention the name of that periodical.

“(…) he was always a friend and soldier of Rui Barbosa, whose campaigns he participated in the press and public rallies. Rui had for Lemos Britto esteem and admiration. And when, having left Bahia for political reasons, he came to settle in Rio, Rui wrote to Julio de Mesquita, the notable founder of the [newspaper] *Estado de São Paulo*, a letter of introduction, dated June 15, 1920 (…)” (LEMOS BRITTO, 1959, vol. 1, p. III).

Despite the recommendation of his famous friend, he preferred to stay in the Federal Capital rather than moving to São Paulo. From that moment on, Lemos Britto began to get closer to national politics.

In 1924, after a tour, apparently sponsored by the Federal Government, through several states to learn about their penitentiary systems, Lemos Britto published the first volume of his work “*Systemas Penitenciarios do Brasil*”, which seems to be, in fact, a report of observations to the Mr. João Luiz Alves, Minister of Justice of the government of Arthur Bernardes, where he reports what he observed and criticizes the apathy for the reform of the Brazilian penitentiary system, commenting that it is “a point of honor for peoples and governments to reform their penal institutions, and the consequent improvement of their prisons” (LEMOS BRITTO, 1924: 28).

When referring to the problem of offending and abandoned children and adolescents, Lemos Britto states that it remained unsolvable and that this problem was intertwined with the penitentiary issue, just like the ivy that feeds on the trunk. He highlights having seen amazing pictures, such as in the Ceará penitentiary where he found in prison a boy who had been imprisoned since he was fourteen and who had been sentenced to twenty-four years in prison for having murdered a butcher due to physical struggle after having been offended by the victim. In this case, Lemos Britto, when analyzing the situation of the minor, raises the doubt that

he acted by perverse and conscious instinct or under the action of morbid elements. Anyway, according to his analysis, criminal science was sacrificed since if the minor already had such instincts, he must be segregated for the purposes of education and adaptation to honest life and work. On the other hand, if the problem was caused by illness, it must be sent to a mental institution or an asylum, never to prison (LEMOS BRITTO, 1924: 61).

Another situation found by Lemos Britto in the same penitentiary was the presence of an eight-year-old child sleeping on the floor of a cell occupied by adults at the same time. The minor had been collected for stealing food, possibly motivated by hunger.

In the aforementioned state of Ceará, I saw a beautiful eight-year-old white child sleeping on the cement of a police station, and in her company I counted eight men, collected at night by the police, drunks, ruffians, professional thieves. I was later informed that he was a small thief from the fairs, and there he was because he had pilfered a loaf of bread or fruit from the market, and that the father himself used to take him to prison [...] In Pernambuco I found nine minors and children locked in a penitentiary cubicle [...] (sic) (LEMOS BRITTO, 1924: 62).

Lemos Britto also comments that Pernambuco was the most advanced of the northern states in terms of the regime and cleanliness of prisons.

Apparently the work of Lemos Britto was an important reference in the elaboration of the Code for Minors of 1927 and he seems to have been surprised by the Code.

The Minors Code is exceptional. Putting an end to the old humanitarian aspirations, concatenating and perfecting scattered laws and regulations, defending childhood in an energetic way and without excusing interference with domestic life, it places us on an equal footing with more advanced countries in the field. (LEMOS BRITTO, 1929: 14).

At the end of his public career, Lemos Britto published, in 1946, the work entitled "Crime and criminals in Brazilian literature". In the introduction, when exposing his intention with the publication of the work, the author comments that his objective is to carry out an unpretentious and simple investigation around crime and criminals through the novel, novel, short story, poetry, Brazilian history itself without distinguishing classic authors from modern ones, consecrated from obscure, cultured and famous from modest and shy newcomers. However, he soon demonstrates a certain racism when he states that "(...) a young writer from Pará paints for us the picture of another black man who murders his paralyzed boss by throwing him into a fire around which moments before had paraded a festive procession. In them, and without intending to, literature develops the theme of the atavistic survival of the inferior instincts of the black race (...) " (LEMOS BRITTO, 1946: 7;12).

In that work, Lemos Britto delves into several crimes narrated and tries to understand, in the light of positive law, what the accused's penalty would be. In relation to children and adolescents, he writes two chapters: one on immoderate punishment for them and another on their corruption. In the first chapter, he reports an excerpt from a work on the extreme punishment of a child who stole brown sugar and cookies (LEMOS BRITTO, 1946: 272-273). In the second chapter, he reports some cases: that of a dancer's passion and harassment for her friend, in which he tries, through the use of cocaine, to seduce her; the sexual practice of an adult with an adolescent; the deflowering of a teenager who was dating older men and; finally, the use of spells, "macumba" as in his words, by a saint-father to corrupt a child (LEMOS BRITTO, 1946: 290-293).

Finally, the author's work is vast and the research found only in a seminal state is enormous. The important thing, at this moment, is to demonstrate how the author's thought and struggle pioneered the attempt to control the State in relation to the issue of children and adolescents in Brazil.

HISTORICIZATION OF THE CONCEPT OF "MINOR"

According to Bazilio, until the current denomination "children and adolescents" came to be, different denominations were used over the centuries. They have been called "rude", "deprived of luck and fortune", "helpless", "exposed", "exposed", "kids", "minors", "robbers", "street children" and so many other denominations that express the same victim-aggressor binomial. Victim of lack of opportunity and unenforceability of rights and aggressor of the constituted order.

According to this author, the history of child care in Brazil can be characterized by three different phases: the first, which goes from the discovery of Brazil to the 1920s, can be described as that of philanthropy or welfare, and is characterized as the child seen as an object of charity and not as a subject of rights. It is the period of foundation and direct action of the *Santas Casas de Misericórdia* and the Catholic Church through brotherhoods or third-party orders and the implementation of exhibition circles. The second, which runs from the 1920s to the 1980s, is characterized by the huge legal/institutional body that was created by the Brazilian State to care for children. According to the author, this is the period in which the State tries to impose "scientific" norms of social regulation. During this period, two Codes for Minors were created, the creation of the Juvenile Court, the Assistance Service for Minors (SAM), the National Foundation for the Welfare of Minors (FUNABEM).

Finally, the third and final phase, which runs from the 1980s and 1990s to the present day, is characterized by the entry into the scene of Non-Governmental Organizations (NGOs), the dismantling of service institutions by the State and the participation of the civil society in the elaboration of the Statute of the Child and Adolescent (ECA). Also, according to the author, this phase is characterized by the contradiction experienced between a text of law drawn up with the participation of organized sectors of society and the neglect of the State, that is, the Statute is promulgated and the possibility of its effective implantation (BAZILIO, 2002, 45-49).

Based on Bazilio's text, the expressions, the names used to characterize the poor child can be temporally delimited. In the colonial period and in the Empire, these children were treated as "rude", "deprived of luck and fortune", "helpless", "exposed", "exposed" and "boys", the last children of slaves. In the Republic, they are called "minors", "robbers", "street children" and also "delinquents". From the promulgation of the Statute of Children and Adolescents (ECA), they are called "children and adolescents".

Legally speaking, several laws were enacted around the world, since the beginning of the 19th century, in order to protect children from the infamous claws of entrepreneurs thirsty for easy profits and the cheap labor they provided. The first child labor law was enacted in England in 1802 and became known as the "Peel Law". This law limited the daily working hours of children in factories to 12 hours and also prohibited night work. Since the beginning of the Industrial Revolution, workers have called for a law that would protect children from the predatory and inordinate ambition of the employers towards child labor, since the child is more docile, and also received a much lower salary than adults. The "Peel law" marked the beginning of a European campaign for the

protection of minors.

In 1813, France banned child labor in mines, and in 1819 a new law in England outlawed the work of children under the age of nine and restricted the daily hours of children under sixteen to 12 hours on cotton plantations. In 1833, England extended the “Peel Law”, in which the daily working day for children under thirteen was limited to nine hours. In 1839 the German States followed the English example and banned work for children under nine.

In 1866, Italy created an ordinary law for the protection of minor children and in 1869 the Germans fixed the minimum age for entering industries from twelve years old. With the end of the First World War and the signing of the Treaty of Versailles in 1919, the International Labor Conferences were held, managed by the International Labor Organization (ILO), an organization linked to the League of Nations that sought to create common legislation to defend child labor, where Brazil was one of the signatories. In 1923 the International Conference on Children was held in Geneva. From this conference, the “Declaration of the Rights of the Child” was written, also known as the Declaration of Geneva, which gave rise, in Brazil, to the creation of the Juvenile Court in 1923 (MEDEIROS, 2021, 59-60).

According to Londoño, it is at the end of the 19th century that Brazilian jurists discovered the figure of the “minor” in poor children and adolescents who roamed the streets of cities, who, because they were not under the authority of their parents or guardians, were called by them as “abandoned”. The children who populated the streets of the city center, the markets, the squares and who, for incurring in crimes, frequented prisons, were called “delinquent minors” as “abandoned minors”. The minor, for these jurists, was not the “family” child subject to paternal authority or even the warded orphan, but the abandoned

child or adolescent, both materially and morally. From this definition, the image of the minor was characterized as that of the poor child, totally morally and materially unprotected by parents, guardians, the State and society. The origin of the abandonment was the economic and social conditions that modernization brought, but they did not fail to point out the decomposition of the family and the dissolution of paternal power as the main responsible for the situation. The blame for the abandonment of the children lay with their parents who, by giving in to the addictions of alcohol, gambling and loitering, did not exercise authority and ended up corrupting their children (LONDOÑO, 1991, p. 129–145).

Adriana de Resende B. Vianna follows the same line as Londoño when investigating the process of construction of the term and character – “minor” – in the city of Rio de Janeiro. However for this author, this character was constructed by a classifying agent, the policeman. And this term ended up becoming naturalized and crystallized in combined meanings, including gaining the legal field, culminating with the creation of the “Juvenile Court of the Federal District” in 1923 and with the promulgation of the “Code for Minors” in 1927. According to the author, with the creation of the Juvenile Court in 1923, the child became a subject of law in Brazil and with the Minors Code of 1927, child care became an attribute of the State. The entry into force of the Code did not change much the classification logic, previously carried out by police officers. What has changed are the agents authorized to formalize the conduct of the minor. In the end, what mattered was the standardization of the behavior of poor children and adolescents (VIANNA, 1999, p. 28; 179).

Irma Rizzini also follows this line when verifying that in Brazil in the first decades of

the 20th century, poor childhood became a target not only of attention and care, but also of fears. Their situation was denounced and whether in families, on the streets or in nursing homes, the consensus was general: childhood was in danger. Constantly remembered by medical and legal circles, childhood “morally abandoned” was potentially dangerous since, due to the conditions of extreme poverty, low morality and illnesses of its parents, it did not receive the education considered adequate by experts: “physical, moral education, instructional and professional”. It was the “future of the race” that was at stake and with it the future of the nation. But who was this morally abandoned childhood? It was the one that, due to a moral lack of the child - with their idleness or laziness - or of the parents, given up on drunkenness, begging, debauchery, vices, among other degenerative traits, did not receive the care and education necessary for their development as a citizen integrated in the current social order. Generally, the responsibility for the child’s abandonment situation was placed on the parents.

Sciences such as medicine, psychiatry, law and pedagogy contributed with theories and techniques for the formation of a new mentality in child and adolescent care. However, the repressive mentality began to give way to a conception of re-education, of treatment in the care of this child. There was the emergence of a new model of child care, based not only on the words of faith, but also on the words of the sciences, basically medical, legal and pedagogical. Religious charitable care began to give way to a care model based on scientific rationality where method, systematization and discipline had priority over Christian piety and love (RIZZINI, 1990, p. 78).

If Rizzini defends that the repressive mentality gave way to the conception of treatment for children, Pereira and Bonilha, who studied medical-assistance practices,

postulate the opposite. When mentioning the medical practices aimed at children in Rio de Janeiro at the beginning of the 20th century, André Ricardo Pereira is based on the creation of the Institute for the Protection of Children of Rio de Janeiro and the development of a welfare concept, which he called the model. “Christian-liberal”. This model would reserve the State a merely supervisory role, while the actions were under the responsibility of private organizations, moved by the duty of Christian charity. He also comments that the disciplining of society, shared by doctors and jurists, walked together until the moment when their professional obligations drove them away, generating specific, specialized fields. Jurists turned to the “minor” field, while physicians, in attention to the “advancement of science” in the fields of hygiene and childcare, with their welfare and moralizing concepts, specialized in the child’s body (PEREIRA, 1992, p. 42).

Bonilha, in turn, follows the same reasoning. For this author, as the institutional power of medicine increased, its object and its standardization also increased. The view of hygiene went beyond the distortions of the environment, acquiring a moralizing role that found the cause of health problems in the behavior of people and society. The fight against prostitution and tenements became an obsession, but its reach was much greater, reaching families and redefining their role, from housing to the meaning of each of its members (BONILHA, 2004, p.58). Childcare, as a by-product of hygiene, did not escape this moralizing role (MEDEIROS, 2021, p. 20).

Both the disciplinarization and the medicalization of Western society have roots in the 18th century. But, according to Foucault, it is in the 19th century that the power to create scientific discourses for the construction of “truths” takes shape and these discourses have as a backdrop the struggle

for the recognition of the State. Both law and medicine began, since then, to serve the purposes of groups linked to state power. Both jurists and scientists began to get involved in politics, even having cases of coming to power, as happened with the doctor Cândido Barata Ribeiro, Lente at the Faculty of Medicine of Rio de Janeiro, who was the first appointed Mayor of the then District Federal in the year 1892 (FOUCAULT, 1977, preface and p. 1-40).

But how did Law and Medicine build the basis of society's legal and moral knowledge at the turn of the 19th to the 20th century? The knowledge of man, individuality, the normal and the abnormal, inside or outside the rule, was born in the 19th century through social practices of control and surveillance

(FOUCAULT, 1999, p. 46-49).

Finally, within this perspective, this research seeks to observe the impact of Lemos Britto's observations, described in *Systemas Penitenciários do Brasil*, in the elaboration of the Code Mello Mattos of 1927; analyze the public trajectory and works of Lemos Britto, his influence on the reform of the Brazilian penitentiary system and compare Lemos Britto's speeches on abandoned and delinquent childhood in his works and in public documents, comparing with the

common sense of different speeches about the same theme. How did he see this poor child, as a delinquent or an abandoned child? How did you react to the news about the crimes and abandonment of these children?

The present research hypothesizes that Lemos Britto's observations in Brazilian penitentiaries, described in "Prison Systems of Brazil", not only stimulated the creation of the 1927 Minors Code, but also that his public and literary trajectory was of great importance in the reform of the archaic Brazilian penitentiary system; that Lemos Britto had a view of the poor child as the view of jurists and other members of the Brazilian intelligentsia, that is, as an abandoned child or adolescent, both materially and morally, due to their parents and guardians who, by giving in to the vices of the alcohol, gambling, and vagrancy did not exercise authority and ended up corrupting their children; and that Lemos Britto's admiration for Cesare Lombroso's criminalistic and criminal anthropology theories brought his thought closer to the racist and eugenic theories of the time.

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