



**Alexander Rodrigues
de Castro,
PhD**

is an Assistant Professor at the Faculty of Applied Social Sciences and Resocialisation, University of Warsaw and principal investigator in the project “The Code for Minors and Underprivileged Children: the response to the “minors problem” during Brazil’s authoritarian regime (1964-1985).” He is also professor on leave at UniCesumar (Instituto Cesumar de Ciência, Tecnologia e Inovação – ICETI).
a.rodrigues-de-castro@uw.edu.pl

JUVENILE JUSTICE IN BRAZIL

The evolution of juvenile justice in the shadow of Brazil’s military dictatorship tells a stark story, in which the art of exclusion was perfected.

Alexander Rodrigues de Castro

Faculty of Applied Social Sciences
and Resocialisation
University of Warsaw, Poland

Readers of Charles Dickens’s *Oliver Twist* are undoubtedly familiar with the harrowing conditions of children’s correctional facilities in nineteenth-century England. Dickens’s choice to highlight these injustices serves as a poignant emblem of the Victorian era’s social landscape. As industrialization surged, urbanization followed, rapidly deteriorating the social conditions in city environments. Repression and the criminalization of poverty became standard responses to what was then emerging as the “social question” across the capitalist world.

The concept of the *reformatory*, an English innovation initially devised to segregate juvenile offenders from adult criminals, soon spread across the Atlantic to the United States. By the turn of the nineteenth to the twentieth century, a movement spearheaded by philanthropic reformists known as the *child savers* successfully championed the establishment of juvenile courts in the US. These courts were designed to address juvenile delinquency specifically, leading to the creation of a distinct body of law for youths involved in criminal activities or abandoned by their families.

The underlying philosophy of this new legal framework was that juveniles could be rehabilitated more easily than adults, and thus, the state should proactively identify and rectify early signs of deviance. This approach was steeped in a series of pseudoscientific theories sponsored by the members of the so-called



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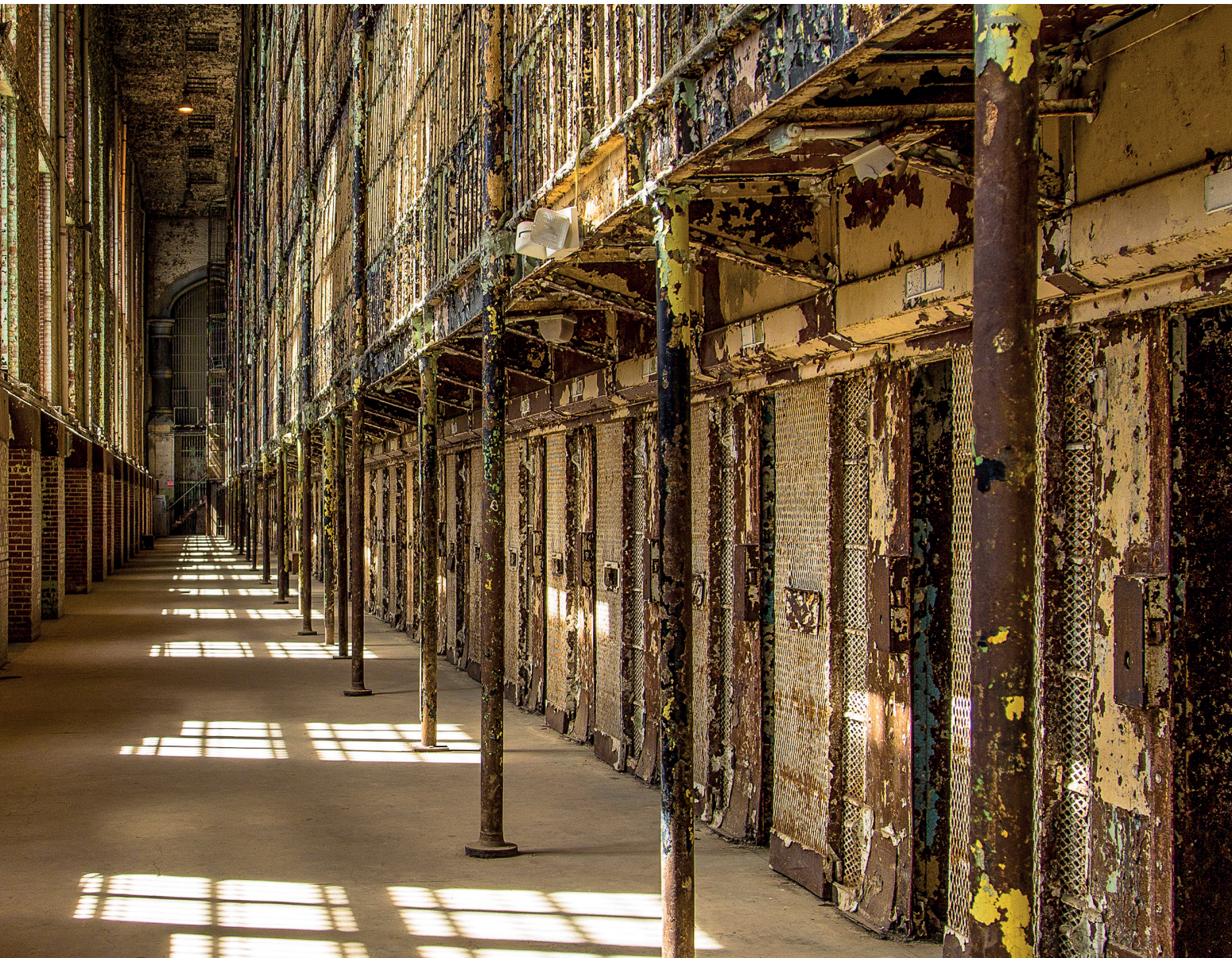
social hygiene movement, who believed in controlling environmental factors that influenced how moral individuals would turn out to be. These ideas of social hygiene were oftentimes indistinguishable from a soft form of eugenics (a set of theories aimed at improving the genetic quality of human populations by excluding people considered inferior and/or promoting those deemed superior).

A new perspective

The influence of the *child savers* extended beyond US borders, partly facilitated by the Pan-American Conferences and the robust exchange of ideas they fostered. During this period, Brazil was undergoing significant political and social transformations: the fall of the monarchy, the abolition of slavery, and the

influx of large contingents of European immigrants. These changes, coupled with a surge in industrialization, particularly in the city of São Paulo, dramatically reshaped the urban landscape of major cities like Rio de Janeiro, São Paulo, and Salvador. The rising instances of crime, street prostitution, homelessness, and the proliferation of shanty towns contributed to an increase in the number of street children and, consequently, concerns about juvenile delinquency.

These concerns began to surface in newspaper discussions and even congressional debates, leading a group of renowned medical doctors, prominent jurists, and influential politicians to seek solutions. Inspired by their international counterparts, these Brazilian *child savers* believed that the neglected juvenile population could be transformed into a productive, law-abiding citizenry using techniques derived



from social hygiene and eugenic pseudoscience and enacted through law. Policies towards childhood and adolescence followed the general ideologies of the First Republic (1889–1930) which, under the influence of Comtean Positivism and similar philosophies, sought to modernize the nation from above with the instruments of (pseudo)science.

Disadvantaged youths

In the early decades of the twentieth century, this belief led to the introduction of a series of laws targeting underprivileged children and adolescents, culminating in the 1927 Code for Minors. Alongside the Juvenile Court established in 1923, this code created a dedicated system of juvenile law for disadvantaged youths. Drafted by José Cândido de Albuquerque Mello Mattos, a prominent jurist and also a judge of minors in Rio de Janeiro, the code primarily addressed abandoned and delinquent minors. Significantly, it expanded the definition of “abandonment” to include “moral abandonment,” thus potentially subjecting to the measures of the code children who were still under the care of their – impoverished – families, if their environments were deemed unfit. These measures included commitment to a new institution recently introduced in Brazil: the reformatory.

By the late 1930s, the failings of the reformatory system had become widely recognized. As in the UK, it was literature that first captured this sentiment, with Jorge Amado’s 1937 novel, *Captains of the Sands*. The book tells the story of a band of abandoned street children in the city of Salvador, who engage in petty crime and draw the ire of both citizens and authorities alike. A critical moment in the narrative occurs when Pedro Bala, the group’s leader, is confined to a reformatory. Amado vividly describes the cruel tortures inflicted upon the child, leaving no illusion that such brutal

methods could possibly induce moral betterment or rehabilitation.

In the 1940s through the 1960s, Brazil experienced a new wave of rapid industrialization, drawing large numbers of people from rural landscapes to bustling urban centers. This migration intensified the visibility of street children in cities, thrusting the issue of juvenile delinquency back into the public spotlight. Now referred to in the press and in official documents as the “minors problem,” the subject of neglected youths emerged as a pressing public concern rather than merely a topic in broader discussions on national modernization.

Dark time

In 1964, Brazil’s political landscape dramatically shifted with a military coup that installed a pro-Western, conservative authoritarian government. In order to tackle the escalating problem of delinquent and abandoned minors, the new regime established the National Foundation for the Wellbeing of Minors (FUNABEM), a federal agency tasked with conducting research and formulating a national policy for coping with the “minors problem.”

FUNABEM engaged in an intense debate with the legal community, especially through the Brazilian Association of Judges of Minors, which was spearheaded by Alyrio Cavallieri. FUNABEM’s monthly bulletin, the magazine *Young Brazil*, often featured contributions by Cavallieri and other jurists in which they discussed legal responses to criminological theories reproduced or developed by FUNABEM’s experts. These debates led to a new Code for Minors in 1979. The new code gave rise to the “Irregular Situation Doctrine,” amalgamating the categories of “abandoned,” and “delinquent” minors into a singular classification: a “minor in an irregular situation.” FUNABEM

The Superior War College, the institution that trained the political elites in Brazil’s military dictatorship – including Mário Altenfelder, the first president of National Foundation for the Wellbeing of Minors (FUNABEM)



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Demonstration on the anniversary of the 1964 coup d'état, which installed a dictatorial regime that established FUNABEM and the 1979 Juvenile Code

believed that the underlying causes of delinquency and abandonment were often identical. Therefore, they advocated for a unified approach to treatment that did not differentiate between those who were offenders and those who had been abandoned. The basis for this new approach was a belated revival of the theory of innate criminality, a century-old, discredited idea put forward by Italian medical doctor Cesare Lombroso that crime was a manifestation of biological causes (a criminal is often someone who was simply born that way). Therefore, different degrees of antisocial behavior in juveniles were just varying expressions of the same underlying “disease.”

FUNABEM was under the influence of the National Security Doctrine (the official ideology in many South American dictatorships during the cold war). Mário Altenfelder, a medical doctor who served as the first president of FUNABEM, was an alumnus of the Superior School of War, the institution that formulated and disseminated the Doctrine.

According to the National Security Doctrine, this issue was not just a social concern but an important part of the psychological warfare waged against the regime by its enemies. In their view, youths, in particular those in situation of material and moral abandonment, were potential vessels for subversive ideologies and could succumb to what the regime termed “moral decadence” – notably drug addiction – which it believed to be a communist strategy to erode the moral foundations of Western-style capitalist societies. This perspective justified harsh measures against these youths, often blurring the lines between political and common crimes, leading to institutional violence that mirrored the brutalities inflicted upon political dissidents. Acts of violence such as physical and psychological torture, sexual abuse, kidnappings, arbitrary detentions, and even “disappearances” became all too common responses not only to adult criminality but also to juvenile delinquency.

Reform

As Brazil transitioned away from military rule, these practices and the legal frameworks that supported them came under scrutiny, leading to significant reforms aimed at protecting the rights and well-being of all children and adolescents. The 1979 Code for Minors remained in force until 1990, when it was replaced by the Child and Adolescent Statute under a new constitution, enacted after the re-democratization of the country.

Overall, this exploration of juvenile justice in Brazil during its military dictatorship sheds light on a dark chapter where the state’s approach to youth delinquency was marked by severe measures and exclusionary tactics. This research reveals how historical and political contexts shape legal frameworks, reflecting the broader struggle for human rights and the impact of authoritarian regimes on vulnerable populations. As Brazil’s society evolves, understanding this part of its legal heritage and its enduring impact is crucial in ensuring that the past’s harsh policies do not echo into the future, emphasizing the need for continual vigilance and reform in protecting the rights of all children and adolescents. This journey through history not only educates but also empowers ongoing efforts to advocate for justice and human dignity in juvenile law.

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