

June 2023

Book Review: A Miscarriage of Justice: Women's Reproductive Lives and the Law in Early Twentieth-Century Brazil

Paloma Czapla
Indiana University, Bloomington

Follow this and additional works at: <https://vc.bridgew.edu/jiws>



Part of the [Women's Studies Commons](#)

Recommended Citation

Czapla, Paloma (2023) "Book Review: A Miscarriage of Justice: Women's Reproductive Lives and the Law in Early Twentieth-Century Brazil," *Journal of International Women's Studies*: Vol. 25: Iss. 4, Article 27. Available at: <https://vc.bridgew.edu/jiws/vol25/iss4/27>

This item is available as part of Virtual Commons, the open-access institutional repository of Bridgewater State University, Bridgewater, Massachusetts.

This journal and its contents may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden. Authors share joint copyright with the JIWS. ©2022 Journal of International Women's Studies.

Book Review: *A Miscarriage of Justice: Women's Reproductive Lives and the Law in Early Twentieth-Century Brazil*¹

By Paloma Czapla²

In the last three decades, there has been significant growth in the scholarship addressing the histories of reproduction, motherhood, and sexuality in post-emancipation Brazil. *A Miscarriage of Justice* by historian Cassia Roth makes a valuable contribution to this growing body of historical literature by providing a well-researched exploration of these topics. Roth employs a feminist lens to analyze the various discourses and practices aiming to manage and surveil the reproductive lives of working-class, immigrant, black, and mixed-race women in early twentieth-century Rio de Janeiro. She primarily focuses on the healthcare and criminal justice systems, while also centering on the lives and deaths of several women who faced attempts to medicalize their pregnancies and deliveries and to criminalize practices such as abortion and infanticide that challenged their role as mothers.

Roth's book covers a period of major transformations in Brazil, including the abolition of slavery in 1888 and the establishment of the republic in 1889. In this context and in step with dominant European ideologies of racialized nation-state formation, whitening and urbanization appeared as key solutions for the progress and modernization elites expected. Influenced by scientific racism and insisting on interracial sex as a way of whitening the population, Brazil opened its borders to waves of European immigrants. Concomitantly, Rio de Janeiro and other large Brazilian cities underwent massive urban reform projects that evicted impoverished populations from the center and demolished their dwellings to build new, modern cityscapes. Roth aptly observes that while governments and officials did not explicitly state their racial politics, immigration incentives and urban reforms had obvious racial subtexts, as white elites aimed to remove and ultimately eliminate the black and brown presence.

Following Nancy Stepan's ground-breaking research (1991), Roth argues that this context gave rise to new gender ideologies and concerns surrounding women's reproduction. After all, it was from female wombs that the future citizens and laborers of this post-emancipation republic would be born. Roth highlights that the centrality of women's roles and reproductive lives in the early twentieth century can be clearly seen through Brazilian law and politics. During the First Republic (1889-1930), Brazilian law restricted women's freedom and formal citizenship, using an overtly patriarchal language. While the 1890 Penal Code criminalized unlicensed midwives and increased women's criminal responsibility for the existing crimes of abortion and infanticide, the 1891 Constitution excluded women from the right to vote by granting suffrage only to literate males above 21 years of age. Later, the 1916 Civil Code subordinated women's decisions to the male head of household and made the state a patriarchal enforcer of fetal life by elevating fetal rights above maternal ones. Following Susan Besse's work (1996), Roth also observes that the Vargas Era (1930—1945) emphasized the importance of women's reproductive capabilities to the nation, granting both mothers and industrial workers political influence to obtain popular support.

¹ Roth, C. (2020). *A Miscarriage of Justice: Women's Reproductive Lives and the Law in Early Twentieth-Century Brazil*. Stanford, California: Stanford University Press.

² Paloma Czapla is a Ph.D. student in the History Department at Indiana University (Bloomington), USA. Email: pczapla@iu.edu

Having provided this historical background, Roth delves into how women experienced reproduction and how growing anxieties surrounding their reproductive bodies were expressed in the realms of scientific knowledge, the public health system, the criminal justice system, and everyday life. Chapter 1 examines the science that underpinned the actions taken by several of the actors in the book, with particular emphasis on male doctors and jurists who defended compulsory motherhood and women's supposed maternal nature. Chapter 2 investigates how gender and race ideals were put into practice through the expansion of reproductive healthcare services and maternity hospitals. Chapter 3 pays attention to women's personal experiences of reproduction, relying on medical and legal sources to recount "a woman-centered and embodied history of pregnancy and childbirth" (p. 82). Chapter 4 discusses medical debates aiming at suppressing abortion, which doctors viewed as a contraceptive method relied upon by women who sought to engage in sexual activity freely, thereby posing a significant threat to both the nuclear family and the nation. Chapter 5 analyzes the role of gossip and neighbors' denunciations of abortion and infanticide. This chapter provides a close examination of popular understandings of race and sexuality, concluding that they were intertwined with dominant discourses. Chapter 6 explores increased police involvement in women's reproductive lives and demonstrates how the police often conflated miscarriages and stillbirths with abortion and infanticide, leading to the criminalization of poor and working-class women. Chapter 7 investigates how the law judged women accused of abortion and infanticide, concluding that abortion cases often resulted in victimization of women and the punishment of providers, while infanticide trials often resulted in juries acquitting women, deciding that those women had been affected by a momentary lapse of reason. Although women could typically walk free from charges of abortion and infanticide, Roth suggests that the outcomes were based less on shared understanding of women's predicaments, but rather more on sexist ideas perpetuating the belief that women were too inept and childlike to be held responsible for their actions.

Roth's analysis is based on a wide range of sources, including a set of more than two hundred court cases related to women's reproductive practices, medical publications, public health data, clinical reports, criminal and civil law, novels, and newspapers. Roth also includes letters, portraits, crime scene photographs, blueprints, and images of both maternity hospitals and clandestine midwifery clinics. However, while these latter sources offer valuable insights into the historicity of certain spaces and women's intimate lives, they are not thoroughly interpreted and end up serving merely as illustrations for the book. Another caveat regarding the sources is that the majority of them refer to the city of Rio de Janeiro, which may lead readers to question why Roth opted for a title that claims to encompass all of Brazil. Roth notes that as the capital of the country at the time, Rio de Janeiro was the "center of political decision-making" (p. 9). Yet readers should bear in mind that some of the book's conclusions may be applicable to the urban context of Rio de Janeiro but not necessarily to places as diverse as the northern Amazon rainforest, the northeastern sertão, or the southern Brazilian pampas.

Roth effectively achieves her stated primary goal of demonstrating the increasing state control over women's reproductive lives following the abolition of slavery and the rise of republicanism. However, it is less evident if the book succeeds in approaching women's reproductive experiences not only from the perspective of law and medicine but also from the perspective of women themselves. Roth presents poignant narratives of women who tragically witnessed their children perish while waiting for care at public maternity wards. She also addresses those who sought abortions but fell victim to a patriarchal system that forced them to carry unwanted pregnancies to term, often condemning them and their offspring to a life of poverty.

Furthermore, she highlights cases where women faced criminalization and intense scrutiny from both law enforcement and their communities after experiencing miscarriages. Roth approaches these women's realities with care and sensitivity, attending to the violence they experienced. Nonetheless, these women's lives seem to be reduced to the few moments in which they had to confront a deeply patriarchal and racialized healthcare and criminal justice system. As a result, readers might learn about the women's suffering but little about their lives beyond their encounters with medical and judicial power.

It is important to recognize that medical and judicial sources seldom document the largeness of working-class, immigrant, black, and mixed-race women's lives. In fact, these sources heavily favor the perspective of male-dominated fields such as law and medicine. Yet, historians have a wide range of methodologies available to shift the perspective of documents to the women they refer to, as well as to offer glimpses into these women's modes of existence and how they tried to craft meaningful lives amidst constant attempts to medicalize and criminalize them. Readers might be interested in future works that employ such methods or intersperse medical and judicial sources with the feminist debates of the time, which appear in literature and newspapers. These approaches can address the multiple ways in which women experienced their reproductive capacity and countered compulsory motherhood.

Overall, Roth provides a compelling analysis of how women's reproduction and sexuality became sites of political anxiety in post-emancipation Brazil. This analysis is useful to anyone studying how women's reproductive lives played a central role in the consolidation of new political regimes. In addition, it is also valuable to those seeking to use judicial documents as sources for understanding the precarity of marginalized women's lives in post-abolition contexts and the processes of medicalization and criminalization with which they had to negotiate. Finally, *A Miscarriage of Justice: Women's Reproductive Lives and the Law in Early Twentieth-Century Brazil* is a valuable contribution to the histories of gender, race, reproduction, and medicine not only in Brazil but also in the broader context of the Atlantic World.

References

- Besse, S. K. (1996). *Restructuring Patriarchy: The Modernization of Gender Inequality in Brazil, 1914–1940*. Chapel Hill, North Carolina: University of North Carolina Press.
- Stepan, N. L. (1996). *The Hour of Eugenics: Race, Gender, and Nation in Latin America*. Ithaca, New York: Cornell University Press.