

Colonelism without a subject: colonial illegalisms and power concentration

Coronelismo sem sujeito:
ilegalismos coloniais e concentração de poder

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Abstract

In *Society Must Be Defended*, Foucault approaches the movement between political practices that, originated in colonial territories, return to Europe (“internal colonialism”). Graham makes a metaphor out of this concept, through which he addresses the growing militarization of the world’s great capitals according to the model of colonial occupation. However, what returns from the peripheries to the great world centers is not just militarization, but a whole set of relationships that escape the laws and the official dimension, which Foucault called illegalisms. Although he never analyzed the interplay of these relationships between center and periphery, the tactics of circumventing norms appear as a matter of reflection for a certain Brazilian critical theory, whose analytical acuity we intend to revisit.

Keywords: illegalisms; Michel Foucault; colonization; colonelism; Victor Nunes Leal.

Resumo

No curso Em defesa da sociedade, Foucault aborda o trânsito entre políticas que, inventadas nas colônias, retornam à Europa, no que ele chama de “colonialismo interno”. Graham faz disso uma imagem pela qual trata da crescente militarização das grandes capitais do mundo segundo o modelo da ocupação colonial. Mas o que retorna das periferias para os grandes centros mundiais não é apenas militarização, mas um conjunto de relações que escapam às leis e à dimensão oficial, a que Foucault dera o nome de ilegalismos. Embora ele nunca tenha analisado o jogo destas relações entre centro e periferia, estas táticas de contornamento das normas aparecem como matéria de certa tradição crítica brasileira cuja acuidade analítica vamos retomar.

Palavras-chave: ilegalismos; Michel Foucault; colonização; coronelismo; Victor Nunes Leal.



Introduction

When British geographer Stephen Graham (2013), in a short and compelling intervention text, suggested the notion – which later made him famous – of "Foucault's boomerang," he could not foresee the theoretical continent that would emerge. Graham revisits a comment by Michel Foucault on the importance of colonial conquest for the invention of political forms to be practiced in Europe. Drawing from Foucault, he aims to highlight the experimental situation of colonial zones, which were transformed by their ruling powers into laboratories for containment and internal warfare on civilian populations. These tactics of intense militarization of civilian life could later be applied within the territories of the colonial metropolises themselves to effectively contain their internal populations, which are always under the threat of sedition.

The brief reference to the theme of this "colonialism of return", always in relation to the internal politics of European states, took place in the lecture of February 4, 1976, of the course at the *Collège de France* that later became known as "Society Must Be Defended" (Foucault, 2010). This course dealt with the nationalization of a type of historical discourse which, in the wake of the romanticism of the 19th-century nationalist doctrines, interpreted the origin of peoples through their bellicose antagonism with rival civilizations. It is the mythological discourse of the "war between races", incorporated as the matrix of public law in various European states. For Foucault, this discourse would, during the 19th century, be integrated into state policies that implemented cultural, political, classificatory, and hierarchical discrimination within national populations. It forms the foundation of a political formation that Foucault calls "state racism",

which, under the banner of war, would pervade all modern politics and would have its followers in the openly exterminationist racism of 20th-century totalitarian regimes.

Graham (2016), however, wants to show another side to the genealogy that Foucault has undertaken. Urged on by the growing violence that states today openly direct against their national populations (or, rather, against the sectors considered marginal and "at risk," which are, however, increasingly larger segments of the popular classes), he emphasizes the emergence of this permanent militarization of state management, civil coexistence, and urban life, particularly targeting the racialized fractions of the population within the advanced societies of the contemporary world. An institutional violence, previously only practicable in the most remote peripheries of the world system of nations (or beyond the infamous amity lines theorized by Carl Schmitt).¹ Relativizing the opposition between the center and the periphery of world capitalism, the great metropolises of the advanced world are increasingly managed as fractured territories between pacified "green zones" and conflicted areas, occupied by immigrants and other disqualified populations, under extensive and intensive control by tracking, continuous surveillance, barriers, and checkpoints (Graham, 2016; Brown, 2009; Das and Poole, 2004). The aggressive normality of the margins of the system, of countries and territories in permanent containment (under "low-intensity wars") for the stabilization of populations and economic and political resources, is gradually being internalized into the ordinary urbanity of the once quiet citizens of the first world, who are now looking for scapegoats and tangible and imputable culprits for their declining financial and social situation.

From Foucault's "reverse colonialism" (or "internal colonialism") to Graham's "boomerang effect", the transit between peripheral or colonial situations and the decision-making centers of advanced societies has become a major theme in critical essayism, still driven by the current epistemological tide of struggles for recognition of subalternized groups, denunciations of gender domination, anti-racism, and the so-called decoloniality.² But among those living south of the equator, such transit is not exactly new. There has been evidence of it for a long time in a well-established tradition of critical thinking (Schwarz, 2019a and 2019b) which, in its analysis of the so-called structural limitations to the establishment of a modern society in a country burdened with heavy colonial and slave liabilities, revealed a plethora of resources and artifices which, even under conditions of open violence and profound administrative, economic, and political disconnection, gave rise to a very peculiar type of domination. These resources seem increasingly adjusted to the disruptive realities of the advanced societies of the collapsing developed world (Arantes, 2004).

How these analyses were able, at least partially, to anticipate, for our domestic speculation, developments that would only later take root in the theorizations of the main critical lineages of the advanced world is a matter to be debated a little further on. The possibility that our critical tradition could also lead to a renewed radicalism in the social thought of advanced societies would be a second-order "boomerang effect" which, however much it may be expected, cannot be calculated. So let us return for the moment to Graham's fruitful invention. Let us take a closer look at what can still be gleaned

from Foucault's rapid illumination, which, in the course of 1976, crystallized in the image presented to us by the British geographer of an urgent and, for some, timely tragic collapse of the social integration formations of the West.

Foucault: from war to law

It is true that Graham has given Foucault's notion of "internal colonialism" a topicality that, although it wasn't directly addressed there in 1976, has its pertinence in terms of demonstrating what is patently dramatic today in the segregation of entire fractions of the population and in the deliberate militarization that corroborates this division in large urban centers. A condition that, while recent in the global cities of the first world, has always been present in the landscape of the modern peripheries of the South. His use of the Foucauldian commentary is also in line with the methodological recommendations of the "toolbox" that Foucault wanted to open up. But the specific reference, from which Foucault's comment on a "whole series of colonial models [that] was brought back to the West, and the result was that the West could practice something resembling colonization, or an internal colonialism, on itself" (Foucault, 2010, pp. 120-121) emerges, is less in the present of relations between the capitalist center and periphery than in the very time when colonization took hold. The retrograde effect of colonization on the political organization of European kingdoms and empires is indicated by the reference to the end of the 16th century that he presents in class.

It is the citation of an argument in support of the centralization of power in Great Britain, dating from 1581, that prompts Foucault's

commentary (*ibid.*). The argument is part of the significant controversy taking place in England during the difficult succession of Queen Elizabeth I, preceding the 1603 Union of the Crowns of Scotland, Ireland, and England. The rise of the Stuarts, in the form of King James of Scotland, occurred amidst a controversy over the rights of the throne and those of the Parliament. The Union of the Crowns was the king's objective, and the succession provided him with the opportunity to assert his intention, by virtue of the Union, to remove Parliament and recover the divine and absolute prerogatives of the monarchy. To this end, the argument of one of his apologists, the Scotsman Adam Blackwood, appeals to "a very strange but very important analogy" (*ibid.*, p. 120), drawing a correspondence between three vectors: the then-current colonial conquest of America, which coincided with the succession; the old Norman invasion and conquest of Saxony in 1066; and the centralization sought by King James.

In Blackwood's text, the fact of colonization, in that century, updates an old medieval right of conquest, a guarantor of unlimited powers, which sovereignty seeks to assert over its subjects in the metropolis. It is about rights, their possible foundation in conquest, and the transit of these rights from the colony to the metropolis.³ War appears here as a foundation, not as a threat. What is at stake is a claim to rights based on the legitimacy of the conquest of one people by another which, by virtue of this act, would gain the extraterritorial prerogative to impose its laws. And the transmission of the foundation of a right that is thus *de facto* constituted in the colonies, in order to resolve the terms of a complicated dynastic succession in the metropolis. It is impossible not to

notice the inversion here: it is in the space outside common law, in the colonies, that the foundation of European sovereignty is sought.

In the English Parliament, counter-arguments that also historicized the laws emerged, but in opposite terms. For the majority of representatives, the Norman invasion resulted, in essence, not in a conquest, but in the exercise of a legitimate dynastic succession. The victorious king, sovereign of Normandy and heir to the crown of Saxony, by defeating his rival, had inherited the crown of the dead king, and therefore subjected the victory of his army to the law of the people (and their Parliament) whose king he had defeated. From then on, he had to adopt the laws of Saxony as his own. This applies to the moderates. For the radicals in Parliament, Levellers and Diggers, however, there is a new inversion: James I is correct in the narrative of the conquest, but his claims associated with it are spurious; the laws of the monarchy are, in fact, foreign laws and therefore illegitimate. The Parliament cannot accept the laws of conquest without threatening England's sovereignty. If the king so intends, he must be seen as an enemy. The dispute pits rights against rights, sometimes on the historical basis of their legitimacy, sometimes on the normative content of their binding nature. In the course of the controversy, the ongoing Conquest of America is invoked as proof of the current legitimacy of a claim based on war. The interplay of correspondences between the extraterritorial power of the colonial conquest and the exercise of sovereignty in the territory of the metropolis, in any case, concerned, in Foucault's lecture, something more than the techniques of military control over the conquered people and land.

From law to illegalisms

This enormous historical-legal problematization of sovereignty in question, between its fragmentation by different kingdoms and its unification, is one of the first forms that the historical discourse of the "war between races" takes in these lectures by Foucault (2010) in 1976. In England at the end of the 16th century, the right of one people to subject another to its laws is invoked and contested: public law is suspended; the legitimacy of power is questioned; the legality of conduct is doubted. This was the cauldron of controversies in which the English revolutions and all their seditions and banishments would ferment (many of them, as we know, in the territory of the American colonies, an overseas shadow that has hung over all the crises of European sovereignties ever since). However, all these disruptions of an eminently political nature, which take place between leaders and ruling groups of the community, but which can evolve – and indeed have culminated – in revolt and sedition, all this criticality of the law, and even the most radical demands for its derogation, are only the extremes of a more diffuse and generalized conflict that runs through the entire fabric of social conventions, even in times of peace, even if it may only reach the notables in acute crisis situations.

Sedition as an absolute refusal of the law is the extreme of a gradient that Foucault had already presented as much more differentiated and which covers the whole range of what he defined as illegalisms back in 1973. Practices of systematic violation of laws and regulations, conducts that are either openly illegal or make purely instrumental and tactical use of the laws, manipulating their limits and the tolerances of the apparatuses of repression and control—these illegalisms permeate social formations

from top to bottom and, here and there, form systems of fairly stable relations, although always circumstantial, between different classes, because "it is almost a mode of functioning of the whole of society" (Foucault, 2015, p. 131).⁴

Illegalisms are not dealt with in the 1976 course but in a set of lessons from an earlier course by Foucault, the one from 1972-1973, later published as *The Punitive Society* (ibid.). There, these practices are described as the formation of a strategic space in which the old nobility, the rising bourgeoisie, the working class, and the officials of the absolutist state reach agreements that are based on the laws but establish, among the subjects concerned by a regulation, a space for negotiations and extralegal agreements, most of which are provisional, but some of which are quite durable. These agreements stabilize certain uses of the law other than strictly binding conduct to the content of the norms. The letter of the law serves as a reference to establish, within its margins, the excesses, possible abuses, the tolerated evasions, the "blind spots" and loopholes, what, according to an economy of interests and values at stake, will or will not be consented to, ignored, targeted, or repressed, in the many behaviors that elude the standard.

The ability of each of the classes, or interest groups involved in this negotiation, to carry out this filtering – or the "differential management" of these practices – is a function of the social influence of these groups, their material wealth (to buy or sell "protection" and other "political commodities"),⁵ their moral ascendancy, and their differential access to mechanisms of sanction, control, and punishment. The appropriation of these resources is the subject of societal struggles. The dawn of the modern world, with the rise of the bourgeois class, marks the occasion for a generalized conflagration of these struggles;

it gives rise to an enormous destabilization of these illegal or extralegal agreements and shifts the focus of what will henceforth be strongly repressed or tolerated, under the official guise of the equality of all before the law. For Foucault, a major political crisis, which appears as a crisis of legitimacy, or the complete reversal of a social order, through a revolution, for example, has as its effective substratum a crisis of this "differential management of illegalisms".⁶

From a historical perspective, Foucault formulates the hypothesis that the emergence of imprisonment as a universally accepted punishment since the 19th century, despite its absolute strangeness to the varied set of punishments and sanctions envisioned by the criminal law reform of the late 18th century, can only be explained by the role that prisons and the police need to play in a generalized reformulation of the overall balance of illegalisms between the different classes. The imbalance of forces – not just represented, but evidently real and involved in agreements that are always contingent, even if stable – is the effect of the bourgeoisie assuming productive, commercial, and legal-political functions.

On the one hand, bourgeois wealth acquires a physical and mobile form, widely circulating, and no longer restricted to special prerogatives and privileges, the collection of emoluments by the old aristocracy, or the pure fiduciary wealth of official collectors and public treasuries. Wealth now appears as an immense collection of commodities, thereby within the reach of the workers who produce or sell them, but who do not own them, and who may wish to appropriate, waste, let perish, or deliberately deplete them. The object of lower-class illegalism has therefore changed: from defrauding

the strict regulations of the Ancien Régime (for which it always had the complicity of bourgeois illegalism), to the theft and depredation of the bourgeoisie's own property.

As it rises to dominant positions, the bourgeoisie also takes possession of the state apparatus of juridical-legal control. Popular illegalism, in which the bourgeois class previously colluded by circumventing the laws of the Ancien Régime – through smuggling, tax evasion, and the violation of corporate regulations, in what some current political sociology refers to, by referencing Foucault, as "illegalisms of rights" (Amicelle and Nagels, 2018, pp. 8-9) – insofar as this illegalism is now directed against the assets and investments of this class ("illegalism of goods"), it needs to be rigorously combated. Liminal situations such as smuggling, with its false registrations, the network of minor officials already prepared to turn a blind eye (many of whom had already been recruited and paid), the receivers of hot goods, etc., were often reconverted into deliberate theft, without the popular illegalisms that operated the reconversion realizing the change in the strategic field in which they operated. They could no longer count on the support of the bourgeois illegalisms, most of whose forces were now engaged in the opposite strategic direction, shifting to the side of repressing deviant behavior (a curious Foucauldian version of the old theme of "bourgeois betrayal" seen from below).

From then on, police repression and prison confinement became the instruments for separating certain popular practices that had become intolerable. These measures contributed to the invention of a segregated popular milieu: delinquency (Foucault, 2000). Hence the dramatic clash in the moralization of conduct generated by the sudden maladjustment of entire moral

economies resulting from the shift in the strategic target of the illegalisms of different social classes. This led to the escalation of imprisonment as a means of punishing illegality, characterized by the segregation of a fraction of the working classes. The unification of criminal legislation with the coercive apparatus of the police and the prison corresponds to a higher degree of centralization of political power, compared to the dispersion of forces and illegalisms of the Ancien Régime, operated by the historically escalating bourgeois domination and its disruptive effects.

Illegalism in the mirror

In the lectures on illegalisms, their crises, and strategic reconversions, there is no reference to the practices of colonial policy. There are only very slight indications in the handwritten preparation notes (but not referred to in the lecture)⁷ of some of its effects: the enormous influx of mobile wealth that colonial exploitation provided, which is present in the ports of England and susceptible to the embezzlement and smuggling by dock workers, ship clerks, dockers, and other casual employees in permanent contact with the material enormity of the influx from overseas trading companies. But there was no direct reference to the large-scale production established or to the astonishing international market for enslaved labor which, in fact, in the 19th century, was gaining renewed momentum⁸ and opening up huge opportunities for theft, smuggling, misuse of purpose, and non-compliance with laws and regulations (Chalhoub, 2012). No mention is made of the drama of the glaring inconsistencies between economic structures, political interests, administrative orders, and the exercise of powers of justice, all of which were at odds with the

original intentions of the colonization plans, and with little synergy to articulate new paths and solutions in the Colony itself; all the inadequacy of the rules to the things that made up the ordinary condition of colonial life, with huge openings for acting "ex officio" and even challenges to tame the territory and submit it to some order of the interests of the men in charge.

Modern colonies and enslavement were not, in fact, the subject of Foucault's lectures.⁹ However, some of his themes are evident in the writings of Brazilian historians (some predating him) who address the dilemmas of colonial exploitation. We can only provide a brief glimpse of this here. In his most renowned work, *Formação do Brasil Contemporâneo* (Formation of Contemporary Brazil)¹⁰ (Prado Jr., 1994), written back in the 1940s during the early days of the organization of professional historiographical research in Brazil – already critical, of course – Caio Prado Jr. conveyed to readers the difficulties in dealing with official documents from the Colony that pertained to the established administrative order and its developments. These difficulties with the documents were due to the reality in question, hence the author's frustration with "administrative legislation" that appeared to him to be completely "unconnected" and hostage to *ad hoc* particularisms. This casuistry was not contained even by the Philippine Code;¹¹ on the contrary, after them, "there had been one and a half centuries of decrees, edicts, instructions, royal orders, royal provisions, ordinances, and other enactments which formed a complicated and copious body of law known as *legislação extravagante* (supplementary legislation)". He adds that the "disorganization" was even greater concerning the administration of the Colony since here the Ordinances were not even capable of repealing older legislation that, here

and there, remained in force, so that "it was this chaotic jumble that constituted the colony's administrative law". The result is that "application of the law was seldom uniform, but varied in accordance with the place and the time, and was often ignored in practice, some reason always being found should one prove necessary to justify this disobedience" (ibid., pp. 300-301).

These illegalisms – although obviously without the term that corresponds to the concept—appear in Prado Jr.'s descriptions, in some of the modalities that Foucault only presented much later, for example, in what the philosopher came to call, in 1973, "illegalisms of entrenched power" (Foucault, 2015). Thirty years earlier, Caio Prado, affirming the intermittent nature of the Portuguese Empire's precarious administration of colonial affairs, denounced the fact that the Crown's intervention was only effective in the short range of immediate tax collection. He argues, for example, that in the *Real Extração* (Royal Extraction),¹² the system aimed at blocking any interventions by the governor of the captaincy of Minas Gerais (who was supposed to coordinate the extraction of gold), and even by the governor-general of the Colony, and even before that, under the rule of the *Intendência dos Diamantes* (Intendency of Diamonds), "was not determined by the laudable desire of orderliness and method, but by the general suspicion that characterized the attitude of the home government toward all its agents. It hardly bothered to disguise its assumption that all of them were guilty of negligence, incompetence, and even outright dishonesty" (Prado Jr., p. 300-301).

The historian denounces the impossibility of establishing the minimum conditions for a rational organization of power within these provisions: "Confidence in the ability of its agents to take independent action, counterbalanced

by the assumption of full responsibility for such decisions, was something that never penetrated the processes of the Portuguese administration" (ibid.). Contradictorily, he adds, as a mitigating factor for the Crown's suspicions, that this attempt to directly control the richest regions in an insular manner, in the most absolute distrust of its own organization of control, as well as of the powers of the colonists it itself established, is justified, on the other hand, by the "unruliness that characterized most of the country". This "spirit of indiscipline that reigns everywhere and in all sectors" among the colonists is, in Prado's admonitions in the original Brazilian edition, what (in the exercise of deliberate anachronism that I am employing in this text as a first approach to the issue) Foucault would call the "illegalisms of the privileged", a perfected form of the exercise of circumventing the laws that prevailed between the European aristocracy and the monarch, as well as, here, among the patrimonialist oligarchy, and whose "most striking consequence", and "which was directly reflected in the administration, was the flouting of public authority, the undermining of its powers, which were severely limited and often set at naught by systematic disobedience and indiscipline" (ibid.).

Prado Jr.'s exasperation – by comparison with what, not the historian, but the politician¹³ believed should be the norm of modern organization in Brazilian society – reveals what, much later, Foucault would need a theoretical turnaround to make clear: in the colony, it is common knowledge that such illegalisms far precede the norm and the law.¹⁴ It is not a matter of colonial perversion, but of a perspective that exposes what, in Europe, might not have been visible to the naked eye. If Caio Prado Jr.'s vision inaugurates this perspective, his exasperation with our own condition may not have allowed

him to take the next step: the illegalisms that he sees as deficiencies, although he also recognizes them as structural in the peripheral formation, will assume decisive roles in the political conformation of the country. They are signs of the emergence of an order, even if unofficial, rather than disorder. First of all, in the dissent that would lead to the dissatisfaction of the local colonial elites against the administration of the overseas Empire, which would erupt, for example, in the *Inconfidência Mineira* movement, as well as in other anti-colonial struggles and rebellions that would take place from then on. Much more recent research into the institutional framework of relative political fragmentation, especially (and not by chance) in Minas Gerais, will emphasize this point.

In order not to fail to mention at least the most emblematic of these studies, that of historian Laura de Mello e Souza, it must be noted that she reconstructs, at the end of the 1990s (Souza, 1999), her pioneering research from the previous decade (Souza, 2017), in which she provides insights about the difficult application of laws in the relatively urban, heterogeneous, and populated territory of Minas Gerais, with its enslaved people, large and medium-sized slave owners, royal officials, and poor free workers, in order to guarantee the rights of the Crown over the exploitation and circulation of large volumes of wealth in raw currency. The historian discusses her own and other colleagues' research on subjects that she herself believes to be tangential, based on her explorations of the archives of the *Devassas* of the Archdiocese of Mariana,¹⁵ the rebellions in the mines, some connivance on the part of the local administrators themselves with clandestine mines and *faiscadores* (spark seekers)¹⁶ – some of whom were even enslaved –, the ambiguous status of blacks who had

been coerced,¹⁷ and smuggling, a great deal of smuggling, even of diamonds, under the cover, at the same time, of the stringent legislation repressing theft in the Tejuco township.¹⁸

From then on, the book provided a prism for the controversies that, with regard to in-depth and recent research in the archives, raised the question of the fragmentation of power, the rigid and restrictive regulations in the exploitation of minerals, the high cost of transgressing these codes, the complex subordination of the settlers to the Portuguese Empire, or their reluctance in small deviations, insubordination, or even revolts such as the tragic *Inconfidência*. All of this with a great deal of sensitivity to the dissensions that frequent practices of illegalism caused to sediment and appear as resistance, more or less reluctant, to colonial domination. And yet, perhaps due to the pressing issues of the time in which they were written, these studies do not pay the same attention to the nodules and anchor points where these divergences could lead to the accumulation of new centers of control and filtering, new hierarchical administration of legal or illegal practices within the country in formation. The emphasis in these studies is not there.

It is important to emphasize two movements presented by them. In the mines of Minas Gerais of the 18th century, these illegal activities represented the interests of minor administrators and their agents, associated with irregular contractors who, to some extent, were infringing on the monopoly of the Portuguese Empire and, therefore, even if to a small extent, intended to rival it. This occurred through the dispersion of municipal and semi-dissident authorities and commissioners whose irreducibility could, to a certain extent, even be stimulated by the Portuguese crown, in view of

expansion or settlement needs. Later on, under the Brazilian imperial regime of the 19th century, in the capital of Rio de Janeiro, the massive smuggling of enslaved people that exasperated the chief of police Euzébio de Queiróz, a flagrant illegality of great magnitude and a significant financial enterprise, among perhaps the most profitable businesses of the young nation, was an operation centralized by the great rural potentates who, at the same time, also became the leading figures in the export trade and absolute masters of the economy of the National Treasury (Chalhoub, 2012).

Brazil's patchwork history is bringing out forms of concentration of these illegalities, instruments for the accumulation of power that can be widely used, given the opportunities provided by an almost entirely unofficial economy, often supported by the interstices of sparse regulations in which the "shadow zones" are more extensive than those covered by the law. The whole range of orientations, behaviors, and values that escape official and legal norms constitutes, as a result of this enormous colonial and peripheral liability that defines us, a source for research that seeks out the nodes and junctions capable of accumulating the meanings, instruments, and forces that, from these "shadow zones," sustain a social order or domination whose foundations do not coincide with the law. In a society that reproduces itself in conditions of semi-clandestinity, the opportunities for the accumulation of power, concentration of forces, and eventual political centralization are at least as frequent in the regions where illegalisms are concentrated as the expressions of genuine revolt or insubordination.¹⁹ The Brazilian critical tradition is, once again, a source from which to draw the general strategic direction

that these local tactics have already taken on their way to the centralization of contingent power schemes, albeit quite sedimented and efficient in the formation of powerful political groups. It can provide auspicious indications for our fruitful present, here as elsewhere. The inventory of interpretive resources that this tradition can provide for research of this kind also needs to be initiated.

The colonelist strategy

Victor Nunes Leal (2012) was certainly one of the first authors to study the infamous incongruities of Brazilian social formation and saw them as much more than deformations, incompleteness, or institutional insufficiency. At the end of the 1940s, he dealt with one of the most dramatic pictures of the maladjustment of the national reality, based on Census data: almost two-thirds of the population still lived in the countryside at that time, with practically no access to land or, at least, no ability to guarantee their survival from it; from this dispossessed population that lives off the land of others, autonomy of interests and the capacity for exempt self-representation were demanded by a political system that was reasonably modern at the time, with periodic elections and fierce competition between political groups based in the municipalities. The empirical data of the research confirm the enormity of the social abyss in which Brazil finds itself, between the chimerical modernity of certain institutional and legal pretensions and the harsh reality of their impossibility.

As far as the constructed perspective is concerned, it can be considered in two directions. On the one hand, the interpretation aligns with the traditional views of social thought that see

the popular classes as merely subordinate in the political system, a "mass of maneuver" bound to the personal command of rural potentates (colonels), even under the modernization of institutions and the modern rule of electoral disputes. But, on the other hand, beyond the traditional view of the subordinate popular classes, Victor Nunes discovers, in the articulations of the political-electoral framework he describes, some space for voluntary engagements and their strategic agency. In this, he is not only a pioneer of a "modern" analysis of institutions but also a visionary in the field of reflection on the strategic dimension of Brazilian politics.

It was the historian José Murilo de Carvalho²⁰ (2012) who, in the various tributes he paid to the author, highlighted the first of the meanings of this pioneering spirit. The thesis is, by the narrow academic standards of his time, daring: he is not writing a monograph, although, until then, the case study seemed to be the only method for elucidating the vicissitudes of personal rule and private power over public administration in localities. But therein lies its ambitious originality. The object of the thesis is not what it seems: it is not going to describe, once again, the idiosyncrasies of a certain colonel and the peculiar relationships of dependence that he engenders among his subordinates, or of which he is also a hostage; but rather the "colonelist system", a framework of relationships of mutual dependence and exchange of favors that structures the electoral apparatus and all the traffic of influence and privileges that makes the ballot a part of the preservation, in adverse conditions since formally democratic, of the powers already established.

In the "colonelist system", the colonel is only the most immediate level in the distribution of power, that of direct command, in a chain of

relationships that, starting from him, extends to the different levels at which the cunning party bosses operate; councilors and mayors in moral debt to these bosses; state and federal deputies and senators, wielding influence for appointments, provisions, and positions in the administration of the municipality or state; the President of the Republic, with his "base" to be catered to and the array of advantages he has at his disposal to expand it; as well as state governors, the main centers of power in an order in which economic circuits, strongly regionalized and directly connected to foreign business centers, are often more important than the government of the Republic itself.

And yet, it is the most elementary, if not the most archaic, authoritarian, and informal of these leaders, the provincial colonel, who, intriguingly, will tolerate all sorts of insolence and unreasonable pretensions, even abuse and violence; fraud, corruption, open non-compliance with the law, as well as public affronts to the authorities from anyone else will not be tolerated. The effective power of the government in the localities, the exercise of police repression, the collection of taxes, and accreditation to public benefits and subsidies will often depend on the colonel's excesses and illegalities. The authorities will turn a blind eye to the opulent excesses and corruptions of these unyielding bosses of the *sertão*; crimes whose effects the official institutionality will corroborate.

Contrary to what it may seem, however, the *carte blanche* granted to the overbearing colonel, although it often puts him beyond the reach of the law, does not make him the sovereign potentate that the entire Colonial slave-owning class was once supposed to have been. By ensuring that the exercise of their power always slips into arbitrariness, in disagreement with

legal conduct, or rather, by placing the authority of the colonels outside the scope of the law – which, however, is almost always guaranteed for the benefit of the current order – the state authorities keep them susceptible to a possible, albeit uncommon, sanction, what happens only in cases that do not suit them in terms of their political influence. Thus, they make the insolent colonels part of the clientele whose power – disproportionate on the surface, but in fact quite limited – is, in essence, a concession from the governors and other influential politicians in the state orbit.

In these circumstances, there is no room for opposition. The law is selectively and differentially applied to allies, and the extravagant resources for centralizing power in the states of the Federation ("excesses" that, in the hands of the colonels, circumvent the adverse legal paths in a formally republican order) are portrayed as the overbearing rebellion of old landowners – boastful, indebted or even bankrupt, and residual in a republican order in progress, whose champions have not yet been able to impose the conclusive downfall on them.

The mechanism that keeps the colonels and their jurisdiction always outside the law – and therefore under the tacit threat, so rarely realized, of bringing them under the law – forces them to align with the ruling political party. This is the success of a daring strategy, one could say "Thermidorian", of reversing democratic reformism. This true "externalization of costs" of political centralization – genuine indirect rule in Brazil – is extended from the colonels to their own municipalities and administrations, whose official revenues are kept at a minimum. As a result, mayors and councilors – if not the colonels themselves, their protégés and dependents – are always "hanging by a thread" and, without

provisions for the most immediate needs of the administration, they depend entirely on transfers and subsidies from the state government or influential members of parliament from their party who, not infrequently, cynically denounce the local politicking of pretentious townspeople and opulent colonels.

An enormous government machine and its centripetal force galvanize the political system's cadres from its most remote shadow zones, renegade thugs and henchmen, to the nation's most luminous official leaders. It is an irresistible and powerful form of governmentalism, whose thrust annihilates any opposition platforms and yet, contrary to violating the democratic rule of electoral competition, makes local elections even more fiercely contested between colonels and candidates, officials and *jagunços* (henchmen), relatives and clubs, in a heated dispute for the trust of the governors of the day and their party leaders. Under this injunction, unofficial regions of constituted power proliferate in defiance of the law but in favor of the accumulation of power that guarantees the preservation of order. Political democracy is distorted from within by its own methods and, under the apparent fragmentation of power, the isolated strongholds of the decadent potentates are, in fact, the collateral effects of an order that is centered on the opacity of illegal means and extra-official methods.

Therein lies the authentic modernity not only of Victor Nunes' pioneering analysis but also of the reality he studied. Mandonism is not the particular manifestation of a past reality, on the verge of disappearing, which survives residually, as long as it resists the order of the law and the government which, however, sooner or later, will annihilate it. It is the local form of a highly centralized system of strategic relations. Although he believed in and even bet on the decline of the

colonels, especially in the face of the auspicious democratization of the 1940s, Nunes showed that the system of power that the old potentates and city politicians had engendered was still very much in place. Even in the 1940s, he revealed the deceptive legality of a political order that was "national by subtraction" (Schwarz, 2019c). The colonelist system he described anticipates developments that the critical intellectual environment of advanced capitalism would only come to understand at least a quarter of a century later.

Final considerations: illegalisms and the accumulation of power

what Vitor Nunes Leal's blazing modernity anticipated in 1949 was nothing less than the "differential management of illegalisms" that Foucault first developed in "Discipline and Punish" in 1975. In that book, especially in the final chapters, Foucault once again returns to the question of illegalisms. But the focus there is less on the contingent space of the tactics of different social classes than on the political centralization that the tactical resource of delinquency, a product of the prison system, brought to bourgeois domination in the 19th-century Europe.

The differential administration of legal punishment, in a social fabric covered in crime typifications (and therefore subject to a grid of criminogenic intelligibility), is fertile ground for apparatuses (*dispositifs*) to centralize power because it puts an enormous variety of conducts (duly incriminated and standardized) at the disposal of coercive mechanisms. It is the very opacity of the condition of illegalism

that, converted into managed illegality, will be instrumentalized by the authorities, through a reinvestment of what evades the law and norms by the mechanisms for reproducing order and accumulating power. This is the "delinquency apparatus" described by Foucault in the last chapter of his inventory of the orthomorphic-disciplinary norms of the most diverse modern institutions – the "carceral archipelago."

We are not necessarily talking about prisons, barracks, boarding schools, psychiatric hospitals, or mass incarceration, which are all too literal applications of disciplinary power, where the asymmetry of forces is evident, and discipline, although impersonal, reveals the openly coercive morphology of order. Delinquency converted into a power apparatus (*dispositif*), resulting from the normativity of disciplines, but also binding in the "open",²¹ will also regulate illegal flows, shady interests, officially forbidden transitions between distinguished neighborhoods and those of ill repute, social classes, prestigious habits and vices, genuine goods and their counterfeits, and free transit for duly subalternized individuals, which are so because they are outside the law, or the formality of official norms, but always in the name and at the service of preserving order.

If Foucault's analyses focus on the penal and the punitive-prison, it is for historical reasons, because on the horizon of the struggles underway in the 1970s, the prison seemed the most politically sensitive and unstable point (as evidenced by the escalation of prison riots and rebellions of the period and his own engagement with the GIP – Prison Information Group). But he warns that "this production of delinquency and its investment by the penal apparatus must be taken for what they are: not results acquired once and for all, but tactics that shift according to how closely they reach their target" (Foucault, 2000, p.

236). The tactical nature of these political forms pushes the analysis even beyond the objects dealt with by Foucault. The system involving the police, prison, justice, and delinquency is not the only way in which power is concentrated in any social formations. It is not these forms that are necessarily generalized, but the management of illegalisms, which can make use of other instruments.

This is why Victor Nunes Leal's colonelist system, even without analyzing criminal law or the punitive practices associated with it, as well as its possible effects, could still demonstrate the following, within the framework of the problem he set for himself: the relationship between private power in the municipalities, public administration, and the electoral system; a certain systemic integration between illegalisms and their strategic effects of political centralization. In Leal's case, the most entrenched oligarchic order, whose forces accumulated throughout colonization and which, above all, densified and converged even more after the independence of the country; which, even in the 19th century, unfolded in the absolute illegality, for example, of the slave trade; these oligarchic forces that shaped an order "half in the shadows" (Foucault, 2000), of powerful lords of land and men, finally arrived in the 20th century—to the extent that, in the meantime, the particular influence of the colonels and their corrals ebbed—fully institutionalized.

But this institutionalization is not to be confused with legality. Hence the paradox: contrary to what should be expected of a legal-political framework that is advancing in its institutionalization, what, in the 19th century, was clandestinely sedimented, instead of disappearing, has become autonomous from the agents who created it and has become institutionalized in a paraofficial system with a

modern and democratic façade, now controlled by professional politicians. Hence the polemical expression: Victor Nunes had discovered, before Foucault, the face of a strategic domination that first forms and guides the subjective behaviors that support it. Only in this way can the colonelism he describes do without the colonels and even survive and succeed them.

The effect of these different strategies that take hold in illegalisms is to always put the conduct of others at the disposal and to the advantage of certain groups. As they sometimes accumulate power blindly, they correspond to the most reliable description of the constitution of a class condition in a society where interests are never self-evident. So, if, on the one hand, they bring together interests that don't always converge, but whose understanding sustains social domination, on the other hand, they make available an entire social class whose ways of life are subject to strict moral judgment and, in this way, placed outside official jurisdiction so that, once subjected, they can be put to better use in the interests of the powerful on occasion.

It is this class that seems to be the subject of so much contemporary research²² and the way in which dominant power strategies today reinvest transgressive behaviors or even regional resistance in order to reinforce dominant norms. In a text that echoed field research carried out in the 2000s, Rizek (2012) pointed out the way in which new circuits for valuing wealth on a global scale reconfigured the normalization of low-income markets, social policies, identities linked to working and employment conditions, informal or community services, occupations on the borderline of legal or formal statutes. A whole administration of norms that guide the moral and practical judgment of popular conduct had

become the target of multiple regulations and, in each of these, the opportunity had arisen for new subordinations and asymmetrical power relations, the extraction and differential appropriation of popular knowledge and resources, disputed norms establishing new positions of power and influence.

In these informal (and sometimes illegal) centers of standardization and regulation of the excesses of ordinary life in adverse conditions,²³ new and old authorities take their place; no longer the colonels, of course, but so many other autarchic forms of political and corporate power, even international ones. The explosion of informalities; of "hustles" and "odd jobs" in the

labor markets; of the "workarounds" and "fixes" of urban expansion on the borders of cities, as well as in the interior of previously consolidated neighborhoods; in the bribery and violence that pervade illegal circuits and markets, where police and other security agents benefit from the illegalities they repress; all sorts of exceptions to the official rules in force which, connected on a global scale with international financial circuits, make Brazil's well-known social fracture the horizon of advanced societies and their "elites," also reduced to the global rent-seeking of short-term liquidity that once qualified the particular situation of exploiters in overseas colonial territories.

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Notes

- (1) See Schmitt (2003).
- (2) Among the large body of work on the subject, see Segatto (2021); Lugones (2020); Quijano (2001-2002); and Gonzalez (2020).
- (3) "And when he was still only king of Scotland, James I said that because the Normans had taken possession of England, the laws of the kingdom were established by them. This had two implications. First, it implied that England had been taken into possession, and that all English lands belonged to the Normans and the leader of the Normans, or in other words, the king. [...] Second, it implied that the different populations over which sovereignty was exercised did not enjoy the same right; right was the very mark of Norman sovereignty. It was established by the Normans and, of course, for their benefit." (Foucault, 2003, p. 102)

- (4) "We have in fact this coupling of lower-class illegalism with that of the merchants, the illegalism of business. On the other hand, we also have the illegalism of the privileged, who evade the law through status, tolerance, or exception. There are a certain number of relations, some antagonistic, between this illegalism of the privileged and lower-class illegalism" (Foucault, 2015, pp. 131-132). "What had to be controlled, what the bourgeoisie demanded that the State apparatus control through the penitentiary system, is a deeper and more constant phenomenon of which sedition is only a particular case: *lower-class or popular illegalism (illégalisme populaire)*." (ibid., p. 130)
- (5) The term is not Foucault's but originates from the Brazilian sociologist Michel Misse (1997), who was strongly inspired by Weber's concept of "political capitalism".
- (6) The notion is already in circulation in the 1973 course (Foucault, 2015), even indicating the centrality that the bourgeois class gives to the issue when it takes over the judicial-punitive apparatus of the state. "The bourgeoisie occupies an ambiguous position behind all this: it supports these anti-legal struggles insofar as they serve it, it drops them when they fall into common law criminality or take the form of political struggles. It accepts smuggling and rejects banditry; it accepts tax but rejects highway robbery" (p. 144). But the management of illegalisms will only really be presented as a concept in *Discipline and Punish*, published in 1975 (Foucault, 1995, pp. 272), and in the entire description of the vis-à-vis between illegalisms and delinquency in the following pages of the chapter of the same name (ibid., pp. 257-292).
- (7) The theme of illegalisms associated with the theme of the colonies only appears in a comment by Colquhoun quoted by Foucault in the manuscript, referring to small opportunities that arose on the quayside, through a "connection which was formed between the Mates of the West India ships and the criminal Receivers, residing near the river, who were accustomed to assail them under the pretence of purchasing what is called sweepings, or in other words, the spillings or drainings of sugars, which remained in the hold or between the decks after the cargo was discharged. These sweepings were claimed as a perquisite by a certain proportion of the Mates, contrary to the repeated and express rules established by the Committee of Merchants" (Colquhoun apud Foucault, 2015, p. 154, n. 15).
- (8) See Marquese e Parron (2011).
- (9) As Sueli Carneiro highlights in her recently published doctoral thesis (Carneiro, 2023), her research is as closely linked to Foucault's approaches as it is involved in reviewing the effects of Brazilian colonization and slavery.
- (10) Translated as "The Colonial Background of Modern Brazil".
- (11) The Philippine Code is the corpus of legislation and edicts proclaimed by Emperor Philip II of Spain. It was instituted in the Colony of Brazil during the period in which it was subject to his reign, on the occasion of the unification of the crowns of Portugal and Spain, the so-called Iberian Union, at the turn of the 16th to the 17th century. These Ordinances were in force throughout the Portuguese empire, even after the restoration of the Portuguese Crown, until the mid-19th century. In Brazil, they were surprisingly not repealed, at least in civil matters, until 1916.
- (12) Diamond mining in Brazil was, from the first half of the 18th century, the source of one of the Portuguese Crown's most important revenues. For this reason, it could only be exploited under very restricted conditions: at first, by direct contracts between the Crown and powerful private individuals (the *contratadores*), under the *Intendência* regime; and later, under an absolute royal monopoly, in what became known as *Real Extração*. Both regimes were governed by brutally repressive legislation.
- (13) Caio Prado Jr. was not only a pioneering and notorious historian, but also a politician. His commitment to analyzing the incongruities bequeathed by colonization, supported by a very original theoretical appropriation of Marxism, was crowned by his commitment to the formation of a modern society in Brazil. This concern led him to move from popular nationalism to communism. Affiliated to the

Communist Party of Brazil (PCB) in 1931, Prado Jr. was always a member of minority groups in the party, with strong independence from the dominant lines. He was a state deputy in São Paulo between 1945 and 1947.

- (14) A turnaround in which, incidentally, Foucault was not a pioneer either. The idea that crime precedes the law is, according to Anders, a theme in the works of Franz Kafka. See Anders (1960).
- (15) The *devassas* or parish visitations are investigations led by ecclesiastical authorities whose purpose is almost always to verify the observance of sacraments and religious habits by the faithful. The records of these inquiries provide rich descriptions of the ordinary life of communities and their members, especially those who were suspected of misconduct. In the city of Mariana, Brazilian historians have found in these archives, since the 1980s, a hitherto little explored repository of documentation on the difficult sociability and dramas of living together in a fledgling urbanity in the mining regions. A fertile repository of controversial moral judgments can bring out the fabric of mentalities specific to the colonial space of 18th century Brazil; some of them rebellious and insubmissive and which formed the cauldron of what would later emerge as open contestation of the colonists' subordination to the colonial condition. The most notorious of these rebellions will be known as the *Inconfidência* or *Conjuração Mineira*.
- (16) Spark seeker is literally the name given to those individuals who searched in the mines for the gold left behind.
- (17) Coarctation is a special regime of semi-slavery that was in force in Brazil especially in the Minas Gerais region in the 18th century. A coerced slave is one who has earned the right to amass his own resources in order to pay his owner, after a long period of time, a set amount for his release.
- (18) Arraial do Tejuco was the capital of the Diamantina District or Demarcation, the diamond mining region of the colony. Despite the urban density of its settlement, it never attained the status of a town, remaining an *arraial* (township; settlement; village). This was probably to prevent any pretensions to autonomy (for example, arising from the installation of a town council) and to reinforce its direct dependence on the Portuguese Crown. The unchecked power of its administrators and the insular nature of its colonization meant, however, that Tejuco was markedly licentious and an autarchic mess.
- (19) A research program based on this can certainly also provide original evidence for understanding the concentration of forces that emerges from these paralegal economies in the centers of today's increasingly clandestine, financialized world capitalism. See Godeffroy and Lascoumes (2004); one of the pioneering studies among many others that followed in the wake of what Ruggiero (2005), at the same time, called "the crimes of the powerful" (*delitos de los poderosos*).
- (20) For Carvalho (2012, p. 12), Victor Nunes' originality lies in "[the] focus on colonelism as a system, as a characterization of the national network of power developed in the historical period that corresponded to the first experience of federalism. Colonelism, in this view, is not simply a phenomenon of local politics, it is not mandonism. It has to do with the connection between municipalities, the state, and the Union, between colonels, governors, and the president, in a game of coercion and co-optation exercised nationally".
- (21) "Delinquency, with the secret agents that it procures, but also with the generalized policing that it authorizes, constitutes a means of perpetual surveillance of the population: an apparatus that makes it possible to supervise, through the delinquents themselves, the whole social field. Delinquency functions as a political observatory" (Foucault, 1995, pp. 281). For an analysis of the relationship between the disciplines in force in a closed environment and their effects on the order of flows in an open environment, see Magalhães Jr. and Hirata (2017).

- (22) For the most up-to-date reference on the international debate, see the dossier organized by Amicelle and Nagels (2018).
- (23) The expression comes from Hirata (2018).

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