

Prisons, violence and transnational configurations

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Introduction

In the beginning of this new millennium, there is an overall agreement that new variants of criminality, such as drug and people trafficking or money laundering use all the advantages of globalization and technology. The new crimes impose an agreement among nations on their prevention. Moreover, both the escalating incarceration process and its critique are also a mark of advanced capitalist processes. On the one hand, the policy of 'zero tolerance', the expansion of police forces and the construction of new prisons can be found in many nations around the globe. On the other hand, there is also a growing consensus as to the inefficiency of the penitentiary system, whether in terms of punishment, deterrence or rehabilitation. The idea that prisons can rehabilitate the offender for social life seems to be outdated. At least two new alternatives have been raised in relation to the penitentiary system: to reduce its public cost through privatization and to search for alternative types of punishments.

The Brazilian penitentiary complex seems to be the stereotype of the worst nightmare one could attribute to the system.¹ Besides abominable living conditions within prisons, characterized by lack of hygiene, space, food, basic health care and extreme violence among the inmates, the system's administration borders on that of concentration camps.

¹ There are several good and insightful studies on the Brazilian penitentiary system. See, for instance, Coelho 1976, Ramalho 1983 and Salla 1999.

Humiliation, torture and massacres inside the prisons are reported daily on the front page of newspapers worldwide. The mistreatment of prisoners is one of the most serious and chronic violations of human rights.

To seriously confront the failure of penal institutions in rehabilitating inmates as well as the violence perpetuated by them, it is almost impossible to ignore Foucault's writings on modern strategies of surveillance and discipline. In every modern nation we find a gap between what the prisons should be like and what they are actually. Reports on the violation of human rights are found in most nations and rehabilitation of the convict is rarely achieved.² Usually, social and political scientists who write positively about modernity forget that what happens inside prisons is also part of the entire process. Freedom, democracy, human rights, equality, progress, creativity and reflexivity, all these noble attributes of modernity, are far from what is observed within prisons. Moreover, as we look at the problem from this broader perspective we can see the Brazilian penal system under a new light: to what extent are the barbaric conditions of the penitentiary system in countries such as Brazil not part of transnational configurations such as rational and modern strategies for crime control, racial discrimination and drug trafficking?

The main objective of this article is to highlight the entanglement between local and transnational configurations in the construction of the Brazilian penitentiary system. However crucial and up-to-date full international cooperation regarding criminal justice and crime control may be, historical data must be considered.³

In the first two sections, I will explore both the transnational debate on crime control and penitentiary systems during the first decades of the nineteenth century and the Brazilian choice of the Irish prison model. In the following section, I will analyze the creation of the Correctional Colony

² David Garland has conducted an in-depth investigation of penitentiary complexes around the world. See, among others, Garland 1990.

³ The research on the penitentiary system at Ilha Grande is based on archive data, from 1894 to 1994, testimonies, letters, and interviews. I would like to thank CNPq and UERJ for their financial support, as well as students Thatiana Santana, Thais Lemos, Cintia Guimarães and Renata Bhering.

of Dois Rios, in order to show the overall repression of the lower classes and the black population. As the criminal code distinguished contravention from crime, it contributed to massive repression of the poor by police authorities. In this particularly item, I will emphasize the discretionary power of police authorities, superintendents and prison guards. The Brazilian imprisonment process mostly reaches the black and poor population that continues to be far removed from democratic benefits.

To sum up, it is important to emphasize that although the barbarism of the penitentiary system in Brazil is the result of specific conditions such as the highly unequal distribution of social benefits and the incapacity of the court system to ensure minimal protection to citizens, it must also be understood as the result of transnational strategies of crime control, racial discrimination and consumption patterns which have been produced throughout time.

1. Large Processes and Local Articulations

Authors such as Michel Foucault and Norbert Elias provide an understanding of the major processes and great institutional changes that happened in Europe throughout the 17th and 18th centuries (Foucault 1975, Elias 1982). Foucault described the 18th century as the new age for penal justice. The entire economy of punishment was transformed and a new moral or political justification of the right to punish was created. The infliction of bodily pain disappeared as a public spectacle and was replaced by imprisonment measures. The body as the chief target of penal repression disappeared. The tortured and dismembered body was no longer exposed to public view and corrective punishment of the individual offender became the new control strategy, now deprived of its visible display. According to Norbert Elias, a sensibility of a new kind emerged during the civilizing process. Torture scenes no longer pleased the audience and the penitentiary systems were created everywhere. Foucault emphasized another key aspect of this process: the institutionalization of a new theory of law and crime, the formulation of general codes, and unified rules of procedure, including the universal adoption of the jury system.

During the 19th century, two American prison systems were closely examined by French authorities. Alexis de Tocqueville and Gustave de Beaumont traveled to the USA between 1831 and 1832 to investigate them. They spent ten months visiting different North-American prisons. In 1838, they wrote a report on prisons in the United States in order to evaluate their applicability in France. Although the impact of Tocqueville's report on prisons is small relative to the one caused by his analysis of the American democratic system, it is worthwhile to consider it with attention. He wrote an official report describing different sorts of prisons in the United States. Two systems were emphasized as they functioned as models for others: the Auburn prison (NY), where the prisoners worked together during the day observing absolute silence and were kept in isolated jails at night, and the Philadelphia one, where the prisoners were kept in isolation day and night. In the first one, besides solitude as a disciplinary means, corporal punishment was also used. The superintendent and subaltern officers frequently had discretionary powers and the right to inflict corporal chastisement without obeying any written norms. In the second one, punishment was based on deprivation of light and food.

Prisons were ruinous to public treasuries and they raised public attention and support for the new measures adopted. The purpose was to reform the guilty and diminish public spending on prisons. The Auburn prison was created in 1816 in response to the inefficiency of former brutal and classificatory systems, which seemed incapable of reforming the prisoners. As severe criticism was directed toward the crowding of prisoners, the solution found was the creation of solitary cells. Authorities and the public in general believed that solitude and labor could drive prisoners to reflect upon their crimes. Sing Sing, in the State of New York; Wethersfield, in Connecticut; Boston, in Massachusetts; and Baltimore, in Maryland, all followed the Auburn model. However differently from the Pennsylvania system, they were based on the belief that through isolation, labor and severe discipline the prisoner would recover compliance with society's moral laws.

As we have seen, the emergence of modern prisons based on seclusion in cells, discipline and work were observed in many parts of the world during the 19th century. The dialogue among nations was intense

and authorities were keen to learn the proper methods for controlling violence and creating a “civilizing process” within their territories. Brazilian authorities also analyzed the two main types of North-American punishment systems in order to establish an appropriate one for Brazil. Yet the issue to be analyzed here is that this historical process was neither homogeneous nor linear.

Tocqueville and Beaumont arrived at a favorable result regarding the North-American penitentiaries and their severe discipline, as they led to diminishing death rates among the criminals within those systems. As they compared both systems, they concluded that although the Auburn system seemed more profitable, it would not be accepted in France, since physical punishments, still used in that system, would not be accepted by the French population. The establishment of a penitentiary system in Brazil in the last decades of the 19th century was also the result of an intense debate among Brazilian authorities, who traveled in special missions to North-America, France, England and other European countries in order to find out not only the best model of imprisonment, but also the one most appropriate for Brazilian society.⁴ Therefore, we must consider the entanglement between transnational trends and certain characteristics inherent to the nation’s historical development.

Until 1808, Brazil was a colony of Portugal and the relation between them had certain particular features as we compare the several types of colonization. Brazil did not get a large number of Europeans settling in the new land. Furthermore, the ‘*Ordenações Filipinas do Reino*’ established that those who had been sentenced for injuries to others by gunfire, robbery, smuggling and other violent crimes in Portugal should be sent to Brazil. Portugal prohibited the existence of institutions of higher education, local newspapers and any kind of press in its colonies. Whereas universities were established in Spanish and English colonies as early as in 1500 and 1600, the first Brazilian university was only

⁴ According to Pedroso (2003), there was an intense debate about the best penitentiary system to be established in Brazil involving authorities and lawyers in Brazil such as Souza Bandeira (1881), Chaves (1912) and Bandeira (1909).

established with the arrival of the Portuguese court in Brazil in 1808. Portugal also prohibited commercial and cultural relations between its Brazilian colony and other European nations, in order to assure its power for more than three centuries. The colony's greater isolation from Europe left some important cultural marks. Brazilian culture acquired traits and tendencies that were very different from those of the colonizers. Slavery was the central feature of the economic and social system of the great plantations established in the colony. The population was used to whipping, burning and all sorts of violent punishments suffered by slaves. Therefore it was not until the Portuguese Court arrived in Rio de Janeiro in 1808, after fleeing the Napoleonic invasion, that new penal codes and practices were established.

In 1822, Brazil became independent as an Empire and the government implemented several measures in order to transform the old colonial system into a modern nation state similar to the European ones. After independence, Brazilian authorities looked to European nations as civilizing models. Brazil's modern penal code was passed even before the Portuguese one, which only appeared in 1852. The Brazilian constitution of 1824 copied many of the liberal principles of the constitutions of Spain and other European countries. The sovereigns lost their power to courts of law and an autonomous system of criminal justice was instituted. It introduced key changes in the penal system, such as the separation of convicts according to the nature of their crimes and the requirement of proper, ventilated and clean prisons in lieu of crowded and dark dungeons.

In 1830, the first Criminal Code was created and former punishments based on the infliction of body pain and public humiliation were prohibited. Prison became the most important means of punishment and the correction of the convict became the main object of the penal system. The law abolished punishments involving physical torture and all the cruelest types of chastisements. It also did away with forfeit and with the inheritance of the offence by the offender's descendants. The law maintained death by hanging, galleys, banishment, exile, expatriation, fines, and loss of public employment. Despite hanging and galleys, the 1830 code reflected clear progress toward a modern punishment system

relative to the penal codes of other nations.⁵ Yet continuity of the colonial past was also inevitable, since slavery was still present in the Brazilian society.⁶ Despite the law, former violent chastisements continued to be denounced even in public institutions.

The period between 1870 and 1930 should be analyzed with attention as it was a time of growing urbanization, immigration, capitalistic development, and industrialization. By this time, important transformations had occurred in the nature and the patterns of crime as well as in crime-control policies. The abolition of slavery in 1888 and the proclamation of the Brazilian Republic in the following year entailed several changes. In 1890, the second Criminal Code was passed, and the items it introduced made the attempt to establish a modern penal system more effective. Forced labor in galleys and other types of punishment inherited from the age of slavery were abolished. These changes in the criminal code were implemented almost simultaneously with the changes we observed in nations such as France or North America. The consolidation of the republican regime involved the establishment of a system that included the constitution of criminal justice, the penitentiary complex and the institutionalization of police forces.

Notwithstanding the close dialogue between legal authorities and politicians in several parts of the world, practices within the penal system reflected major differences in each national state. The Brazilian modern penitentiary system has carried since its inception certain particularities related not only to the content of the criminal code, but also to violent practices developed within the penitentiary system.

II. The Uneven Criminal Code

Slavery was abolished and the republic was proclaimed. Several innovations in crime control policies were introduced through new penal

⁵ Lemos Britto 1924, 1925 & 1926.

⁶ Brazil was the last country in the Western Hemisphere to abolish slavery. Britain abolished the slave trade in 1807, which had a strong impact in Spanish America. Chile freed its black slaves in 1823, Mexico in 1829 and Peru in 1854. The United States abolished slavery after the Civil War, followed by Puerto Rico in 1873 and Cuba in 1880.

codes, the creation of modern penitentiaries and reformatories, systems of classification and scientific study of the criminal population. The Criminal Code of 1890 radicalized the changes of the former one toward a more civilized and modern treatment of the offender. Two aspects of the Brazilian criminal code deserve to be emphasized. First, it is important to note that in the eyes of Brazilian authorities, correction was not related to the capacity of individuals to confront their own guilty, but to social mechanisms provided by the State. Most discourses on crime and punishment were based on positivist criminology and penology. A positive agenda was created whereby social measures, medical care and proper education would intervene to regenerate the offender. Second, the law made a distinction between crime and contravention, losing control of the second and allowing police forces to repress a great number of individuals without the intermediation of criminal justice.

The penitentiary system established in Brazil followed neither the Auburn nor the Philadelphia model, but the one established by another Roman Catholic nation, Ireland. The Irish model had a diminishing punishment system benefiting those offenders who had good behavior. Brazilian authorities believed that convicts could reduce their sentences and move from isolated cells to collective labor in agricultural colonies and from that to liberty. The law pointed to the correction of the prisoner through education, savings and achievement of self-esteem during the time of imprisonment. Despite adopting isolated cells, the system did not regard them as the best way to morally recover the soul of the offender. They were only used as the initial step in the reformatory process.

After the proclamation of the Republic, neither law officers and police authorities nor society in general seriously believed on the rehabilitation of the offenders when those were black and lower class people. Undoubtedly the positivist trend within the criminal codes was a barrier to the effectiveness of Brazilian criminal justice. However, if the positivist codes did not succeeded in Brazil, neither did the liberal criminal codes of rich and protestant nations.

In the mid 19th century, the first correctional houses were created in Brazil with the main objective of enabling the application of rules within

the criminal code.⁷ In 1850, Casa Correccional, i.e., Correctional House, the first modern penitentiary system, was created in Rio de Janeiro. It had individual cells, working areas, a courtyard and all elements necessary for applying legal punishments. Two years later, a second correctional house was established in São Paulo. All details of the everyday practice to be followed by prisoners and prison guards were established by the law: uniforms, food, routines, sleeping hours, labor, assistance, penalties, religious life and administrative life.⁸ Despite the good intentions proclaimed in the criminal code, results were poor. These institutions were created within the slavery system and providing any good treatment whatsoever for those who were sent to jails, mostly blacks.

In the early days of the Republic, Brazilian authorities argued that to keep prisoners isolated from one another day and night was not 'proper to men of our race, habits and the climactic conditions of the country where we live'⁹. How is that to be understood? Although to legal authorities, "men of our race" were equal and should be treated as free and equal individuals, the police forces did not follow these principles. The landowners constituted an authoritarian oligarchy that ruled the nation for more than three decades through a powerful and centralized government. The liberal ideal of equal rights was always seen as a menace by those privileged few who ruled the nation. Personal relations and privatization of public services entailed an informal system of power, which although without legitimacy in the formal legal apparatus, was accepted by those in power.¹⁰ Furthermore, Brazilian legal authorities were deeply influence by theories and the methods of criminal anthropology, which were broadly used in correctional colonies. They worshiped an intellectual movement that investigated the biological origins of criminality. Many of them followed the ideas developed by Cesare Lombroso and Enrico Ferri, in Italy. Crime

⁷ According to Salla 1999, the first correctional house in Brazil was established in 1834, in the small facilities of the First Line Troup Barracks (*Quartel da Tropa de Primeira Linha*) in São Paulo.

⁸ Salla 1999:59-66.

⁹ after Salla 1999:132.

¹⁰ For an analysis of free men who did not work on the expanding coffee plantation of the slave order, see Franco 1997.

was considered a natural problem to be faced by means of treatment instead of punishment.¹¹

It is crucial therefore to realize that the offender in Brazilian society was not regarded as an equal, but rather as someone either genetically inferior or branded by poverty and cultural elements. A society that consisted of a small group of powerful land owners and a slavery system learned to look upon people differently. Given that the elite considered itself as superior, it also assumed responsibility for those incapable of achieving success in life. A sort of patronage appeared as the right way to help the incapable or underprivileged. Instead of rights, the free black people acquired the privilege of being favored by the powerful. Therefore, rather than correcting one's soul, Brazilian law proposed the correction of the degenerative character of the poor blacks and mulatto people. Although class and race always appear entangled in Brazilian society, race has been the main impediment to social mobility. High levels of prejudice and discrimination have limited blacks from acquiring jobs and promotions in the workplace.¹²

The influence of specific patterns of race relations in Brazil cannot be underestimated in any analysis of the nation's social, political and economic aspects. During slavery, Brazil received 40 % of the 11 million Africans that were sent to the New World. By the mid 17th century, the black population in Brazil was larger than the free population. Moreover, from 1820 to 1850, the concentration of urban slaves in the city of Rio de Janeiro was the largest in the world since the end of the Roman Empire.¹³ As a consequence of the great concentration of slaves working in informal urban occupations, Brazilian society faced miscegenation and a degree of mild upward social mobility, especially among those who were born from the encounter of white masters and their slave women. The massive

¹¹ See Alvarez 2003.

¹² In the late 1970s a new turn occurred in the race-relations debate. New researches, strongly based on statistics, pointed out that economic development did not diminish racial inequality, since being white remained an important indicator of privilege for the Brazilian society (Hasenbalg 1979; Hasenbalg & Silva 1988). These studies strengthened the issue of race in Brazil.

¹³ Alencastro 1997.

arrival of Africans also led to a nation deeply ingrained with African practices, in all its cultural aspects. Brazilian music, food and religious practices have been profoundly influenced by African traditions. A majority of black and poor people within a society ruled by a white and traditional elite based on racist values has entailed great problems.

The very specific situation of the Brazilian nation was that the population was mostly constituted by blacks and mulatto people. Rather than choosing segregation patterns, the ruling elite aimed to improve the degenerate race.¹⁴ This should be possible by miscegenation and by positive and scientific strategies of race improvements. The Brazilian elite attempted to improve its image in the transnational sphere by eliminating the fixed traits of inferior people. As a consequence of that, racial prejudice in Brazil cannot be merely understood as a reflexive social construction. Although it fulfills a power struggle, it must be seen also as the consequence of an unconscious configuration of attitudes. Seventy-five percent of the Africans who were brought to Brazil to work as slaves died within the first three years. The slavery trade, the attempt to reduce men to animals, the humiliation and torture suffered by the black population were traumatic situations that left their marks upon the victimized individuals. When history is constructed through traumatic situations, it unfolds as if without witnesses.¹⁵

III. The Imprisonment of Vagabonds

Foucault argued that modern societies controlled the individual through new forms of discipline and scientific discourse. The description of North-American prisons by Tocqueville and Beaumont strengthens Foucault's thesis on the relation between new types of punishment and new means of discipline and control of the mind. The reduction of physical punishment did not entail less severe control of the offender, since it was replaced by an entire set of techniques and practices for measuring, supervising and

¹⁴ Between 1890 and 1920 more than 1.5 million of European and Japanese immigrants entered the country as the result of the idea of racial improvement by whitening.

¹⁵ Santos 2005.

correcting those who were considered abnormal. The attempt to morally reform the prisoner demanded more developed disciplinary strategies that included the penitentiary system. Procedures of individualization that marked all sorts of exclusion, from madness to criminality, took place. We observe sophisticated techniques of surveillance and control, along with the intensification and spreading of power.

Besides penitentiaries, many other institutions were created in the early 19th century to discipline and reform those individuals that the system considered inadequate: psychiatric asylums, reformatories, approved schools and hospitals. Inhabitants of the city of long standing such as beggars, vagabonds, madmen and the disorderly population were put in jail. Prisoners had to be kept separated from one another and be observed all the time. Their bodily practices had to be controlled and disciplined throughout the day. To better control one's reaction, authorities learned how to classify and separate individuals from one another. The unrestricted violence within prison was gradually replaced by disciplinary methods regulated by law.

The establishment of penitentiary institutions in islands was a 20th century phenomenon. Control and reform by isolation seemed to be an ideal choice. In Ilha Grande, i.e., Great Island, there were at least three different types of prisons during the last century. The first penal institution was the Dois Rios Correctional Colony (1894-1955), whose main purpose was to correct vagabonds and drunkards. During the Vargas period, the Cândido Mendes Penal Colony (1938-1962) and the Agricultural Colony of the Federal District (1942 – 1962) were created with the purpose of recovering sentenced prisoners by means of labor. Finally the Cândido Mendes Penitentiary (1962-1994) was created and served the state as a maximum security jail. The history of these penal institutions tells us about the different forms that the repression system took on during the republican regime. Despite the different objectives pursued by these different institutions, certain kind of violence was repeatedly denounced, what allows us to better understand the barbaric conditions found to this day within the Brazilian penitentiary system. In what follows, I will present data from the first prison created in Ilha Grande, in the early 20th century, the Dois Rios Correctional Colony.

According to the Criminal Code of 1890, vagabonds in voluntary mendicancy, idleness or provoking disorder were liable to be sent to prisons to serve a less severe sentence, ranging from eight days to three years. Rather than being accused of committing a crime, they were only guilty of minor infractions. If they were repeatedly caught in contraventions they should be sent to a proper institution in order to be corrected. In 1893, four years after the proclamation of the republican regime, a decree created the Dois Rios Correctional Colony in Ilha Grande, Rio de Janeiro. The decree established that was the main goal of the new institution the correction of 'loafers', 'beggars', 'drunkards', 'vagabonds' and 'capoeiras'¹⁶ through labor.

Historians have emphasized the struggles between criminal justice and police forces during the first decades of the Republican regime and the increasing autonomy achieved by the police in the task of classifying and judging those who committed what was considered a contravention. Police gradually developed the power to send all these minor offenders, whether men, women or children, who were caught in the streets to institutions such as hospices, asylums, reformatory houses and correctional institutions.¹⁷ The power of the police authorities was immense and the contravention control seemed to be the most important aspect of guaranteeing social order. In 1911, for instance, although there were only 199 sentenced criminals in the Correction House, the nation's main penitentiary, the number of individuals who were confined in other institutions for minor infractions was huge. That very same year, 1200 people were sent to the National Hospital of the Alienated, a national institution in charge of treating madness and alcoholism; almost 700 children went to the Asylum for Abandoned Children; plus 200 people to the Dois Rios Correctional Colony; and 65 to the Asylum of Mendicants.¹⁸

¹⁶ Capoeiras were men skilled in a self-defense dance with African rhythm; although they were responsible for street disorder against police forces, they were also frequently used by politicians as private bodyguards. When unemployed, they represented one of the great menaces for police authorities.

¹⁷ Salla 1999.

¹⁸ See Relatório do Ministro de Justiça e Negócios Interiores, (Report from the Minister of Justice and Internal Affairs), Dr. Rivadávia da Cunha Correa, 1912, National Archives [of Brazil].

Contravention, therefore, was responsible for massive imprisonment. In the first years of its functioning, police authorities mainly disregarded the Colony and few individuals were sent to there. The administrative staff of the Colony complained about the institution's state of abandon, as it received neither inmates nor material support. After 1908, however, the image of the Colony was strongly associated with tough living conditions. Despite official reports, which proposed closing it down due to its insalubrious living conditions, the establishment was lightly refurbished and police started sending to the Colony a growing number of individuals guilty of contraventions. As the image of the institution was associated with hell, authorities began using the complex as a means to achieve order in the city streets.

The Ilha Grande example shows us that inmates were isolated from the continent, but not in cells. The system entailed frequent escapes, extreme violence and the feeling of revenge. Several elements contributed to the maintenance of violence. First, the establishment of an institution in a very distant place entailed financial difficulties, because transportation made everything extremely expensive. The institution lacked beds, clothes, food and utensils in general. Ensuring availability of electricity, sewage, and general refurbishments was very difficult. Conditions of hygiene were poor. Doctors, educators, guards, trained staff and even the wards did not adapt well to isolation and the institution was always short of professional staff. The scarcity of material support, conditions of hygiene and professional support made the daily life of the inmates miserable. Secondly, distance in itself represented additional suffering. Children, men, women and old people were transported in crowded flatboats, with no ventilation or conditions of hygiene. Separation from relatives and friends represented a punishment that was not declared in the terms of law. Finally, there was the lack of control over the guards, who were not given any special training and treated inmates like garbage. The dehumanizing and violent treatment of inmates was associated with Ilha Grande since the very beginning of the imprisonment activities.

By the 1910s those who were sent to the Correctional Colony were underprivileged people who repeatedly slipped back into the jails of the capital for minor infractions. Despite the law, which established the

separation of inmates by gender, age and type of contravention, children, women, drunkards and prostitutes were sent to the Colony, which lacked the conditions required to treat them separately. The conditions of survival were dreadful and many reports attest to the death of children and old women only a couple of days or a few months after their arrival at the Island. Old and sick people were sent to the Colony to die. The inmates died of syphilis, rheumatic fever, diarrhea and other gastrointestinal disorders. The younger ones were turned into servants of the administrative staff. In the 1920's, guards officially required young women to be their private servants. The violence was great, since the guards were mostly the poor inhabitants of the Island who were admitted without special training. As we have already stated, the control over the guards and policemen on the island was almost nonexistent and their discretionary power in maintaining order was huge.

After the First World War, the Correctional Colony also became an important place to which all those who disagreed politically with the government were sent. Participants in street rebellions, anarchists and, later, members of the communist party became the main targets of the police authorities. The government created new institutions for classifying political rebels and new items were added to the criminal code in order to repress those individuals who disagreed politically with the system. In 1917, the number of inmates in the Colony, which in its early years received one hundred people, was more than one thousand. Political prisoners, vagabonds, mendicants and drunkards of all types occupied an overcrowded prison, with no conditions of hygiene of any sort. Those problems that were denounced during the first decades of the institution—material scarcity, poor medical assistance, discretionary power of the guards, prisoners used as servants, and extreme violence against prisoners—persisted within the colony. The inmates continued to be treated with extreme violence, with no comprehensive interlocution with the institution. Their survival was only a matter of chance.

After Vargas' regime, a new decree established that all prisoners should receive the same treatment. Two huge prisons were built in the island, the Cândido Mendes Penal Colony (1938) and the Agricultural Colony (1942), assembling a huge number of convicts serving their

sentences. These new establishments were built with isolated cells and working facilities. The idea was to rehabilitate convicts for society. Yet large groups of prisoners were put into forced labor during the day, mistreatment continued and the colonies soon became known as dreadful places capable of crushing the spirit of their inmates.

What we have observed, therefore, is that although the Correctional Colony of Dois Rios emerged soon after the Proclamation of the Republic to correct individuals accused of minor offences, it soon became a place for the infliction of extreme humiliation and suffering upon those individuals considered to be marginal within the system. As we read the 1890 Criminal Code and the subsequent norms, we realized that the purpose of the legislation was to improve the penal system, in order to rehabilitate the convict for society through education, labor and self-esteem. Nevertheless the practices within the Colony could not be further removed from these objectives. The distinction made by the law between crime and contravention allowed police authorities to imprison a large part of the population without control. Police forces sent to prison thousand of persons, considering them a menace to society because they were idle, alcoholic or vagabonds. The law allowed this difference by defining 'idlers' and 'vagabonds' as those who did not work and did not have any means of subsistence.

IV. Concluding Remarks: the Violence within Walls

Marxism, Weberianism and culturalism are theoretical frameworks that have greatly influenced the social and political explanations of the ignoble situation of the Brazilian penitentiary system. If we follow cultural arguments, we may also agree that inherited Iberian habits and customs¹⁹ entail a less efficient rational and bureaucratic system within prisons than that created by liberal and individualistic societies. However, even though Brazil had been a Portuguese colony and a slave-holding society, it became part of the world capitalist system.

¹⁹ On the debate about Iberianism as cultural tradition, see, among others, Morse 1982, DaMatta 1985, and Vianna 1997.

Democracy and citizenship in Brazil have been described by political scientists with adjectives, since it is indisputable that a large part of the population did not actively participate of the process of building them. Consequently the law-making process in Brazilian society did not achieve full legitimacy, since it should have been generated through a process of public opinion and the development of volition. As we have seen, in the early days of the republican regime, the public sphere was restricted. In the 1930's, Getúlio Vargas incorporated new masses into the political regime. Yet Vargas ruled through a State corporativism that associated citizenship with a labor law code. Agricultural workers and urban workers who were submitted to informal rules of the labor market did not achieve full social rights.²⁰ Moreover, Brazil, like other nations that are at edge of economic development, cannot control crime and lack police forces capable of ensuring minimal protection to citizens. Huge social and economic disparities, massive poverty and the limits of industrial development can explain the lack of control of both crime and law-enforcement forces.

Without denying that there are cultural, political and economic elements that can explain the high levels of both criminality and violence in Brazil, I would like to look at this problem from a different angle. Violence within the penitentiary system is not an exclusively Brazilian case, since it has been denounced in wealthy and liberal Anglo-Saxon nations. However, extremely unequal rights certainly amplify the problem. The penitentiary system in Brazil has served to guarantee order through massive repression of a large part of the population. The criminalization of the poor (Wacquant 2001a, 2001b) mainly involves black people. The strong disciplinary strategies described by Foucault, created to classify and mark people in accordance with a new control of free citizens, were unnecessary because blacks had been already classified as a degenerated race. The abolition of slavery and proclamation of the republic made all people equal under the law, but not from the standpoint

²⁰ For an approach to the building of citizenship during the first republican regime, see Carvalho 2001, and after Vargas' regime, see Santos 1998.

of social benefits and cultural values.²¹ A high degree of social inequality concerning the allocation of income and wealth was kept throughout Brazilian modernization process.

It is important to note that the Brazilian classification of people with a range of skin colors in Brazil, from black to mulatto, brunette and so on, is not contradictory with the binary black and white classification, since all skin shades have these two poles as their major reference. There is a positive association between white and good, as well as between black and bad. Criminality has been related to black people, their culture and religion by scientific approaches, literature, television soap operas and newspapers, at the very least.²² This association has had a strong influence on the imaginary of the police forces, even when those forces are constituted by black people. Recent studies about the penitentiary system in Brazil have shown that incarceration rates of blacks continue to reach historic highs in recent years.²³

It must be remembered that the construction of black people as an inferior race was not a national creation, but a transnational one. It has been extensively reported by those who study race relations how Europeans publicly exposed black people's bodies, defending the thesis that Africans inhabitants had an inferior genetic code.²⁴ A clear division had been created between Latin and Anglo America by means of a set of fixed cultural traits ascribed to each nation.²⁵ Not only Brazil, but the Latin-American states had descendants of Europeans in their ruling elites and they built their nations according to values that were negotiated with the powerful European nations.²⁶ In the 19th century, the Brazilian national museums associated evolutionary theories with racial issues in the building of the nation.²⁷ Penitentiary systems, scientific knowledge about

²¹ For a more profound analysis of Brazilian prejudice against blacks and its deep-rooted character within the constitution of the Brazilian nation, see Santos 2005.

²² On the association between criminality and black people in literature, see Campos 2003.

²³ For recent statistics about black people in prison, most of them without access to justice, see, among others, Ribeiro 1995.

²⁴ Stepan 1996

²⁵ Mignolo 2000.

²⁶ Mignolo 2000.

²⁷ Santos 2003.

crime and racial discrimination must be seen as element that were used in building nation states and that continues to be used among nations.

Therefore, the barbaric conditions within the Brazilian prison system should be also seen in relation to a process of modernization that came together with criminal anthropology, the belief in the lack of free will in criminal behavior and the maintenance of blacks at the bottom of social ladder. Undoubtedly, the State has not provided enough resources for the refurbishment of old institutions and appropriate training of the police forces. Yet the lack of minimal conditions of habitability, coupled with humiliation and violence in such extreme conditions can only be explained when convicts are seen as inferior human beings. In Brazilian society, it is not the sin that pollutes the soul, but the human condition of the perpetrator of the crime, which antecedes the sin.

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