

Inspecting Pieces, Producing Papers: About Traces and Criminal Expertise Techniques*

Larissa Nadai**

Abstract

This article seeks to unveil the many narrative, graphic and formal layers that give rise to the forensics reports on rape and sexual assault crimes, produced by the Legal Medical Institute of Campinas (*Instituto Médico Legal* - IML), between 2004 and 2005. Therefore, I start from the graphic model that shapes these papers – its *layout-form* – to gradually show the narrative formula contained in them: *pieces of flesh*. Finally, by following these paths, I intend to show how the *criminal materiality* of rape and sexual assault is confused with the *materiality of the sex* of girls, boys and women who are taken care of at this institution.

Keywords: Rape, Documents, Materiality, Gender, Sexuality.

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** Postdoctoral fellow at the Department of Anthropology, University of São Paulo (USP), São Paulo, SP, Brazil, with a grant from the São Paulo State Research Support Foundation (FAPESP), process no. 2018/26728-4. lari.antropologias@gmail.com / <https://orcid.org/0000-0003-0362-5420>

Introduction

“ One names the flesh, talks about it, and expresses it”
(Foucault, 2001:257).

In June 2004, *an Alice* was walking along a well-known avenue in the downtown area of Campinas city when she was approached by *a John Doe*. Armed with a gun, *a John Doe* forced *an Alice* to follow him to the city railroad tracks. At this location, *a John Doe* “*had oral, anal and vaginal intercourse*” with *an Alice*¹. The complaint was filed at the police station as rape and sexual assault. A request for a forensic medical examination was made, and *an Alice* was guided to the Forensic Medical Division of the city's Legal Medical Institute (IML). In the presence of her mother, *an Alice* was seen by a forensic medical examiner and, from the service provided [*in loco* examination], two standardized forms were filled out by the aforementioned professional. From then on, with the institutional signatures, coats of arms, and insignia of the IML and the Public Security Department of the State of São Paulo, these papers were established as forensic reports, one for the “*carnal intercourse examination*”, and the other one for the “*libidinous act examination*”. Then, both reports were sent to the Women's Police Station (DDM), and, much later, were attached to the Police Investigation that was presided over there.

The case of *an Alice* illuminates the fundamental knots of this article: the production of material evidence in cases of rape and sexual assault, the IML position in these investigative and criminal apparatus, and the document as an inescapable support for this kind of procedure. Thus, I encourage the reader to gradually move away from sexual abuse as an act lived by *an Alice* so that we are able to follow together the technologies through which the Legal Medical Institute of Campinas documents the *traces* of sexual violation in order to, based on them, conform what forensic medicine denominated *criminal materiality*. It will also be necessary to shift our attention from what was consolidated by the narrative of the police corporation - “*had oral, anal and vaginal intercourse with her*” – so that it becomes feasible for us to set out for other *narrative solutions* forged by the IML, which, as we will see, are themselves more rarefied and laconic.

In view of this, the proposed reflection is supported by a set of forensic reports of carnal intercourse and libidinous act present in police inquiries destined to investigate rape crimes and sexual assaults, which happened in Campinas, between 2004 and 2005². Such technical-scientific documents presented themselves as central elements within the intertwined institutional and historical relationships that constitute the Legal Medical Institute (Nadai, 2018). For this reason, I would like to underline the hybrid character imposed on these documents. That is to say, they are products forged by a police corporation, in response to a legal demand, but produced through scientific knowledge for which the background is legal medicine - the latter, an area of knowledge situated at the intersection of law and medical models, simultaneously (Corrêa, 1998; Ferreira, 2009; Antunes, 1995).

¹ The textual economy, sometimes conveyed by the plural, sometimes by the indefinite article *a/an*, intends to show the lack of specificity of the case, highlighting not its exemplarity, but rather the way it communicates with numerous other cases described throughout this article.

² The specified time frame, crimes that happened between 2004 and 2005, concerns the police inquiries that I investigated at the Women's Police Station (DDM) of Campinas, between the years 2009 and 2011, in my master's degree. The objective or central question of the above-mentioned research was to understand how rape and sexual assault crimes were fabricated and investigated by/in the corporation. In the doctoral research that followed, I tried to grasp how the forensic reports were forged, how they were inserted in the subsequent criminal process, and what were their impacts on the conviction or acquittal of a defendant accused of rape. As I have never entered the institutional space of the Legal Medical Institute (IML) of Campinas, due to the fact that my research request was denied by the Scientific Committee of the IML, I focused my interests on those same reports that I had already collected between 2009 and 2011 in the DDM. Thus, I concentrated my studies on these documents in order to rethink them, now, as repositories rooted not only in the daily technical practice of the corporation, but also connected and articulated to other modalities of knowledge and scrutiny: manuals, academic texts, forensic classes, interviews with retired forensic medical examiners and those still working at the IML. These studies were both funded by The São Paulo Research Foundation (FAPESP). Furthermore, it should be noted that, until 2009, a distinction between rape (art. 213) and sexual assault (art. 214), as denominated by the Penal Code of 1940 [1998], was still in force law-wise. For an analysis of the legislation that typifies and differentiates the crimes of rape and sexual assault in Brazil, see: Rolim (2007), Vieira (2007) and Nadai (2012; 2017).

Beyond this introduction, the paper is divided into two sections and a conclusion, which ought to be read as codependent layers in order to be fully grasped. That is, “I follow the papers” (Lowenkron; Ferreira, 2014) in order to display them as constructors of reality, “both for what they produce in the situation of which they are part (...) and for what they consciously sediment” (Vianna, 2014:47). In the first section, I shed light on the fact that a report is an official document subdivided into previously defined parts, text boxes and/or sections. Usually organized into two pages, both the “*carnal intercourse examination*” reports and those for the “*libidinous act examination*” are laid out from four self-contextualizing sections. The first one aims at orienting and specifying what type of report is in question, who requested it, who wrote it, on what date it was written, and who was the victim present there for the forensic medical examination. The subsequent sections concentrate on documenting the movement of the forensic medical examination itself. From the story told to the forensic medical examiner, we follow to the praxis of the examination, which is subdivided in three text-boxes destined to describe: what was “*seen and observed*” by the forensic medical examiner, what can be inferred from this as a forensic “*conclusion*”, and, finally, what will be the answer given to the obligatory questions established by law specifically for “*carnal intercourse*” and “*libidinous act*” examinations. I call this formal diagramming *layout-form* and argue that such formal limits constrain and orient all that can and must be seen by the forensic medical examiner during a forensic medical examination for *carnal intercourse* and/or *libidinous act*.

In the subsequent section, I carefully dissect the words that emerge from the *layout-form*. Based on the idea that the heart of the report corresponds exactly to the fields between the description of what was “*seen and observed*” and the “*conclusion*” that arises from them, I seek to show how *pieces* arise from the “*observed*”. *Pieces of flesh* whose protagonism (or their concealing) have unthinkable implications for what is originated from these reports as an adequate conclusion supported by medico-legal precepts. In other words, that which will be defined as *material evidence* for criminal purposes. Precisely because of these tricks, this section is subdivided into two subsections that illuminate each other. I intend to show that hymens and anal fissures are *narrative formulas* (Nadai, 2012; 2018), and, simultaneously, scientific and technical methods by which *bodies* and their *pieces* are materialized and gain *materiality* through the forensic reports. A kind of materialization deeply permeated by gender and sexuality, which is only fully grasped when collated with slides, videos, classes, interviews, and canonical medico-legal bibliographies of forensic sexology³.

Across *layout* and *forms*: which *pieces* for which gaps?

The forensic reports on women and girls that arrive at the Campinas IML are based on the Code of Criminal Procedure (1941), Book I, entitled “On Evidence”, Chapter II - “On Forensic Medical Examination and Forensic in General”. In the above-mentioned legal text, the forensic exam, direct or indirect, is indispensable when the infraction leaves traces, even in cases where the defendant has confessed to the crime. The procedure is, therefore, mandatory, and it must be performed by an official expert with a college degree, upon the request of a “*police authority*”, or a member of the Judiciary. So, this is a specific police force, **Technical** and **Scientific**, which in response to requisitions partakes in the investigations performed by the Civil Police through its issued and certified medico-legal conclusions. Pragmatically, as a forensic medical examiner argued in an interview, “*All examinations are done upon formal request! You must have it! As a forensic medical examiner, I can't perform an examination if there is no formal request*” (Interview conducted in January 2015).

In this sense, the request addressed to the “*Dear Sir Dr. Director of the Legal Medical Institute*”, entitled “*Requisition IML-Person*”, demands that the “*procedures*” must be done by the

³ In this article I take the report as a finalized textual product, but as the result of a face-to-face relationship that I can only confabulate, since I did not carry out research about the work routine of this forensic doctor. My choice to construct an idea of the forensic medical examiner as a depersonalized subject whose trajectories are beyond this study is connected to the very effect of articulation that this article seeks to unveil: the report as a pre-established layout and its filling out tied to sayings and *narrative solutions* that reiterate the protocol, rather than tensing it or putting it at risk through personal nuances of writing/examination.

IML regarding the examination requested and forwarded on behalf of the victims by the DDM. Next, in the field *“Purpose of the Examination”*, the police authority directly and succinctly *“requests”* what should be investigated: *“carnal intercourse”*, *“libidinous act”*, *“bodily injury”*, etc. In the field *“Characteristics of the Occurrence”*, the types of criminal offenses and data on the facts are the ones that guide the investigation: *“Vice Crimes (articles 213 and 214) / Rape (art. 213) (Attempted)”*. In other words, the *“nature”* of the crime, the *“date”* and the *“place of occurrence”*.

In the requisition, *“Observations”*, the last field of the document, must also be filled out. In a single line, the police authority highlights what must be verified through the specification of the criminal offense. Thus, the technical terminology - *“rape and sexual assault”* - is written together with colloquial terms in parentheses that bureaucratically explain what must be *“observed”*, such as *“anal, oral and/or vaginal intercourse”*. Only after signed by the victim, by the police clerk and by the chief of police responsible for conducting the inquiry, does the request arrive at the IML.

This way, the protocol forms described above materialize in advance the role of the IML in this chain that ties technical-scientific instances to the Civil Police: a forensic medical examiner does not choose to perform a forensic medical examination or has the autonomy to do so without *“a formal request”*. Because of its compulsoriness, the request is both a control mechanism and a guiding technique. As one of the Campinas IML forensic medical examiners playfully explained to me: *“In medical sciences, we usually say this: you only find what you know how to look for. If I don't know the value of gold, I might step on it and go away”* (Interview conducted in January 2015).

Therefore, the forensic reports are deeply regimented by the legal elements taken from the law and prescribed in requisitions. Later converted into medico-legal notions⁴, *“carnal intercourse”* and *“libidinous act”* are the traces that will give, through the IML, materiality to the crimes of rape and sexual assault. In the first case, *“carnal intercourse”* refers to a restricted concept - vaginal penetration by the penis - thus excluding other forms of sexual intercourse - anal, oral, *intermamas*, *interfemoral*, use of fingers, hands, other penile-shaped objects such as dildos, prostheses or vibrators, or any other type of object. In the second case, the *“libidinous act”* includes an extensive range of intercourses - vestibular, oral, anal, masturbation - and fondling - kissing, sucking, touching, etc.

However difficult it is to specify or reconstruct the causal relations between the legal concept and its meaning in medico-legal matters, it is fundamental to demonstrate how such concepts, laid out in the subtitle of the document - centralized and in capital letters *“Carnal Intercourse Examination”* and/or *“Libidinous Act Examination”* - underline a formal quality that precedes the autonomy of the one producing the report. In other words, while the requisition determines what must be investigated on the bodies, *“carnal intercourse”* and *“libidinous act”*, it concurrently circumscribes examination positions which are formalized through textual syntheses: *“Placed in _____”*. The expressions used to fill out this blank, *“gynecological position”* and *“genupectoral position (knee-chest position)”* mark everything that must be seen and concluded in all the forensic examinations performed.

In the *“gynecological”* examination, the forensic medical examiner should scrutinize the victim's genitals, but should also pay attention to the breasts and anus⁵. In this case, the latter are not the protagonists since, determined by Fávero (1954:232), the forensic medical examiner should focus on *“diagnosing the copulation”* in this type of examination. This, indeed, is decisive to the definition of the criminal offense: *“rape”*. To this end, the forensic medical examiner must evaluate the hymenal rupture, the presence of sperm in the vagina, and the existence of pregnancy. To do so implies putting into force a way to narrate the rape through the *“hymen”*, the *“genitals in conformation”*, the *“lesions of medico-legal interest”*, *“fundal height (uterine height)”* and other external body parts - limbs, back, head, etc. It also requires laboratory tests to be attached, vaginal

⁴ For a genealogy on the connections between legal and medical knowledge for cases of sexual crime, see Antunes (1995). For more on the relations between law and medicine and on the constitution of legal medicine in Brazil, see Carrara (1998), Corrêa (1998), and Schwarcz (1993).

⁵ Such techniques show the many different intertwining between forensic sexology and gynecology/obstetrics in Brazil. For an analysis of the emergence of gynecology as a medical specialty, see Rohden (2001).

secretion to be collected, or, in cases of suspected pregnancy, an ultrasound to be requested from the hospital that provided care to the victim.

As for the “*genupectoral*” examination, the “*touches and maneuvers*” on the genital organs or “*erotic zones*” and the “*abnormal sexual practices*” - the “*anal copulation*”, the “*copulation on other sites*” (mammary intercourse, intercrural sex, etc.) and the “*other equivalent maneuvers*” - should be investigated (Fávero, 1954:202-203). As outdated as the concepts used by Flaminio Fávero (1954) may seem, the content of his descriptions continues to support the notion of “*libidinous act*” as shown by the reports presented here. Formally, the forensic medical examiner must highlight the existence of bites, scratches, excoriations, contusions and/or bruises found on the victim’s body. Next, it is the “*genupectoral position*” that defines the type of examination that the forensic medical examiner must perform; the victim, with her knees against her chest, will let the “*anus*” in evidence, whose inspection is mandatory and must be done thoroughly.

Based on such praxes, the textual formulas spotted in the forensic reports have, as a starting point, a legal diagram that is converted into a medico-legal meaning. The latter is converted into a formal representation. We are surrounded by very particular aesthetic qualities: *layout-form*. *Layout-form*, as a standard model or a matrix, results, as Riles shows (2001), in self-limited writing techniques that limit, constrain, and stimulate certain forms of completion.

Therefore, far from the make-believe realities portrayed in films and series whose focus is on the forensic work per se, in which anything and everything is searched for, forensic examination, as it is performed at the IML, has a direction and a form. The *layout-form* that precedes and delimits the examination makes this direction explicit. The sections of the document encourage the forensic medical examiner to concentrate their attention on the “*gynecological*” and “*genupectoral*” areas, safeguarding the integrity of the body by filling out the “*bodily injury*” field, the first subdivision of the “*Description*” section of the *layout-form*. It is followed by a new subdivision: “*Placed in gynecological/genupectoral position we observe*”. Here, the protocol-oriented style of writing instituted by self-contextualizing topics and enumerated from 1 to 6, in the case of the carnal intercourse examination, and by means of a specific text field - “*anus*” -, for the libidinous act examination, is quite evident. This formal structure, consequently, fragments and details the genital parts of the body, bringing them to the center of the analysis. Thus, as opposed to the descriptive freedom spurred on by the first field “*Description*” -where any “*bodily injury*” can and should be listed there - in the subdivision “*placed [the victim] in gynecological and/or genupectoral position*”, the forensic medical examiner is forced to only complement a previously formulated script, which is encouraged by the aesthetic characteristics of the document itself.

In the case of a “*carnal intercourse examination*”, the enumeration from 1 to 6 scrutinizes the genital area, inwardly and outwardly, reserving the last numbers to the adjacencies of what cover the gynecological aspects. From the “*Mount of Venus*” to the “*Fundal Height (Uterine Height)*”, the “*External Genital Organs (External Genitalia of Conformation)*” and the “*Hymen*” must be described. Next, the “*Breasts*” and the “*Anus*” complete the careful inspection. In this sense, it is noteworthy that even in the face of the “*restricted concept*” imposed on the practice of “*carnal intercourse*”, the “*anus*” appears as an important part of the examination, to the extent of receiving a different number destined only for it.

In the case of “*libidinous act examination*”, by similar procedures, regardless of the complaint or the “*Background*” written in the report, in the specific field “*anus*”, this orifice, placed in evidence by the “*genupectoral position*”, must be inspected and the lesions found therein freely listed. However, contrary to the “*carnal intercourse examination*”, in the “*libidinous act examination*”, the genitals do not appear as obligatory elements to be described. It is at the forensic medical examiner’s discretion to include (or not) the text field “*Genitals*” in his report, giving this part a specific space. This practice reinforces what I will describe in the next section as *materiality/traces*.

In contrast to narrative formulas that urge DDM professionals to tell stories (Nadai, 2016), the *layout-form* impels forensic medical examiners to brief and restrained textual solutions. Inspired by the premise that the format is not a “*harmless nonsense*” (Strathern, 2006:196), I would like to emphasize the non-narrative character imposed on the reports and their impacts on linear, causal and/or relational readings, with a beginning, middle and end. Graphically, they encourage different

points, autonomous and self-contextualizing entities, to be listed despite not making the correlations between the bullet points built there explicit. By filling out the list, the forensic medical examiners do not contest its imposed format; rather, they reaffirm its standardized and necessary filling out on a daily basis. As all my interlocutors didactically explained to me: “*every forensic report has the Background, the Examination, the Discussion and the Conclusion, and in this Conclusion, the official questions that you answer*”. These are layers which are systematically superimposed and tied together in such a way that it is unlikely that the forensic medical examiner would be able to elaborate freely on what was “*seen and observed*”.

In an especially close relationship with the research developed by Riles (2001), I can say that the *layout-form* results in a graphic model insistently replicated at the IML over time. Its maintenance, which hinges on legal changes around the typification for sexual crimes or publications that aim to standardize the performance, reinforces a type of documentary practice that is both intentional and ill-considered. As Riles’ (2006:20) work suggests, “form is a self-contextualizing entity” whose “gaps to be filled in contain within themselves all the necessary terms of analysis one would need to understand or complete them” .

Consequently, if the format of the reports lays out a documentary genre – the *layout-form*– the effects disseminated by the repetitive filling out of these papers electrify *pieces*, as Foucault (1978) suggests. If we were to return to what Vigarello (1998) described as the centrality of the criminal’s physiognomy in the early decades of the nineteenth century, we would be surprised by the similarities procedures-wise. In the case of criminals, forensic medical examiners used to look for anthropometric measurements that circled, preponderantly, cranial circumferences and facial angles; in the case of “*carnal intercourse*” and “*libidinous act*” examinations, measurements and angles also stand out. Hymens, fissures, and ulcerations are duly scrutinized, searched for, so that *traces* and *materiality* can emerge. Therefore, the *layout-form*, when filled out, requires us to hone new reading skills. Numbers, text boxes, and gaps are henceforth converted into medico-legal terminologies understandable to those who have been duly instructed in this authoritative language (Bourdieu, 2008).

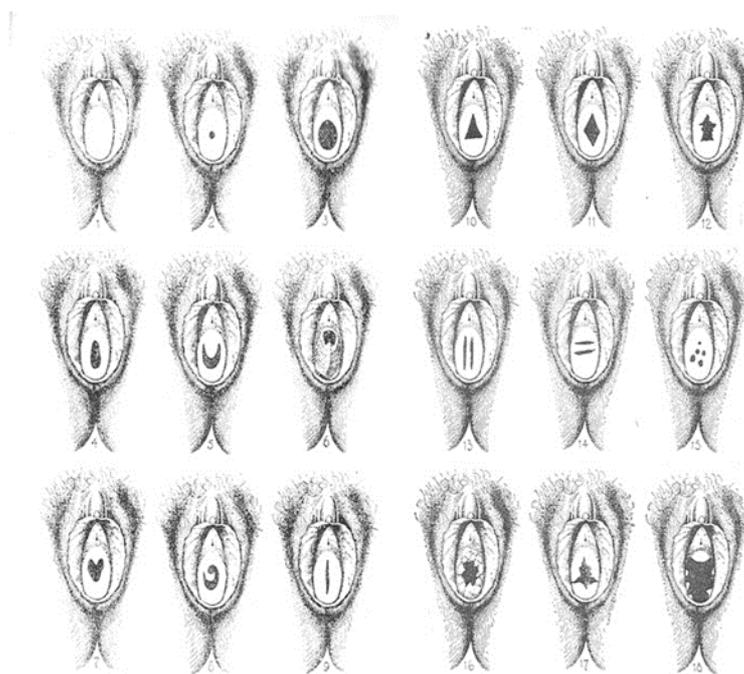
“On the seen and observed”: the art of materializing pieces of flesh

On the brilliance of a fixation: the hymen and its ruptures

The hymen is a mucosal membrane more or less permeable, exceptionally imperforate, which is present in the lower orifice of the vagina. It is not appanage of the human species, as the female of many animals has it. (...) It is either deep or superficial: deep in children; superficial in pubescent women (Fávero, 1954:210).

Without specifying the embryonic origin or the physiological function of the thin and flexible membrane, there are numerous works that give special attention to the morphological aspects of the hymen and the characteristics of its rupture, as well as its correlations with themes such as moral honesty, racial conformation and/or civilizing element (Rodrigues, 1900; Reis, 1917; Freire, 1918; 1923 and Peixoto, 1934). Technically, as explained by Fávero (1954), the hymen morphologically presents what can be called a membrane and what is called an ostium (which would be limited by the free edge of the membrane). The membrane has two sides, one vaginal and other vestibular, and two edges (one vaginal insertion and one free edge). Specifically, Afrânio Peixoto’s description was dedicated to identifying the hymen by the appearance of the membrane. Hence, the renowned physician traced intersectional lines that would create angles or breaks in the insertion of the membrane in the vaginal ostium. It was through these openings that Peixoto identified the hymens from three groups: the *acomissured* (imperforate), the *commissured* (with many intersectional points) and the atypical. Complementing Peixoto’s definition, Fávero presents the classification proposed by Oscar Freire, who was linked to the ostium, since the free edge of the membrane also presents variable dimensions and aspects. His categorization divided the hymen into three classes: without an orifice, with an orifice and the atypical ones. From this succinct explanation, in Fávero’s book (1954), a compendium of hymenal types drawings is portrayed, aiming to teach professionals at the early stages of their careers about the shapes and forms that the membrane can present.

Figure 1. Classification of hymenal orifices



Source: Fávero (1954:213-214).

Consequently, the nomenclatures also multiply. Annular, semilunar, subseptate, bilabial, circular, septate or imperforate hymens foster different existences for the same and diverse membrane. Undoubtedly, such manuals aim to give visual materiality to what a forensic medical examiner should pay attention to during a “*carnal intercourse examination*”.

Well aware of such pedagogical techniques and inspired by Laqueur’s (1992) analyses of human anatomy, I argue that language marks the *flesh*, making the hymen exist as a decisive element for women’s sexual anatomy. Unimportant to anatomists, pathologists, doctors or biologists cited by the author, the hymen membrane goes unnoticed when compared to their exhaustive concern with the vagina, clitoris or female reproductive organs. Such curious and relevant invisibility reaffirms Laqueur’s (1992) argument, by which he thoroughly compares a wide range of historical, scientific and aesthetic sources responsible for discursively forging the forms and characteristics of the female body. As the author suggests, strategies of representation and naming always choose a “point of view”, and “(...) they include some structures and exclude others, (...) that are not dignified with names or individual identities” (Laqueur, 1992:164).

For this reason, a certain kind of metonymy that the studies on forensic sexology have ended up building comes to the fore. The fixation on the hymen, whether to disqualify it or to use it as a diacritical element for the investigation of the occurrence of carnal intercourse, transformed Brazilian specialists in forensic medicine, as Caulfield (2000) argues, into world authorities on the morphology of the membrane. Linked to the notion of virginity, the question of the shape of the hymen, therefore, led to heated debates on how to accurately determine the exact moment of its complete rupture, as well as the scarred or bloody traces of the fact (Peixoto, 1934a; 1934b).

That is to say, the hymen, at first, appears as a medico-legal interest due to its close relations with notions of sexual honor and virginity (Caulfield, 2000). Surprisingly enough, although legally distinct⁶, “deflorations” and “rape” would intertwine during the reading of some important forensic reports to this research and its related matters - forensic classes, interviews, and bibliography on the

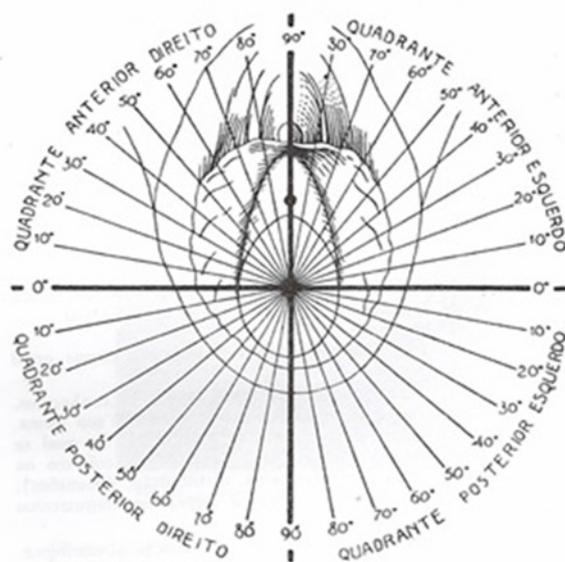
⁶ Regarding this argumentation, when I say that the forensic reports analyzed by me in this article intertwine defloration and rape, I seek to emphasize how the date of the first sexual intercourse gains centrality in these documental artifacts, given the place occupied by the hymen membrane, in detriment of what appears in the penal typification for rape as central to its legal formulation. Namely, the indispensability of the use of violence or serious threat and the notion of carnal intercourse (despite this sexual intercourse not being the first intercourse experienced by the victim). For an analysis of the juxtapositions between honor, resistance, and rape, see Nadai (2017; 2012).

subject - providing the *layout-form* with content. The usual inspection of the hymen, still put into practice nowadays and described in the forensic reports of carnal intercourse examination, shows that these ways of looking and scrutinizing are still present in the realm of the discipline. Even if they were devirginated, in a “*not recent date*”, the women and girls assisted at the Campinas IML between the years of 2004 and 2005 had their hymen carefully described and investigated. In spite of the legal changes around the crimes of defloration and/or seduction established by the Penal Code, such practices of knowledge and production of evidence about the sexual crime have practically not experienced any substantial changes. The teachings intended for doctors during their forensic-centered training classes on the topic also emphasized the centrality of the thin, performative membrane. Due to its difficult spotting, the hymen had to be observed carefully and, in the face of all the injuries to be noted, it became a challenge for those who, like me, needed to be introduced to the basics of the discipline.

Almost a century later, the juxtapositions between the explanations shown on slides in the forensic medicine classes I attended in the auditorium of School of Medical Sciences (FCM), at University of Campinas (Unicamp), and the texts in which Oscar Freire (1918) and Afrânio Peixoto (1934b) talk about the importance of carefully and rigorously checking the hymen and its ruptures, are impressive. Thus, we gradually move from the morphology of the membrane to its rupture. As Peixoto (1934) suggests, it is useless for the forensic medical examiner to know the morphology and possible shapes of the intact hymen if they are not able to differentiate “*natural notches*” from “*incomplete ruptures*”. Or, again, if they [forensic medical examiners] are not taught that the “*hymen is neither destroyed nor disappears. It breaks, lacerates itself, becomes remnants, transforms itself into tubercles, mucous ridges, caruncles, but subsists, in these states*” (Peixoto, 1934b:120).

In an article published in 1918 in the medical journal *Brazil-Médico*, from Rio de Janeiro, Oscar Freire established a dialogue with Afrânio Peixoto’s affirmations. Since he was not only interested in determining accurately the lesions found in the hymenal membrane after its rupture, but also in locating “*healed ruptures and large or small notches that cut the hymenal border*” (Freire, 1918:58), the author provides us with a new technique, which establishes the scientific basis for the examination. His proposal is the use of a graduated circumference divided into quadrants, in which lines with the most varied angles would allow the forensic medical examiner to obtain great precision regarding the lesions found in the hymen.

Figure 2: Scheme for hymenal lesions

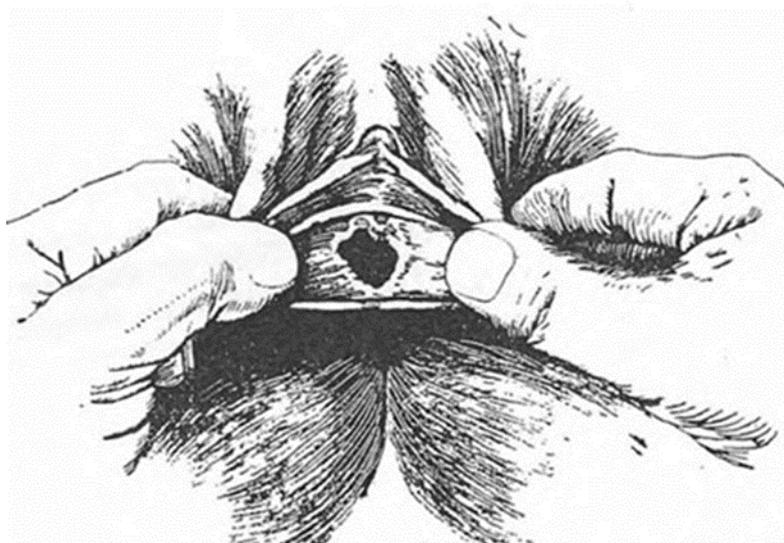


Source: Fávoro (1954:223).

The graduated circle that is displayed in Freire’s article, published in 1918, can be found, in a more modest and less detailed version, in the IML reports from 2004 to 2005. The figure, made of a circle cut by two cross-shaped lines, alludes to the technique published by Freire (1918). However,

graphically, the drawing is almost always not filled in or scribbled on these forensic documents with the angles that accurately determine the hymenal ruptures or lesions. If the outcomes from the inspection are merely words on paper, it is in front of the well-positioned legs and the exposed vaginal area that the forensic medical examiner must, with *“the tip of the thumb inwards and the radial border of the forefinger outwards”*, separate the labia minora and labia majora by moving them upwards (Fávero, 1954:221).

Figure 3. Technique for the examination of the female external genital organs



Source: Fávero (1954:221).

Thus, a *Selma* has a hymen that is *“annular, fleshy, with high rim, ostium of medium amplitude, presenting complete rupture, healed, located in the junction of the right anterior and posterior quadrants”*. If the hymenal membrane of a *Marcia* is *“reduced to myrtle caruncles”*, the *“annular, fleshy, low rimmed, medium amplitude ostium”* hymen of a *Madalena* is only described as *“presenting rupture”*. By similar procedures, *one among many Lucianas* has the hymen *“whole, fleshy, high rim, medium amplitude ostium, not ruptured”*. Like *Lucianas*, a *Laura* also has a *“not ruptured”* hymenal membrane. Her hymen *“annular, membranous, with low rim and small amplitude ostium”*, precisely because it is intact, is meticulously presented.

Although it is a fact that all these women and girls arrived at the Campinas IML, between the years of 2004 and 2005, with a request for a forensic report, the complaint typified by article 213, or even by article 214, was reverted in *“carnal intercourse examination”* with brief and synthetic *“Background[s]”*, regardless of the complexity of the situation of violence or abuse experienced by them. The phrase *“informs the examined”* or *“informs the accompanying person”* is completed by different - but succinct - plots: *“victim of libidinous act (oral sex and attempted anal sex) at gunpoint on [date]”*, *“victim of rape on [date]”*, *“victim had experienced attempted abuse or abused by her own father”* or *“victim of sexual intercourse, threatened with a gun on [date]”*.

If it is precisely because of a long-standing fixation that hymens still remain so well scrutinized by forensic medical examiners and are seen almost autonomously from the totality of bodies *“placed in a gynecological position”*, by contrast, the *“external genitalia of conformation”* are scrutinized without much interest. Small and large vaginal lips, vulva and clitoris are neither individually described nor investigated thoroughly. To all these little bits, the interpretation is that they are *“norm[al] for their age”*. Even in the case of an *Alice*, lesions found on the *“floor of the vaginal vestibule”* were not reported in any of the topics numbered 1 to 6. By comparison, the topic devoted to the *“Mount of Venus”* is always completed, either by describing the presence of hairs or their coloration. Dedicated to the hymen, in carnal intercourse examinations, forensic medical examiners don't pay attention to other parts of the body of *Madalenas, Márcias, Selmas, Lucianas, Lauras* or *Alices*. Anus, breasts, fundal height (uterine height) and peripheral areas of their bodies are

usually defined by phrases, such as “without medico-legal interest”, “absent”, “not palpable through the abdomen” or “not noteworthy”.

This happens because, in the field where the “Description” is placed, the doctor should not produce inferences about the relationship between these *pieces*. That is, in the reports, we will **never** see sentences that confront the *layout-form* by creating a relationship between what is described of the hymen of *an Alice* (without noticeable ruptures) and the lesions found on the “vaginal floor” of the victim. Instead, the examiner should only expose them objectively, paying attention to what they have “seen and observed”. This way, using technical terms, one must describe if there are marks on the genital parts, what the coloration is, what the aspects and shapes of the mucous, membranes, skin, and flesh are. A stubbornly specific and repeated mode of filling out forms arises from the *layout-form*. If the descriptions in topics- “bodily injuries”, “mount of Venus”, “conformation external genitals”, “hymen”, “fundal height (uterine height)”, “breasts” “anus” -are the elements that constitute the “volume” of these bodies (Foucault, 2003), the correlation of these elements is destined to another field. What happened – the marks, the injuries, the notches, the shapes, the history told by the “examined” – all this will be fundamental to the construction of the “Conclusion” field, where the forensic medical examiner must explain his medico-legal considerations.

The medical/clinical/forensic practice, assigning primacy to the eyes (Miller, 1997), through its inquisitorial and bureaucratic methods, interrogates, *makes* membranes organs, lesions of medico-legal interest *speak* and documents the *traces* found in the *flesh*; in certain *pieces of flesh* (Foucault, 1978). If, as Afrânio Peixoto (1934b:117) suggests, the “*hymen is neither destroyed nor disappears (...) but subsists*” in shreds and lacerations, by taking it as a decisive element, forensic medical examiners and forensic reports inscribe such structure in the *flesh* and as the foundation of carnality imposed on flesh itself (Gregori, 2016). By such acts of “just filling out paperwork” (Ferreira, 2013), “sex” is seen as a crucial term, a place of contestation, and a field of intellectual and technical battles. That is, as Foucault (2003:192) said, we see in this discursive production, “the body made flesh and flesh incorporated in a body”, whose endeavor is not to make bodies docile and useful (Foucault, 2003), but to trace over it a “moral physiology of the flesh”, highlighting “sex”, in the case of the legal interest in the hymen. This way, inspired by Butler (2011), I argue that “sex” is a discourse of nature that operates as a marker and differentiator of the bodies it produces, even in its most apparently stable sense - anatomy. In the author’s terms, it is not something one has, rather it is one of the norms by which one becomes viable and intelligible in the world (Butler, 2011).

Even if *Madalenas, Selmas, Marcias, Lucianas, Lauras, and Alices* have a hymen or the remnants of it, it is only in the face of the correlations of force laid out in reports and forensic classes that the neglected membrane became a protagonist and could finally be elevated to an incontestable type of *trace*. Therefore, the question to be asked is: after inspecting, above all, the hymen, what do the forensic medical examiners conclude? The answer requires us to return to the narrative formulas conveyed in the reports themselves:

A Selma: “From the observed and exposed we conclude that the examined presents old ruptures and if any libidinous acts happened no marks were left...”

AMárcia: “From what was observed and exposed we concluded that the examined presents mirtiform caruncles, therefore, we have no conditions to state or deny the examined’s complaint...”

A Madalena: “From the above we conclude that the examined presents a hymen with old rupture”

A Laura: “From what was exposed and observed we conclude that the examined presents an intact hymen”

A Luciana: “From what was observed and above, we conclude that the examined woman did not have carnal intercourse and is therefore a virgin”

An Alice: “From what was observed and exposed above, we conclude that the examined did not have carnal intercourse”

As these specialists forged several medical approaches, it is remarkable that, the **hymen**, from what is seen, heard, and touched still seems to be of paramount importance once again. After all, what brought women and girls as *Madalenas, Márcias, Selmas, Lucianas, Lauras*, and *Alices* to the IML examination room? Focused on the hymens and its ruptures, the forensic medical examiners end up in their conclusions producing friction between the request for the forensic examination and certified medical conclusion. As I presented in the previous section on the *layout-form*, the request for the examination, when classifying the act as “*a 213*”, that is, making mention of the penal article that typifies a crime of rape, demands that the IML perform an examination of “*carnal intercourse*”. Therefore, the forensic medical examiner's considerations have two foundational elements: on one hand, the “*carnal intercourse*” and, on the other hand, “*the hymen*”. Both are routinely aligned - or mimicked - by the person who must conclude the report.

If such narrative formulas seem crucial to the understanding of the forensic reports presented so far, the hymen, however, was only one of the many threads that constitute a complex web of classifications and decipherments about the female “sex” promoted (and, to this day, re-enacted) by the practices of forensic medicine. The inscription of this receptacle (Miller, 1997), dangerously situated in “zones of indefiniteness” (Lowenkron, 2015b) and of excessive layers of meanings and significations, slides to another orifice whose penetration illuminates, and goes against the grain, the hymen and its fixation. Before the conclusion, it is essential to direct our attention to the anus as an orifice to be thoroughly scrutinized.

On *anus* and *fissures*: ethnographic dislocations

Without the hymen to be inspected, the body of boys as *Felipes* opens the way to other *narrative formulas*. His visit to the Campinas IML in December 2004, at the age of twelve, corresponds to the findings of his mother, who “*noticed the presence of a ‘hickey’ [on his neck]*”. In the forensic report, this injury was noted by the forensic medical examiners, who stated in the “*Description*” section: “*bodily injury: two reddish ecchymoses approximately 1.5 X 1.2 cm wide on the right side of the neck, oval*”. Apparently closed⁷, the libidinous act report of a *Felipe*, at least in the words written on paper, maintains its formal standard, and in the field “*placed in a genupectoral position*”, in the text-box “*anus*”, it reads “*nothing of legal medical interest*”.

As I stated in the previous section of this article, the “*libidinous acts examination*” focus on “*touching, maneuvering*”, but also on penetrable orifices other than the vaginal canal. Apparently, the forensic report examining the body of a *Felipe* cannot disregard the centrality that the anus acquires in these papers. Scrutinized by habit or described through routine writing practices, the anus gains protagonism and a highlighted textbox in the official document forged at the IML. The stylistic resource of assigning to it a specific textbox that disconnects it from the genital area adjacent to it seeks to illustrate a discontinuity, a cut. While hymens are related to carnal intercourse, “*fissures*” appear as important material elements to be investigated in the anal region and, depending on “*touches and maneuvers*”, crucial to materialize (or not) a “*libidinous act*”. Furthermore, these reports also show the rare moments in which the “*genitals*”, regardless of the centrality given to the hymen, act as parts to be described with precision and accuracy.

Without extensive descriptions on the “*libidinous acts*” in legal medicine treatises, both Fávero (1954) and Peixoto (1934b) are emphatic in deeming difficult to conclude the occurrence of touching, anal intercourse and copulation in other parts of the body. In the absence of decisive and irrefutable elements, Peixoto (1934b) patiently demonstrates how penile deformities, excessive buttock development and sphincter relaxation, caruncles, fissures and/or anal fistulas are elements of little reliability. The “*firm diagnosis*”, as Fávero (1954) argues, is a challenge, since mucosal lesions and sphincter relaxations may stem from causes other than just non-consensual coitus. Whether in cases of fissures and fistulas, or for the findings of ridges, caruncles or condylomas⁸, Peixoto (1934b)

⁷ Both forensic medical examiners concluded in their forensic report: “*From the above we conclude that the victim had been the victim of oral suction*”.

⁸ For the author, such lesions are found by means of eczemas on the margins of the anus and are configured as protrusions, inflammations, perineal and anal epidermal layers (Peixoto, 1934b).

is quite emphatic in stating that “one should be cautious in observing the sign because (...) any pruritic lesions” is very common in this area. Moreover, relaxations, erosions or lacerations of the skin or anal mucosa “cease shortly, as soon as the inflammatory and painful phenomena disappear” (Peixoto, 1934b:145-146).

As William Ian Miller (1997) suggests in his extensive compendium on orifices and the filthy waste they excrete, the anus, as an exit orifice, is contaminating, both because of the excrement that is expelled from it - feces and gases - and because of its characteristic foundation. In the author’s words the anus is “seen as the basis on which our dignity depends. It must be secure, or everything built upon it collapses” (Miller, 1997:100-101).

By saying this, Miller (1997) seeks to emphasize the gendered character of the anus. In his argument, the penetration of the anus is a “surcharge of significance” for the female body - accessible via penetration and penetrable due to its design - and an irrevocable interdict to the male. As the author suggests, “female anus can never be your vagina; it is at best a backup, a second angle, but a male’s anus is his only vagina” (Miller, 1997:101). In this sense, the fact that the anus appears as an orifice deserving of a numbering and a text field intended only for it, as I presented earlier, denotes, on one hand, how it is the “center, the eye, from which gender-bending possibilities radiate” (Miller, 1997:101); and how, on the other hand, the anus is the place of ambiguities, as opposed to the certainty gauged by the hymen.

Extending Miller’s (1997) argument to the ethnographic data presented here, if the constitution and design of the “sex” of *Biancas*, *Lauras*, *Selmas*, and *Joanas* “waits” for a “certain amount of penetration as coming from the territory of femininity”, the anal area performs an excess. By contrast, the anus of *a Felipe* conceals an opposite interpretation. The notion of the masculine as inviolable or impenetrable transforms a man or boy’s anus into his “only vagina” (Miller, 1997:100-101). Hence the diligence in certifying in the report that the anus of *a Felipe* was not injured, even though the “hickey” was the *trace* to be materialized⁹.

Thus, it seems that the statement that *Alices* and *Lauras* had an “intact hymen, with no rupture” seems to intensify the descriptive rigor for the “ulcerations” and “bleeding fissures” found in the genitals and anus of each one of them, respectively. Even though, in a “carnal intercourse” examination, this region was portrayed by the maxim “6. Anus: no lesions of legal medical interest”, their bodies, when placed and observed in a “genupectoral position”, deserve quite conclusive descriptions and statements from the forensic medical examiner.

At the age of nine, *a Laura* had her anus seen, palpated, scrutinized and documented with attention: “Anus, presenting fissure, bleeding slit, measuring 2 cm in the posterior quadrant as well as presenting hyperemia around the anal region”.

The same aesthetic characteristics are spelled out in the forensic reports performed for *an Alice*. The “longitudinal ulceration (rupture) in the entire extension of the floor of the vaginal vestibule” is noted, in different fields, in the forensic reports prepared by the IML. While in the “carnal intercourse” examination, her “External Genital Organs (External Genitalia of Conformation)” are described as “normal for age”, the mentioned “ulceration (rupture)” is registered in a special section of the reports - “genitals” - inserted in the report whose attention is in the “libidinous act examination”.

In both cases, the apparent contradiction exposed by these papers only reinforces the argument that official documents imply delimitations. And that, in response to each demand, certain *pieces of flesh* must be electrified, at the expense of the others. In the “Conclusion”, the forcefulness regarding the relationship between the lesion and the sexual assault contradicts the systematic evasions of these professionals in affirming the legal cause of the investigated act for crimes typified as rape:

⁹ For an analysis on the close relations between this orifice and its sexualization/rape and brutalization of bodies, see Efrem Filho (2017). For an analysis of how the victim of sexual violence is presumed and marked by gender, thus making it impossible to think of the body of a heterosexual man as penetrable, see Sarti (2009).

An Alice: "From the observed and exposed we conclude that the examined was submitted to the libidinous act vestibular coitus".

A Laura: "From what was observed and exposed, we conclude that the victim was submitted to a libidinous act with characteristics of attempted penetration in the anal area".

Similar scripts are followed for the case of young people like a *Bianca*. At seventeen, a *Bianca* was examined at the IML facilities in July 2004. Requested by the police authority of the 1st Police District of Campinas, her forensic report stated in the field "*Background*" that a *Bianca* was "*forced to oral and anal intercourse on [date]*". Performed shortly after the event, the exam determined, in the "*Description*" field, that the young woman had no "*bodily injuries*" to be documented. However, when a *Bianca* was put in a "*genupectoral position*", forensic medical examiners noted "*erythema and anal edema; we observed two fissures located in [illegible] positions in the external and internal region*". And "*from the observed and exposed*", they concluded "*that there was the practice of libidinous act other than carnal intercourse*". Once again, "*fissures*" were duly noted as a sufficient sign for the "*libidinous act*" to be confirmed.

Faced with such imperative statements, but without catalogs or photographic images of this peculiar type of ulcer or lesion on the skin or anal mucosa, the indirect report¹⁰ formulated for a *Joana* and the complete absence of a specific forensic report about *libidinous act* for women as *Selmas* were, to say the least, suspicious.

In the report of a *Joana*, we notice, in terms of "*medico-legal interest*", what was seen and reverted in a clinical description forged by the hospital doctor who took care of her: "*fissure in the anus; external and internal breasts/genitals: no alterations and presence of excoriation on the left hip*". From this summarized formulation, and before exposing their conclusions in an item discriminated by the term "*Discussion*", the forensic medical examiner explains the reason why they came to such a conclusion: "*although the presence of an anal fissure may be compatible with the background, other causes of non-traumatic etiology, but pathological, may present this same finding of the exam*". Thus, he draws his "*Conclusion*": "*According to the medical data provided, we have no elements of certainty that leads us to state or deny that libidinous acts have occurred*".

Without disregarding a certain form of narration that ends up constraining even more the exams done in an "*indirect*" way¹¹, the report of a *Joana*, when contrasted with others performed in girls and adolescents such as *Lauras* and *Biancas*, prompts questions. If "*anal fissures*" can have their origin in "*other causes of non-traumatic etiology*", why is it taken for granted that some "*fissures, erythemas and/or edemas*" are, for certain diagnoses, elements of *materiality* and, for others, reasons for doubt? Or why, even writing in the "*Background*" that women as a *Selma* were "*victim of libidinous act (oral and attempted anal intercourse)*", such inspections only resulted in "*carnal intercourse examination*" and not "*libidinous act examination*"? Consequently, why does the anus is seen as an adjunct, "*with no lesions of medico-legal interest*", while the "*annular, fleshy, high rimmed hymen, presenting complete rupture, healed, located in the junction of the right anterior and posterior quadrants*" of women such as *Selmas* remains sovereign? For this last question, it is not surprising that, in the "*Conclusion*", the forensic medical examiner states "*that the examined presents old ruptures and if there were libidinous act marks, they did not remain...*".

Conclusion: between *materialization* technologies and *pieces of flesh*

The ellipsis at the end of the medico-legal sentences that closes the topic of the last section, for a considerable amount of time, seemed to graphically mock any reader who demanded medico-legal solutions/conclusions from them. The mystery and the enigma imposed on the *pieces of flesh*

¹⁰ By indirect report, the forensic medical examiners are referring to a characteristic type of forensic examination that has as its parameter a medical record, and not the direct observation of the victim's body at the IML bureau.

¹¹ The document undoubtedly reveals a tension between the official forensic medical examiner's role and the medical practices carried out by other medical institutions, such as hospitals that take care of the victim moments after the rape has happened. For an accurate analysis of this, see Nadai (2018).

which hover autonomously from the examined bodies remain unsolved. From this discomfort an imperative question arises: what do the *pieces of flesh* materialize?

The answer to this question is itself treacherous and demands that we look at the notion of *materiality* and its unavoidable effects on the making of the forensic reports. As my interlocutors suggest, medical causes are distinct from legal causes, and only the former is the criterion to be considered by the forensic medical examiner during their forensic conclusions. Therefore, “*in most cases you will see [only] the action [of what was done to the victim's body]*”. Considering their teachings, we will soon come to understand that, in the cases analyzed here, the conclusions issued by the forensic medical examiner are limited to the medical-legal elements that guide the forensic examination: “*carnal intercourse*” and “*libidinous act*”, and not to its classification in the Penal Code as “rape” and “sexual assault”. This is an intricate way of describing *injuries* and *traces* from *pieces of flesh*. “*Annular*” or “*fleshy*” hymens, “*scarred*” or “*ruptured*” at the most different junctions and quadrants, as well as “*bleeding*” *fissures*, of various sizes and shapes, are metonyms for vaginas, anuses, and sexualized and sexualizable integral bodies. However, they almost never converge to the medical cause “*carnal intercourse*” or “*libidinous act*”, much less to the legal cause, which triggers their making upon a request. That is, in an unusual way, the *materiality of the hymen* and *fissures* of *Alices, Marcias, Selmas, Madalenas, Lauras, Joanas, Blancas* or *Lucianas* eclipses, or rather, deconstructs the *materiality of the crime*: the rape or sexual assault. In a similar way to what Lowenkron (2015b:6) argues, in my cases, “the materiality of the crime and the materiality of the bodies constitute each other”, which, in turn, results, as the author shows, in not constituting the crime in the very act of constituting an injured body, whose materialization is not given, nor is it preexistent¹².

In the end, perhaps, hymen and fissure have always served another purpose: *to materialize sex* so as to support a tireless practice of searching. In this sense, the techniques of scrutinizing hymens and “fissures” add to a “number of maneuvers”, “supports”, “articulations”, and “strategies” that made “sex” flourish as the “master key” to know “who we are” (Foucault, 1978: 78). However, if hymens and fissures are equally *pieces of flesh*, placed in opposite sides, they illuminate unequal urges upon which *bodies* and *pieces* imperatively become irresistible to scrutiny, to scouring, to gauging, and to unveiling. Hymens, on one hand, materialize a *sex* already burdened by surveys, classifications, and taxonomies that made it shine as the repository of pathologies, nervous diseases, excessive sensualities, irrationality, and/or dishonor (Jordanova, 1989; Schiebinger, 2000; Sanderman, 1985; Fausto-Sterling, 1995). Fissures, on the other hand, remind us that certain accesses are forbidden and improper. The constitution of the anus and its capacity to distend are treacherous because, like the hymen, they are also deeply gendered. From impenetrable to elastic, the anus becomes a fertile ground to many other nosographies anchored in the image of this orifice as the fundamentals on which our dignity depends (Miller, 1997).

If, as Lowenkron (2015b) states, for police and criminal purposes, the act of demarcating, circumscribing and differentiating is a producer of the bodies that will henceforth be the object of control of these corporations, the links of her arguments to the work of Maria Filomena Gregori (2016) seem fundamental to think about the effects of pallor - always assigned to hymens - and pungency - projected for some fissures. In both cases, the *pieces of flesh* - livid “*scarred ruptures*” or vivid “*bleeding fissures*” - tell us about the exact moment in which “skin turns to flesh”¹³ (Gregori, 2016:175). Equivalent to the scenes described by Gregori (2016) with regard to the mechanics and technologies of intensifying, electrifying, and erecting bodies, at IML we are immersed, in a very specific way, in almost concurrent settings, appurtenances, and extenuations of the *flesh*. Like a whip that hits the skin, the reports, validated by the institutional signatures, coats of arms, and insignia of the IML and the Public Security Department of the State of São Paulo, turn into words all the carnal paraphernalia - specula, hands, fingers, flexible rods, and forensic eyes - which, by

¹² I allude here to the case involving a Chinese immigrant exposed to slavery-like services in a pastry shop in Rio de Janeiro, as analyzed by Lowenkron (2015b). For other looks at materiality of the body and materiality of crime, see Lowenkron (2013; 2015a).

¹³ The flesh, seen in Gregori's (2016) case through the sadomasochistic practices, was not there waiting for the whipping; rather it was forged in the triangulation skin, whip, and scourge as an object to be staged and seen.

touching the skin and penetrating different holes, “objectifies the body as flesh” (Foucault, 2003:202). However, they do so by limiting and restraining discourses on corporeal materiality, wounds, marks, blood, tears, ruptures, and suffering, in favor of the use of medico-legal terminologies. These, in turn, transform the horror of the scenarios and the acts perpetrated into aseptic, blurred, and inevitably *(in)conclusive*.

It seems that *materializing traces* is a technical and bureaucratic process that forges the *flesh* to make it the ground of scrutiny, but with very specific purposes: to constitute a domain of knowledge and control whose indispensability is coupled with its surprising nullity for criminal purposes. Daily and strategic nullity that, perhaps, precisely because of its nature - ceases to be political. After all, as Mariza Corrêa (1983) has well taught in her research on criminal proceedings in cases of murder between couples, it is precisely in the records that “the real is processed, fragmented, until it is possible to extract from it an elementary scheme on which a model of guilt and a model of innocence will be built on” (Corrêa, 1983:40). An official document, therefore, far from conveying the facts it aims to describe, lays bare the ways, the “filters”, the “conditions of existence” through which an act is classified as a crime, a subject is established as guilty, and another is consecrated as the victim. Fundamental in these apparatus, the forensic reports, by *describing pieces* and *forging bodies*, direct us to the intricate political and institutional plots that sustain IML: its exact ability to forge *traces* that, from then on, will serve, beyond a shadow of a doubt, as a scientific piece and *criminal evidence* (Nadai, 2018). This is because it is a type of documentary artifact that mutually inscribes *certain bodies* and dismisses *certain crimes*.

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