

# “HE WAS PUNISHED CORPOREALLY, AND IT WAS POSSIBLE TO HEAR THE SCREAMS”: micro-history of a criminal case (São José School, 1911)

“Castigou corporalmente, sendo possível ouvir os gritos”:  
micro-história de um processo criminal (Colégio São José, 1911)

“Fue castigado corporalmente y se podían escuchar los gritos”:  
microhistoria de un caso criminal (Escuela São José, 1911)

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**Abstract:** This article presents a criminal case involving minors in a private school institution in the city of Lajeado, in the state of Rio Grande do Sul, in the year 1911. By bringing to light a criminal complaint from the beginning of the 20th century, we seek to understand possible legal representations about children who are victims of abuse and violence – symbolic and physical. To this end, it operates with the Foucauldian concepts of event, violence and punishment, as well as with the micro-history of violence, subsidized by methodological horizons arising respectively from the studies of Carlo Ginzburg and Boris Fausto, with the intention of identifying, in a case of child aggression, the way education was structured and directed in a private institution with a confessional nature and its consequences in the legal area.

**Keywords:** History of Education; violence; punishment; infancy.

**Resumo:** O artigo apresenta um processo criminal envolvendo menores em uma instituição escolar privada da cidade de Lajeado, no estado do Rio Grande do Sul, do ano de 1911. Ao trazermos à tona uma queixa-crime do início do século XX, buscamos compreender as possíveis representações jurídicas sobre o universo infantil vítima de abusos e de violências – simbólicas e físicas. Para tanto, opera-se com os conceitos foucaultianos de acontecimento, violência e punição, bem como com a micro-história da violência, subsidiada por horizontes metodológicos advindos respectivamente dos estudos de Ginzburg e Fausto, com a intenção de identificar, em um caso de agressão infantil, a maneira como a educação foi estruturada e dirigida em uma instituição privada de cunho confessional e os seus desdobramentos na área jurídica.

**Palavras-chave:** História da Educação; violência; punição; infância.

**Resumen:** Este artículo presenta un caso penal que involucra a menores en una institución escolar privada de la ciudad de Lajeado, en el estado de Rio Grande do Sul, en el año 1911. Al sacar a la luz una denuncia penal de principios del siglo XX, Buscamos comprender posibles representaciones jurídicas sobre niños que son víctimas de abuso y violencia – simbólica y física. Para ello, se opera con los conceptos foucaultianos de acontecimiento, violencia y castigo, así como con la microhistoria de la violencia, subsidiada por horizontes metodológicos surgidos respectivamente de los estudios de Carlo Ginzburg y Boris Fausto, con la intención de identificar, en un caso de agresión infantil, la forma en que se estructuró y dirigió la educación en una institución privada con carácter confesional y sus consecuencias en el ámbito jurídico.

**Palabras clave:** Historia de la Educación; violencia; castigo; infancia.

## INTRODUCTION

The context of the First Brazilian Republic (1890-1930) was discursively marked by the influence of Positivism and the New Penal School across social, cultural, political, and economic spheres in a way that, during this period, childhood became a subject of discussion in legal, pedagogical, and medical circles. In this sense, Brazil followed international debates in Law, Education and Medicine, relating them to new ways of thinking about care, schooling, and attention to children. That said, this article brings to light a *Criminal Summary*<sup>1</sup> involving minors in a private confessional school in the city of Lajeado, in the state of Rio Grande do Sul, in 1911. The document is currently available in the Arquivo Público do Estado do Rio Grande do Sul [APERS] (1911). In this process, initially, it was revealed that on October 29th, 1911, the student Pedro Ludwig, that at the time was an eleven-year-old boy, accused his teacher, called in the process as Brother Carlos, of committing acts of pederasty with another student, the minor, Oswaldo Eifler. This accusation caused outrage among the institution's directors due to the slander of the teacher's supposed immoral acts, especially as it was an institution managed by Christian religious figures. Upon learning about the accusation, the school's principal, João Domingos, applied corporal punishment to Pedro Ludwig who had announced the infamy, in accordance with the educational precepts and customs of that time. Such punitive practice led to a criminal charge of "bodily injury" against the principal, as provided for in Article 303 of the Brazilian Penal Code of 1890, which regulated law and public order at the time<sup>2</sup>.

By examining this criminal complaint from the early 20th century, we seek to understand the possible legal representations of children who are victims of abuse and violence – both symbolic and physical. Operating analytically with the Foucauldian concepts of event, violence and punishment, as well as with the "*micro-history of violence*", subsidized by the methodological perspectives presented in the studies of the authors Carlo Ginzburg and Boris Fausto, we aim to identify, in a case of child aggression, how education was structured and directed in a private religious institution and its legal consequences.

In view of this, we find in the field of History of Education, fertile ground for exploring how perceptions of acceptable and unacceptable discipline and violence

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<sup>1</sup> The *Criminal Summary* contains information about the occurrence of a crime, as well as situations that may affect its classification and the determination of the accused person's guilt. In a certain sense, we can say that the summary in this area is a preparation for the trial.

<sup>2</sup> According to the wording of the Penal Code of 1890, "Art. 303. Physically offending someone, causing pain or some injury to the body, although without bloodshed: Penalty - cell imprisonment for three months to one year" (Brazil, 1890). A more careful historical study of the 1890 Penal Code can be found in Alvarez, Salla and Souza, 2003. It is also worth highlighting that, in the 1890 Code, most crimes received the penalty of cell imprisonment, while there were also three other forms of incarceration, but used in a limited way: imprisonment, prison with compulsory work and disciplinary prison.

against children have transformed over time. The History of Education offers us a valuable lens to examine the changes in attitudes, policies and practices related to child violence at school. Therefore, at the end of this study, we will seek to ratify the hypothesis that, to understand the relationship between punitive and educational practices, we must not only examine the punitive techniques used historically, but also identify how these practices, through the microanalytical method, can adapt and change over time, culminating, above all, in individual, collective, social, cultural and legal transformations.

## MICROHISTORY OF VIOLENCE: INVESTIGATIVE POSSIBILITIES

We begin the discussion about the possibility of using the *micro-history of violence* as a historical investigative method based on the problematization posed by Alexandre Karsburg and Maíra Vendramine in their work *Variations of Micro-History in Brazil: themes, approaches and challenges*. The authors question whether there is only one way to employ the micro-history method. The answer is evident, since "just like people, ideas migrate, spread, are objects of debates, and adapt" (Karsburg & Vendramine, 2019, p. 6). In this sense, the authors argue that, although micro-history possesses a common matrix, subsidized by the studies of Italian historians Giovanni Levi, Carlo Ginzburg and Edoardo Grendi - it was only in the 1980s that the investigative method influenced historical research in Brazil through translations into Portuguese of Ginzburg's works - the existence of a variety of themes and a multiplicity of approaches make micro-history a potential tool for composing the narrative exercise of historians.

In a general way, the historiographic genre reduces the scale of observation of research objects, enabling the microanalytical method and, consequently, the actions arising from micro-history to problematize "the subjects, inserting them into different contexts and social relationships, noticing similarities and, mainly, differences" (Vendrame & Ceva, 2016, p. 247). This can be better understood through Carlo Ginzburg's *The cheese and the worms* (1989), where the author proposed that analyzing, seemingly, minor elements reveal significant information about the society, culture, and mentality of a given era. However, the use of diverse and often fragmented sources, such as legal records, police records, witness reports, among others, also allows the (re)constructing of historical narratives. It will then be through evidence that the researcher using the micro-historical method will use a given case - whose objectives, apparently, are not limited to the interior of the problem - with the intention of highlighting and conjecturing how this specific event can clarify questions of general nature if placed in a more global domain without losing sight of the originality of the analyzed object.

In view of this, we will consider the possibility of understanding a particular society through a specific case based on the set of sources produced by the legal apparatus. From this perspective, we take as a reference the studies of historian Boris Fausto, who perceived the history of crime and violence as a key element not only to interpret criminal events themselves, but also as a reflection of the process that builds and transforms structures, social and cultural dynamics, political and economic situations and everyday life through different forms at a given period. When approaching the history of crime as an integral part of social history, Fausto (2014) emphasized the importance of contextualizing criminal events within the broader structures of society. Fausto recognized that criminal acts are not isolated events, but rather phenomena that reflect tensions, inequalities, and transformations within a society. Furthermore, the author examined how laws, norms and punishments are shaped by external factors, such as social, economic, and political issues.

Therefore, developing a method for the *micro-history of violence*, based on the studies of Carlo Ginzburg and Boris Fausto, involves an approach that combines the methodological procedures of these historians to investigate specific and detailed aspects of violence and crime in an event<sup>3</sup>. This method views punitive and coercive practices not as isolated phenomena but as a part of an unequal and hierarchical power dynamic capable of producing domination, exploitation, and oppression, being a phenomenon that emerges from a complex intersection of several factors and contexts.

By adopting the perspective of the micro-history of violence, this possible approach allows a deeper and more complex understanding of violence, showing how seemingly small events can have significant consequences, revealing crucial insights regarding the meanings attributed by different individuals throughout history.

In the historiography of Brazilian Education, we can highlight a few works that had criminal proceedings and civil proceedings involving cases of violence as their main object of interest, demonstrating that legal documentation has been an under-analyzed source in the field of the History of Education. Notably some studies may indicate a timid interest in consulting judicial archives in the recent years. Among these, it is pertinent to highlight the originality which Gabriela Moreira's (2022) master's thesis "*Joaquim Pedro de Alcantara Dourado: an infamous in public education (Rio Grande do Sul/19th century)*", approached such documents – by locating two judicial proceedings in which the teacher Joaquim Dourado was accused of having immoderately punished two of his students and was involved in an alleged extortion plot, where he was accused of asking money from the parents of his disciples, as well as having practiced infanticide and pederasty, resulting in his suspension from Public Service as sentenced in both cases. Additionally, there is Nicole Damasceno's doctoral thesis (2020), "*Discipline and*

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<sup>3</sup> It is important to highlight that we understand the notion of event as the capacity of interrogate a fact, questioning it as an event in the form of a problematization. In *The Archeology of Knowledge*, Michel Foucault (1986, p. 152) perceives the event as an irruption of a unique and acute singularity, in the place and moment of its production.

*Punishment: norms and practices regarding the treatment of children and enslaved people in Brazilian society (17th to 19th centuries)*”, which used criminal proceedings to understand how free and enslaved children were treated in a society where punishment was linked to the idea of discipline; Liliâne Carrilho's dissertation (2017), “*Childhood in Judicial Proceedings in Belém do Pará: from criminality to legal-assistentialist discourses for the education of the destitute minor (1890-1930)*”, analyzed the cases of minors, the 13-year-old Joaquim Manoel da Silva, and the 16-year-old Manoel dos Santos accused of different offenses as indicated in the judicial proceedings; Ana Cristina Bastos' thesis (2012), “*In the Clutches of the Judiciary: destitute minors in guardianship and orphanage contract records in Bragança-SP (1889-1927)*”, which sought to understand the contexts of impoverished orphans through the examination of guardianship and contract civil records, problematizing the interventions of legal instances in the lives of these minors in the city of Bragança, São Paulo.

From this research of studies, we can infer that the proposal of a micro-history of violence can contribute to the development of investigative approaches that propose to explore events involving practices of violence in specific periods, exploring individual narratives or incidents that, seemingly small, enable the understanding of broader dynamics regarding the process of violence and crime over time. This approach can focus on both individual events or narratives of violence, such as personal conflicts, crimes, protests, local revolts, or situations of oppression, to the detriment of analyzes of large movements or long durations. By exploring not only the violent act itself, but also the social, political, economic, and cultural context that surrounds it, the micro-history of violence also makes it possible to understand social structures, inequalities, power relations, legal knowledge, political and economic mechanisms that influence and are influenced by violence. Furthermore, it examines the psychological, social, and cultural repercussions of the practice at an individual and collective level, highlighting how these violent events constitute individuals, establish social norms and behaviors, as well as shape subjectivities.

To establish meanings and connections of an individual case or specific events, we must relate acts of violence to well-defined historical, cultural, and social contexts. Therefore, before delving into the case of violence proposed for analysis, we will discuss the conditions and situations in which the event occurred.

## **SÃO JOSÉ SCHOOL: CONTEXT OF PRIVATE CONFESSIONAL EDUCATION IN LAJEADO, RS**

In the State of Rio Grande do Sul, the process of occupying part of the territory was composed of subsidized immigrants for the establishment of colonial settlements of small landowners, which, subsequently, were organized, divided into lots, and managed by private initiatives (Gerhardt, 2015). At the beginning of the 20th century,



under the political dominance of the positivist principles of the Partido Republicano Rio-Grandense, there was a significant expansion of public education in the state's largest urban centers. Even though the State of Rio Grande do Sul made use of an eminently positivist proposal for the construction of a rational and urban society, in which public schools were a fundamental instrument of modernizing policy, pedagogical practices and daily school life were still "centered on Christian doctrine, according to the catechism" and Catholic ethics (Corsetti, 2000, pp. 176-177). Additionally, the "Catholic hierarchy began to be effectively concerned with a more active presence of the Church in society and at the same time with offering its effective collaboration to the government" (Azzi, 1977, p. 75), so that it began to invest in private and confessional education – previously organized and offered by private teachers. During this period, as cities in State of Rio Grande do Sul experienced substantial economic and population growth, there was a rise in private schools with a religious orientation. These institutions, both boarding and day school, were administered and directed by a variety of religious orders and missions, made up of religious and lay teachers, often from Europe, particularly Germany, Italy, France, and Portugal.

Situated approximately 113 km from the capital, Porto Alegre, the city of Lajeado began its colonization in 1853 with the establishment of the Colônia Conventos, founded by Antônio Fialho de Vargas (1818-1895)<sup>4</sup>. In 1875, Lajeado was elevated to the category of district headquarters, and in 1881 it was declared Freguesia and later, in 1891, when it was separated from the municipality of Estrela, it was elevated to a Village with the name of Lajeado, initially administered by Frederico Henry Jaeger. Colonized, predominantly, by German and Italian immigrants, the city of Lajeado organized its constitution process through a set of traditions and customs in which Christian devotion stands out – founded by Catholics and evangelicals –, the economic base in polyculture and small family property, as well as the development of social networks through halls, parishes and societies. Be it by the preservation of the native language, or the creation of associations and schools, the region still "did not form a homogeneous group", because "it was made up of specific regional identities through the process of organizing colonial nuclei" (Weizenmann, 2020, p. 3).

In this context, in the same manner that happened in different regions of Brazil, schooling in Vila Lajeado also occurred with the contribution of the Catholic Church in which "through male or female religious congregations, which were concerned with education, the Church penetrated the small villages [...], assuming an important role in the task of bringing Christian instruction and formation to children and young people" (SILVA, 2004, p. 1). According to Patrick Ferreira (2016, p. 24), the emergence of Private Education in the country was concomitant with the history of the confessional school. This observation, in a way, contributes significantly to thinking

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<sup>4</sup> Antônio Fialho de Vargas was the son of Azorean immigrants and, through his partnership with the company Baptista, Fialho & Cia., acquired a significant plot of land in the region to "receive settlers of Germanic origin coming from Europe and settlers descended from the former colonies" (Gregory, 2019, p. 100).

about the educational context of the region, since there is a historiographical gap in the field of History of Education in Rio Grande do Sul regarding the Alto do Taquary region<sup>5</sup>. The few existing publications are the result of the work of amateur historians, such as Prof. José Alfredo Schierholt, who, through books and blog, has documented the memories of the regions of Vale Taquari and the former Colony of São Leopoldo. According to Schierholt (2012), the Colégio São José was initially an institution of First Letters, maintained by the São Inácio Parish under the administration of the Marist Brothers who had visited the region in 1907, when they established themselves and began the construction of the school<sup>6</sup>. On February 16th, 1908, the weekly newspaper *O Alto Taquary* reported in German the inauguration of Colégio São José dos Irmãos Maristas, as we can see in the following image 1:

**Image 1** – News in German about the inauguration of Colégio São José



Source: Available at Schierholt (21/09/2012).

The announcement presented a blessing, followed by the news that the school would be opened, offering the following subjects: Religion, German, Portuguese, Arithmetic, Geometry, Geography, Natural History, Calligraphy, Drawing and Singing.

<sup>5</sup> Until this date, few studies in the field of History of Education have been operationalized in the Alto do Taquari Region. Although in a different timeframe from the present analysis, it is worth highlighting the publication by Weizenmann (2020).

<sup>6</sup> Regarding the educational project of the Marist Congregation, Gildo Cotta (1996) and Pedro Reis Coutinho (2000) are suggested.

Following the announcement published in the region's weekly newspaper, the school was inaugurated on February 24, 1908, after "a ceremony of blessing the establishment by the reverend vicar Gasper, the same clergyman declared the school inaugurated, saluting the commemorative date of the proclamation of the federal Constitution, for which he had glowing references" (*O Alto Taquary*, 3/1/1908). Under the direction of Father João Domingos, classes began on March 1, 1908. According to Schierholt (2012)<sup>7</sup>, in the first year of the institution's creation, 80 students had been enrolled, of which 20 were in boarding school together with four Marist brothers and other teachers, such as, for example, Jean Dominici, Marie Firmat, Leon Corsini and François Nobert, who came from Germany and began their educational activities with the primary course at Colégio São José. On the same date, the necessary information for parents wishing to enroll their children in the private school institution was also published in German in the newspaper *O Alto Taquary*:

The pension is 25\$000 and it is paid in advance. Each pensioner will pay 5\$000 each year for the use of beds, washbasins, etc. Medical expenses, pharmacy, books, laundry, and any other extraordinary expenses are responsibility of the student. Upon entering the School, you must bring the following items: 2 coats, 2 pairs of pants, 1 pair of shoes or boots, 1 pair of slippers, 2 pairs of socks, 1 mattress, 1 quilt, 1 blanket, 4 sheets, 6 hand towels, 6 scarves, 6 shirts, 4 underwear, 1 comb, clothes brush, and shoe brush. External students pay a monthly fee of 3\$000 for the 1st course and 5\$000 for the 2nd course (*O Alto Taquary*, 1908, 1 de março apud Schierholt, 2012).

In the region, there was already a girl's educational institution operating since 1897, namely Colégio Sant'Ana, so Colégio São José would be a strictly boys' confessional school, aimed at "forming strong and capable leadership" (Schierholt, 2012). The institution only ceased the activities in 1968.

According to Schierholt (2012), João Domingos' biographical data has never been published before in Vale do Taquari (the region where the city of Lajeado is located). It is known, however, that the first Principal of the Marist school São José in Lajeado had Johann Fattler as his baptismal name and Brother Jean-Dominici as his civil registration name. The fact is that his arrival and that of two other missionaries, Weibert, and Marie Berthaire, in Rio Grande do Sul, in 1900, responded to the request of Bishop Dom Cláudio José Gonçalves Ponce de Leon, who aimed to expand and qualify education in the state through the installation of Catholic schools. Below is

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<sup>7</sup> When we visited the blog *Opening the trunk*, we found a tribute that José Alfredo Schierholt wrote about the Marist brother João Domingos. It contains a series of relevant information that not only made it possible to expand the research, but also made it possible to compose some trajectories of the Marist priest in the construction and administration of private confessional schools in the state of Rio Grande do Sul. See the website: [https://abrindobaudoschierholt.blogspot.com/2011/11/normal-0-21-false-false-false-pt-br-x\\_28.html](https://abrindobaudoschierholt.blogspot.com/2011/11/normal-0-21-false-false-false-pt-br-x_28.html).



the image 2 of the three Marist brothers who founded important school institutions in southern Brazil, accompanied by school children.

**Image 2** – Early 20th century record of the priests, from left to right, the brothers Marie Berthaire, Wibert, and Jean Dominici (João Domingos).



**Source:** Marist Network Collection<sup>8</sup>.

After being received in Porto Alegre by Bishop Ponce de Leão, the priests were sent to Bom Princípio, where they began Marist works in Brazil. The first school institution founded was the Escola Paroquial de Bom Princípio, still in the year 1900. Subsequently, brother Domingos led the founding of the Colégio São Luís in Vila de Santa Cruz, in 1903. And, in Lajeado, in 1907, the Marist brother, under the organization and leadership of Jesuit priests, began the joint effort to build Colégio São José, whose foundation, as we have already seen, occurred in 1908.

Advancing in our study, we will present a case, initially private, that occurred at São José College in 1911, involving, besides the practice of violence, other possible punitive mechanisms of principal João Domingos against the student Pedro Ludwig, who was eleven years old at the time. As we will see, the event was echoed by false accusations, medical examinations, summonses, confrontations, and a public trial, constituting a peculiar and original object of investigation in the field of the History of Education.

<sup>8</sup> The 120 Years of Marist Brothers' Presence in Rio Grande do Sul... (2020).

## **"IN A PRIVATE ROOM, WE INTERROGATED 17 STUDENTS AND THE BROTHERS MARIO AND CARLOS": DEVELOPMENTS IN A CRIMINAL CASE INVOLVING AGGRESSION AGAINST A MINOR**

Confessional schools, associated with a specific religion, have historically presented a variety of educational approaches. They are known for being quite rigid according to their time, culture, and predominant beliefs. By emphasizing strict discipline as a fundamental part of children's education, some of these institutions included demanding and austere rules, introducing severe punishments for infractions and a more authoritarian approach on the part of teachers, principals, and administrators. Obviously, these institutions had an emphasis on transmitting religious values and teachings to students as an integral part of their educational process, which could mean the existence of exaggerations in maintaining morality, ethics and behavior considered appropriate by the religion in question. Likewise, we can consider the search for high learning standards and the construction of religious values, also as capable of being controlled through constant incitement to fear of punishment.

What we want to demonstrate in this study is not a position or judgment regarding the educational and disciplinary practices developed in a specific school institution analyzed, but it is, above all, a matter of historically understanding the possible legal representations of children who are victims of abuse and violence occurring in a school setting. In this way, we identified in a Crime Summary a set of testimonies, accusations, defenses, medical report and other documents that describe with great precision as a puerile defamation – which was severely punished by the principal of the institution where the complainant studied – went to the popular jury, causing the organization of an entire Public Ministry apparatus in defense of the assaulted child, demanding that the aggressor comply with the penalties applicable to the crime.

The analyzed process has a total of 146 pages (88 pages) organized in a single folio, indicating the page number in the upper right corner, but not always systematized in the chronological order of events, all pages handwritten with a fountain pen, yellowed, and partially corroded by the time and handling. The *Summario Crime* was promoted by the Public Prosecutor's Office against the Marist brother João Domingos based on the complaint given by Nicolau Ludwig to the Police Station of the 1st District of Porto Alegre on November 1st, 1911. As stated in the records signed by the police chief in charge:

Having introduced to me Nicolau Ludwig, resident at 35 Marechal Floriano Street, complaining that at the Collegio S. José, in the villa of Lageado, his minor son Pedro, eleven-year-old, a boarding student at the establishment had suffered a brutal beating for frivolous reasons by the hands of one of the directors of that same establishment, I had ordered this minor to be subjected to a corpus delicti and had his statements terminated (APERS, 1911).

The forensic examination, also conducted on November 1st, 1911, at the Legal Medical Office of the Chief of Police, had, at the time, the obligation to answer a series of questions. The report indicated:

Which presents throughout the entire length of the gluteal region, from one side to the other, bloody suffusions of a yellowish-sibilaceous color, accompanied by ecchymosis of the same color, set on the posterior and external surface of the thighs, in their upper two thirds, linear bruises directed from top to bottom and from left to right, with color due to pressure and slight swelling in the suffused points of the gluteal region (APERS, 1911).

The medical expertise reports physical offense, therefore, a bodily injury capable of causing pain to the patient, although without bloodshed. Regarding the instrument used for the assault, the doctors reported that it was a “[...] blunt instrument with an elongated shape”. Finally, the forensic examination indicated that the patient was disabled “[...] for two to four days[...]”, although “[...] due to his age he does not have an active profession, his school functions are prevented during that period, as he was unable to sit down due to the intensity and extent of blood suffusions in the gluteal region[...]”, and the material damage caused was valued at thirty thousand réis (APERS, 1911).

Two days after the examination, the minor Pedro Ludwig returned to the Police Station to give a statement about what had happened. A white-skinned boy, eleven-year-old, living in the capital, declared that approximately a year and a half ago he lived as a boarding student at Colégio São José in Vila Lageado, an institution run by Marist brothers, where he was sent by his father following the advice of the doctor who treated him, as “[...] air outside the capital would be necessary”. Pedro said in his declaration that his behavior grades were always good, as it could be demonstrated in his notebook. And that, in the previous year's exams, he had come first; in fact, he received “the medal of honor as a prize”. However, “on the twenty-ninth of last month [October 29th, 1911]”, a Sunday, while bathing in the river, two other boys said that “*Bruder* [brother in German] Carlos, teacher of the declarant, practiced with them acts of pederasty”. Adding in his narrative that, after “bathing [in the river], when they were back at school, those same two students went to tell the said teacher that the informant had been the one who had boasted that the teacher was committing acts of pederasty”. However, when the principal of the school found out about the slander, he called him to his presence, and, without him being able to explain the accusation, without even “asking him a single question,” threw him face down on the bed and there [...] another brother, a cooker [...] held him to the bed by his arms” so that “principal Domingos, with a quince stick or similar, cruelly slashed his back”. After the attacks, the religious Domingos supposedly “imposed the torture of hunger” on

him, as well as “subjecting him to the punishment of writing a thousand lines”. The punishment continued with the prohibition of his speech during “the rest of Sunday and the entire following day (Monday) until six o'clock in the morning” when the boy boarded the “Boavista steamer to the capital,” without “any food”<sup>9</sup>. At the time, he also stated that he was forced by Bruder Prefect to “ask the principal for forgiveness” for the slander he had invented (APERS, 1911).

After being sent by the Porto Alegre Police chief or by the corpus delicti report and statements to the Lajeado Police Chief, the local police began investigations. The police immediately went to the school and “there in a private room I questioned 17 students and the brothers Mário and Carlos”. The investigation conducted by the Police Chief identified remarkably similar speeches, with few variations from the narrative previously undertaken by Pedro Ludwig. In common speech, the boys indicated that “all the students were playing *Football* in the public square,” at which point “Pedro Ludwig mocked [referring to mocking] Oswaldo Eifler, referring to the case he had told the students about Brother Carlos, Oswaldo then went to complain” to Bruder Prefect. After the brothers held a conference, they called Pedro to the School. The boy, upon arriving at school, was received by Brother João Domingos, who “punished him corporally and it was possible to hear Pedro's screams”. Regarding the “hunger torture”, while some students attested that “food was provided to Pedro”, others stated that “Ludwig did not have permission to go to meals with the students, however, after they left the cafeteria, Pedro was called in and provided with food” or that they said they had seen “Ludwig eat bread with *schimier* [jam] on the thirtieth day”. The declarants Oswaldo Eifler and Alfredo Petersen, ages 12 and 11 respectively, indicated that they were present at the school at that time and maintained that “after the Principal verified that Pedro had in fact spread this immoral conversation, he took a paddle and gave eight bollos in each of Pedro's hands”, then, at the request of João Domingos, after asking “the declarant [Oswaldo Eifler] and [Alfredo] Petersen to leave, the Principal beat Pedro and made him write a thousand lines” (APPERS, 191.). The statements by brothers Paulo Mario and Carlos Leising did not contribute anything to the punishment, they only agreed that Pedro had been fed.

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<sup>9</sup> Interesting the perspective highlighted by Doctor Moncorvo Filho (1926) regarding the lack of assistance to children and the carelessness of institutes for the protection of minors. According to the author: “[...] The asylum, as the ancients conceived it, was a house in which dozens of children from 7 to 8 years of age onwards were housed, not always free from harmful promiscuity, educated in the carrancismo of an almost exclusively religious instruction, living without the slightest precept of hygiene, often stunted by the lack of sufficient air and light, as a rule poorly fed, subject, not infrequently, to any slight fault, **to barbaric punishments of which the mildest it was the torture of hunger and thirst**, therefore, all of this is part of the scientific and social principles that must govern the maintenance of charity houses, shelters, patronages, orphanages, etc., consequently asylums in these conditions are condemnable institutions” (Moncorvo Filho, 1926, p. 134 [emphasis added]).

Based on this confrontation and the reports that indicated “physical punishments”, the Public Ministry, on November 20, 1911, filed a complaint against João Domingos under the sanction of Art. 303 of the Penal Code (APERS, 1911).

After the records had been completed, the witnesses and the accused were notified and summoned to appear at the Police Station, and, on November 24th of that year, the Secret Record Hearing Term was held, which took place in the absence of the defendant João Domingos (without the presence of the accused because he ignored the notification to appear). On this occasion, all the witnesses were questioned about what happened on the 29th and 30th of October 1911 on the premises and around the Colégio São José. After the testimony phase was concluded, the hearing was scheduled for the 27th of November 1911 of public acts with the presence of the parties. Following the subpoena certificates attached to the Crime Summary, the Public Phase Hearing Term was transcribed, attended by João Domingos represented by his attorney Frederico Schardong Filho. The report was concluded, indicating the continuity of the Summary Crime due to the corpus delicti examination and the confession made by the defendant. In this sense, the Public Prosecutor prosecuted the defendant under article 303 of the Penal Code of the Republic, and such crime is “subject to arrest and release in the ordinary way”. However, “since the crime is bailable, I set at 300\$000 (three hundred thousand réis) the amount of bail that the defendant can provide, if he wants to remain free” (APERS, 1911).

The terms of the sentence were added to the Summary, as well as a record produced by the defendant's defender which indicated that brother João Domingos no longer resided in Villa Lageado, but that he would provide a designated bond of three hundred thousand réis. After the definitive bail agreement was signed, written on December 1, 1911, the bail payment was drawn up at the notary's office “in order for [João Domingos] to be freed, for the crime of minor injuries”. A Judicial Deposits guide was attached to the process. On December 7, 1911, the prosecutor signed a *Libelo*<sup>10</sup> indicating that João Domingos intentionally beat the minor Pedro Ludwig and that the injuries caused made it impossible for the minor to carry out his studies for “some time”, with the aggravating factor that “he had committed the crime against his own disciple.” In these terms, “the defendant was requested to be convicted” for “assault as set out in Article 39 of the Penal Code plus the aggravating factor of Article 39, §5 and 9 of the same Code”. Finally, he decreed that there would be a public trial and that the list of witnesses would be called again (APERS, 1911). The Lawyer Frederico Schardong Filho, through a power of attorney, added to the Accusatory Crime *Libel* a

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<sup>10</sup> According to the Glossary of the National Council of the Public Ministry, *libelo* means the “articulated statement in writing in which the person, exposing the issue at hand and the legal reasons on which it is based, comes before the courts to ask for recognition of their right, initiating the demand against someone else; initial petition”. Available at <https://www.cnmp.mp.br/portal/institucional/476-glossario/7951-libelo> Accessed on January 12, 2023.



statement of opposition made up of four pieces in which he transcribes the testimony of the defendant Brother João Domingos:

1º

That on October 29th of the current year, it came to his attention that the minor intern student Pedro Ludwig, slandered his teacher Bruder Carlos and the student Oswaldo Eifler, telling several students that these two performed acts with each other, the supp.<sup>te</sup> certifying and demonstrating the reality of this slander, he applied to the victim the punishment for which he was denounced.

2º

That the victim was not unable to perform his Primary service, although it appears in the Criminal Record, because the following day he continued to attend his classes and his teacher further punished him with writing a thousand lines, and on the 31st of the same month October he made the long journey from this Villa to the City of Porto Alegre.

3º

That, for the crime he committed, he could only be prosecuted through a private action stipulated in Article 4th letter e) from the Criminal Procedure of State Code and not through public action<sup>11</sup>.

In these terms, it is requested the acquittal of the Defendant, who offers this Contrariety and wait for it to be received and finally approved (APERS, 1911).

The opposition was received and analyzed; however, the decision was ratified, maintaining the section of holding the public Jury on the day and time previously scheduled by the judge. The closure and outcomes of this process will be analyzed subsequently as we propose the continuation of a descriptive-analytical analysis of the rituals and the apparatus created for the popular jury established to judge brother João Domingos on the crime of violence.

## **"IN ACCORDANCE WITH THE JURY'S DECISION": ACQUITTAL IN THE STYLE OF FINAL CONSIDERATIONS**

It was at the end of the 19th century that violence gained new contours in historiography (Silva; Silva, 2022, p. 413). When Michel Foucault (1987), in *Discipline and Punish: The Birth of the Prison*, analyzed the transformation of violence as a form

<sup>11</sup> The Article 4 of the Penal Code of the State of Rio Grande do Sul provides in its text: Private action belongs in all crimes and misdemeanors: [...] e) to the guardian or curator" (Rio Grande do Sul, 1898, p. 2).

of legal punishment for criminality in Modern Europe, he observed that in punitive systems, physical violence, which initially prevailed, changed over time, becoming a mechanism for disciplining behavior and bodies, now, not always, with the need for physical aggression. Distinct from the Middle Ages when crimes were punished through public torture, which served as a warning to society, at the end of the Modern Period, such practices were progressively replaced by punishments in prisons, where both behavior and body of criminals were controlled. In this way, Foucault perceived violence as a mean to understand the strategic changes in social control in different societies, exploring the political function of punishments and their transformations throughout history. Therefore, for Foucault (1987), violence is not a concept capable of explaining the functioning of life, but rather the visible result of the destructive action of others.

Returning to the process, according to the notifications sent, the trial began at 10 a.m. on December 22nd, 1911. The section was initiated with the opening statement that highlighted that the fifteen jurors had their names inscribed in the cells. Following this, the Criminal Summary described the terms of summoning the parties and witnesses, accompanied by a declaration certifying that the Jury Court's Doorman had posted on the door of the Lageado Municipal Office and loudly declared:

The Justice by your Prosecutor as Plaintiff, the defendant João Domingos on bail accompanied by his defense counsel and attorney Francisco Schardong Filho, and the witnesses Helmuth Fett, Licinio Rocha, and Oscar Wilbbing, while the others failed to appear, I attest and for the record, I have drawn up the present document which I sign (APERS, 1911).

It was ensured that the witnesses were kept in separate rooms where they could not hear the debates, or the responses given by others. With the doors open, the session was initiated after the bell was rung by the bailiff. The President of the Jury Court checked the ballots with the names of the fifteen jurors and drew the five de facto Judges. Afterwards, he stood up and gave the commitment to the five judges, mentioned in the retro term, and the first of them had to, in a loud voice, announce: "I promise on my honor to speak well and sincerely in this case and to cast my vote, according to my conviction and the dictates of Justice" and then successively saying to the other de facto judges, in a loud voice: "I promise so" (APERS, 1911, [Italics in the document]). The President of the Court began the interrogation of the defendant, who affirmed that he was "free from any and all coercion", through the following protocol: what is his name, age, state, place of birth, residence and time in the place he designates to which the defendant answered "João Domingos, 37 years old, single, born in Germany, resident in this same municipality for four years." What are your livelihood and profession? "I am a teacher". Where were you at the time the crime is said to have taken place? "I was here at Villa do Lageado". Do you know the people who testified against you and for how long? "Known him for a while." Do you have any particular reason for the complaint? "It does not have". Do you have facts to allege or evidence to justify your innocence? "There is, which your lawyer will present" (APERS, 1911).

Here we draw attention to the fact that, despite the republican procedural legislation having implemented unquestionable advances – as it expanded the defense possibilities of those accused in common crimes, as well as restricting the forms of imprisonment –, the oral nature of the trial was still in force in the sessions of plenary debates before the jury. However, the written process was what dominated the entire preliminary procedure of the police investigation.

The interrogation of the defendant's lawyer followed the filing of the accusation, aiming to defend the defendant from the incrimination. Thus, the defense was “developed, showing the law and evidence and basing itself on reasons of fact and law, which supported the defendant's innocence” (APERS, 1911). Following that, the *Quesitos*<sup>12</sup> were formulated, composed of a set of five questions:

I.

Did the defendant João Domingos on the 29th of October this year, in the afternoon, at Collegio S. José, in this Villa, with a stick, cause the bodily injuries described in the body inspection report to the minor Pedro Ludwig?

II.

Did these injuries make it impossible for the injured party to carry out his ordinary work for some time?

III.

Did the defendant commit the crime with superior strength, so that the offended party could not defend himself, with the possibility of preventing the offense?

IV.

Did the defendant commit the crime against his disciple?

V.

Are there extenuating circumstances in favor of the defendant?  
Which are they? (APERS, 1911).

After the debate was over, the President of the Jury Court summarized it and asked the judges in fact if they wished to deepen or interrogate any aspect, with the five judges declaring that they “felt sufficiently informed in the present case and that they withdrew from examining any point” her. Then, the judges in fact, in the presence of everyone and in a loud voice, answered the questions:

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<sup>12</sup> The *quesitação* phase can be understood as a legal instrument, whose main purpose was to adequately extract the jury's decision, since the trial was characterized by secrecy. This would be the phase of a trial, in which the jurors would have the necessary conviction and security for their individual choices of answers.

**To the first quesito** they answered yes by unanimous vote, the defendant João Domingos, on the 29th of October, this year, in the afternoon at the Collegio S. José, in this Villa, with a stick inflicted on the minor Pedro Ludwig the bodily injuries described in the report *corpus delicti*.

**To the second quesito** they answered no by unanimous vote, no having these injuries would not make it impossible for the offended party to carry out their ordinary work for some time (APERS, 1911 [emphasis in the document]).

In this way, the President of the Jury declared the other three issues to be prejudiced, announcing that the decision disqualified the crime from public action, acquitting the defendant of the accusation that was brought, ordering to dismiss his guilt, and refunding him half of the amount paid for bail. (APERS, 1911).

The Summary Crime process ends with the summons to Nicolau Ludwig, father of the minor assaulted by João Domingos, indicating that the complaint could be opened in the private sphere at the complainant's expense. We can conclude, from the defendant's acquittal, that violence against children was a socially rejected practice at the time and invalidated by the republican legal regime. However, the absence of more specific legal mechanisms to combat violence and mistreatment against children resulted in the defendant being pardoned, as he was judged under legislation that only considered crimes involving adults who worked, which was not the case of Pedro. This legal understanding would only change in 1927, following Decree 17.943-A, also known by the name of the jurist who created it, Code Mello Mattos. Comprising 231 articles, almost exclusively to deal with the control of abandoned and delinquent children, the code was the first legal system to provide more humanized and systematic treatment to children and adolescents, including providing for State intervention in cases of violence, abuse and crimes against children.

Based on the analyzes undertaken here, supported by a micro-history of violence against children, we can conjecture the existence of a relationship between the education of children and punitive and corrective practices as being a possible constant throughout history. Understanding this chain involves, above all, examining how different societies and cultures approached the discipline and education of children over time. Nevertheless, punitive practices, such as severe physical punishment, were common in the process of educating children, since the belief that strict discipline would shape children's behavior was prevalent in several cultures. So much so that schools and educational institutions often employed physical punishment methods, such as spankings or other forms of corporal punishment, to correct inappropriate child behavior.

As we have seen, the legal apparatus of the event<sup>15</sup> was governed by the Penal Code of 1890 – successor to the Imperial Code –, which, according to Alvarez, Salla and Souza (2003, p. 12-13), stated that

[...] The violence could not be characterized as a customary or systematic practice, nor could it go beyond ordinary intention. In this sense, penal laws, although they revealed the intention of controlling the sphere of personal will, within the framework of an impartial legal rationality, in the trial and punishment process, allowed surveillance and prison practices, illegal at first sight, insinuate themselves and integrate themselves into the universe of legality, as everyday practices, acceptable, however, muted. Basically, the issue continued to be leniency towards crimes committed by characters from certain strata of the population, who would be treated as citizens, and a certain severity towards others, treated as wards. Although the 1890 Penal Code defined penalties based on a generic equivalence between the crime and the damage caused, institutional practice expanded the universe punishable or increased the rigor and duration of the sentences.

From a Foucauldian perspective, we can understand that the legal regime in relation to violence and crime functioned as a type of control and power mechanism exercised by society and the State. For Foucault (1987), the penal system is a form of regulating social relations and guaranteeing order and discipline, since power is exercised not only through repression and punishment, but also through social and disciplinary mechanisms that seek to normalize and control people's behavior. In this sense, the legal system is a tool of social control that maintains order based on norms established by institutions of power. However, the author also asserts that the legal regime has a political dimension, as the definition of crimes and the application of the law are determined by disparate orders of power that often serve to reinforce existing inequalities in society. For example, in our case, it can be understood from the hierarchical relationships between master and disciple. And, as we saw in this study, criminal justice is not objective and impartial, but rather influenced by the interests and values of a microphysical network of power articulated with the State to shape and form individuals and society.

Therefore, we can also infer that the perception of what constitutes an acceptable or punitive educational method varies considerably according to cultures and eras. What was classified as normal or acceptable in terms of child discipline in one historical period may be completely unacceptable in another. For example, when we look from human rights, medical and psychological perspectives, as well as changes in social

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<sup>15</sup> A better analytical approach regarding the legal apparatus of assistance to minors can be consulted in Rizzini (2011), especially in the third chapter, *For a civilizing reform in Brazil: the essence of ideas within the scope of Justice*.



perceptions, we can identify that many societies have moved away from punitive practices in education. In these societies, educability practices changed their focus, proposing more positive methods, supported by approaches that emphasize understanding, dialogue and conflict resolution to teach and correct children's behavior. Just as it happened in many countries, laws were implemented to prohibit the use of physical punishment not only in the family and social sphere, but also in schools and educational institutions. That said, it is possible to notice the development and promotion of more purposeful education policies to guide families, society, and educators on healthier and more effective practices in children's education.

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