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## **“She committed the crime to hide his dishonor”: micro-history of a criminal case of infanticide in the city of Caxias, RS (1925)**

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**Abstract:** Embedded in the field of the History of Childhood and Crime, this study adopts an approach that engages with the methodology of microhistory and Foucault's concept of the microphysics of power to analyze a criminal complaint of infanticide recorded in 1925 in the city of Caxias, Rio Grande do Sul. The primary objective of this investigation is to examine the accusation brought by the Public Prosecutor's Office, documented in a Criminal Summary preserved in the Arquivo Público do Estado do Rio Grande do Sul (APERS). The research seeks to understand the legal representations surrounding this transgression and the discourses that shaped it. The analysis of the case, in which a young minor desperately attempted to conceal her unwanted pregnancy, highlights the prevailing regimes of educability in a society that, at the time, legitimized the concealment of pregnancies as a means of preserving moral norms related to sexuality.

**Keywords:** history of childhood; crime; microhistory; regime of educability; sexuality.

### **1 Introduction**

This study, situated within the field of the History of Crime and Childhood, adopts an approach that engages with microhistory and Michel Foucault's (2009) concept of the *microphysics of power* to examine, on a small scale, a criminal complaint of infanticide filed in 1925 in the city of Caxias, Rio Grande do Sul (Brazil). The main object of analysis is the indictment submitted by the Public Prosecutor's Office, documented in a *Sumário Crime*<sup>1</sup> preserved at the Public Archives of the State of Rio Grande do Sul (*Arquivo Público do Estado do Rio Grande do Sul – APERS*). The research seeks to understand the regime of educability within a given society – shaped by social, legal, and power dynamics – by considering the specific historical context

<sup>1</sup> The Sumário Crime encompasses information concerning the occurrence of a criminal act, as well as the circumstances that may influence its classification and the assessment of the defendant's culpability. In this sense, it may be understood that the Sumário, within this context, functions as a preparatory stage for the trial.



and the construction of norms and behaviors related to childhood and criminality during Brazil's First Republic (1889-1930).

During the First Republic, society in Rio Grande do Sul was marked by multiple forms of violence that extended beyond political conflicts and permeated everyday life. Land disputes, family vendettas, and the enforcement of a rigid social order gave rise to naturalized violent practices in both public and private spheres. Social control was exercised through coercion, often legitimized by institutions such as the judiciary and the police, which operated selectively and reinforced class, gender, and age-based inequalities. Within this context, women, children, and individuals in situations of vulnerability were particularly exposed to various forms of violence, frequently silenced by dominant moral codes and the absence of effective legal protection.

Nevertheless, during this period, the Brazilian legal system underwent several transformations, many of which stemmed from the shift from a monarchical to a republican regime. This is evident in the 1891 Constitution, which established a legal framework grounded in new republican and federative principles, emphasizing the decentralization of political and judicial powers (Carvalho, 2002). However, both criminal laws and judicial practices retained many influences inherited from the colonial and imperial periods, particularly the European-inspired legalism that continued to shape Brazil's penal and legal culture (Sirotti, 2021).

One of the main milestones of punitive legislation during the period was the Republican Penal Code of 1890, which replaced the Imperial Criminal Code of 1830. This new code was strongly influenced by European codifications, such as the French and Italian penal codes. It introduced new criminal categories, and its drafting reflected the broader desire for legal modernization, aiming to establish proportional and systematic punishments for offenses (Siqueira; Guedes, 2021). However, the 1890 Penal Code remained deeply shaped by conservative views of morality and public order. It criminalized behaviors considered immoral or deviant – such as vagrancy, begging, and gambling – and imposed severe penalties for crimes against property.

The main concern of criminal legislation during the First Republic lay in social control and the preservation of public order (Carvalho, 1987; Neves, 2014). Violent crimes, particularly homicides, thefts, robberies, and other serious offenses, were punished harshly, yet the enforcement of the law was highly selective. The justice system often favored the elites, while marginalized groups – Black, Indigenous, and

poor populations – were disproportionately targeted by punitive practices (Chalhoub, 1986). Crimes committed within the domestic sphere, such as domestic violence and infanticide, were frequently treated with ambivalence by the judiciary. Although the Penal Code prescribed penalties for such crimes, the patriarchal perceptions of the time often resulted in leniency toward men who committed acts of violence against their wives and children. Women, on the other hand, especially in cases of infanticide, were often judged more harshly, being viewed as morally deviant for failing to fulfill their maternal responsibilities (Rago, 2014).

Thus, the present study is justified by its attempt to understand the complex mechanisms of educability and social control at work in a specific historical period, since such analysis offers a possible interpretive key to the cultural, moral, and institutional patterns that guided society and shaped individual behavior – particularly in matters related to sexuality and the feminine role. Moreover, the case highlights the moral and value system that pressured young women to conceal illegitimate pregnancies, given that sexuality outside marriage was strongly condemned. This reveals the punitive and restrictive nature of educability, in which family honor and female reputation were preserved above personal well-being and health. By examining the motivations and pressures that led to such acts, as well as the institutional – legal and educational – responses that followed, it becomes possible to understand the role of morality in shaping gender norms and the expectations surrounding femininity and motherhood, often reinforced by structures such as the Church, the legal system, and educational practices.

## **2 Interlocutions between micro-history and the microphysics of power**

In Brazilian historiography on crime and its control, infanticide has been a topic of considerable, yet relatively underexplored, interest – particularly given the abundance of sources produced by the judiciary and the police. What distinguishes these studies from one another, however, are their guiding questions, methodological approaches, and interpretive perspectives, which have enabled the development of original analyses.

A significant example is Fabiola Rohden's (2003) *The Art of Deceiving Nature: Contraception, Abortion, and Infanticide in the Early Twentieth Century*<sup>2</sup>. In this work, Rohden examines how debates among physicians and jurists – concerned with preventing and repressing the crimes of abortion and infanticide – provided “[...] illuminating examples of how contraception, in its various forms, was a matter that extended far beyond the private domain” (Rohden, 2003, p. 17).

Another relevant study is Alcicleide do Nascimento's (2008) *The Fate of the Forsaken: The Fight Against Infanticide and the Institutionalization of Assistance to Abandoned Children in Recife, 1789-1832*<sup>3</sup>. In this book, Nascimento analyzes, from a historical perspective, how the Brazilian aristocratic family – supported by hygienist policies—regulated moral, intellectual, and social education according to the sanitary precepts of the time. Within this context, an institutional apparatus was established to address childhood welfare and combat infanticide, with the aim of “[...] disciplining, ordering, and productively and peacefully integrating the poor and marginalized classes” (Nascimento, 2008, p. 38).

Similarly, the edited volume *Prohibited Practices: Customary Practices of Abortion and Infanticide in the Twentieth Century*<sup>4</sup>, organized by Joana Maria Pedro (2003), also deserves attention. Comprising twelve chapters, the work meticulously examines how cases of pregnancy termination and the death of newborns were criminalized, debated, and widely publicized in the press. According to the editor,

[...] abortion and infanticide are practices that fade over time. In many cultures, they were sanctioned by custom and therefore often went unnoticed. They existed in a semi-conscious space between forgetfulness and neglect. The criminalization of these practices has a history shaped by the involvement of multiple actors and reflects broader changes in society and gender relations. The construction of maternal love played a significant role in the process of criminalizing and estranging these practices (Pedro, 2003, p. 10).

In general, this topic has been analyzed through historical sources that, across different periods, recorded cases of infanticide, the activities of midwives, and instances of self-induced abortion by women. These various forms of social control

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<sup>2</sup> Rohden's work was originally published in Brazilian Portuguese under the title “*A arte de enganar a natureza: contracepção, aborto e infanticídio no início do século XX*” (2003).

<sup>3</sup> Nascimento's work was originally published in Brazilian Portuguese under the title “*A sorte dos enjeitados: o combate ao infanticídio e a institucionalização da assistência às crianças abandonadas no Recife (1789-1832)*” (2008).

<sup>4</sup> Pedro's work was originally published in Brazilian Portuguese under the title “*Práticas proibidas: práticas costumeiras de aborto e infanticídio no século XX*” (2003).

reveal how society, at specific moments, was structured to establish regimes of educability grounded in discourse surrounding the female body, regulating women's sexual conduct – especially within hierarchized class relations.

Considering the extensive body of historical research on this subject, this article proposes a more focused analysis aimed at establishing intersections between distinct fields of knowledge – legal, medical, and educational – with the aim of identifying compatibilities and regularities that allow for the delineation of specific discursive formations regarding infanticide. To this end, it adopts a distinctive methodological approach based on microhistory, understood as a historical science methodology that investigates the past on an intentionally reduced scale, privileging cultural, economic, and social aspects. Unlike macrostructural analyses, microhistory considers alternative sources and narratives, such as everyday experiences, subjectivities, representations, and languages, shifting the focus from large-scale political and economic transformations to processes often rendered invisible by conventional accounts.

Combining a microhistorical methodology with Michel Foucault's (2009) concept of the *microphysics of power* proves particularly fruitful, as both approaches investigate mechanisms of power and their manifestations on a reduced scale, focusing on everyday relations and subjects historically marginalized by dominant narratives. In developing the concept of the microphysics of power, Foucault (2009) moves away from the traditional notion of power as centralized and hierarchical toward a more diffuse, capillary understanding that permeates all social relations. In this sense, power is not exercised solely through large institutions, such as the state but it is disseminated through everyday practices, discourses, and disciplinary mechanisms that shape individuals. Consequently, a micro-level analysis of historical forms of subjectivation and education becomes essential, as it reveals the subtle mechanisms of control and normalization that traverse social spaces.

Microhistory, as exemplified by historians such as Carlo Ginzburg (1987) and Giovanni Levi (1992), seeks to examine specific events, individuals, or communities on a reduced scale, enabling a deeper understanding of social dynamics and power relations that operate in diffuse ways. This approach helps identify structures and patterns of power that, while subtle at the micro level, indicate broader trends when considered collectively.

The dialogue with the concept of the microphysics of power is particularly relevant, as both approaches shift attention from traditional institutions to practices embedded in everyday life. The microphysics of power proposes a decentralized and capillary conception of power, understanding it not as something emanating solely from a central authority (such as the state or sovereign) but as a set of relations and practices that permeate all spheres of society. For Foucault (2009), power is not imposed solely from above; it circulates among individuals and institutions, manifesting in small everyday interactions and operating through disciplinary devices that regulate bodies and subjectivities. Power is not confined to major institutions but is distributed across daily practices, interpersonal relationships, discourses, and smaller institutions—such as schools, hospitals, and prisons, as well as within family organizations. These dynamics constitute regimes of educability that socially normalize the figure of the ideal subject, directing conduct and governing bodies, consciousness, and subjectivities to integrate them into behavioral patterns shared by a given culture (Ripe, 2022).

Based on this conceptual and methodological framework, the present study proposes a microanalytical reconstruction of a specific event situated within its historical and social context. This approach demonstrates how, by focusing on a marginalized individual and her particular experience, it is possible to interpret the complexity of social structures and power relations that operate in seemingly insignificant spheres still play a crucial role in shaping discourses and practices surrounding the female body.

### **3 The Criminal Summary of an infanticide committed out of “fear and shame of the Family”**

The *Criminal Summary Proceedings* in question concern a case of infanticide that took place in the city of Caxias do Sul in 1925. The episode began when a municipal employee responsible for collecting fecal waste discovered the body of a newborn and alerted the authorities. Upon being informed, the local police chief requested the assistance of a midwife familiar with the area to aid in the investigation. During the inquiry, bloodstains were found in the latrine of the residence of Josepha Nunes da Rosa, a domestic worker, leading to her incrimination and the initiation of a police investigation.

Witnesses were heard, and based on the evidence collected, the Public Prosecutor's Office charged Josepha with the crime of infanticide under the applicable legislation. The case reveals several social practices characteristic of the Republican period, including fraudulent marriage promises, clandestine romantic relationships, the knowledge held by midwives – both regarding the territory and abortive practices – and the role of the police in regulating women's bodies (Pedro, 2003). An analysis of the case also brings to light issues related to Josepha's level of formal education and the uncertainties surrounding her mental state, as indicated by the records of her confinement in the São Pedro Psychiatric Hospital in the city of Porto Alegre.

The criminal case under analysis refers to a *Summario Crime* (Summary Criminal Proceeding) preserved in the Public Archives of the State of Rio Grande do Sul (APERS)<sup>5</sup>, in which the defendant was charged with the crime of infanticide. According to Esteves (2022, p. 154), the...

[...] The study of infanticide from a historical perspective has been conducted primarily within the fields of Family History and, more recently, the History of Crime. However, research on this subject is hindered by various factors related to the circumstances of its commission—for instance, the methods employed to conceal pregnancy, to kill the newborn, or to hide the body.

The term infanticide originates from the fusion of two Latin words: *infantis*, meaning child, and *caedere*, meaning to kill. In the 1890 Penal Code, the crime was codified in Article 289, *in verbis*:

Article 298 – To kill a newborn, that is, an infant within the first seven days of life, either by direct and active means or by withholding from the victim the care necessary for the preservation of life, thereby causing death: Penalty – imprisonment from six to twenty-four years. Sole paragraph: If the crime is committed by the mother to conceal her own dishonor: Penalty – imprisonment from three to nine years (Brazil, 1890).

This article addresses two fundamental issues. The first concerns the seven-day period following birth, which is decisive for the legal characterization of infanticide. In this context, the definition of the perpetrator, as articulated by Araújo (1901, p. 43), is noteworthy: “[...] regardless of the identity of the person committing the act or the motives involved, however monstrous or ignoble they may be, the act shall be classified as infanticide.” The second issue pertains to the notion of honor – a concept

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<sup>5</sup> APERS. Judiciary Collection. Caxias District. Criminal Summary. Civil and Criminal District Court. No. 1506. M: 63. E: 151. Year: 1925. Justice against Josepha Nunes da Rosa.

shaped by the social transformations of the Republican period and by positivist doctrines. In the emerging republican context, women were frequently regarded as a “[...] factor of control over social conflicts, which could be mitigated or even avoided through the moralizing influence of the female figure” (Pesavento, 1992, p. 72). In the commentary on this provision of the Code, we can observe that:

The legal provision on *infanticide* limits the mitigating circumstance solely to the mother who kills her own child born out of wedlock *de facto*. A child may be illegitimate *de facto* but not *de jure*—for example, the child of a woman who conceives in the absence of her husband, until he takes legal measures to rebut the presumption *filius est, quem nuptiae demonstrant* (Araujo, 1901, p. 26).

Under the prevailing legislation, the crime of infanticide is defined in Article 123 of the Penal Code: “To kill one’s own child under the influence of the puerperal state, during childbirth or immediately thereafter: penalty – imprisonment from two to six years” (Brazil, 1940). This legal provision distinguishes infanticide from other forms of homicide by considering the specific condition of the mother, who, due to the puerperal state, may act involuntarily or under intense emotional disturbance.<sup>6</sup>

From a historian’s perspective, for instance, the formalistic nature of procedural treatment becomes evident, as do the prejudices embedded within the historical records. Elements such as the clerk’s change in handwriting when referring to the accused suggest a distinct, judgment-laden stance, reflecting the cultural and social values inscribed within the legal practices of the period. One can also observe the joint operation of legal and medical forms of knowledge in sustaining a moral ideal, indicating a complex network of social interactions involving neighbors, healthcare professionals, coworkers, and other community members. These articulations reveal how the legal and medical spheres not only intersected but also reinforced one another, consolidating shared norms and values. In the words of Chalhoub (1986, p. 23), regarding the reading of criminal case files:

It is therefore intended to demonstrate that it is possible to construct valid explanations of the social precisely from the conflicting accounts presented by different social actors, or perhaps even more emphatically, simply because divergent interpretations or readings of “things” or “facts” exist.

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<sup>6</sup> This particularity justifies the mitigation of criminal responsibility and the reduction of the sentence compared to ordinary homicide, in which the same attenuating circumstances related to the perpetrator’s physical and emotional state are not present.

Returning to the case, it is worth noting that when the deputy police chief initiated the investigation, together with the sub-intendant of the First District, he was accompanied by a midwife “[...] familiar with that area, [which made it] easier to discover the perpetrator of the monstrous crime” (APERS, 1925, p. 5). The midwife’s collaboration in the search can be explained by the fact that she “[...] possessed extensive knowledge of matters related to methods of reproductive control, circulating their guidance through networks of female assistance and contact” (Vendrame, 2018, p. 123).

During the search at the residence located at 9 Júlio de Castilhos Street, the home of Mr. Francellino Guerreiro Filho, evidence of the “monstrous” crime was found, directing suspicion toward the household’s servant. Josepha Nunes da Rosa, a seventeen-year-old, single, mixed-race young woman who had lived with the Guerreiro family for nine years,<sup>7</sup> confessed to the crime, stating that she had acted “to conceal her dishonor” (APERS, 1925, p. 12). In the context of the First Brazilian Republic, prevailing worldviews were shaped by emerging doctrines of the penal school, particularly Lombrosian theories, and by Auguste Comte’s positivism. Within this social imaginary, women were confined to a strictly domestic and reproductive role within the framework of the aristocratic nuclear family, bearing the responsibility for maintaining the household, which included caring for the husband and children.

The police chief, continuing the investigation, proceeded to hear witness testimony in an effort to clarify the facts under inquiry. The witnesses examined were Francisco Viegas and Manuel Nicolau dos Santos. Francisco Viegas, an employee of the municipal government, reported discovering the newborn, stating that “[...] at around eight o’clock, while emptying a container in the presence of his nine-year-old son Waldemar, he heard the boy say: ‘Look, papa, there came out a baby’” (APERS, 1925, p. 6). Manuel Nicolau dos Santos, single, twenty years old, of mixed race, and employed as a cart driver, was presented by the accused as...

[...] her boyfriend and seducer stated that he had sexual relations with the accused four times, and only at the end of October; that he cared for her, but,

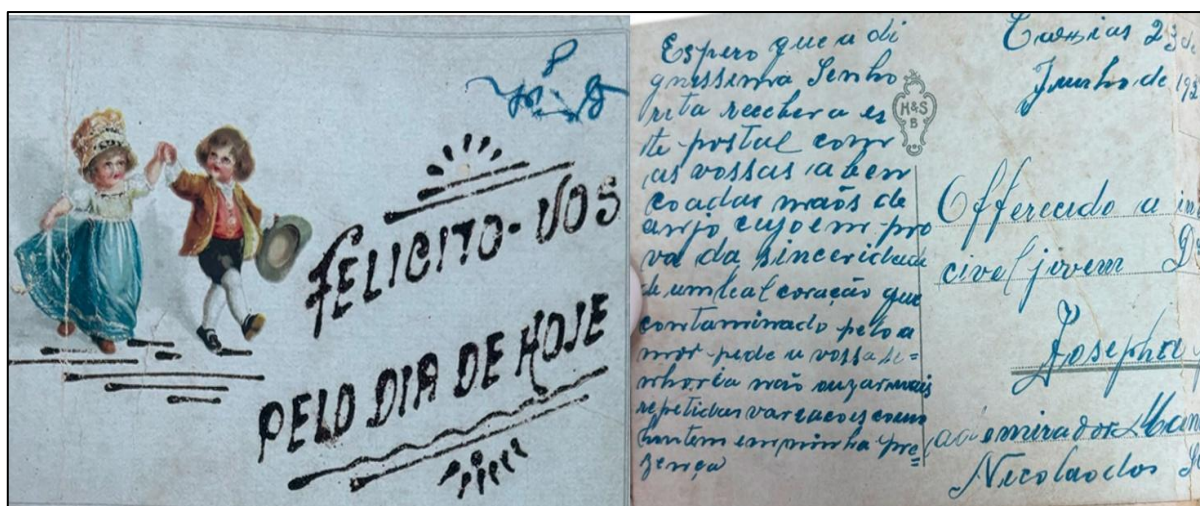
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<sup>7</sup> The placement of poor girls in households—whether sheltered, sponsored, or adopted by families to perform domestic labor—was a recurrent practice in everyday life during the First Republic. Under certain circumstances, it is possible to discern how this power relationship was permeated by forms of physical violence, manifested within both family and social dynamics. On this subject, see Ripe, Marin, and Serralheiro (2025).

as he did not find her in the condition of an 'honest woman,' he did not seek her further and abandoned her (APERS, 1925, p. 6).<sup>8</sup>

A detailed examination of the case file highlights the presence of a card bearing the message “*Felicitó-vos pelo dia de hoje*” (“Congratulations on this day”). This card—a small token of affection dated June 23, 1924, and signed by Manoel Nicolau dos Santos, Josepha Nunes da Rosa’s boyfriend—contains a handwritten inscription that warrants attention, as shown in the following image.

Imagem 1 – Front and back of the card given by Josepha's boyfriend



Source: APERS. Judiciary Collection. District of Caxias. Criminal Summary. District court of civil and criminal. No. 1506. M: 63. E: 151. Year: 1925. Justice against Josepha Nunes da Rosa.

On the front of the card, in addition to the message previously mentioned, there is a printed illustration depicting two children – a girl and a boy – portrayed respectively as a young lady and a gentleman, both dressed in European-style attire. The girl is shown holding the hem of her dress, a gesture suggesting care not to soil it as she walks, thus reinforcing an impression of movement and composure. Beside her, the boy, with one leg extended forward, also conveys a sense of dynamism in his posture. He holds a hat in his hand, as if to express respect toward the young lady at his side. On the reverse of the card appears the following inscription: “I hope that the most dignified young lady will receive this postcard with your blessed angelic hands, as proof

<sup>8</sup> Virginity during the First Republic emerged as a symbol of honor and respect, serving as a criterion for assessing women's value and morality, and reflecting the persistent structures of gendered control and subordination. For further discussion on this topic, see the following article: "*What Virginity Is This?*": *The Modern Woman and the Reform of the Penal Code in Rio de Janeiro, 1918–1940* (Caulfield, 1996).

of the sincerity of a loyal heart, which, infected by love, asks Your Ladyship for your hand.”

Society during the First Republic was characterized by profound conservatism, marked by a rigid regulation of social conduct, especially in light of increasing urbanization. Within this context, the prevailing patriarchal structure reinforced the ideal of woman as an emblem of purity and morality, with her social standing conditioned by the strict observance of prescribed behavioral norms. Marriage, in turn, was conceived not only as the institution that legitimized sexuality but also as a fundamental pillar in the preservation of family honor. The social imaginary sustaining this normative framework was so deeply ingrained that it manifested explicitly, as in the inclusion of this very card in the legal case file.

It is important to recall that, in cases of infanticide, the relationships leading to pregnancy were often marked by “vain promises.” Thus, for many women, the only recourse available was to abandon their unwanted children in an attempt to preserve their own “honor” and rid themselves of the “proof” of their “weakness” (Nascimento, 2008). This act, though drastic, represented a response to the intense social and moral pressures placed upon women who, once abandoned or discredited, felt compelled to avoid the stigma associated with motherhood outside the bounds of socially sanctioned norms.

Also noteworthy is the testimony of Dr. Sylvio Petinelli, who, in December, had attended to the accused while she was bedridden due to rheumatism. At that time, the physician found no indications of pregnancy, suggesting that the young woman had concealed her gestation from its onset. During the proceedings, it was reported that the child’s body had been transferred to the “*casa de saúde*” of Drs. Botto and Ardizzoni, where the forensic examination was conducted.<sup>9</sup> At the conclusion of the

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In the 1898 Code of Criminal Procedure of the State of Rio Grande do Sul, the legal provision regarding the forensic examination of a corpse is found in Article 128: “the body of the crime is the proof of the criminal act with all its circumstances” (Rio Grande do Sul, 1898). The role of the expert is limited to the verification of the fact, with the purpose of identifying and indicating the cause that motivated it. In carrying out this task, the expert has the authority to pose any questions deemed relevant and is required to record, with strict impartiality, all circumstances involved, whether favorable or unfavorable to the accused. This impartiality is essential to ensure the objectivity and credibility of the analysis, thereby contributing to the just elucidation of the facts within the judicial process (Gomes, 1959). Experts were required to respond to a series of questions, which can be highlighted as follows: first, it was necessary to ascertain whether the death had indeed occurred; second, to determine the exact age of the newborn at the time of death; third, to investigate whether the cause of death resulted from direct and active actions; and finally, to verify whether the death was due to the omission of essential care necessary to preserve the victim’s life. These questions were

procedure, the investigating officer requested the preventive detention of the accused, citing Articles 192, 197, and 198 of the State Code of Criminal Procedure<sup>10</sup>, in accordance with Article 298, sole paragraph, of the 1890 Penal Code<sup>11</sup>. The existence of a separate Code of Criminal Procedure in Rio Grande do Sul is grounded in Article 34 of the 1891 Constitution, which conferred upon the provinces the authority to legislate on their respective codes.

In the expert report, the following observations are noted:

He found the body of a recently born male infant, approximately forty-five centimeters in length and weighing around three kilograms. The surface of the body exhibited diffuse cyanosis throughout. The umbilical cord had not been cut and measured approximately forty centimeters. A portion of the lung was removed and examined, confirming that the child had breathed (APERS, 1925, p. 7).

Following a thorough examination of the child's body, the experts reached the following conclusions: the death of the newborn was confirmed; it had occurred approximately two days prior to the forensic examination; the cause of death was attributed to direct means; and the necessary measures for the preservation of life had not been observed. In cases involving the death of neonates, the primary responsibility of the medical experts was to determine whether the child had been born alive – that is, whether signs of respiration had been present prior to death.

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approved by a commission responsible for drafting the Code of Criminal Procedure and varied according to the nature of the crime under investigation. Consequently, the types and objectives of the forensic examination, as well as their specific questions, were adjusted according to the offense being investigated. Examples include forensic examination of the corpse (bodily injury); cadaveric examination; forensic examination of the corpse (infanticide); cadaveric examination of a pregnant woman (abortion), among others.

<sup>10</sup> Article 192 – Except in cases of flagrante delicto, preventive detention shall only be imposed for crimes that are non-bailable and upon a written order from the competent judge responsible for determining guilt (Rio Grande do Sul, 1898).

Article 197 – Even before the determination of guilt or the initiation of a police investigation, preventive detention may be requested or ordered, provided that the evidence required under Article 193 is present (Rio Grande do Sul, 1898).

Article 198 – When requesting a detention order, the police authority must present before the judge either the defendant, if they confess to the offense, or at least two witnesses, or other evidence that provides strong indications against the defendant (Rio Grande do Sul, 1898).

<sup>11</sup> Article 298 – To kill a newborn, that is, an infant within the first seven days of life, whether by direct and active means or by withholding from the victim the necessary care for the preservation of life and thereby causing death (Rio Grande do Sul, 1890).

#### 4 Jury Trials: defense of honor

After being submitted to the Public Prosecutor's Office, the police investigation was reviewed by the Prosecutor, who, upon confirming the existence of the "conditions for criminal prosecution," referred the case to the competent court. The judge appointed an attorney to represent the defendant and scheduled a hearing for the first days of June of the current year. During the hearing, at the time of the interrogation, the defendant was questioned regarding her life history. In response, the accused stated

Her name is Josepha Nunes da Rosa, age seventeen (not yet completed), single, daughter of Pilurcio Nunes da Rosa and Adriana da Rosa, residents of the municipality of Vacaria. She was born in Vacaria, in this state, and has been living in the household of Mr. Francellino Guerreiro, on Júlio de Castilhos Street in this city, for the past nine years (APERS, 1925, p. 19).

The defendant was also questioned regarding her means of subsistence and professional occupation, to which she responded that she worked as a domestic servant in the household of Francellino. When asked whether there was any reason that might justify the commission of the crime, she declared that there was no apparent cause. Concerning her claim of innocence, the defendant stated that she "committed the act attributed to *her because she did not think, and out of fear and shame toward the family* with whom she lives and toward other unrelated people" (APERS, 1925, p. 20, emphasis added). Subsequently, the defendant was questioned about her gestational status and the means by which she had allegedly concealed her pregnancy. She was also asked about her ability to read and write, to which she responded negatively, explaining that she had never attended school, as no opportunity had ever been provided. Following this, she was questioned about her health as well as that of her parents and siblings. She replied that she "had been slightly ill and, some time ago, suffered from rheumatism but has generally enjoyed good health" (APERS, 1925, p. 21). Regarding her parents, she stated that they were farmers and that she had four siblings, all of whom enjoy good health.

At the same hearing, Dr. Sylvio Pelinalli, age 65 and a native of this state, was heard as a witness; he had previously treated Josepha for rheumatism. The witness was questioned about the treatment provided, as well as the physical, mental, and moral condition of the accused. In response, he stated that he had attended Josepha

at the residence of Mr. Francellino Guerreiro, where she was bedridden due to articular rheumatism. He conducted three or four visits and, during that period, did not observe any evident signs of pregnancy. When asked about the possibility, Josepha herself mentioned that she might be pregnant; however, the witness did not perform specific tests to confirm this condition.

Regarding the defendant's physical development, the physician noted that her bodily structure did not correspond to her declared age, classifying her as belonging to the "microdemic" type. Concerning her mental capacities, he indicated signs of intellectual deficiency, emphasizing that, although she possessed discernment, it was partial and limited. In terms of moral development, he observed that it was influenced by factors such as education and social context, noting that Josepha had been unable to take advantage of opportunities due to her evident cognitive limitations. Following the testimony, the Public Prosecutor was granted the floor but did not make any additional requests. The defense attorney was then given the opportunity to speak, requesting the following lines of questioning:

[...] If articular rheumatism, under certain circumstances, can give rise to events that produce temporary disturbances of the mind and profound psychological effects, *to the extent that the parturient may experience a collapse of her senses and intelligence?* (APERS, 1925, p. 23, emphasis added).

Dr. Sylvio Pelinalli's response can be presented *in totum*:

[...] given the lapse of time between the rheumatism illness and the defendant's childbirth, the witness cannot specify whether there was any connection between these two events. However, the psychic phenomena that may manifest during pregnancy are, for the most part, attributed to the toxic state of gestation, resulting from insufficient eliminations and consequent alterations of the endocrine glands, and even more frequently from the manifestation of hallucinatory nephritis, or similar conditions, which produce functional disturbances without clear reference points. Regarding intelligence, there are even cases of complete gestational madness, sometimes leading patients to commit acts of violent denunciation (APERS, 1925, p. 24).

Subsequently, questions were raised regarding the treatment provided to the accused, specifically whether she exhibited signs of physical delay or indications of intellectual degeneration, suggesting the possibility of irregularities in her mental constitution. Such symptoms could imply compromised psychic functioning and an organization distinct from what was considered a healthy and normal standard. In response, it was stated that, given the treatment administered for the defendant's illness, it had not been possible to conduct investigations that would allow for a more

detailed analysis of this matter. Further inquiry addressed whether a lack of domestic, moral, and intellectual education might exacerbate mental irregularities in a person under conditions similar to those of the accused. The answer indicated that, under certain circumstances, the absence or deficiency of education in domestic, moral, and intellectual domains could indeed contribute to the aggravation of an already impaired intellectual condition. In the field of forensic psychology, particularly under the influence of positivism and the Lombrosian ideas that prevailed at the time, it was widely accepted that “[...] defective, poorly oriented education, characterized by physical aggression, punishment, and excessive indulgence, may constitute a factor in psychic disorder” (Gomes, 1959, p. 179). These conceptions reflect the view that socio-environmental factors, intertwined with individual development, directly influence the formation of psychological disorders.

Francellino Guerreiro Filho, the defendant’s employer, aged forty-four, married, a native of the state, and a livestock breeder by profession, was the second witness. He admitted to being surprised by the incident, stating that “[...] he had never noticed that she was pregnant and that she had never interrupted her domestic duties for such reason” (APERS, 1925, p. 30). The most striking question posed to him was whether he had ever taken the accused to school or sought someone to teach her to read and write. Francellino responded “that he had never sent her to school, because his own daughters had, on several occasions, attempted to teach the accused to read and write, but perhaps due to her limited intelligence, she did not understand and avoided learning” (APERS, 1925, p. 32).

The seducer of the accused, named Manuel Nicolau dos Santos, twenty years old, a native of the state and employed as a cart driver, was then questioned as to whether he was responsible for Josepha’s dishonor and for how long he had been courting her. His answer was as follows:

He has known her since September of the previous year, having been her boyfriend, and in that capacity engaged in sexual relations with her, but he was not the cause of her dishonor, as he found her already deflowered; on the first occasion she experienced neither pain nor bleeding [...], which led him to conclude that she was not a virgin. He never asked her whether she had had relations with other people. He stated that he had sexual relations with the accused only three or four times and denied being the father of the deceased child, given the time elapsed between intercourse—occurring in October of the previous year – and the child’s birth on May 19 of the current year (APERS, 1925, p. 33).

Manoel Nicolau dos Santos was also questioned regarding how he obtained the accused's consent to engage in sexual relations with her. Nicolau responded that

[...] the family never witnessed his relationship with the accused, and she was always in the same place when he passed by. While talking to her at the window, he invited her to engage in sexual intercourse, perceiving that she desired it, without making any promise of marriage, and these relations took place in the courtyard of her own home, at night (APERS, 1925, p. 33).

The fourth witness was Francisco Luiz Veigas, a fifty-one-year-old employee of the municipal administration and a native of the state. He stated only that it was his son who had found the infant among the fecal matter. After confirming what his son had reported, Francisco "[...] removed the child and ordered that the authorities be notified that the child was found lying head down" (APERS, 1925, p. 34). Florentina Pretto, age forty-five, married, a native of this state, and a midwife, was questioned as the fifth witness. She reported that she had been invited by the subintendant to assist in the investigation of a crime. Upon going to the residence of the accused, she conducted an examination in which she identified signs that the young woman had recently given birth. This was later confirmed by the accused herself, who, in the presence of the witness and the subintendant, confessed to having committed the infanticide. The witness concluded by stating

[...] she found the accused working and in good spirits, but upon looking at her feet, which were swollen and bruised, she immediately inferred that she had recently given birth. Nevertheless, she denied it and refused to be examined, so they left the house. However, as the witness persisted, they returned and conducted the examination, determining that the accused was a robust young woman—so much so that she was able to work—and that she still had placental tissue to be expelled. From the conversation held with the accused, the witness regarded her as a person of sound mind, with nothing indicating otherwise (APERS, 1925, p. 44).

Josepha de Almeida Guerreiro, age 40, married, and employer of Josepha, reported being surprised that her servant was pregnant, given that she had never failed to perform her work duties. She also stated that she had known the accused since she was approximately seven or eight years old. When asked about Josepha's health and physical vigor, she affirmed that

[...] she has generally enjoyed very good health, except for an episode of rheumatism. However, she was very negligent in her work and of limited intelligence, making formal study incomprehensible to her. Lessons were attempted through the employer's daughters, but they were unable to teach her to read or write (APERS, 1925, p. 47).

At the conclusion of the witness examination, Josepha's attorney submitted a petition to the magistrate, requesting that medico-legal and psychiatric examinations be conducted on his client. The purpose of this request was both to determine the authorship of the criminal act and to assess the integrity of Josepha's mental capacities at the time of the incident. In the petition, the attorney requested that the experts respond to the following questions:

- I. Examined physically and mentally, what is the condition of the patient—normal or abnormal?
- II. Does she present any traces or signs of recent childbirth?
- III. What do these traces or signs consist of? Are they direct and local, or reflexive and general?
- IV. From these traces or signs, can it be concluded that the pregnancy reached full term without major physiological disturbances for the mother?
- V. What is the presumed intensity of such disturbances in the patient, considering the particularly exceptional conditions of her life during pregnancy, as inferred from the evidence in the case file and her own statements?
- VI. In light of the evidence in the case file and the defendant's statements, can the experts determine whether the regimen followed by the defendant during pregnancy was appropriate for her condition?
- VII. What is the patient's temperament, and what are her psychopathic tendencies?
- VIII. Considering the natural physio-psychological disturbances arising from pregnancy, and the permanent state of mental apprehension in which the defendant lived, is it possible that she, during the pregnancy—particularly in its later stages—was in a state of full mental equilibrium and capable of complete control over her will, or, on the contrary, was she necessarily dominated by a morbid psychoneurosis that entirely annulled her volitional power?
- IX. In view of the aforementioned reasons, and additionally considering the major organic reactions caused by childbirth, is it not certain that the defendant, at the moment of giving birth, and even for some time afterward, remained in a state of complete disturbance of her senses and intelligence, thus incapable of assessing the responsibility for her actions?
- X. What other clarifications can the experts provide regarding the patient's development and current physical and mental state? (APERS, 1925, pp. 40–41).

It can be inferred from the questions posed by the defendant's attorney that his primary concern was the mental state of the parturient. Following the attorney's petition, on June 9, 1925, the magistrate ruled that:

In light of the statements of the appointed experts and as recorded in the certificate on page 48v, I order the defendant to be sent to the judicial asylum at Hospício D. Pedro, in the state capital, for the requested psychiatric examination to be conducted at that institution (APERS, 1925, p. 49).

On October 24, 1925, the Porto Alegre Police Department sent an official communication to the magistrate, reporting that the minor Josepha Nunes da Rosa, who was involved in a judicial proceeding, had been admitted to the Judicial Asylum as requested, accompanied by official letter no. 658, dated June 17 of that year. On March 10, 1926, the police department issued a new communication, notifying the magistrate of Josepha Nunes da Rosa's transfer from Hospital São Pedro to the Judicial Asylum, which had taken place the previous day, recorded under official letter no. 1105, dated June 17, 1925. In the following month, the asylum director requested a procedural summary for Josepha, aimed at evaluating and monitoring psychiatric observations regarding her mental state. On October 31, 1927, the medico-legal report concerning the patient was submitted. In this report, the director described Josepha Nunes da Rosa's physical characteristics and subsequently provided a brief summary of the indictment, which held her responsible for the crime of infanticide. This accusation came as a surprise to her employers, as Josepha had kept her pregnancy completely secret, preventing any suspicion regarding her condition.

Driven by the overwhelming fear and shame of having her dishonor discovered by the family that had raised her, she hastily sought to rid herself of the newborn, uncertain whether it was dead or alive, placing it in a cesspit (APERS, 1925, p. 61).

Subsequently, he recorded observations regarding the crime of infanticide and its circumstances, particularly whether it might have been influenced by mental disturbances: "As Professor Gilbert Ballet<sup>12</sup> teaches, it is not admissible that childbirth alone could induce a transient delirious episode in a perfectly normal woman" (APERS, 1925, p. 62). Regarding the forensic examination, the director argued that the report was deficient and lacked probative value. The expert responsible for examining the newborn's body noted the absence of external injuries and any anatomopathological alterations in the viscera; yet he answered affirmatively when asked about the cause of death, attributing it to direct and active means. However, he did not specify which direct and active means could have caused death without leaving external or internal signs, nor did he indicate the precise cause of death. Furthermore, the central question in a medico-legal examination of infanticide – whether the newborn had been alive –

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<sup>12</sup> Gilbert Ballet (1853–1916) was a French neurologist and psychiatrist who made significant contributions to the study of psychopathology, particularly in relation to chronic psychoses.

was addressed in an excessively simplistic manner. Regarding the characterization of the crime of infanticide:

A weak newborn may come into the world alive, breathe, and then die naturally shortly thereafter, and this hypothesis is considered plausible in the case of the patient. This is supported not only by the forensic examination, which found no injuries on the newborn's body, but also by the fact that the patient was syphilitic and, during pregnancy, exhibited a pseudo-rheumatism of likely specific nature, later revealing a clearly positive (+++) Bordet-Wassermann reaction in her blood at the hospital (APERS, 1925, p. 63).

Regarding the education of the accused and her physical and mental condition, the following observations were reported:

Josepha Nunes da Rosa is perfectly normal in all three respects: physical, mental, and moral. Intelligent, she easily learned to read and write on her own initiative during her stay at Hospital São Pedro. Docile, affectionate, and caring, she consistently exhibited excellent conduct, earning the friendship of the religious nurses, to whom she rendered outstanding service as an assistant in the hospital pharmacy. Accordingly, and for all the reasons stated, if it is proven by means other than those known to this Directorate that she is the perpetrator of the crime attributed to her, she must naturally be held responsible, albeit with the mitigating circumstance provided in the sole paragraph of Article 298 of our Code (APERS, 1925, p. 64).

In November 1927, Josepha's attorney submitted his final arguments on behalf of his client. In this petition, he began by discussing the legislation concerning juvenile offenders, which establishes out rules regarding age and criminal accountability. In the case at hand, the sentence to which Josepha Nunes da Rosa would have been subject, given that the offense, according to the case file, was committed solely to conceal her dishonor – would have ranged from three to nine years of imprisonment. However, since she was under eighteen at the time of the act, the law provides for a one-third reduction of the sentence. Additionally, mitigating factors weighed in her favor, including her previously exemplary conduct, her lack of full awareness of the gravity of her actions, and the absence of deliberate intent to cause harm, as her motivation was exclusively to avoid personal dishonor. She concluded her defense with

[...] In light of the evidence in the case file, this is a matter for acquittal, either because the offense is found unproven, or because the criterion established in Article 25, §5 of Decree 16,272 is applicable. In this case, the Honorable Judge will decide, under the provisions of the cited article, §6, whether the minor should be returned to her foster parents, with or without conditions, particularly considering that she has already served two and a half months in detention, which would effectively restore her immediate freedom, even if she were sentenced to the minimum term of imprisonment (APERS, 1925, p. 67).

On December 8, 1927, the magistrate rendered a decision in the case of Josepha Nunes da Rosa, dismissing the charges and acquitting the defendant of the accusations brought against her. The verdict was based on the absence of elements constituting the crime of infanticide, as indicated in the initial forensic examination recorded on page 7 of the case file. Furthermore, the magistrate took into account the questions raised by the director of the judicial asylum, who challenged the conclusions of the forensic examination of the child's body, casting doubt on their validity. Ultimately, after all these uncertainties were considered, the magistrate concluded that

Given the divergence between these two examinations, doubt arises as to whether the child was born alive and whether its death resulted from an act committed by the defendant. In this case, her acquittal is warranted under the principle *in dubio pro reo* (APERS, 1925, p. 66).

The aim here is not to pass judgment on the trial or the decision rendered by the magistrate. On the contrary, the objective is to foster reflection on the power-knowledge relations within the legal and medical spheres, as well as on the prevailing regime of educability in a given society at a given time. In this context, the legal principle in *dubio pro reo* is particularly salient, meaning that in the presence of doubt, it should be resolved in favor of the defendant. This raises a critical question: if uncertainties existed from the first expert examination, was it justifiable to keep Josepha deprived of her liberty for such an extended period – approximately one year and seven months – including confinement in a judicial psychiatric institution?

On December 9, 1927, the release order for Josepha Nunes da Rosa was issued. Another notable aspect of the case is the near “erasure” of the newborn within the judicial record. The judicial and medical authorities focused primarily on questions concerning Josepha's education, her mental health, and issues related to her sexuality. Like many other women of her time, Josepha belonged to the segment of the population deemed “unfortunate.” Born into a family of extreme poverty, she began her labor trajectory in childhood, working for an “unfamiliar” household. When she believed it possible to transform her reality through marriage, she once again became the victim of vain promises. Tragically, these encounters not only cost her the life of her child but also subjected her to the fear of losing her honor – a value of immense significance in the society of the period.

## 5 Final considerations

By adopting a microhistorical approach articulated with the concept of the microphysics of power, our study enabled a close-scale analysis of a specific case of infanticide that occurred in the city of Caxias do Sul in 1925. The investigation demonstrated how legal and medical knowledge intersected in the construction of discourses on motherhood, female honor, and criminality, revealing a complex interplay of forces across different spheres of power. The use of a descriptive-analytical method to examine the judicial process not only highlighted the slow pace of legal proceedings but also showed how medical diagnoses and legal opinions shaped interpretations of criminal responsibility and the fate of the defendant.

The research further revealed that the practice of domestic child labor was common during this period, with children and adolescents employed under conditions that lacked basic protection and denied them access to formal education. This reality contributed to the extreme vulnerability of young people such as the protagonist of the case under analysis, leaving them without avenues for social support or protection. Moreover, it was evident that First Republic society was strongly guided by moral norms and rigid codes of conduct, which punished women who transgressed social expectations regarding sexuality and motherhood.

Another notable finding was the identification of a recurring pattern in which women, desperate to conceal unwanted pregnancies and avoid the stigma of dishonor, submitted themselves to clandestine and hazardous abortion practices, often endangering their own lives or resulting in infanticide. This dynamic, far from being merely a historical phenomenon, persists in various contemporary contexts, demonstrating the enduring presence of power structures and forms of control that continue to influence women's decisions in situations of social and economic vulnerability.

Female sexuality in Brazil remains a topic encumbered by prohibitions and moral contestation, reflecting a long history of control over women's bodies and choices. The criminalization of abortion does not prevent its practice but rather pushes women – particularly those who are poor and desperate – toward clandestine procedures, frequently performed under precarious conditions and posing serious risks to health and life. The absence of effective public policies guaranteeing access to

reproductive rights exacerbates this scenario, perpetuating cycles of marginalization and inequality.

The historical analysis of this case underscores the urgent need for a more in-depth debate on female autonomy as a matter of public health and the protection of women in vulnerable situations, in order to prevent tragedies of this kind from recurring. In this way, the examination of this criminal case not only contributes to an understanding of the intersections among law, medicine, and morality in the society of the period but also invites broader reflections on the regimes of educability regimes within a society, as well as on the persistence and transformation of discourses and practices regulating the female body.

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