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Cita:

FERNANDES, Maria Nilvane y TREJOS-CASTILLO, Elizabeth (2023). *The institutions and laws for childhood in Empire Brazil: Circulation of ideas about minorism*. *Educar*, 39 (e87487), 1-16.

Dirección estable: <https://www.aacademica.org/nilvane/2>

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## The institutions and laws for childhood in Empire Brazil: Circulation of ideas about minorism

### *As instituições e as leis para a infância no Brasil Império: circulação de ideias sobre o menorismo*

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#### ABSTRACT

The article<sup>1</sup> conducts a documentary research on laws, norms, decrees and regulations that constitute primary sources, chronologically dated in the 19th century, in order to answer the following problem: at what moment did the term minor started to characterize a labeling for boys and girls who lived in Empire Brazil and to constitute a basis for the tutelary practices that gained emphasis in the 20th century? The study aims to demonstrate that the 1927 Juvenile Code was enacted as a result of the minorism and part of a transnational movement that was born in the United States of America and circulated in Europe and Latin America. Differently from what was assumed, the research for the elaboration of the text concluded that the term minor - in the sense of minorism - was already used in Brazil, sparsely, in regulations from 1850 on, that is, almost 80 years before what the sources and the researches conducted pointed out, being the Minors Code the effect of minorism and not its creator.

*Keywords:* Childhood. Minorism. Minors Code. Tutelary Practices.

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<sup>1</sup> This article was financially supported by the Amazonas State Research Support Foundation (FAPEAM), the Federal University of Amazonas (UFAM), the Coordination for the Improvement of Higher Education Personnel (CAPES), and the National Council for Scientific and Technological Development (CNPq).

## RESUMO

O artigo realiza uma pesquisa documental em leis, normas, decretos e regulamentos que constituem fontes primárias, datadas cronologicamente no século XIX, com vistas a responder à seguinte problematização: em que momento o termo *menor* passou a caracterizar um etiquetamento para meninos e meninas que viviam no Brasil império e a constituir uma base para as práticas tutelares que ganharam ênfase no século XX? O estudo objetiva demonstrar que o Código de Menores de 1927 foi promulgado como resultado do menorismo e parte de um movimento transnacional que nasceu nos Estados Unidos da América e circulou na Europa e na América Latina. Diferentemente do que se pressupunha, a investigação para a elaboração do texto concluiu que o termo *menor* – no sentido menorista – já era utilizado, no Brasil, escassamente em normativas a partir de 1850, ou seja, quase 80 anos antes do que as fontes e as pesquisas realizadas apontavam, sendo o Código de Menores o efeito do menorismo e não o seu criador.

*Palavras-chave:* Infância. Menorismo. Código de Menores. Práticas tutelares.

## Introduction

According to previous research, the concern with the control of the working-class children, during clash between socialism and capitalism at the end of the 19th century, was an inducer for the implementation of the Juvenile Court, with the moral justification that it was necessary to separate children and adolescents from contact with adults while serving time. Research previously conducted indicated that this movement had started in the United States of America (USA) and, under the influence of this country, it reverberated as a transnational movement that entered Europe and, also Latin America, as we have already evidenced in other writings (ZANELLA, 2014; 2018).

The circulation of ideas was planned and disseminated through various events and international meetings, including the International Congress of Prisons, which lasted from 1872 to 1945 and was later followed, under another banner, by the United Nations (UN). Moreover, this influence has marked the creation of specific institutions that still operate in the field of childhood, such as the International Non-Governmental Organization (OING) Save the Children Fund International Union/Fund of the International Union for the Salvation of Childhood (1924) (FERNANDES; COSTA, 2021). Such norms, sanctioned during the 20th century, under the auspices of the UN or its predecessor, the League of Nations, occupied all spaces in which children were as well as part of the proletariat, including factories. The prohibition of child labor ensured, on the one hand, attention to a demand from the unions; on the other hand, that the children of the proletariat would no longer defend the agendas of socialists.

Thus, during the analyzed historical period, we observed that a set of factors was structured to ensure the protection of poor children and prevention to guarantee order and good customs. In this sense, the tutelage performed a re-signification of the concepts of child and childhood in the perspective of what Pontes and Souza, Mubarrac Sobrinho and Herran point out (2018).

The elaboration has its primary objectives oppose the perspective that minorism was born with the 1927 Minors Code, as it is disseminated in common sense by educators who work with the subject, and to prove that the law is a finished product of the ideology of the minorism. To this end, we were interested, within the scope of the study, in identifying the regulations that contributed to this movement taking on such large proportions.

The first analyzes carried out in the doctoral thesis indicated that the use of the term came into effect in republican Brazil, in a decree of 1890. However, by carefully analyzing other legislation, we identified its roots in imperial Brazil and went back to the assertion that the first legislation to using the term was from 1875; finally we went back a little further and identified a decree from 1861. It was then that we felt the need to check the laws and decrees enacted with the establishment of Independence (1822), which led us to identify, in an unprecedented term, in two texts from the mid-nineteenth century (1850 and 1856). The following table presents the norms studied in the body of the article.

CHART 1 – ANALYSIS OF LEGISLATION IN THE 19TH CENTURY

YEAR	RULE	SUMMARY
1824	Constitution	Political Constitution of the Empire of Brazil;
1827	Law Oct. 15th	Orders the creation of schools of first letters;
1828	Law Oct. 1st	Attribution of Municipal Chambers;
1830	Law Dec. 16th	Orders to execute the Criminal Code;
1836	Decree Oct. 22nd	Creates four Fixed Companies of Sailors;
1840	Decree 45/Law 148	Sailor Apprentice Battalion - Naval Military Education;
1850	Decree 678	Regulates the Rio de Janeiro House of Correction;
1851	Decree 630	Reform primary and secondary education in the Municipality of Court
1852	Decree 931	Founds the Santa Thereza Collection to shelter indigent girls;
1854	Decree 1331-A	Reform Couto Ferraz: established the guard by soldier;
1856	Decree 1774	Regulations for the House of Detention in the House of Correction of the Court;
1861	Decree 2745	The Institute of Minor Craftsmen of the Court's House of Correction of the Court is created;
1874	Decree 5532	10 public primary schools in the Court and designated one of them to serve as a Home of Asylum for Disabled Children is created;
1875	Decree 5849	The regulation of the House of Asylum for Underprivileged Children was approved;
1883	Decree 8910	Updates the regulations of the House of Asylum for Disabled Children;
1890	Decree 439	Organized assistance for underprivileged children;
1890	Decree 847	Enacts the Penal Code of the United States of Brazil;
1894	Decree 1794	Dois Rios Correctional Colony is created – to correct and prevent – strays, vagabonds, beggars, abandoned and capoeiras;
1899	Notice 6881	XV School of November is created

SOURCE: Prepared by the researcher, 2021.

NOTE: Survey based on Zanella (2018).

The textual analysis of such legislations was carried out in the article to show that, differently to what most studies in the field of childhood point out, the minorism predates the 1927 Code. To our surprise, we were able to identify that the first norms that used the word with the cultural meaning adopted in the 20th century are even prior to what our research had shown.

In this aspect, the text is structured in two topics, chronologically divided into the two halves of the nineteenth century, and a third topic that seeks to demonstrate that new research should be carried out to reveal the circulation of ideas that allowed the minorist perspective to enter the national legislation nearly a century before the enactment of the Juvenile Code of 1927.

### **Children's institutions in Brazil: in search of minors**

The history of institutions for children in Brazil presents characteristics of continuity. The first institutions that attended the situations of orphanhood, widowhood and begging were the *Santas Casas de Misericórdia*, established in the 16th century in Olinda (1539), Santos (1543), Salvador (1549), Vitória (1551), Rio de Janeiro (1582), and São Paulo (1599). In the following centuries, the *Santas Casas* continued to be created as a model of charitable and beneficent institution for the care of the poorest and sickest.

Parallel to this movement of the *Santas Casas*, which had a charitable character, the religious orders were also establishing themselves here: Jesuits (1549), Benedictines (1581), Carmelites of the Ancient Observance (1583) and Franciscans (1585). In the 17th century, Italian and French Capuchins made their home in Brazil. French Capuchins, who were expelled in 1702, when the Crown claimed political tensions with France; Mercedarians (1637); Discalced Carmelites (1665); and Augustinians (1693). Such orders competed for the right to administer the indigenous, who was seen as a guide to unknown territory and a faithful servant of God. Furthermore, such orders had their philosophical doctrine a humanist teaching and of exclusively Catholic proselytism for which they also took in the indigenous children for their conversion. It was for this purpose that the first elementary schools were founded. Thus, between the 16th and the 18th century, there were two types of institutions in Brazil to care for children: the religious schools and the *Santas Casas* with their 'Rodas dos Expostos'.

The legal independence, achieved in 1822, contributed to the promulgation of norms that, little by little, gave the country a national character. The first norm was instituted on March 25th, 1824: *the Political Constitution of the Empire of Brazil*.

The document drafted by a Council of State was granted by Emperor D. Pedro I (1798 to 1834). The Charter was possibly the first norm to mention, in a broad way, the word minor, since the imperial prince was the successor to the throne, being an attribution of the General Assembly "IV. Appoint a tutor to the minor Emperor [...]" (BRASIL, 1824, art. 15, item IV, our emphasis). The use of the terminology was linked to the antonym

of major, as a mathematical concept, as exemplified below: “The Emperor is a minor until the age of eighteen completed years” (BRASIL, 1824, art. 121, our emphasis).

Once the Constitution was promulgated, the empire took care of creating the new institutions and norms that would give an administrative orientation to the Nation. Thus, on October 15, 1827, the emperor ordered “[...]to create schools of first letters in all the villages and places” (BRASIL, 1827, preamble). According to Castanha, “Thus, by individual initiative, several schools were opened in several cities in Brazil” (2013, p. 49). During the historical course, it is possible to verify that, in that context, a relative concern with the situation of poor and orphaned students began. In 1828, the Law of October 1st, which dealt with the attributions of the City Councils, established, in Title III, that the *Police*

will take care of the establishment and conservation of the houses of *charity*, so that the exposed are raised, the sick in need are cured and all *children* of the district and adults who have not been vaccinated [...] (BRASIL, 1828, art. 69). They will have inspection over the schools of first letters, and education, and the destiny of *poor orphans*, in whose number are the *exposed*; and when these establishments, and those of charity, with deals with the art. 69 are, by law, or in fact in charge in some city, or the life of other individual or collective authorities, the City Councils will always help as much as they can for the prosperity, and increase of the abovementioned establishments (BRASIL, 1828, art. 69, our emphasis).

Furthermore, in the application of revenues, the law established that, if the City Councils could not provide for all the objects of their attributions, they should give preference to the most urgent causes: “[...] in the cities, towns or villages where there are no houses of mercy, they will pay attention primarily to the creation of the exposed, their education and the most poor and helpless orphans” (BRASIL, 1828, art. 76, our emphasis).

In 1830, the empire promulgated our first norm that would guide the penalization of criminals. The Penal Code, enacted on December 16, reproduced the word minor in the quantitative sense, referring to the fact that criminals would not be judged, among them, “those under fourteen years of age [...]” (BRASIL, 1830, art. 10, § 1, our emphasis). It also established that, if it was proven that “[...] *minors under* fourteen years of age, who had committed crimes, had acted with discernment [...]”, they should be taken to houses of correction, for as the judges considered it necessary, but the sentences could not exceed the age of 17 (BRASIL, 1830, art. 13, our emphasis). As we can see, until that moment, the use of the term minor was imbued with the minorist sense that would culturally employed in the 20th century.

From then on, the first institutions were created which, in some way, showed concern for the control and care of the poorest children. On October 22, 1836, four

fixed Companies of Sailors were created (BRASIL, 1836). In 1840, such companies received the nomination of “Corps of Imperial Sailors” and the “General Commander” became the “Superior Commander” (Decree 45/1840). In the same year, D. Pedro II, when fixing the finances of the Forces of Sea for the following years, raised the mentioned companies to the number of 12 and established that, among them, there would be a “[...] of Apprentices Sailors, which could be raised to the number of two hundred *minors* from 10 to 17 years of age, who will be added to the Corps of Imperial Sailors” (BRASIL, 1840, art. 5º, *ou emphasis*).

According to Santos (2014), the project that created the Companies of Apprentice-Sailors indicates that the main objective would be to expand of recruitment networks, since there was an endemic shortage of men for military service during the 19th century. Moreover, belonging to the service was considered punishment, coercion, and even a lucrative activity, so the solution to the problem sought to resort to private individuals, but also to detention houses, asylums and, why not, orphanages. It was, therefore, a measure that sought to extend the period of the compulsory military service, forgiving desertions, paying pensions to parents and guardians who delivered their minors to the enlistment boards and printing, with greater force, coercive measures, in cases of indiscipline, to complete the ranks of the Armed Forces.

Slowly, since independence, social and health institutions began to be created. Thus, the Report for the year 1843, presented to the Legislative General Assembly, reported the existence of four Pius Establishments of the Santa Casa da Misericórdia of the Court – founded in the middle of the 16th century: Hospital, Casa dos Expostos (1738), Recolhimento das Orphãs (1739) and Hospício Pedro Segundo (1841) (MINISTÉRIO DO IMPÉRIO, 1844).

Since the promulgation of the Criminal Code, there had been an effort in the country to put into effect, the international normative parameters in the House of Correction, bringing the institution in line with the liberal dictates and a more humanist understanding the fulfillment of punishment, with the elimination of torture and perpetual sentences, considered irrational. In 1850, Decree nº 678 established a Regulation for the Casa de Correção in Rio de Janeiro and defined that the labor prison would be divided into two classes: correctional and criminal. In this new organization, the correctional division would be composed of “Minors condemned under the art. 13 of the Criminal Code” and condemned beggars and vagabonds, as well as any others condemned by the police authorities to work in the Casa de Correção (BRASIL, 1850, art. 3º, *our emphasis*). As we can see, Decree No. 678 used, the term minors for the first time, without linking the issue of age to it, perhaps because it was a regulation and not the law that effectively determined the punishment.

In the educational field, Castanha (2013) identified that, in the debates on of the drafting of Decree nº 630, of September 17, 1851, which authorized the government to reform primary and secondary education in the “Município da Côrte”, it was

considered that there would be redistribution of scholarships, already granted to the Colégio D. Pedro II, for poor students from other provinces, but the amendments were not approved (BRASIL, 1851). The following year, decree n.º 931 founded the “Santa Thereza Collection for shelter for indigent little girls” who could not go to the “Orphan Collection” existing in the Santa de Casa de Misericórdia because they did not meet the conditions established in the Statute of the Santa Casa. Among these conditions was the dowry for marriage. Thus, the emperor left such girls under his protection, to form “[...] perfect family mothers”. For that, they would have as dowries the patrimonies of the public debt resources destined to the emperor and so that the empress (BRASIL, 1852, p. 15).

Finally, on February 17, 1854, Decree n.º 1.331-A, which approved the regulation, established some meager measures for the attendance of poor students: “*Indigent boys* will also receive decent and simple clothes, when their parents, tutors, trustees or protectors are enable to provide it, previously justifying their indigence before the General Inspector [...]” (BRASIL, 1854, art. 60, our emphasis).

The law also defined that, “If in any of the districts there are children *under* 12 years of age wander in such a state of poverty [...], the Government will make them go to one of the asylum houses that should be created for this purpose with a special regulation “. The norm also established that “[...] *the children* may be delivered to the parish priests or coadjutors, or even to the district teachers, with whom the General Inspector will contract, [...], the monthly payment of the sum necessary for the fulfilment of the *same children*” (BRASIL, 1854, art. 62, our emphasis), in other words, it was the practice of paying people to take care of children in proverty.

As discussed by Santos (2014), the regulation also defined that “[...] after receiving first grade instruction, they will be sent to the apprentice companies in the arsenals, or Imperial Sailors, [...] always under the tutelage of the Judge of Orphans”. Regarding the enrollment, slave students would not be allowed, nor the admission of “[...] *students under 5 years old and over 15 years old*” (BRASIL, 1854, art. 70, our emphasis). Here it is possible to compare that the minor terminology was only used as a justification for the boys’ age.

## **The norms of the second half of the 19th century**

In the documental investigation carried out in norms and legislation of the first half of the 19th century, we identified, in 1850, in decree n. 678, which established the regulation for the Casa de Correção, Rio de Janeiro, the use the concept minor in the cultural sense, which gained prominence in the following century. Although we identified the word, its insertion did not allow us to affirm that there was a minorist intentionality. However, in 1856, the approval of the regulation for the Casa de Correção



of the Court took care to elucidate the doubt that we had established in the analysis of the 1850 decree.

Despite it did not repeat the words *minors* under sentence, since they were not the public to be served in the House of Detention, decree n° 1774/1856 established that “Women, *slaves* and *minors* will be held in separate prisons, keeping the convenient divisions” (BRASIL, 1856, art. 2°, our emphasis). In other words, for the second time, in a regulation of the same institution, the term *minor* appeared without preceding an age definition. However, the proof for our suspicion that the term, in the cultural sense, was already circulating in Brazil in 1850 is due to the fact that, in 1861, Decree No. 2745, which created an institution for boys, inside the House of Correction, called it the *Institute of Minor Craftsmen of the Court's House of Correction* of the Court (BRASIL, 1861). In this way, the analysis of the document left no doubts: the term was consolidated, to the point of becoming the name of an institution for boys.

Thought to be a modern institution, the House of Correction was designed to have four spokes, however the construction had not been finished and already had five types of penal establishments in place, characterizing the adjustments that would figure in the institutions of the penal system in Brazil's penal system from the beginning: the deposit of free Africans; those transferred from the Dungeon (1838); the House of Labor Correction of the Court, which was the prison with works (1850); the House of Detention for prisoners not yet sentenced, transferred from the Prison of Aljube (1856); and the Institute of Artisan Minor (1861) (ZANELLA, 2018).

The regulation established that the purpose of the institute was the moral and religious education of minors, who were divided into two sections. The first was intended for minors arrested by the Police as *wanderers, vagabonds, and abandoned*. The second, for those who were admitted at the request of parents or guardians to correct the bad temper. In the second unit, remained still “[...] the *minors* who, due to their orphanhood, could not receive a convenient and adequate education elsewhere” (BRASIL, 1861, art. 2°, § 2°). Therefore, the institute mixed minors of all types, not only criminals.

The document also presented a subdivision that should be composed of those who presented “[...] good moral behavior, application to work and studies, religious feelings and docility of character”, those who were “Useful, including those who apply themselves and take advantage of their craft” and who were “Producers, to which belonged those who, applying themselves to work, do not show the proper progress” and, finally, the “Apprentices, in which will be all those who are not in the case of belonging to other classes” (BRASIL, 1861, art. 3.º).

The institute began to operate informally as an initiative of the Chief of Police, but its maintenance was defended because there were no other correctional institutes for children under 14 years of age, exempt from criminal responsibility, as defined in the paragraph 1 of article 10. of the Criminal Code (BRASIL, 1830).

From 1862 on, the Ministry of Justice (MJU) documents suggested, year after year, that the transfer of minors should be made possible, since it was a “[...]mistake to annex to the penitentiary prison the asylum for artisans”. Thus, “[...] the institute should be removed as soon as possible to a rural farm, with the practical teaching of agriculture as the basis of the professional education of *minors*” (MJU, 1864, p. 16), since the penal institution, in practice, had become not “[...] a correctional home, but an asylum for *needy children*” and for minors sent by the Police (MJU, 1866, p. 46). It was also a problem the fact that the institution had difficulties in maintaining the discipline and avoiding the escape of *minors* who did not obey in the same way as adults, that is, to take care of them a larger contingent of employees was needed, which led to the rapporteur to the sentence: “As the institute is an asylum for *needy children* and not for correctional education, it could not be part of the correctional house, and it was not within the jurisdiction of the Ministry of Justice” (MJU, 1866, p. 46, our emphasis).

At another point, the document emphasized that the creation of the Artisans’ Institute for Minor produced beneficial results, but that there was not a single condemned *minor* due to what was established in article 13 of the Criminal Code, which stated: “If it is proven that *minors under* fourteen years of age, who committed crimes, have acted with discernment, they should be brought to the houses corrections, for as long as the judge feels it like, as long as the bringing does not exceed the age of seventeen years” (BRASIL, 1830, art. 13, our emphasis). Thus, the institute ended up serving exclusively “[...] the children of people less fortunate who, in the absence of asylum for helpless childhood, are delivered there to receive moral and religious education” (MJU, 1866, p. 33, our emphasis). The rapporteur justified that it was not appropriate to conveniently to educate *orphans and abandoned* children in an institution where other *minors* had committed criminal acts, which, in itself, demonstrated that there was the concept of differentiating abandoned and orphans from the offenders (MJU, 1866). Truly, behind the concern with the education of the orphans was the realization that their presence brought harm to the administration of the institution, since they did not participate in the production workshops (ZANELLA, 2018).

Thus, the requests in defense of the education and morals of the minors were finally heard and, in order to mitigate the problem, other palliative measures were taken, until, in 1865, the definitive closure occurred, when the minors joined the Apprentice Sailor Battalion that was fighting the Paraguayan War (1864-1870), making it is possible for them to be used in an useful way, just as happened with the other workshops for apprentice craftsmen existing in the arsenals, which also took in boys between 10 and 17 years old.

Regarding the term *minor*, the document that came to term in 1861, besides bringing the term *minor* in the title, reproduced it another 36 times, leaving no doubts regarding its use: the minors who are arrested; will be understood minors; of said minors or the religious education of the minors, and so on, which evidence the minorism present as labeling of the boys and girls inserted in the institution.

## The influence of the International Prison Congresses

At the end of the 19th century, the European and North American prison models started to be disseminated in the International Congresses on Prisons (ICP) that gathered people interested in the management of these institutions, also dealing with those that were specific or that served adults and children together.

This first congress gathered penitentiary agents, social reformers, and specialists, totaling 100 delegates from 22 countries, including the USA, Mexico, Brazil, Chile, England, and all European nations, except Portugal (CIP, 1872). At the end, a committee was formed with the objectives of collecting prison statistics, encouraging penal reform, and convening other conferences. It is worth mentioning that the debate on referrals in relation to children was always an effective agenda in these meetings.

Twenty years after the decree nº 1.331-A – that reformed the primary and secondary education of the Court –, the decree nº 5.532/1874 was promulgated, which created ten public primary schools in the Court and assigned one of them to the “[...] execution of the dispositions of arts. 62 and 63 [...], being destined to serve as a House of Asylum for children who find themselves in the circumstances stated in the first of said articles and governed by the special regulation that the Imperial Government shall issue” (BRASIL, 1874, p. 1). As we can see, the education law addressed boys and not minors, which may indicate that the terminology was linked to the law and was not in common use in the field of education.

The following year, the decree No. 5,849, which approved the regulations of the Asylum House for Disabled Children, again reproduced the term in one of its articles: “The minors of the Asylum will be delivered to their parents, or, being orphans, placed at the disposal of one of the respective Judges, except in cases where it is deemed appropriate to give them another destination” (BRASIL, 1875, art. 6.º). However, in 1883, when the decree 8910 updated the same regulation, the use of the term was repeated in the following way: “The admission conditions shall be proven: if the minor is not an *orphan*, with attestations of complete indigence [...] issued by the Vicar of the parish where the *minor* resides [...]; if the *minor* is not an *orphan*, by analogous certificates [...]” (BRASIL, 1883, art. 5.º). Furthermore, the article 37 established that it is the responsibility of the physician to “*Inspect minors [...]*” (BRASIL, 1883, art. 37, §1, our emphasis).

Besides being able to observe a repetition of the term, we also identified that, for the first time, Brazilian legislation established that children with living fathers and mothers would be admitted to the Asylum, which inaugurated, in Brazil, the interference of the State in the paternal power of families.

A few years earlier, more precisely in 1878, countries interested in the subject met in the Second International Congress of Prisons, held in Stockholm, Sweden. Brazil was represented by Minister André Augusto de Pádua Fleury (1830-1895). The congress report presented, in one of the sessions, the following problem:

D'après quels principes convient-il d'organiser les établissements affectés aux jeunes gens acquittés comme ayant agi sans discernement et mis à la disposition du gouvernement pendant la durée déterminée par la loi? D'après quels principes convient-il d'organiser les institutions affectées aux enfants vagabonds, mendiants, abandonnés, etc.? (CIP, 1879, p. XIII)<sup>2</sup>.

In other words, the congressional experts advocated different treatment between those who had committed a crime without discernment and those who were vagabonds, beggars, and abandoned people, but who had not committed a criminal act, yet both groups remained under the tutelage of the government. The 1878 the Congress established this distinction between reformatories – to reform and punish convicts – and correctional colonies – to correct and prevent those who were in the process of doing so (ZANELLA, 2018).

In general, publications in the field of childhood establish legislation published from the second decade of the 20<sup>th</sup> century as the precursor of a new model of care for children. In our research, however, we identified that, in 1890, the head of the provisional government, Deodoro da Fonseca, published the decree n° 439, which anticipated, by three decades, the facts pointed out by establishing “[...] the bases of the organization of assistance to underprivileged children” (BRASIL, 1890a, p. 1).

This norm defined as disabled , “[...] for the purpose of admission to the said establishments, minors, [...] who had no one who owes and can maintain them [...]”, and, furthermore, as minors “Those abandoned on the public road [...]”; “*The orphans of father and mother, when their indigence is proved; The orphan of father, under the same condition*”; “Those who, having father and mother, could not be maintained and educated for physically or morally by them , resulting in forced abandonment” (BRASIL, 1890a, art. 1°, § 1°, our emphasis). Therefore, the government effectively assumed the children’s parental power, removed them from their families.

In this sequence, the decree n° 847/1890, which promulgated the Penal Code of the United States of Brazil, maintained a similar prerogative, and, in most of the writing, the minor term was preceded by the word age, but, in some moments, the minorist format was evident (BRASIL, 1890b).

The communist danger that prowled Europe had reached the Republic and, with it, the children of the immigrants. The absence of schools was filled with the creation of correctional institutions and reformatories. To solve the problems and appease the social conflicts, on July 11, 1893, President Floriano Peixoto authorized the government to found a correctional colony. The decree n° 145/1893 made no mention of age, but only

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<sup>2</sup> “What principles should be followed in organizing establishments for juveniles acquitted of acting without discernment and kept at the disposal of the government for a period specified by law? According to what principles is it proper to organize institutions for vagabonds, beggars, abandoned children, etc.?” (Translated by the researcher, 2022).

established that strays, vagabonds, and capoeiras should be inserted in the institution, for correction through work (PINHO; FERNANDES, 2022).

In the light of the debate that took place in the 1878 Congress, we can see that the legislator used the intervention proposal, which was designed for the vagrant, abandoned and beggar childhood, to also include capoeiras and adults in the same conditions, bringing them closer to the abandoned and separating them from the group that had committed crimes but needed to be contained. In this aspect, the Colonia Correctional Dois Rios, in a way, was the transition institution, since it was an institution created to attend minors and adults, and the first institution to exclusively attend minors was created in 1899, by the Chief of Police João Brasil Silvado, privately. Finally, in 1903, the Fifteen of November School was made official as a State institution, representing a model that came into effect from then on.

### Final considerations

The textual analysis of the norms promulgated in the areas of education and justice during the 19th century show that the use of the word minor linked to the menorist culture was present in imperial Brazil's Empire, starting in 1850, and gained emphasis in the following decade. The illustration that we present (Figure 1) shows the identified frequency of each term in the legislation promulgated during the 19th century.

FIGURE 1 - WORD CLOUD AS A REPRESENTATION OF IDENTIFICATIONS MADE



SOURCE: Elaborated by the researchers, 2022.

NOTE: The researchers adapted the writing of the words for the common use of the contemporary linguistic norm, in order to facilitate the identification of the words in the repositories of qualified journals.

The word cloud was formulated with the terms used in the legislation, showing that this was a period of transition, since the use of the word minor, as opposed to the term major, in the sense of quantity or age – according to a mathematical magnitude, was largely surpassed by the regular use of the word associated with the minorism. As we can see, it was also common to use terms such as boys, girls, orphans, orphanesses, followed by words that qualified such subjects as poor, indigent, wandering, underprivileged, abandoned, exposed, indigent or sheltered.

Thus, the article shows that institutions specifically aimed at the care for boys and girls began to be thought of in the mid-19<sup>th</sup> century, the first of which was the Battalion of Minor Apprentices (1840). Others were created later, but we highlight, in our analysis, the Institute of Minor Apprentices, which, despite its name, was organized in the Court's House of Correction and aimed keeping minors separated from adults while serving their sentence.

In the Brazilian context, the legislation specifically aimed at children and adolescents began to be thought of, with greater incidence, from the mid-19<sup>th</sup> century, as consequence of the need to control and manage social problems and the organization of the Nation State recently independent from the colonizing country. The study proved that three decades before the institution of the Code of Minors, by Mello Mattos, Deodoro da Fonseca enacted the decree nº 439, which organized assistance to underprivileged children, and that this norm already had the menorist model as a guideline, which needs further explanations for future studies.

In previous researches, we identified that the circulation of ideas of a menorist nature was born in the USA and arrived in Brazil through international congresses, called International Prison Congresses. The first of these congresses was held in 1872, in England, based on a proposal of the US government, which had already held some of them on a national level (CIP, 1872). Having identified the holding of this event in 1872, we had concluded that the circulation of ideas from the US to Latin America took place through this country, but the article demonstrated that such ideas were already in Brazil in 1850. In this aspect, how did the United States of America influenced Latin America, to the point that in 1850 we already identified norms reproducing the minorist discourse? Understanding this circulation of ideas is one of the objectives of the future researches.

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Text received on 09/06/2022

Text approved on 05/17/2023