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**Justice in the dock: the Bernardo Boldrini case and the challenges of applying criminal law to filicide.**

*Justice in the dock: the bernardo boldrini case and the challenges of applying criminal law to filicide*

**Marta Emily Alves Moitinho** - Bachelor of Laws from the Facimp Wyden University Center - UNIFACIMP WYDEN, Lawyer, OAB/MA No. 31.262, [moutimmarte@gmail.com](mailto:moutimmarte@gmail.com)

**Khayam Ramalho da Silva Sousa** - Master's student in Law at the FIEO University Center - UNIFIEO. Specialist in Constitutional Law from Faculdade Legale - FALEGALE. Specialist in Criminal Sciences from Centro Universitário União das Américas - UNIAMÉRICA. Bachelor of Laws from Instituto de Ensino Superior do Sul do Maranhão - IESMA/ UNISULMA. Professor of Law at Centro Universitário Facimp Wyden - UNIFACIMP WYDEN. Lawyer, OAB/MA no. 21.680 [khayamramalho@hotmail.com](mailto:khayamramalho@hotmail.com)

## SUMMARY

This study aims to analyze filicide within the Brazilian legal context, using the Bernardo Boldrini case as a basis. The research seeks to understand whether the current penal treatment is effective in punishing and preventing these crimes, considering the absence of specific criminalization in the legal system. Adopting an exploratory method based on a literature review, the investigation examines historical, social, and legal aspects of filicide, discussing the penal classification of the specific case, its motivations, and the implications of the sentence. The study highlights the fragility of the child protection network, evidenced by institutional negligence in the face of allegations of mistreatment suffered by Bernardo, and the limited response of the legal system, which proves to be more reactive than preventive. The analysis also compares foreign legislation, observing how other countries more rigorously criminalize the homicide of descendants. It is concluded that tackling filicide in Brazil requires not only the creation of an autonomous criminal offense, but also the strengthening of public policies, the training of professionals in the protection network, and inter-institutional action to guarantee the effective realization of the rights of children and adolescents, as advocated by the Federal Constitution.

**Keywords:** Filicide. Criminal Law. Children and Adolescents. Bernardo Boldrini Case. Prevention.

## ABSTRACT

This paper aims to examine the phenomenon of filicide within the Brazilian legal framework, with a focus on the high-profile case of Bernardo Boldrini, murdered in 2014 by his father and accomplices. The study investigates whether the Brazilian penal system is adequate for the punishment and prevention of such crimes, especially in light of the lack of a specific legal classification for filicide. Using an exploratory methodology based on literature review, the research analyzes the historical, social, and legal aspects of this crime, addressing its current legal treatment and the shortcomings in the protection system that failed to prevent Bernardo's death. The case is contextualized within national and international legal perspectives, revealing how other countries provide stricter legal frameworks for intrafamily homicides. The results show that the Brazilian response is largely reactive, with limited preventive mechanisms. The study concludes by recommending the creation of a specific criminal offense for filicide and the strengthening of public policies and interinstitutional strategies to ensure the full protection of children and adolescents, in accordance with constitutional principles.

**Keywords:** Filicide. Criminal Law. Children and Adolescents. Bernardo Boldrini Case. Prevention.

## 1. Introduction

This article aims to analyze the legal protection of children and adolescents.

In a preventative effort to combat filicide, with a historical overview of the act in Brazil,

with emphasis on the case of Bernardo Boldrini and the application of criminal law. At the heart of diverse cultures



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And even in various animal species, parents assume the fundamental role of protectors.

of their children. They are, in theory, the first beings to nurture an unconditional love for their parents.  
descendants.

This love manifests itself, in large part, through care and sustenance, ensuring the survival and development of offspring. When such protective behavior fails, when the Love transforms into violence, culminating in the terrible act of filicide; natural logic breaks down, generating a cruel and disconcerting paradox. Filicide represents the antithesis of parental love, a An abrupt disruption of the "natural course" of what is expected from this relationship. This disruption generates estrangement and social aversion, as it challenges the values, principles, and rules of conduct that guide us.

After all, how can we understand that those who should love and protect their children become... Who were their murderers? Given this context, the desire arose to develop a Final Project Course on the topic. Understanding the factors that influence an individual to murder their... Having one's own child can be an initial step towards creating preventative strategies and reducing [risk] of the incidence rate of this type of crime, which, although presenting numerically low rates, generates a significant impact on society.

Therefore, the present work aims to analyze whether the legal treatment of filicide in Is Brazil adequately equipped for the punishment and prevention of these crimes? Therefore, it is worth clarifying that... The legal treatment of filicide in Brazil involves a complex analysis, since the legal system... The penal code does not explicitly use the term 'filicide'. Instead, these cases are classified under... criminal offenses such as homicide (article 121 of the Penal Code) or infanticide (article 123), depending on the circumstances. depending on the circumstances, such as the victim's age and the mother's physical and psychological state at the time of the crime.

This approach reflects an attempt to adapt legislation to specific contexts. distinguishing, for example, infanticide committed by mothers in the puerperal state from other types of Murder of children. The punishment applied to these crimes follows the general parameters of Criminal Law. Brazilian, with penalties that vary according to the classification of the homicide or the specific circumstances. Regarding infanticide, the system seeks to balance the repression of the crime with the analysis of motivations. involved, such as socioeconomic, cultural, or emotional issues, often associated with filicide.

Given this scenario, the present research also aims to analyze the case of Bernardo Boldrini, assessing the correct application of criminal law to the case, emphasizing the The importance of preventive measures that address the underlying causes of this phenomenon, such as psychological support, social assistance programs, and public policies aimed at protecting the infancy.

The research aims to contribute to improving legal and social responses to this type of issue. of violence, promoting greater awareness and strengthening prevention mechanisms and



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repression of filicide. This study was developed based on the scientific method of a scientific nature.

exploratory, which stands out as an essential approach for development, the

The clarification and reformulation of concepts and ideas. This method focuses primarily on...

The formulation and resolution of the problem in question is a fundamental pillar for the construction of knowledge presented here.

Thus, the development of this work was conducted primarily through a literature review, whose structure was based on the analysis of previously published materials, such as Legal norms, books, scientific articles, and case law. The main objective of this process was... To establish direct contact between the researcher and what has already been produced and discussed on the topic. investigated, enriching the theoretical basis of the study.

Since this is essentially a bibliographical research, it was essential to carry out a... detailed and rigorous collection of pre-existing data and information related to the topic. researched. This care is justified by the relevance of the study not only to the academic field, but also for the social and personal spheres, highlighting its contribution in different contexts.

## 2. Filicide: definition, historical and social aspects

The term filicide, with etymological roots in the Latin "*filius*" meaning son and "*cide*" meaning to kill, refers to the intentional act of a parent who deliberately causes the death of their own child or daughter (Cambridge, 2025). The individual who commits such an act is called a filicide. In the legal field Brazilian criminal law does not use this specific terminology, referring to the homicides of children. classified under the heading of infanticide.

However, the definition of filicide encompasses various typologies related to the death of children and adolescents, including neonaticide (death within the first 24 hours of life) and Infanticide (death before the first year of life), in which the child is invariably victimized by a or both parents. Filicide is a complex and transcultural phenomenon, with records... historical events dating back to antiquity. The underlying motivations for this extreme act are multifaceted, encompassing socioeconomic factors such as financial difficulties; interpersonal, such as retaliation; religious and cultural; ambitions for power and wealth; strategies of demographic regulation; various social adversities; and the presence of anomalies or conditions congenital in children (Resnick, 1970).

Throughout history, the reasons that lead to filicide have varied. significant. From superstitious beliefs associated with birth defects to the scarcity of Material resources and social pressures, such as the stigma of illegitimacy or the child's gender. (Resnick, 1970; Lambie, 2001). In primitive societies, infanticide was, in certain cases, accepted. as a mechanism of genetic "purification" or as a result of practical limitations in care.



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of multiple newborns. (Salzedas, 1992).

While infanticide was relatively tolerated in ancient Greek and Roman civilizations, In Egypt and among the Hebrews it was strictly forbidden (Resnick, 1970; Costa, 1987). Under certain conditions In extreme environmental contexts or in specific cultures, such as the Chinese culture, selective infanticide of children is a common practice. with deformities or of girls was a practice observed (Resnick, 1970).

In primitive societies, the elimination of children by their own parents was understood as a mechanism for "purifying the species," based on the belief that the Suppressing genes considered undesirable would prevent their hereditary transmission. For example... Following this logic, the author mentions tribes that prohibited the survival of children whose mothers suffered from... epilepsy, precisely because they feared the spread of the condition to future generations (Salzedas, 1992).

In the context of primitive societies, filicide found partial justification in scarcity of economic resources, especially in situations involving twins or children. with malformations, whose survival represented a burden for the family and for the community.

Among the Mohave Indians, infanticide was practiced as a form of ritual sacrifice. periods of adverse weather conditions that compromised agricultural production, based on The belief that there was a correlation between human fertility and that of the land. In certain regions of Central Austria, some mothers, plagued by extreme famine, resorted to abortion and then... to the ingestion of the embryo as a means of subsistence, believing that this act would contribute to the Strengthening the older children.

In analyzing infanticide sociologically, Salzedas (1992) observes that, in ancient China and India, the practice was widespread, especially in relation to girls, due to a patriarchal social structure that assigned greater value to men. They were destined for certain roles. considered more relevant and productive, while women were seen as a burden. economical for the family unit.

Among the Ayoreo, an indigenous people of southwestern Bolivia and northeastern Paraguay, the practice of Infanticide was deeply rooted in cultural beliefs related to pregnancy and health. of the child. Sexual intercourse during pregnancy was considered harmful, especially because... believing that it could compromise the quality of breast milk and the health of the newborn.

From this perspective, infanticide occurred, in some cases, as a consequence of fear of A woman was abandoned by her partner who refused to maintain sexual abstinence, leading to... out of fear, they would take the life of their own child. Furthermore, the elimination of children with physical malformations and twins.

In the collective imagination of the Ayoreo, there was a prevailing belief that there was always something between twins. One representing good and the other evil, both being sacrificed in order to prevent...



survival of the person identified as having the disease. Socioeconomic factors, such as the fear of social disapproval, the apprehension of parental reaction, the fear of spousal anger or abandonment. According to this perspective, recurring motivations for the practice of infanticide in different contexts include... historical and cultural contexts.

Carreira (1971), in analyzing ritual infanticide in African communities, identifies two main categories of motivation. The first relates to economic or utilitarian reasons, in where extreme poverty and scarcity of resources compromised the ability to sustain a new In these cases, infanticide was also linked to the need to maintain a balance. Population growth, preventing the depletion of natural resources, as well as the need for excessive labor. children to contribute to the family's livelihood.

The second category mentioned by Carreira (1971) refers to reasons of a religious nature or superstitious. From this perspective, children with physical anomalies or deformities were often seen as harbingers of bad omens or divine punishment. The death of these The practice of child abuse was justified as a form of social purification, atonement for sins, or even as... A sacrifice necessary to appease deities or ancestors, thus seeking protection. spirituality of the community.

In all these contexts, filicide reveals itself to be a phenomenon rooted in social structures. and specific beliefs. As Costa (1987) points out, even with the advent of Christianity and the Despite ethical advancements introduced throughout the Middle Ages, many cases of infanticide continued to occur. These events, often disguised as domestic accidents, can include deaths during sleep. shared between mother and son.

In the context of domestic violence, filicide takes on specific manifestations. categorized as: psychotic filicide, perpetrated by individuals with severe mental disorders; Altruistic filicide, motivated by a distorted perception of protecting the child; accidental filicide. resulting from abuse or mistreatment that culminates in unintentional death; and filicide as revenge. directed at the other parent as a form of retaliation (Valença, 2015; Freiburger, 2023).

Paradoxically, the act of murdering one's own children also appears as an element. recurring in founding myths of various ancient cultures, frequently associated with rituals. religious, sacrifices, or power dynamics. Such symbolic narratives, even if they do not constitute... Filicide, in the legal sense, reveals the historical and cultural complexity of the relationship between parents and children.

In Greek mythology, the figure of Medea stands out, who, consumed by fury after the betrayal of... Her husband, Jason, kills his own children as an extreme form of revenge — illustrating a This behavior resembles what is known as retaliatory filicide. In the biblical context, however, In the Old Testament, the story of Abraham and Isaac demonstrates a father's willingness to sacrifice his... A son in obedience to the divine will, an act that, although not consummated, has a strong symbolic meaning.



and raises reflections on authority, faith, and submission.

Even within Greek cosmogony, it is possible to identify archetypal representations of violence. parental figures like Uranus, a deity who imprisoned and devoured his newborn children. born out of fear of being dethroned, and Cronos, who reproduces this same pattern out of fear of losing. power. Only Zeus, saved by his mother, manages to escape this fate, deposes his father and inaugurates a new order on Olympus (Flores Júnior, 1992).

These myths, despite being far removed from contemporary penal reality, contribute to the Understanding the symbolic roots of filicide through the allegorical portrayal of family conflicts. marked by domination, fear, revenge, and the breaking of bonds. Incorporating them into the analysis allows for a broader understanding. Looking at this phenomenon, reinforcing its complexity and the need for legal approaches. and integrated social networks.

### **3. Filicide in the Brazilian context: lack of specific legal definition and legal implications.**

Within the Brazilian legal system, among crimes against the life of descendants, The crime of infanticide is defined in Article 123 of the Penal Code. The legal provision defines as a crime the act of a mother killing her own child during childbirth or immediately afterwards, under the influence of the puerperal state (Brazil, 1940).

This is a specific type of homicide, considered by some to be a This is a privileged form of this crime. It refers to the act committed by the mother who, under the influence of the state... puerperal suicide, eliminates the life of one's own child during childbirth or in the moments immediately following. subsequent. In this context, the special rule provided for in Article 123 of the Code should be applied. Penal law, which prevails over the general homicide rule set forth in article 121. Infanticide It is classified as a privileged crime, characterized by a reduced penalty, a distinction. established by the legislator due to the postpartum state affecting the mother. This state leads her to cause the death of their child, whether during birth or shortly thereafter, this conduct being influenced by Physiological and psychological imbalance resulting from the birthing process. (Fernandes; Batista, 2021).

According to Mirabete (2014, p. 27), the elimination of the fetus before the start of the labor process. It does not constitute homicide or infanticide, but it is characterized as abortion. Thus, if the act occurs Prior to delivery, it will be classified as an abortion; after birth, it may be classified as... infanticide or homicide.

In this sense, abortion occurs exclusively between the implantation period and the moment of conception. prior to childbirth. However, if childbirth has already begun and the element of "state" is present "puerperal" associated with a deliberate crime, does not constitute abortion or homicide, but rather... crime foreseen in article 123 of the Penal Code (Mirabete, 2014, p. 27).

However, it is important to highlight that infanticide constitutes a specific crime, the authorship of which is determined by law.





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It is restricted to the mother, who acts under the influence of the postpartum state. However, the possibility is admitted that joint participation in a crime, encompassing both participation and co-authorship. In this sense, Masson (2015, p. 86) states that both forms of third-party involvement are legally acceptable in the context of infanticide:

This is a specific crime, as it can only be committed by the mother. However, co-authorship and participation are possible. Since the mother has a legal duty to act (Brazilian Penal Code, art. 13, § 2º, a), it is possible for her to commit the crime by omission. Example: failing to breastfeed a newborn so that it dies of malnutrition.

In turn, the passive subject of infanticide can be either the newborn, understood as that which is in the process of being born and is still in the expulsion phase, as well as the newborn. newborn, who has already completed birth and is physically separated from the mother. Cleber Masson (2010, p. 62) conceptualizes the passive subject as encompassing these two distinct conditions:

It refers to the newborn or neonate, depending on when the criminal act is committed, i.e., during childbirth or immediately after. Due to the inadmissibility of double jeopardy, the generic aggravating circumstances provided for in Article 61, item II, e (crime against a descendant) and o (crime against a child), of the Penal Code do not apply, since these circumstances already function as elements of the typical description.

Capez (2009, p. 136), in turn, emphasizes the relevance of proving the existence of life. extrauterine human being as an essential element for the configuration of the crime, highlighting that such Verification is crucial in the legal classification of the act:

Article 123 of the Penal Code expressly refers to the child, 'during childbirth or immediately after'. If the crime is committed during childbirth, it is called 'unborn child'; if immediately after, 'newborn' or 'neonate'. The crime of infanticide will exist if it is found that the unborn fetus is alive. Its vitality, that is, the capacity to live outside the mother's womb, is irrelevant here. It is sufficient that it is alive, that it has shown a minimum of functional activity [...], and it is certain that if the mother kills a child under these conditions, under the influence of the puerperal state, she is liable for the crime in question. Nevertheless, proof of extrauterine human life is commonly obtained through so-called respiratory tests, including pulmonary-hydrostatic tests [...], which can be used to ascertain the existence of previous respiration. In addition to these respiratory tests, there are other non-respiratory tests, such as nutritional tests (microscopic, macroscopic, or chemical research on traces of food or other substances absorbed by the neonate). It is important to note that expert evidence is essential.

If the existence of life in the fetus is not proven, the act is classified as a crime. impossible, due to the absolute inadequacy of the object. Furthermore, a [discussion] persists among legal scholars. long-standing debate regarding the punishability of third parties who assist a mother in the murder of her son, whether as co-authors or participants. The crux of the controversy lies in communicability of the elementary "influence of the puerperal state", as set forth in article 30 of Penal Code.

Bitencourt (2003, p. 148) clarifies how the legislation addresses the actions of third parties. who participate in the crime, outlining the legal treatment reserved for such conduct in the context of criminal liability:



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The justice or injustice of mitigating the punishment of a third participant in the crime of infanticide is inconsistent with the orientation embraced by the Brazilian Penal Code, which enshrined the monistic theory of action in its article 29 (formerly article 25). This provision is complemented by the rule of article 30, which determines the communicability of the "elements of the crime," regardless of whether they are personal circumstances or conditions. Thus, if a third party induces, instigates, or assists the mother in killing her own child during or immediately after childbirth, they participate in the crime of infanticide. Now, since the "influence of the puerperal state" is an element of the crime, it is communicated to the participant (whether co-author or accomplice), according to article 30 of the Brazilian Penal Code.

Thus, if the typical element is communicated to a third party, the latter will be held responsible for it.

The crime of infanticide; otherwise, their conduct will be classified as homicide, according to the...

The absence of this specific element. The Brazilian Penal Code provides for an aggravating circumstance.

generic when the crime is committed against specific people with family ties, such as

ascendant, descendant, sibling or spouse, as provided for in article 61, item II, subparagraph "e".

Furthermore, according to Fernandes and Batista (2021), in cases of filicide, the application of aggravating circumstance of homicide due to a despicable motive, as stipulated in article 121, § 2, item I, of the Penal Code, due to the seriousness of the conduct and the nature of the motivations involved. Mirabete (2014) describes the A base motive is one that represents a morally despicable reason, revealing degradation. from the author and causing social outrage.

This motive should be distinguished from a frivolous motive, which relates to insignificant causes and disproportionate to the gravity of the crime. In the context of filicide, revenge stands out as one of the... main motivations, especially in situations marked by parental alienation, in which the child It is used as an instrument of retaliation against the other parent. (Fernandes; Batista, 2021).

When this intent is proven, it is possible to recognize the generic aggravating circumstance. base motive, given the absence of an acceptable justification for such conduct. Even so, this analysis requires a careful assessment of the circumstances of each case. Some authors argue that... Filicide should be treated as an autonomous criminal offense, given the existence of other crimes against children and adolescents. life with specific classifications in the Brazilian legal system, such as infanticide, abortion and Suicide prevention assistance, which would reflect more adequate protection in sensitive contexts, including those of gender (Mirabete, 2014).

### 3.1 The Henry Borel Law and the strengthening of legal protection against domestic violence against children

Law No. 14,344, known as the Henry Borel Law, enacted in 2022, introduces mechanisms aimed at preventing and addressing domestic and family violence against children and adolescents, promoting significant changes in the Penal Code, in the Statute of The Child and Adolescent Statute (ECA), the Law on Heinous Crimes, and other legal provisions. One A crime is classified as heinous when it is committed with extreme cruelty and is capable of causing death. Widespread rejection in society, characterized by the inadmissibility of bail, pardon or





amnesty, in addition to the mandatory initial serving of the sentence in a closed regime. (Cabette, 2022)

Within the scope of the Penal Code, the law establishes the concept of "homicide against a minor under 14 years of age." "years" as a form of aggravated homicide, with a prison sentence ranging from 12 to 30 years. years. Additionally, the enacted text provides for a two-thirds increase in the penalty when the perpetrator of the crime for father, mother, stepfather, stepmother, uncle, brother, spouse, partner, guardian, curator, tutor, The victim's employer or any individual who exercises authority or has responsibility for Child or adolescent care. (Cabette, 2022)

The punishment can be even more severe, with an increase of one-third to one-half, in cases where... that the victim has a disability or health condition that makes them particularly vulnerable. Another A relevant aspect of the legislation is the penalization of those who fail to report to the authorities. public reports of violence, cruel or degrading treatment, and other forms of violence against children or adolescents, or the abandonment of an incapacitated person, subjecting them to detention from six months to three years. (Cabette, 2022)

The Henry Borel Law is also based on constitutional principles applicable to the right of family, highlighting the dignity of the human person and solidarity as essential foundations, alongside the general principles of equality, freedom, affection, family life and, above all, The best interests of the child guide policies for the protection and guarantee of the rights of this group. (Cabette, 2022)

Regarding the changes made to the Penal Code by the Henry Borel Law, the following stand out: Significant changes are expected in crimes committed against children and adolescents. An increase in... The penalty is reduced by one-third to one-half when the victim has a disability that increases their vulnerability. and by two-thirds if the perpetrator of the crime has a family relationship or close relationship with the victim, such as father, mother, stepfather, stepmother, or other guardian. These modifications include homicide. against a minor under 14 years of age as an aggravating circumstance under article 121, item IX, of the Penal Code, classifying it as a heinous crime. (Cabette, 2022)

Therefore, all aggravated homicide committed against minors, according to article 121, § 2, now forms part of the list of heinous crimes foreseen in the heading of article 1 of Law No. 8,072, of 25 of July 1990, known as the Law of Heinous Crimes. With this inclusion, homicide against A minor under 14 years of age becomes ineligible for amnesty, pardon, clemency, or bail, reinforcing the seriousness of the offense. in the legal system. (Cabette, 2022)

The Henry Borel Law represents significant progress in protecting the lives of children and adolescents, by providing specific punishments for cases in which death is caused by parents, stepmothers or stepfathers. The application of the Henry Borel Law is conditional upon the victim's age, being restricted to cases of homicide committed against children and adolescents under 14 years of age. In these cases In these situations, the conduct is classified as aggravated homicide, under the terms of article 121, § 2, item.



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IX of the Penal Code, classifying it as a heinous crime. Furthermore, the legislator provided for...

The penalty is increased when the perpetrator is a father, mother, stepfather, stepmother, spouse, guardian, or curator. anyone who has authority or responsibility over the victim.

Therefore, differentiation is relevant for the correct application of criminal law, since... avoids undue extensive interpretation of Law No. 14,344/2022. Even if the family relationship between Even if both the perpetrator and the victim are present in both cases, the legal system establishes objective limits. For the application of the rule, the victim's age is a determining criterion. Thus, the homicide of a child over 14 years of age, even if motivated by base motives or in a context of violence. Domestic violence will be classified as aggravated homicide under the general provisions of the Penal Code. without the application of the specific provisions of the Henry Borel Law.

#### **4. The reality of filicide in Brazil in light of the Bernardo Boldrini case.**

As Freud pointed out, the family is "a complex web of bonds and emotions, which is expressed simultaneously through hatred and love" (Goldberg and Guerra, 1997, p. 77), highlighting that the home environment can be both a place of protection and of suffering.

Sartre, in stating that "hell is other people" (Félix, 2007, p. 1), complements this. a perspective that highlights collective responsibility in the face of social omissions that, through complicity Whether through abuse or neglect, violence and pain are perpetuated. In this scenario, the child victim of abuse ends up... Having their journey interrupted, carrying traumas that erase the good memories of the past, makes The present is tasteless and compromises hope for the future.

If the family, as an essential unit, does not pay attention to the importance of nurturing emotionally affecting its members from the present moment onward, there is a risk of compromising not only the individual development, but the very fabric of society. How can we expect a promising future if... Is the present being neglected and the past marked by trauma and absence?

Primarily, it is important to emphasize that the child's first means of socialization is... The family, which must be able to fulfill its protective and formative role, offering affection, care, and emotional stability. It is in this environment that the child builds their first references about the... The world and about oneself, shaping one's identity, values, and future relationships.

Brazil has witnessed a worrying increase in cases of child murders. and adolescents perpetrated by their parents or guardians, which denotes a critical failure in protection. within the domestic environment, where security should be paramount. Hypervulnerability This makes these victims susceptible to various forms of domestic violence, which in extreme cases culminate in homicide by their own parents. Statistics from the Ministry of Human Rights and Citizenship (Brazil, 2021) indicates that approximately 81% of violence against children and adolescents, it happens at home.



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In the first half of 2021, the Disque 100 hotline registered more than 50,000 complaints, with approximately 81% of these (more than 40,000) occur in the family environment, with the mother being the most frequent aggressor. frequent (Brazil, 2021). This alarming reality, also observed by Pereira (2023), emphasizes the urgent need for prevention and accountability strategies in the face of lethal violence. intrafamilial.

Among the cases that received significant media attention in Brazil, the so-called "Case" stands out. Bernardo, which came to light in April 2014, initially as a disappearance in the city of Three Steps, in Rio Grande do Sul. The situation involved the son of a locally known doctor, It has generated significant social mobilization since the first reports, highlighting the complexity of family context of the victim. (Alaídes, 2019)

Information suggests that Bernardo faced a home environment marked by Neglect and rejection. Records from the prosecutor's office for children and youth in Três Passos reveal... Allegations of family abandonment, in addition to an explicit request from the boy in 2014 to be taken into foster care. by another family, expressed directly to a judge.

There are indications that he showed clear signs of suffering: he frequently lived outside of at home, depended on roommates for sleeping, had learning difficulties, and exhibited conditions of Malnutrition and lack of hygiene. Despite this, such evidence was not sufficient to conclude... He recognized the seriousness of his situation, even though he came from a middle-class family. tall, with a doctor father and a nurse stepmother. It should be noted, however, that her professional training is not... In itself, it is indicative of ethical or protective conduct, but it does not exempt the individual from acts of extreme... cruelty. (Alaídes, 2019)

The local community was aware of the troubled relationship between Bernardo, his father, and his stepmother. Audio and video recordings made by the father himself, totaling 31 (thirty-one) entries, They captured the boy's cries for help during arguments, although he did not explicitly state them. tortures suffered.

Signs of deprivation were visible: lack of access to the house's premises, prohibition of interaction with her half-sister and even the lack of adequate nutrition. However, these circumstances, Noticeable to those nearby, such as colleagues and school staff, these changes did not result in any action. effective ways to protect it. (Alaídes, 2019)

Based on the factual details, Bernardo Uglione Boldrini, 11 years old, disappeared on April 4th. 2014, in Três Passos, and his body was found ten days later, on April 14, buried in a sack on the banks of the Mico River, in Frederico Westphalen, about 80 kilometers away. The Investigations revealed that the boy was murdered by an overdose of Midazolam, a a restricted-use sedative, administered by her stepmother, Graciele Ugulini, with the participation of Leandro Boldrini, her father, the mastermind behind the crime, Edelvânia Wirganovicz, a friend of Graciele, and



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Evandro Wirganovicz, Edelvânia's brother, who opened the vertical grave to hide the corpse (Matos, 2021).

The gravity of the crime, which involved the murder of an 11-year-old child by his father, Leandro Boldrini, his stepmother, Graciele Ugulini, and accomplices Edelvânia and Evandro Wirganovicz, This was reflected in the applied criminal classification. Bernardo's murder was classified as homicide. qualified, under the terms of article 121, § 2, item IX of the Brazilian Penal Code, with aggravating circumstances. such as base motives (financial gain), use of poison (Midazolam overdose), inability of the victim to defend themselves and execution by a person with a relationship of authority over the child. (Brazil, 1940).

The application of criminal law to the Bernardo Boldrini case reflects an effort by the system. The legal aspect lies in adjusting the sentences to the severity of the crime classified as quadruple homicide. qualified under the terms of article 121, § 2, item IX of the Brazilian Penal Code, with aggravating circumstances. such as base motives, use of poison, victim's inability to defend themselves, and a relationship of authority. (Brazil, 1940).

Leandro Boldrini was sentenced to 31 years and 8 months in prison, with 30 years and 8 months served. for homicide and 1 year for the accessory crime of ideological falsehood (art. 299, CP), which consisted of False report of a child's disappearance (TJRS, 2024). Graciele Ugulini received 34 years and 7 months, of which 32 years and 8 months for homicide and 1 year and 11 months for concealment of a corpse (art. 211, CP), referring to the act of burying Bernardo's body.

Edelvânia Wirganovicz was sentenced to 22 years and 10 months, with 21 years and 4 months for... homicide and 1 year and 6 months also for concealment of a corpse, while Evandro Wirganovicz, Convicted of simple homicide (article 121, caput, CP) and concealment of a corpse, he received a sentence of 9 years and 6 months. months, with 8 years for homicide and 1 year and 6 months for the accessory crime (TJRS, 2025).

These sentences, adjusted by the sum of the offenses and by the sentencing guidelines that assess culpability and Under the circumstances, they respected the legal limits, reflecting an attempt at proportionality in light of the The brutality of the case. Leandro, identified as the mastermind, received a lighter sentence than Graciele. the direct perpetrator, despite her position of authority over the victim, which may indicate a Unequal valuation between planning and material practice (TJRS, 2024).

The main limitation of the legal-criminal treatment in the Bernardo Boldrini case lies in The reactive nature of Brazilian criminal law, which focuses on punishment after the crime has occurred, But it fails to prevent tragedies like this. The Penal Code establishes severe penalties for homicide. In addition to qualified and accessory crimes, the Statute of Children and Adolescents provides for measures... Protective measures in article 101, such as institutional care, are mentioned, but there is a lack of effective integration between these [measures/provisions]. The regulations and the responsible bodies exposed the fragility of the preventive system, sometimes allowing... Signs of violence are ignored until they culminate in filicide.



Thus, the effectiveness of criminal law depends on its articulation with public policies that act before the crime, an aspect that the Bernardo case highlighted as insufficient. The aspects Procedural issues also reveal significant limitations in the application of criminal justice to the case.

Filicide is a complex and multifaceted crime that requires a comprehensive approach to... its prevention and punishment. In the Bernardo Boldrini case, a sequence of violations of its... rights on the part of those who had the duty to protect him and ensure a healthy childhood. The which exposed the weaknesses of the child and adolescent protection system in Brazil, highlighting the need to improve criminal legislation, strengthen the protection network, and promote actions preventive measures that address the underlying causes of this crime.

## 5. Prevention of filicide: the role of legal and social protection for children and adolescents.

The 1988 Federal Constitution, in its article 227, enshrines the principle of full protection. assigning to the family, society, and the State the duty to guarantee, with absolute priority, the rights of children and adolescents, inspired by the Declaration of the Rights of the Child of 1959. This principle is reinforced by article 226, §8, which provides for state assistance to combat domestic violence, recognizing the family environment as a primary space for protection, as per the clauses of the article. 227 ensure shelter for orphans, prevention of chemical dependency, and protection against abuse and exploration (Carlim, 2023).

The Statute of Children and Adolescents (ECA), enacted in 1990 (Law No. 8,069), This ensures comprehensive protection by recognizing children and adolescents as subjects of rights, in alignment with the 1989 Convention on the Rights of the Child (CARLIM, 2023). Its article 4 reiterates the absolute priority of guaranteeing the rights to life, health, education, and dignity, while the Article 5 prohibits negligence, violence, and exploitation, reinforcing the protection of physical and moral integrity. (arts. 17 and 18) (Carlim, 2023).

The Penal Code (Decree-Law No. 2,848/1940) complements these rules by defining crimes. such as abandonment of an incapable person (art. 133), mistreatment (art. 136), bodily harm (art. 129) and rape of vulnerable (art. 217-A), with aggravated penalties in serious cases, protecting children and adolescents. (Carlim, 2023).

Specific laws expand this protection: Law No. 13.010/2014, known as the Menino Law. Bernardo inserts articles 18-A and 18-B into the ECA (Statute of Children and Adolescents), prohibiting physical punishment and treatment. degrading, defined as actions that cause suffering or humiliation, with article 70-A holding federal entities responsible for preventive policies and the Guardianship Council responsible for mediation. (Carlim, 2023).

Law No. 13.431/2017, the Protected Listening Law, defines physical violence (which compromises the integrity), psychological (discrimination, humiliation, parental alienation), sexual (abuse, exploitation)



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and institutional, aiming at the well-being of the victims (Carlim, 2023). Law No. 14.344/2022, Henry Law

Borel amends the Penal Code, the Statute of Children and Adolescents, and the Law on Heinous Crimes, introducing preventive detention.

Prohibition of alternative punishments and rehabilitation of offenders, but lacks a definition of violence.

moral (Rocha, 2024).

Based on the analysis of the Bernardo Boldrini case and an understanding of the social impacts it generated.

Given crimes of this nature, it becomes essential to propose effective measures to prevent filicide.

based on the comprehensive protection of children and adolescents, as advocated by the Statute of

Child and Adolescent Statute (ECA).

Among the main preventive strategies, the importance of offering support stands out.

Ongoing psychological support, both for vulnerable children and at-risk families.

social, as a way to detect and intervene early in contexts of neglect, abuse or

Domestic violence. This support should be accompanied by coordinated social assistance actions.

among the different sectors of the protection network.

Furthermore, it is urgent to provide qualified training for professionals working in these bodies.

Those responsible for the protection of children and adolescents. These agents need to be prepared not only for

to identify warning signs, but also to act efficiently in the face of threatening situations.

rights of children and adolescents.

From a social point of view, barbaric crimes like the one that victimized Bernardo prompt deep reflection on the prevention mechanisms that exist today. It is necessary to recognize that...

Filicide is often preceded by a history of abuse, neglect, or abandonment.

Therefore, monitoring cases of domestic violence, even in their early stages, should...

It must be intensified in order to interrupt potential cycles of violence that culminate in tragedies.

Investing in strengthening protection networks, expanding access to public services

Quality and promoting a culture of care and attentive listening to children are fundamental measures.

to reduce the incidence of filicide and ensure the full development of children and adolescents, in

in accordance with the constitutional principles of human dignity and priority

absolute to childhood.

Given the historical, cultural, and legal complexities surrounding filicide, it becomes clear that,

Although the Brazilian legal system provides for legal instruments such as infanticide, the

aggravated homicide and, more recently, the Henry Borel Law, yet a loophole still persists.

Significant: the absence of an autonomous criminal offense that recognizes the specificity and seriousness of

The act of a parent taking the life of their own child.

Filicide, by breaking the most basic bond of protection and affection, constitutes one of the most...

cruel forms of domestic violence, requiring not only effective repression, but also policies

public initiatives focused on prevention, psychosocial support, and strengthening protection networks for





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infancy.

A comparison with the legal systems of countries such as Chile, France, Italy, and Argentina. reveals a possible path for the evolution of Brazilian legislation, in the sense of conferring greater Visibility and penal response to lethal violence committed against descendants. Furthermore, the analysis of Understanding this phenomenon from anthropological and mythological perspectives contributes to understanding how elements Cultural and historical factors still influence, directly or indirectly, the persistence of this type of crime in current events.

This highlights the need for a more in-depth debate on the creation of a A specific criminal offense for filicide, capable of legally reflecting the extreme breach of duty. parental care and protection, while also aiming to safeguard fundamental rights. of children and adolescents in vulnerable situations.

## 6. Final considerations

This research allowed for an in-depth analysis of filicide within the legal context. Brazilian, focusing on the case of Bernardo Boldrini, which tragically highlighted the structural weaknesses in the child protection system in the country. It was found that, although the the legal system has relevant normative instruments, such as the Statute of the Child and Adolescent. Regarding the issue of adolescents and the recent Henry Borel Law, significant gaps persist in addressing it. type of violence, especially with regard to the absence of an autonomous criminal classification for it. filicide.

The study demonstrated that the performance of the protection network, even when supported by a robust... despite its legal framework, it suffers from operational flaws and a lack of adequate training for its agents. which compromises the effectiveness of preventive actions. The Bernardo case revealed that the signs of Neglect and violence were evident, but were not properly recognized and addressed by responsible institutions, allowing the violence to continue until its fatal outcome.

Furthermore, it was observed that Brazilian legislation tends to respond reactively to Crimes that have already been committed, without offering sufficiently effective preventive mechanisms. A A comparison with foreign legal systems revealed more advanced legislative models. which recognize the specific nature of lethal domestic violence, giving it criminal treatment. differentiated.

Therefore, it can be concluded that tackling filicide requires not only improvement. legislative action with the creation of a specific type of crime, but also the strengthening of policies public prevention programs, psychosocial support for families, and training for professionals working in the field. Child and youth protection. The effectiveness of justice, in this scenario, depends on commitment. interinstitutional cooperation with the comprehensive protection of children and adolescents, transforming the principle



constitutional priority of absolute importance in a concrete and effective practice.

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