# JIED 2nd Issue: Special Issue on Illicit Economies in Brazil

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Presentation of the Special Issue

Luiz Guilherme Mendes de Paiva¹, Gabriel Feltran² and Juliana de Oliveira Carlos³

¹ Brazilian Institute for Criminal Sciences, BR
² Centre for Metropolitan Studies and Federal University of São Carlos, Department of Sociology, BR
³ University of São Paulo, Department of Sociology, BR

Corresponding author: Luiz Guilherme Mendes de Paiva (paivalg@gmail.com)

The special issue of the Journal of Illicit Economies and Development presents various aspects of illicit markets in Brazil, their connections with legal activities and the institutional responses. It focuses on the characters, moral standards and operating rules of those economies, and explores the prevalence of non-state regulation, as well as the connection between illegal trade and economic development. This introductory article offers a brief introduction on Brazilian current debates and outlines key aspects of the papers comprising the special issue.

Keywords: illicit economies; development; Brazil; JIED

This special issue of the Journal of Illicit Economies and Development (JIED) presents cutting-edge research on illicit markets in Brazil to international readers. In each paper included here, we argue that Brazilian studies on drug trafficking, informal markets, urban violence, and the justice system have a tradition that is still scarcely known in English.

That research tradition has produced the analytical premise, supported by empirical studies since the 1980s, that there are intrinsic connections not only between legality and illegality, but also between crime and justice and between illicit markets and the means of social control, including law enforcement policies. Connection, however, does not imply the lack of a distinction. On the contrary, there is a vast difference between being considered an actor of order or of crime, being part of the official economy, protected by laws and rights, or an illicit economy, the object of dispute between armed groups.

According to the papers pioneering the above-mentioned research tradition, that difference gives rise to coexisting systems of urban order. There are some places and situations in which the state governs, but side by side with either criminal groups, the ‘factions’, or rogue police officers, the ‘militias’, which also fight to govern urban order. In addition to them, there are religious and market actors. Those coexisting ruling systems are now obviously supported by thriving economies—drug trafficking, smuggling, vehicle thefts, bribery, extortion, and so on. A great deal of money circulates between legal and illegal markets, although legality and illegality are separate regimes. As we will see, entire economies based on systematic bribery and political merchandise flourish precisely on that border. Contrary to conventional wisdom, the country’s economic growth spurs both legal and illegal economies, thus boosting job creation and economic development while fueling violence and inequality.

How can we understand those boundaries between legal and illegal without assuming there is either a total opposition or a total lack of distinction between an allegedly virtuous side, that of law and order, and an allegedly criminal underworld? In parallel, how can we describe the economic, social, and political ties between those worlds? That is our challenge. The papers presented here start from the premise that it is crucial to go from the bottom up, that is, empirically describe the operation, actors, and official and unofficial regulatory instruments of those economies and finally proceed to a larger scale and seek to understand the power struggles that shape them. In summary, it is important to get to know the flesh-and-blood people behind the different scales of those economies. Only then will we be able to sort, frame, and produce solutions that effectively minimize the violence and inequalities that now pervade illicit economies.

This special issue presents different aspects of Brazilian illicit markets and their connections with the justice system. It focuses on the characters, moral standards, and operating rules of those economies, which employ millions of people and kill tens of thousands of low-level employees per year in Brazil. It explores
the prevalence of non-state regulation, as well as the connection between illegal trade and economic development. It also deals with law enforcement’s and judicial authorities’ responses to those economies, as well as the effects of those responses.

Brazil is a continent-sized middle-income country marked by extreme inequalities. Highly industrialized, economically developed areas can be found right next to poor communities, in which people have extremely limited access to basic social services and both the informal sector and lawlessness are part of everyday life. Coupled with high economic growth in the past decade, Brazilian inequality created countless opportunities for illegal markets to thrive. Those markets can provide important—if not the only—sources of income for those unable to find formal employment due to poverty, poor education, and limited resources for social integration; on the other hand, they pose obstacles to social development and give rise to mass criminalization, a pivotal factor in urban segregation. Illegal markets, which generate a great deal of money for some, are also vectors of violence and justify the state’s systematic omission or repression to many low-level operators. Inequality is the hallmark of those economies.

The institutional response to those problems is highly insufficient and often incites more violence. Of the over 60,000 homicides a year recorded in Brazil, law enforcement accounts for 10–30%, depending on the state. Of all homicide cases in Brazil, fewer than 15%—and virtually none of those victimizing poor black youth, favela dwellers, and low-level operators of the illegal drug and car theft markets—are solved. The overincarceration of those same groups in recent decades greatly jeopardizes their chances of finding formal employment. In summary, the state’s response to that problem has been increasing the very inequality and underdevelopment it is designed to tackle—at least in theory.

The inefficiency of those policies can be clearly seen on a daily basis due to their disastrous results. Over the past 30 years, Brazil has become increasingly more violent and, at the same time, has intensified the public outcry for harsher repression, more incarceration, and more state violence. In the wake of that public outcry, penal populism has emerged on the political scene, promising a strong-arm policy. Brazil’s main states, National Congress, justice system, and federal government have virtually no serious plans to regulate illicit economies and protect their most vulnerable workers, by redressing violence and inequality, for example. This is one of the purposes of this special issue: to join efforts with those who thematize those issues to seek a new model of justice and law enforcement for Brazil.

Though JIED deals with illegal markets as a whole, it is telling that most of the papers in this dossier focus on the drug market. Bordering the world’s top producers of plant-based drugs, Brazil is now a major international drug trafficking route, especially for cocaine, as well as a booming market for many drugs. As the paper by Hirata and Grillo points out, the drug trade was able to organize the field of popular illegalisms around itself, bringing all other criminal activities to its orbit and overcoding the entire crime market. However, other markets are quite relevant and often interconnected with drug markets, deeply impacting the country’s development. It is also worth noting that regional features affect the dynamics of legal and illegal markets; therefore, they should be studied on their own terms so the phenomenon can be properly understood and public policies can be developed in a consistent manner.

The papers below are presented in three sections. The first contains ethnographies of informal and illicit economies and their connections with different social actors—law enforcement, militias, and factions, but also prominent business people, representatives, and senators. The second section presents empirical research on informal markets, theoretically nonviolent, and on major bank robberies, the lifeblood of criminal factions in Brazil, interpreted in light of the everyday operation of their economies. The third section deals with the state’s current responses, with a focus on the dilemmas faced on the institutional level and in the justice system as far as illicit economies are concerned. The engagement of young people affected by violence and comments from two of Brazil’s top researchers in the field of illicit markets close this special issue.

The sharp differences between illegal drug markets in São Paulo and Rio de Janeiro are discussed in the paper by Daniel Hirata and Carolina Grillo. Tapping into the above-mentioned conceptual tradition, from Machado da Silva to Michel Misse, the authors based their analysis on extensive ethnographic research conducted on the outskirts of both cities. That field work shows that what looked the same to external eyes actually implies strikingly different economic, social, and political regulation in Rio de Janeiro and São Paulo. Some parallels are also drawn. The paper makes it clear there should be very different solutions for each case.

The transatlantic scale of the drug trade is the focus of Corentin Cohen’s pioneering ethnographic research, thoroughly conducted among networks of Nigerian cocaine traffickers in recent years. The paper recounts stories of real people who risk their lives to cross the ocean carrying drugs. On another scale, however, the author puts together the pieces of the puzzle to provide a broad view of the changes in the economy, everyday life, and law enforcement policies on both sides of the Atlantic. The connection between...
Brazil and West Africa, scarcely explored in the literature, proves extremely relevant for understanding illicit markets, violence, and law enforcement in both continents.

The São Paulo drug market is discussed in close connection with those papers by Gabriel Feltrán, who synthesizes his ethnographic study on illicit markets on the outskirts of the city. The social trajectories of a drug dealer and a stolen Toyota Hilux form the main thread of the paper. The interfaces between licit insurance, new car, used car, and auto part markets and illicit markets, such as that of cocaine on the border with Bolivia, are empirically described. The paper discusses the fine line between legal and illegal while showing who profits the most and, therefore, is interested in keeping the operation of illegal markets intact.

Deborah Fromm discusses another interface between the legal economy and illegal markets by analyzing the vehicle insurance market in Brazil. Her paper explores the connection between legislative innovations, lobbying, and business disputes and describes their impacts on both legal and illegal business activities. It reveals the points of contact between both fields, not in favelas and urban peripheries, but in large corporations’ offices.

Focusing on the contact between legal and illegal as well, the paper by Marcella Araújo discusses the everyday connections between public policies, mainly urban policies, and different illegalities—in particular militias and drug traffickers—in the western part of Rio de Janeiro. Engaging in negotiations with different groups routinely for decades, people develop fixed parameters for what they consider normal, desirable, and fair. Once again, the heterogeneity of those local compromises challenges macro-solutions.

One of the leading sociologists in Brazil, Michel Misse comments on two of the papers in the section above, based once again on his conceptual framework for interpreting the social accumulation of violence in Brazil since the 1970s. The paper provides an excellent opportunity for international readers to grasp the concepts coined by the author in the 1990s and developed to this day in an intense debate with international social theory. It synthesizes the polysemic nature of the notions of violence, as a representation, an analytical or descriptive category; of political merchandise, flaunted, negotiated, and cultivated by different social actors in Brazil; and of criminal subjection. That synthesis reveals the central role of illicit markets, urban histories, and political decisions in the social accumulation of our violence, more than ever an element of the current agenda of Brazilian politics.

Felipe Rangel discusses the ‘enterprisement’ of informal mass-market retailing in the city of São Paulo. That world, which used to project an image of informality, lawlessness and precariousness, has become a big global business. One square meter in a city block dedicated to mass-market stores selling Chinese goods in São Paulo is currently worth much more than the same area in shopping malls selling major brands targeted at global elites. Having monitored a group of mass-market retailers closely, the author demonstrates how informal and illegal markets have been ‘gentrified’ in recent decades and have become part of the global development narrative.

Jania Perla de Aquino describes a nearly two-decade-long research project on an important yet understudied aspect of criminal organizations’ activities in Brazil: major bank robberies, particularly in the northern part of the country. Contrary to the prevailing perception of large highly specialized criminal organizations with rigid hierarchies, the author shows how individuals working independently in specific projects have been able to commit Hollywood-style robberies, the largest ever in Brazil. Flexible accumulation can be found in the criminal scene as well.

Based on an institutional analysis, Leonardo Silva and Bruno Langeani present innovative data on police repression against illicit drugs in the state of São Paulo. Having researched both drug trafficking and drug possession incidents, the authors not only present significant exclusive empirical data on drug seizures in the state of São Paulo, but also make it possible to assess the role of the police and the justice system in their attempt to check the drug market. Each line of the paper shows how mistaken the government’s policy against drug trafficking is.

The paper by Luiz Guilherme Paiva and Juliana Carlos also starts from the state’s response to the illicit drug market. The authors discuss the justice system’s lack of understanding of how complex that market is, based on a number of Brazilian studies that clearly demonstrate law enforcement agencies and courts focus on the small-scale retail drug trade. Also on the connection between the justice system and the illicit drug market, Mariana Amaral, Mariana Amaral, Matheus de Barros and Ana Clara Melo explore the STJ’s [Superior Tribunal de Justiça, or Brazilian Superior Court of Justice] legal treatment of drug trafficking offenses. The authors point out to the severity with which those cases are handled and the manner in which the reasoning behind the court’s decisions lead primarily to imprisonment sentences, thus emphasizing the Brazilian justice system’ central role in creating overincarceration.
The last two papers show that the Brazilian justice system not only proves unable to interfere in those markets, but also worsens the problem it supposedly intends to manage because it only reaches easily replaceable low-level operators of illegal drug markets.

Representing a group of young people from the communities most affected by the drug war in Rio de Janeiro, Ana Clara Telles, Luna Arouca, Raull Santiago and Thaynara Santos describe their promising engagement experience, Movimentos, and present their point of view to play a primary role in public debate.

Finally, a comment from one of the leading figures in the debate about illicit economies in Brazil, Luiz Eduardo Soares, examines the ongoing discussion about violence, crime, and politics in Brazil in light of the new political landscape created by Jair Bolsonaro’s election.

This special issue not only presents a significant sample of Brazilian studies on illicit markets, but also connects social science research with judicial practices to qualify the institutional response to those markets. We hope this second issue of the JIED helps disseminate Brazilian scholars’ first-rate work on illicit markets and creates opportunities for international cooperation so that comparative research can be conducted jointly.

We also hope the papers, as well as the ensuing discussions and events, help improve the understanding of illicit markets in Brazil and, consequently, establish public policies focusing on economic development, leading the country to the goal of building a peaceful and inclusive society.

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**Competing Interests**

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This article analyzes the relationship between violence and the illicit drug market by comparing retail drug trade in the favelas and peripheral neighborhoods of the cities of São Paulo and Rio de Janeiro. To do so, we carried out ethnographical field work in both cities and a literature review on the topic. Considering illegal markets and forces of order in charge of suppressing them as part of one single object of study, this article explores the mechanics of the relationship between drug trafficking and the police and how it governs the lives and deaths of the poor population in those cities. Rio and São Paulo showcase different scenarios in terms of how the drug trade is structured and practiced: Whereas Rio de Janeiro lives in a state of ‘war’ due to the disputes among rival drug factions and with the police (who is thus more lethal), São Paulo is believed to live ‘at peace’, as trafficking is controlled by one single comando and the city showcases higher incarceration rates. We shall argue that such differences also influence the way the retail drug market operates in each city. This comparison focuses on the intersection of three dimensions: The marketplaces of drug retail sales; the dynamics of criminal collectives; and the different power dynamics among drug dealers and forces of order.

**Keywords:** drug traffic; violence; São Paulo; Rio de Janeiro

**Introduction**

The most common representation of Rio de Janeiro at national and international levels nowadays is that of armed conflicts between policemen and armed drug dealers. Given the great visibility of the country’s former capital, these images shape the way violence is generally perceived in Brazil. However, this type of relationship between police and drug traffic is a very specific characteristic of Rio de Janeiro and cannot be observed in other large Brazilian cities, such as São Paulo. The way the drug trade is organized, and the means of interaction among trafficking groups and between these groups and the forces of order, vary from one place to another. Our aim is to highlight such differences by comparing the illicit drug market in the favelas (poorly urbanized, low-income neighborhoods, notorious for their lack of infrastructure) and peripheral areas in the cities of São Paulo and Rio de Janeiro.

This article is the result of a series of discussions between the authors, based upon ethnographic research about the criminal dynamics in the urban peripheries of São Paulo (2006–2010) and favelas of Rio de Janeiro (2009–2012). We also performed a review of several studies carried out by peer ethnographers to whom we are indebted for the privilege of learning from them and discussing with them.

Our starting point is the set of images that determine the representation of ‘urban violence’, outlined as a ‘public problem’ (Boltanski and Thévenot 1991) in Brazil since the late 1970s. According to Machado da Silva...
the perception of constant increase in urban violence selects and indicates a complex of practices considered threats to personal physical integrity and to material property. We may also add that such representation is directly associated with the inception of a drug market, which, according to Machado da Silva, is seen to provide material bases for the reproduction of violent modes of interaction.

Antonio Rafael Barbosa (2005) argues that—more in Rio than in São Paulo—the drug trade was able to organize the field of popular illegalisms around itself, bringing all other criminal activities to its orbit and overdetermining the entire crime market. In addition, the drug trade surfaced as the main manifestation of the so-called ‘organized crime’ since the beginning of the 1980s. This contemporary image of the ‘social enemy’ is imbued in a series of militarized social control policies (Graham 2010), foments the military markets and the fusion between National Security and Defense (Bigo 2000), bringing together Brazil’s past and present governmental forms (Sanjurjo and Feltran 2015).

In Rio, throughout the 1980s, the drug trade in the favelas—known as movimento (movement)— becomes associated with a high volume of violence, uncommon in other large cities around the globe (Misse 2006). The frequency and intensity of armed conflicts between drug dealers and the police, as well as the competition among drug factions¹ for the control over territories in Rio de Janeiro, does not find parallel even in other large Brazilian urban centers like São Paulo. It is noteworthy that other Brazilian cities show much higher homicide rates than Rio; São Paulo itself was very violent in the 1990s. However, it is in Rio de Janeiro, a city torn between the favelas and the asphalt¹ (Ventura 1994), that the ‘metaphor of war’ (Leite 2000) became the rule of thumb to explain urban conflict. Assuming that a war is indeed under way, the advocates of this perspective defend the use of lethal police force in the favelas and against their dwellers on the pretext of fighting drug trafficking.

Decades have gone by and alternatives to this security policy model were tested, but Rio remains hostage of a conflict understood as a ‘war’ by all parties involved. In fact, the state was even subject to a federal intervention: Government administration was yielded to an Army general and the state of Rio de Janeiro’s police force was backed up by a contingent of the National Army. Since the beginning of the intervention, in February of 2018, the number of deaths due to law enforcement’s use of lethal force increased dramatically (up to four deaths per day), whereas there was no significant decline in criminal occurrence. According to Rio de Janeiro’s Public Security Institute (ISP/SESEG-RJ, in the Brazilian acronym), there was a 33.6% increase in deaths due to law enforcement’s use of lethal force between February and December of 2018 in comparison to the same period in 2017. The number of homicides, in its turn, decreased 8.2%; registered robberies decreased 2.6%.⁵

A significant part of Brazilian society perceives urban violence as a major public concern. Therefore, it does not come as a shock that the country’s far right mobilized the fear of violent crime to triumph in the last elections. More rigorous punishment, increase in incarceration rates, softening of gun laws and even the extermination of criminals took center stage in victorious campaigns across Brazil—including the presidential campaign. In Brazil, over 60,000 people are murdered every year, and yet voters chose a program to combat violence that proposed to arm the civil population and increase the use of lethal force by the police.

This turbulent moment and the setbacks in public debate about violence sets the stage for this article. Our aim is to discuss the relationship between the illicit drug market and the government of deaths in favelas and urban peripheries in the cities of São Paulo and Rio de Janeiro in comparative perspective. Our premise is that violence is not a mere question of law enforcement, as the criminalization of illicit markets by the State apparatus is a constitutive part of the object and thus must be factored in the problematization. In this sense, we understand that there is a dynamic correlation between these markets’ means of operation and the agents in charge of their control and repression (Veen 1999). We understand them as interrelated research topics, as the policies and their effects are part of the object, and not external to it (Barry 2002).

The representation of urban violence seems to bring forth a mechanic that organizes the functioning of criminal markets in an inevitable relationship with the forces of order. Therefore, it affects the management of deaths of the poor in the two cities: a device of government that is both concerted and conflictive,

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¹ Comandos (or factions) are criminal groups present in prisons and illicit markets across Brazil. Their organization is different to that of traditional cartels, mafias and gangs.
² In reference to the division of the city in two spaces: One where streets are paved, and one where they are not. This image is often used to illustrate the contrast between the precarious conditions of favelas and the city’s urbanized spaces.
⁴ For additional information about the federal intervention in Rio, see Observatório da Intervenção’s report: http://observatorio-daintervencao.com.br (last accessed 12 December 2018).
produced by weaves of decisive interactions between law enforcement and criminal agents (Hirata 2014). A dynamic in which ‘forms of government beget crime and dynamics of crime beget government’ (Feltran 2011).

To outline this relationship and devise parameters of comparison between Rio and São Paulo, we built upon a few suggestions made by Gabriel Feltran. In terms of public security policies, the state of São Paulo’s main initiative over the last decades has been mass incarceration. The state’s prison population (240,061 prisoners is the largest in the country, its incarceration rate is one of the highest (536.05 prisoners per 100,000 inhabitants; DEPEN-MJ, June 2016). Rio de Janeiro, in its turn, saw an increase in incarceration rates, but is still below national average (301.09 prisoners per 100,000 inhabitants), and, thanks to frequent police armed incursions carried out in the favelas, the state has the country’s highest death rates due to law enforcement’s use of lethal force (Cano 1997; Misse et al. 2013). When it comes to criminal collectives, we see opposing segments segregated inside prisons and competing for control over territories for drug sales in Rio de Janeiro, whereas São Paulo has one single hegemonic comando in both prisons and territories across the city.

The organization of prison inmates gave rise to the inception of criminal collectives known as comandos or facções ( factions), both in Rio and São Paulo. These collectives were formed within the prisons with the aim to regulate relations among inmates and demand better life conditions. It is worth noting, nevertheless, that the advent of the Comando Vermelho (CV) in Rio de Janeiro—known for giving rise to new forms of organized crime—dates back to 1975, whereas Primeiro Comando da Capital (PCC), in São Paulo, was allegedly founded in 1993 (almost 20 years later). In both states, there was a temporal gap between the advent of comandos and the expansion of their influence across illicit markets in the favelas and low-income neighborhoods.

CV saw its popularity grow throughout the 1980s, when major heists were attributed to its members. It was only at the end of the decade, however, that that the drug trade in the favelas of Rio de Janeiro came to be controlled by factions from within the prisons (Misse 2006). In its turn, PCC just became known in 2001, when simultaneous rebellions took place in 29 prisons across the state of São Paulo. Five years later, PCC demonstrated their influence out of prisons in an episode known as ‘PCC Attacks’ (Adorno & Salla 2007)—or ‘May Crimes’ (Mães de Maio 2011), when considering exterminations carried out by the police in response to the attacks.

The comandos’ common roots and their ties to the drug trade (their main source of income) suffice to determine certain consistencies between the cases of Rio de Janeiro and São Paulo. Although the concrete abstraction of ‘organized crime’ allows us to find similarities between factions from both cities, they seem far apart and empirically incongruent when looked upon in close detail.

For the purpose of this article, it is interesting to analyze convergences and divergences strictly in relation to the retail drug market—called movimento (movement)—and we refer particularly to sales points situated in poor neighborhoods, which are the object of our empirical research. Our field data indicates that retail markets in the cities of Rio and São Paulo are organized into a ‘game of scales’, local and translocal (Revel 1998), by collectives that showcase complex political and economic dynamics and mobilize horizontal and hierarchical relations.

A certain common sense—informed sometimes by the media, some other times by the academy—suggests a different picture: That of a ‘mafia’ or a ‘cartel’, where drug trade across the city would be ‘controlled’ by a hierarchical, centralizing structure, and their leaders’ calculations and authoritative actions. This image of

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6 We greatly appreciate Gabriel Feltran’s insights provided during conversations, which resulted in this excerpt. Nonetheless, we must point out that we are fully liable for any misconceptions that arise out of it.
7 For a historical review of the Brazilian case, see Salla (2006, 2007); for a current analysis, see Godoi (2015) and Minhoto (2002).
8 Foundational year of ‘Falange da LSN’ (in reference to National Security Act – LSN, in the Brazilian acronym). The group was renamed as ‘Falange Vermelha’ in 1976 and saw its popularity grow from 1979, when the press started using the name ‘Comando Vermelho’ (Lima 1991).
9 Karina Biondi emphasizes that the massacre that took place at Carandiru (a former penitentiary in São Paulo) in 1992 is critical to understand how PCC came about and that there are several versions for the advent of PCC, albeit all overshadowed by the happenings of August 31, 1993. For a more detailed description, see Biondi (2010) and Dias (2013).
There is an emphasis on the possession of territories at the significant differences between internal forms of organization of factions in Rio and São Paulo. This military administration of territories—exemplified by the existence of weaponry at defense around drug sales points and increasing treason prospects. This situation led to the proliferation of las Puro (TCP), and Amigos dos Amigos (ADA) is hegemonic in São Paulo, each city. territories and law enforcement and even in terms of the roles performed by the boss and the manager in sales points in Rio de Janeiro sets it apart from the practices in São Paulo in terms of their relationship with and use gun power against law enforcement and dealers from other factions. The use of armed guards at (soldiers). They are in charge of the defense—or contenção) (Barbosa 1998)—of the boca, and use gun power against law enforcement and dealers from other factions. The use of armed guards at sales points in Rio de Janeiro sets it apart from the practices in São Paulo in terms of their relationship with territories and law enforcement and even in terms of the roles performed by the boss and the manager in each city.

In order to have a better grasp of the movimento’s configuration in both cities, it is critical to know that PCC is hegemonic in São Paulo, whereas large criminal factions—Comando Vermelho (CV), Terceiro Comando Puro (TCP), and Amigos dos Amigos (ADA)—have been fighting one another to control traffic in the favelas in Rio for over three decades. In Rio, the conflicts among factions resulted in the creation of armed defense around drug sales points and increasing treason prospects. This situation led to the proliferation of weaponry at bocas and the need for drug dealers to claim surveillance and punishment rights within their domains. This military administration of territories—exemplified by the existence of soldados—is the core of significant differences between internal forms of organization of factions in Rio and São Paulo.

In Rio de Janeiro, the ‘boss’ is known as dono do morro, ‘the hill’s owner.’ (We may use only ‘dono’ for short.) There is an emphasis on the possession of territories at the favelas, since each firma’s hierarchical structure

The Drug Trade Marketplaces

Overall, drug networks can be described through a ‘geometry of variable scales’ that articulate wholesalers and retailers. They consist of several groups of different sizes and varied articulations in terms of profitability, risk, and negotiation methods, aimed at ‘circumventing’ the laws and thus allowing the circulation of merchandise (Barbosa 2005). Drug trafficking takes place both in poor and rich neighborhoods, but its dynamic varies significantly depending on the circumstances. For this reason, we opted for focusing our analysis on the retail trade in the favelas and urban peripheries of São Paulo and Rio.

To some extent, the networks present in both cities are somehow alike. The territorialized sales points, easily identifiable by drug users, are called biqueiras in São Paulo and bocas de fumo in Rio. In both cities, they need to obtain a ‘business licence’ (Barbosa 2005; Hirata 2018) from forces of order and to develop security strategies that tend to be quite different in each city. Up to a certain point, one can observe that, in both contexts, local trafficking enterprises (known as firmas, i.e., ‘companies’) showcase hierarchical frameworks that emulate traditional employer-employee relationships and job descriptions. Both in Rio and in São Paulo, firmas closely resemble the ‘business model’ described by Johnson et al. (1992) in their typology of crack distribution networks in the United States.

Broadly speaking, we see similarities in the ways roles are distributed and in the job descriptions of each role. The business owner is called the ‘boss’. The ‘managers’ are the boss’ henchmen and hold a coveted position within the group. They are in charge of organizing sales activities that, in its turn, are carried out by vapores, who earn a fixed weekly wage and/or a percentage of the sales (Malvasi 2012; Grillo 2013; Batista 2015). In São Paulo, Hirata (2018) also mentions the existence of campanas, who occupy lower positions in the biqueira’s hierarchy and have similar roles as olheiros and fogueiteiros (scouts and informants) in Rio de Janeiro (Barbosa 1998): Warning the group that the police are nearby.

There is one position, nevertheless, that can be found in Rio de Janeiro but not in São Paulo: The soldados (soldiers). They are in charge of the defense—or contenção (containment) (Barbosa 1998)—of the boca, and use gun power against law enforcement and dealers from other factions. The use of armed guards at sales points in Rio de Janeiro sets it apart from the practices in São Paulo in terms of their relationship with territories and law enforcement and even in terms of the roles performed by the boss and the manager in each city.

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125 For an analysis of middle-class drug dealers, see Grillo (2008); for drug networks in Copacabana (an upscale neighborhood), see Pereira (2003).
124 Name given to a drug sales point in São Paulo.
123 Name given to a drug sales point in Rio de Janeiro. We may also use its short version, boca.
122 PCC is also confronted by other rival groups, such as Comando Brasileiro Revolucionário da Criminalidade (CBRC) and Terceiro Comando da Capital (TCC), but few are the prisons controlled by these two groups and their influence in the outskirts is negligible (Dias 2013; Marques & Bioni 2010).
121 There are also the milícias (militia), criminal groups that charge protection fees, control the market of basic services and build electoral bases for political candidates in low-income neighborhoods. For details about the milícias, see Cano and Duarte.
is based on the donos’ inalienable right over the exploitation of the drug trade in a certain area, warranted by their alignment with the drug faction (Grillo 2013). The persona of the dono do morro is part of Rio de Janeiro’s urban history and precedes the drug trade. It is already present in the very first reports about the city’s favelas, as written by Costallat (1995 [1924]), where ‘bold’ Zé da Barra is described as the ‘favela’s unquestionable boss.’ This persona simply does not exist in São Paulo. The biqueirã’s bosses have control over business in one or more sales points, but not over the favela or neighborhood where the trade takes place. They are certainly prominent figures in any peripheral neighborhood, but their position is only valid in respect to their working relations with subordinates.

The favelas in Rio de Janeiro tend to accommodate several sales points owned by the same dono, whereas in São Paulo, each firma is in charge of one single sales point. Some donos have just a few sales points, while certain bosses control multiple points. However, the most common scenario is a larger territory accompanied by greater organizational complexity in Rio de Janeiro (Grillo 2013) in opposition to dynamic, fluid, fragmented trade in São Paulo (Malvasi 2012). This difference in scale requires distinct means of operationalization and originate different marketplaces (Braudel 1996) of the retail drug sales in each city.

Since the firmas in Rio de Janeiro control larger territories, they also showcase a more diverse corporate structure in terms of job allocation. Donos do morro look to building political alliances at local level to ensure ownership over drug sales points and revenue. While the large number of batterings, banishments, and executions carried out by dealers are a convincing way to deter whistleblowers, betrayals, and lack of payment, power is not sustained only through the use of force. Donos do morro distribute multiple managerial positions—known as responsáveis (a short-term for ‘responsibilities’) among the most prestigious dealers and offer them a share of the sales profits. As many donos are incarcerated or do not live in the favelas under their control, they appoint a general manager of their utmost trust, known as responsável or frente do morro (the one in charge or hill’s front), and this person takes over all their duties in that given area (Grillo 2013).

In larger firmas, there are different ranks of managers or responsáveis below the frente do morro. They are assigned diverse tasks, such as drug acquisition and bagging, scheduling of sales teams on duty and sales accountancy. Bocas de fumo trade drugs in batches. There are different price tiers for each drug type and batch size (marijuana at R$2, R$5, or R$10; cocaine at R$10, R$15, or R$20; and so on). Different managers are in charge of each drug type and/or price tier, but the batches are all sold by the vapor on duty under the protection of armed soldados. These two roles have predefined rotating schedules and are not considered positions of trust (Grillo 2013).

In São Paulo, on the other hand, hierarchy is less complex and consists of the following positions: Boss, manager, vapor, and campanha. This structure also allows for more flexibility—bosses may agree to take charge of trading just one drug type and the roles of manager and vapor are less well defined than in Rio (Hirata 2018; Batista 2014). Fewer managers are necessary in São Paulo, as local business operates at a smaller scale. Vapores work for one single manager, who is their employer and to whom they are to report the sales they performed while on duty. Each drug has only one standard market price. In contrast with what happens in Rio de Janeiro, where the multiplication of managerial positions is seen as a strategy to maintain donos’ sovereignty over their territories, the appointment of managers at biqueiras in São Paulo is solely based on their business profile and competences, despite their having a somewhat important role in the formation of alliances.

We could say that, from its morphological aspect, the drug distribution is very distinctive. In Rio, the circulation of merchandise is based on an organizational and territorial extension that multiplies intermediate (managerial) positions by putting drugs to sale in batches of different predefined sizes and prices, whereas in São Paulo, dealers work with a standard amount and price of each drug and seek to increase the volume of sales by concentrating the trade within circumscribed territories. For these reasons, it is possible to buy the same drug type in batches of different prices and sizes in Rio de Janeiro, but not in São Paulo; and the quality-based competition can occur intra-territorially in Rio de Janeiro and only inter-territorially in São Paulo.

In both cases, the good flow of drugs and money is ensured by means of centralized coercion—however, in Rio, it stems from the distribution of ‘responsibilities’ carried out by donos do morro (Grillo 2013), whereas in São Paulo, it stems from the distribution of competencies and attributions by bosses to their employees (Hirata 2018). This means to say that the relationship between donos do morro and their subordinates is very different from the one between São Paulo’s bosses and their subordinates. Firstly, because internal mobility at the firma takes places in different ways, albeit based on similar factors. The so-called caminhada (one’s

36 Native term that makes reference to the ‘responsibility’ assigned to an individual agent in criminal business.
‘walk’ in ‘crime’) (Marques 2014) and consideração (consideration, repute) (Barbosa 1998, 2013) built around the valorization of the dealers’ personal histories and collective memories (Hirata 2018).

The heart of the matter is that, in Rio de Janeiro, the comando gives donos de morro ‘inalienable possession’ (Weiner 1992) over traffic, in a way that any concessions of business exploitation go out and about the exchange system without losing its ties to its original owner (Grillo 2013). Donos cannot be forced out of their sales points unless through ‘wars’ or ‘coup d’État’, which involves confronting the faction that supports them. In São Paulo, on the other hand, as bosses are employers, business arrangements are less stable, allowing compositions and recompositions of the firmas, sometimes without the need of confrontation (Malvasi 2012).

In both cases, it seems to us that what is at stake is the logic of a segmentary movement (Barbosa 2001). However, this can take on different forms depending on the dynamics between ‘bosses’ or donos do morro and comedos in each city.

**Criminal Collectives**

We are now ready to move on to the second dimension of our discussion. Comandos or factions are unique compounds made up of distinct matters. Hence, even though segmentation is present in both cities, it has different roots, that is to say, the process of breaking and building networks happens in the two cities, but they follow different steps.

Both cities showcase alliances between firmas and internal disruptions caused by treason within local criminal groups. Our hypothesis is that although internal ruptures and the formation of new alliances seem less frequent in Rio de Janeiro, they have a larger impact over the faction’s dynamics, while they are more frequent in São Paulo, but cause a minor impact on the comando. This hypothesis offers a more nuanced version of the explanations that focus exclusively in the idea that peace in São Paulo is the result of PCC’s monopoly in opposition to the frequent wars that take place between rival factions in Rio de Janeiro.

At first sight, one could say that the comedos in both cities work as horizontal networks of mutual protection (Misse 2006). That means to say, the adherence to these collectives and the ties of which they are made favor their members in situations of confrontation with their ‘others’. The factions offer protection to their members—whether against mistreatment in prison, in confrontations with law enforcement, or in disputes against rival factions. Inmates organized themselves into comedos as a response to the precarious life conditions in prisons, where fear and distrust abound ‘not only because of the violence practiced by correction officers, but also because of prison gangs that brought inmates together to rob, rape, and kill other inmates’ (Lima 1991). The image of the faction’s ‘other’—alemão in Rio de Janeiro and coisa in São Paulo (Biondi 2010)— favors the production of a collective identity through processes of exclusion and opposition (Misse 1999). They function as devices to establish boundaries and contrasts that highlight the presence and adherence to the comedos.

However, the comedos in each city show distinct principles of inclusiveness and exclusiveness. In PCC, members go through a ‘baptism’ and must pay monthly fees to the comando while out of jail (Dias 2013). Factions from Rio de Janeiro, on the other hand, have no clear association protocols. Whether or not engaged in local traffic, anyone who lives at an area controlled by a certain faction can evoke belongingness to it, as Natasha Neri (2009) showed with respect to adolescents detained in correctional institutes. It is worth noting that, despite PCC’s ‘baptisms’ association with the comando is as fluid as in Rio de Janeiro. PCC’s influence goes beyond its ‘baptized’ members, called ‘brothers’; it provides conduct benchmarks to the so-called ‘cousins’, who claim ‘to be sided with the comando’ (Malvasi 2012; Marques 2015). This is also evidenced by PCC’s presence in correctional institutions for adolescent offenders, who, albeit not allowed to be baptized, often mime PCC’s relationships and discourses (Mallart 2014). However, the difference between ‘brothers’ and ‘cousins’ – or baptized members and those who are only ‘sided’ with the comando – promotes distances and proximities (Marques 2010) that are not as demarcated in Rio.

At the favelas in Rio de Janeiro, everyone who works at a boca de fumo is automatically part of a faction and is authorized to boast it. Nevertheless, even though the sense of belonging is cardinal to the identities of those engaged in ‘crime’, ‘bandits’ (bandidos) sometimes switch their factional allegiance when the control

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17 Armed conflicts between drug dealers for territory control.
18 In reference to coup d’etat, when a rival faction relies on insider aid to take on another group.
19 Another name for PCC.
20 Baptism, as in Christian tradition, refers to the moment a person officially joins the criminal group.
21 PCC members.
over local drug sales points in the areas they live is taken by a rival comando. This is the case because the organizational structure of factions in Rio de Janeiro is closely knit with the retail drug market. The comedos are networks of alliances between donos de morro (Barbosa 2005); once they switch factional allegiance, all their underlings must follow suit. The deposition of a dono involves a change of command by means of a ‘war’ or a ‘coup’—in the case of the latter that happens when power is taken over by the local firma’s own members with the support of a rival group.

The functioning of drug trafficking in Rio de Janeiro is coordinated by alliances that articulate local groups in a permanent space of negotiation. There is no authority ‘above’ the donos de morro; the hierarchy only rules over business activities circumscribed to each group’s territory (Barbosa 2006). Thus, donos rule hierarchically over their underlings at a local level while engaging in horizontal relations with allies at a supralocal level. The support from these allies authenticates their right to exploit the drug trade in given territories (Grillo 2013).

Barbosa (1998) highlights the importance of ‘friendship’ (amizade) for the drug traffic in Rio de Janeiro. The distribution of operation areas and the circulation of drugs, weapons, and men is based on dynamics of alliances and segmentarity that permeate all disputes and negotiations within the city. Hierarchy in local sales points is vertical and topped by donos de morro, but its organizational structure also depends on lateral alliances between high rank members (Barbosa 1998). Movement and segmentation processes take place through composition/recomposition by activating/deactivating old friendships. Thus, once a local group obtains enough prestige and power to break up with the faction they belong to, the comando summons lineages to reactivates their local presence, which can lead to the following scenarios: (1) The inception of a new comando; (2) A shift in the relationship arrangements between factions; or (3) The abating of the emerging power center.22

We could say that the relationships between alliances and hierarchies at local and supralocal levels in São Paulo are somehow similar but for one aspect: The myriad of drug sales points and bosses ensures a more fluid, sparse conformation. This is significant. There are many more bosses in São Paulo than there are donos de morro in Rio; hence, the groups are more mobile and translocal in São Paulo, whereas hierarchy and territories are more centralized in Rio.

It is noteworthy, however, that PCC is not exactly a drug trade faction. It is indisputable that, as the hegemonic comando at prisons and urban peripheries of São Paulo, it has a critical role in the drug market’s regulation and that the drug trade is one of its members’ main source of income. However, biqueira’s bosses are not necessarily PCC ‘brothers’—sometimes, they can be only ‘cousins’ (Malvasi 2012). The comando’s organizational structure differs from its counterparts in Rio de Janeiro to the extent that it does not directly reflect the traffic’s entrepreneurial hierarchies. Many of the alliances of which PCC is made of are aimed at the practice of robberies; in Rio, nonetheless, robbers work more independently and do not feature in drug factions’ payrolls (Lyra 2013). This is the reason why the term responsa, refers to managerial positions occupied by dealers in drug retail firmas in Rio de Janeiro (Grillo 2013), while in São Paulo the term designates ‘political positions’ (Biondi 2010) or leadership roles (Marques 2014) occupied by PCC members in charge of ensuring ‘discipline within the comando’23 in prisons and quebradas24 (Biondi 2018).

In this respect, the reconfiguration of alliances and rivalries among ‘bosses’ in São Paulo does not jeopardize PCC’s influence in neighborhoods and quebradas. In contrast to the large political blocs in segmentary opposition that dispute the control of territories in Rio, PCC mitigated the disputes among the myriad of gangs that controlled the fragmented retail drug market in the city. In view of the drastic 80% reduction in homicide rate throughout the 2000s in the state of São Paulo, urban ethnographers argue that the decrease in violent deaths was associated with PCC’s role in regulating markets and mediating conflict—what became known as the ‘PCC Hypothesis’ (Lima 2009).

Karina Biondi presents a sophisticated analysis of ‘tuning’ (sintonia), a critical concept to understand the differences between realities in São Paulo and Rio de Janeiro (Biondi 2018). She proposes that PCC is a ‘movement’ organized by means of ‘connections’ and ‘acquaintances’ between those that are ‘sided with one another’, ‘sharing the walk’. According to her, ‘tuning’ is the link that connects the comando, ‘thieves’

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22 Power arrangements between factions have gone through significant changes in Rio lately. In response to a ‘coup’ followed by war in the favela of Rocinha, reconquered by CV, there was an attempt of fusion between ADA and TCP, creating a new faction called Terceiro Comando dos Amigos (TCA). Some donos de morro from ADA did not accept the fusion and, failing to maintain their autonomy, switched sides to CV.

23 Strict compliance to the criminal group’s code of conduct.

24 Extremely poor neighborhoods in São Paulo.
their release. Licence’ and ‘extortion by kidnapping’ (Hirata 2014). The former is an authorization to operate at a certain over it. This allows law enforcement to charge for two different types of political commodity: A ‘Business drug sales points are set whenever they like. are potentially and effectively superior than the drug dealers, and they are allowed in neighborhoods where calculations assume that State forces are superior. Within the limits of each precinct’s outreach, the police have superior military power and no one attempts to ‘lessen’ such disparity. The agents’ strategic force between police officers and drug dealers is built upon the common knowledge that State security forces police. In addition, sales strategies are usually discrete and negotiated with police officers. The relationship of ‘spatialization of exchanges’ (Rabossi 2004) in both cities. We shall now describe how the sales point is negotiated in each city.

Arrangements among Traffic, Territories, and Forces of Order

In order to have an ethnographic grasp of the agencements that allow the circulation of illicit drugs, the interactions between actors involved in this illegal market and agents in charge of controlling it is of critical importance. The fact that the commercialization of drugs is prohibited makes law enforcement a key element for the drug market regulation—one of the most profitable markets in the favelas and urban peripheries of both cities. Empowered by prerogatives granted by the State, the role of the police officers directly in charge of repressing drug markets goes beyond enforcing the laws—they are tacitly given autonomy and discretion to screen, select, and negotiate locally with those subject to their authority (Gazit 2009). Assembled through conflicts and negotiations with police officers, traffic’s power is not ‘parallel’, as commonly inferred in the images associated with the concept of ‘organized crime’—rather, it is ‘tangential’ (Barbosa 2005).

The decisive interaction between law enforcement agents and those involved in drug trafficking is popularly known as acordo (agreement) in São Paulo and arrego (surrender) in Rio de Janeiro (Hirata, 2014). These dynamics are best understood through the concept of ‘political commodity’. According to Michel Misse, the ‘political assets’ market is a parasite market that regulates informal and illicit markets, focused on services whose prices are not solely defined by market laws, but also by ‘strategical assessments of power, potential resource to violence and balance of power’ (Misse 2006).

The native/analytical concept of ‘sales point’ may help us understand how Misse’s formulation relates economic and political forms. Briefly, we can say that all commerce (legal or illegal) sets a sales point in relation to an urban agglomeration, i.e., its business value stems from its strategical position within urban agglomerations (Villaça 1998). For this to work, one needs to get a (legal/illegal) business licence, which implies an authority that is, at the same time, coercive and consensually instituted and that has the power to authorize business activities in a certain area (Hirata 2014). This is shaped according to different logics of ‘spatialization of exchanges’ (Rabossi 2004) in both cities. We shall now describe how the sales point is negotiated in each city.

In São Paulo, local drug trafficking groups do not attempt to show military domain over territories. There are no longer places where law enforcement is now allowed in and that, ultimately, are not controlled by the police. In addition, sales strategies are usually discrete and negotiated with police officers. The relationship between police officers and drug dealers is built upon the common knowledge that State security forces have superior military power and no one attempts to ‘lessen’ such disparity. The agents’ strategical force calculations assume that State forces are superior. Within the limits of each precinct’s outreach, the police are potentially and effectively superior than the drug dealers, and they are allowed in neighborhoods where drug sales points are set whenever they like.

For this reason, the local police department acts as a drug sale regulating center and has supreme power over it. This allows law enforcement to charge for two different types of political commodity: A ‘Business Licence’ and ‘extortion by kidnapping’ (Hirata 2014). The former is an authorization to operate at a certain place; the latter is the practice of invading sales points and ‘kidnapping’ dealers to demand a ‘ransom’ for their release.
In Rio, even though the State’s armed forces are also clearly superior, drug traffickers resist police interventions within their territories. Intermittent and relatively unpredictable police incursions at the favelas are the backbone of a model of drug market regulation, which rests on the lack of regular patrolling in territories labeled as ‘risk areas’ and left under the control of armed criminals (Grillo 2016). These areas were already put aside by routine policing even before the emergence of armed traffic. This situation was aggravated in the last three decades as increased the capital flow in the favelas brought about by the cocaine trade (Misse 2006). The reproduction of retail networks came to rely on the use of armed ‘soldiers’ to protect drug dealers, weapons, drugs, and money from potential raids, thefts, arrests and seizures carried out by police officers or rival factions.

The payment of a business licence (called arrego) and the extorsion by kidnapping (or mineira) are also common practices in Rio de Janeiro (Barbosa 2005). However, the exchange of political commodity is never completely stabilized, and paying arrego does not ensure the ceasing of confrontations between drug dealers and the police. Police incursions are still the main method of crime ‘regulation’, as it measures up local traffickers’ resilience and forces the need for negotiation, as well as serving as retaliation for murders and robberies in certain areas. As a result, strategical assessments of power and of potential resource to violence play a critical role in shaping the traffic’s modus operandi.

The dramatized image of shirtless boys bearing rifles to protect the firmas is a more plausible scene in Rio than in São Paulo, where the trade is carried out with greater discretion, without exposing merchandise on the streets and displaying arms for asserting territorial control. Weapons (including rifles and grenades) are also found in São Paulo, but they are rarely used for protecting drug sales points against police operations. They are more often used for settlements or rented for the practice of heists.

It is wrong to assume that there are no violent conflicts between the Police and drug traffickers in São Paulo. They happen occasionally and may also end up in deaths. However, only 8% of homicides caused by police interventions are due to traffic repression (Grillo et al., mimeo), as opposed to Rio de Janeiro, where most of deaths due to police use of lethal force occur during conflicts with armed traffickers (Misse et al. 2013). In São Paulo, confrontation between the police and the drug traffic has not caused ruptures to the urban fabric; police cars are allowed across the entire metropolitan area.

What catches the eye in São Paulo is the frequency of slaughters allegedly perpetrated by police officers off duty. Dwellers at the peripheries see these slaughters as retaliation for the deaths of other police officers, supposedly murdered by PCC members. This was common practice in Rio de Janeiro throughout the 1990s. In the twenty-first century, however, retaliation has been often disguised within formal operations resulting in several deaths; they integrate the strategic corpus of public security policies and may count on the legal device of “unlawfulness exclusion”, which render most deaths legitimate when perpetrated by officers on duty.

There were attempts to modify relationship patterns between the police and the traffic at the favelas in Rio de Janeiro, where dwellers’ routines are carried out in the crossfire between. Since 2008, the implementation of UPPs (Pacifying Police Units, in the Brazilian acronym) in certain areas aimed to replace the policing model of one-off operations with stable occupations within the favelas, which led to morphologic changes in the drug trade. Traffic repression and the protection of bocas de fumo, previously administered through armed confrontation and the payment of arrego, now relied more on ‘reciprocal monitoring’ of the circulation of drug dealers and police officers (Menezes 2015). Despite the reduction on the ostensive display of fire arms and bocas’ increased mobility, the traffic kept its modus operandi and remained territorialized. According to Palloma Menezes (2015), UPPs turned a ‘crossfire regimen’ into a ‘minefield’ one; there was a reduction in violent conflict, replaced by a rise in underlying tension.

Nevertheless, UPPs were only implemented in strategic areas aimed at securing FIFA’s World Cup in 2014 and the Olympic Games in 2016. They collapsed even before the events took place. Since 2013, dwellers reported everything was ‘back the way it was’ (Menezes 2016); wars between rival groups and armed confrontation between police officers and drug dealers intensified across the city, including said ‘pacified’ areas. The violence in Rio, especially in terms of armed robbery, grew so much that culminated in the federal, military intervention mentioned at the beginning of the article.

26 In reference to the exchange of fire between police or military officers and criminal groups.
Final Considerations

The drug trade is a very particular illegalism due to its extensive repression and intensive death risk. Repression is extensive because the drug trade combines two proscriptions—it is an informal (non-regulated) market and it trades illicit merchandise. Death risk is intensive due to a number of factors, including its contextual significance to public order; society’s moral reaction to it; and its potential or imaginary ties with other criminalized practices (Misse 2006). The combination of extensive repression and intensive exposure to death risk makes the drug trade unique and constitutes the specific forms of its agencement.

As mentioned earlier on, the consequences of massive incarceration in São Paulo were very different from the ones caused by confrontation and military occupation policies in Rio. From a political standpoint, choosing between incarcerated or dead individuals does not seem a good solution for the drug issue; from an analytical standpoint, those are two different ways of governing those deemed ‘ungovernable’. As Karina Biondi highlighted, massive incarceration (associated with slaughters in prisons and on the streets) stimulated PCC’s growing influence. In its turn, confrontation policies in Rio de Janeiro only caused rivalry among factions to increase and, as a whole, made the comandos more important.

By comparing the drug trade in Rio de Janeiro and São Paulo, we aimed to investigate the different devices for the management of deaths by focusing on those that are subject to it. We combined three analytical dimensions that, combined in multiple ways, seemed relevant to discuss the theme: the drug sales marketplace, the criminal collectives’ dynamics, and the relationship with forces of order. Rio and São Paulo differ in terms of how ‘war and peace’ are arranged within and between factions and with the Police. The articulation between ‘circulation and blockades’ of commodities is also very distinctive. These aspects are paramount to define and understand the retail drug market in those spaces.

The extensive, fractional, and dense drug trade in Rio does not find a counterpart in São Paulo, where the market is more confined, compact and fluid. Factions in Rio de Janeiro (CV, ADA and TCP) are built on local hierarchies and horizontal alliances, whereas PCC in São Paulo operates in horizontal, supralocal lines. While segmentations and allegiances are determined by ‘friendships’ among leaders in Rio, all partakers in ‘crime’ in São Paulo are ‘tuned’ in a same movimento. Last but not least, slaughters, murders, and prison negotiations appear differently in each city.

The result is that confrontations (between factions and with the Police) are more lethal in Rio, whereas PCC applies a ‘white flag’ policy and institutes the ‘peace among robbers’ inside and outside prisons in São Paulo. Internally, what seems decisive and alike in the comandos’ compositions and policies is the tension between lines that seek to establish centralizing hierarchies and lines that tend towards more horizontal relations. However, both the conflagrated armed disputes over territory control in Rio and the disperse sur-reptitious conflicts in São Paulo have long been responsible for determining the mechanics of extermination of the poor population in the two cities.

The relationship with law enforcement is similar in both cities, but they incur more intra-factional and inter-factional conflicts in Rio than in São Paulo; they give rise to profit-oriented conflicts over territory that affect segregation by faction in prisons in the former, whereas are carried out through negotiations from inside prisons followed by demonstrations of power in the latter. To us, it is not important to figure out which police is more submerged in the game of political commodity, but rather, what different agencements are formed in these relations. Two aspects are important: On the one side, political markets are a way of allowing illicit markets to operate, as they warrant a fluid circulation of prohibited goods. On the other side, they enhance the segmentation of criminal collectives and their willingness to fight against police officers, raising prospective and effective tensions that are often captured by the media.

As explained above, there are differences of scale between drug retail markets in Rio and São Paulo and they are echoed in the political commodities market: political assets are negotiated at the retail level in São Paulo and at a wholesale level in Rio. The disruption of these negotiations has different impacts in each city’s political and economic ‘balance’. It remains to be seen how these arrangements will be reorganized in light of the recent proposals – sanctioned at the election polls – of implementing barbarism as public security policies.

Competing Interests

The authors have no competing interests to declare.

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[27] For a discussion on wholesale and retail political commodity in a different context, see Hirata (2015).
References


Using existing research and original data, I discuss the development of a transatlantic drug market between Brazil and West Africa and its implications on Brazil’s development and drug trafficking value chain. After establishing milestones of the history of this traffic I show how a global market of protection and transatlantic networks emerged from the alliances between Latin American criminal actors and high level elites in West Africa. The second part of the article focuses on the high concentration of capital created by exportations of cocaine. I show how these global markets affect the actions of drug traffickers, namely their strategies and use of violence by analyzing the development of maritime trade and the centrality of ports in this economy. The last part of the article analyzes the market for drug mules in Sao Paulo and how the strategy networks adapt to balance their risks of failure with low cost Nigerians migrant mules. Finally, the articles shows how this market attracted cultists groups from Nigeria and connects Brazil with other illegal markets.

Keywords: Markets; development; protection; patronage; drug mules; transatlantic

Introduction
Little scientific research exists regarding drug trafficking between Brazil and the African continent. One of the obvious reasons for this dearth is the lack of publicly available data on the issue and the impenetrability of the groups organizing this trade. Another reason is probably that there is no or little access to ports and airports for ethnographers and sociologists who would have tried to connect the dots between the two sides of the Atlantic. These physical constraints led to a lack of studies on the economics of this illegal markets and had consequences. First, it let space for imaginaries regarding new African migrants in Brazil accused of being traffickers. It gave room to a criminalization of street level individuals who were the most visible and vulnerable. The second consequence of these constraints on knowledge production is the reliance on institutional data, particularly data produced by the UNODC regarding illegal market dynamics. International institutions and state agencies organizing the war on drugs have tried to assess the importance of drug trafficking in countries, measuring their share in GDPs and the UN regularly evaluates of volumes of drugs circulating from a region to another. But these statistics are based on self-declaration by the states which are prone to over or under assess the flows. While arrest data could also be an indicator, they reflect the politics of trafficking and generally focus on street level individuals with little responsibilities.

Two overlapping reasons account for the growing interest of international institutions in observing this trade to Africa: firstly the concern with Guinea Bissau, called a ‘Narco state’ (Chabal, Green 2016), although scholars do not agree with the use of the notion as it does not take into account the role of this income

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1 This paper uses data collected during fieldworks and anonymous interviews in Sao Paulo, Rio de Janeiro, Dakar, Paris, Lagos and Benin City between 2014 and 2018.
2 For instance the United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs, considers cannabis production in Maroc could account for 23% of the gross GDP of Morocco (United States Department of State, Bureau for International Narcotics and Law Enforcement Affairs 2017).
3 Interview in Dakar December 2016.
The history of drug trafficking between Latin America and Africa has yet to be documented. However, some milestones may show that Brazil has been used as a hub for drug exports by foreign criminal actors since the beginning of the 1990's when the cocaine market in Sao Paulo started to structure itself (Da Silva Telles 2014). While the economical dimension of drug trafficking has been discussed in different works such as Biondi's (2010) or Feltran (2010), the implication on the development of criminal actors studied nationally (Misse 2010) and the role of cocaine exportation markets in Brazil have not been studied.

The globalization of the market and development of transatlantic protections

Brazil and Africa as routes to the world

The history of drug trafficking between Latin America and Africa has yet to be documented. However, some milestones may show that Brazil has been used as a hub for drug exports by foreign criminal actors since the beginning of the 1990's when the cocaine market in Sao Paulo started to structure itself (Da Silva Telles 2014). While the economical dimension of drug trafficking has been discussed in different works such as Biondi's (2010) or Feltran (2010), the implication on the development of criminal actors studied nationally (Misse 2010) and the role of cocaine exportation markets in Brazil have not been studied.

The presence of Nigerians traffickers and mules in Sao Paulo is mentioned in a 2001 article by Guaracy (2010). In 1997, Peter Christophe Onwumere, a major Nigerian drug kingpin, was arrested after he imported cocaine from Bolivia to Sao Paulo where he had lived for the last 7 years. But reports and documents attest that other foreign criminal actors had been using Brazil as a base to export drugs, including Serbian groups based in Sao Paulo smuggling cocaine through Espirito Santo (Rizzo 2011a). In 2002 the Policia Federal identified a group based in Campinas, in Sao Paulo State, smuggling cocaine from Peru through Brazil. The group had the cocaine shipped to South Africa and Zimbabwe, and the operation finally led to the arrest of Nelson Yester-Garrido, a Cuban national claiming to have been serving as a KGB agent (Majova, Mgibisa, Brümmer, Sole, Dawes 2007). Diplomatic cables published by WikiLeaks recall a drug seizure of a shipment from Ciudad del Este, Paraguay to Cameroon in 2005, and the consequent arrest of a Nigerian national showing different

and the involvement of state, hence pointing to very different situations in Afghanistan, Colombia, Guinea Bissau, Morocco (Chouvy 2016). The last phase of this interest is fueled by the narratives of global 'narco terrorism' in West Africa that the UNODC is pushing. There seem to be no evidence regarding these connections between drug trafficking and Al Qaeda of the ISIS (Lacher 2014; Tinti 2014) but it is likely that the institution uses this narrative to attract resources and legitimize its action.4

Rather than discussing the volumes, this article will focus on the theoretical issues raised by the transatlantic trade and will discuss the role of Brazil and Africa in the transformation of global drug markets. Studying the development of cocaine market in Colombia, Thoumi (2005) argues that the main factor in the development of drug trafficking was not the low costs of production of coca or poverty. It is corruption and the generalized disrespect to state made-laws. Authors such as Beckert and Wehinger (2013) also determined that illegal markets rely on personal relations, with actor reputations being key to guarantee predictability as there is little price transparency. But do these findings apply to Africa? Do they imply that economic rationality and risk cost/benefit strategies are not at the core of smuggling strategies? The reflection on market mechanism does not tell us neither 'how' these global markets affects actors' practices and their strategies. I will hence focus and try to answer two sets of questions.

First, are the two regions merely transit routes and to which extent can we talk about a transatlantic market? Is there a global protection market for transatlantic drug trafficking? If so, does the appearance of new intermediaries and networks challenge the existing organization of trafficking? What is the dynamic of the relation between established entrepreneurs and 'newcomers'? What are the capacities, skills and resources these newcomers offer and rely on to develop their strategy? How different are they from the established entrepreneurs? The skills required to work within ports or airports, to recruit foreign mules or to transfer and launder money from the other side of the Atlantic might be different from the one needed in 'bocas' drug selling points.

After a brief historical overview on the development of drug trade between Brazil, Latin America and Africa the first part of the article will show how a market for transatlantic protection emerged. These protections explain the development of different strategies and contributed to the inclusion of the transatlantic drug trafficking into the global economy. From a transit point amongst other, West Africa became a market and the development of the circulation included Brazil in the global market of drugs such as methamphetamine or heroin. The second part of the article focuses on maritime transport and drug mules between Brazil and Africa as case in points to discuss the effects of this new momentum in the globalization of illegal markets. It raises questions for the study of the impact of exportation activities on Brazil's development and drug value chain. Focusing on Nigerian mules as commodities, the last part of the article shows how new connections between Brazil and Africa and important profits created a market for the recruitment of drug mules in which Nigerian criminal entrepreneurs acted as sub-contractors before taking a more central position.

4 As expressed by a UN senior servant interviewed in 2017.
networks had settled despite various arrests (US Embassy in Assumption 2005). Other investigations have also documented how Sicilian Ndrangheta is using West Africa as a transition hub for cocaine en route from Sao Paulo to Europe (Anesi, Rubino 2017). Recent arrests confirm the PCC developed connections with Cosa Nostra (Policia Federal, Agência de Noticias 2018). In this outlook Brazil and Africa have been on the map of international drug trafficking for a long time and are merely hubs to avoid controls and dispatch larger shipments while accessing higher profit margin.

**Making it lawful: the emergence of a transatlantic protection market**

In an attempt to circumvent US controls in the Caribbean and to balance the fall of cocaine consumption in the US, the Norte del Vale cartel may have been the first Latin American criminal actor to develop its own route to West Africa to access the European market. To do so, they allied with top level political and state forces elites.

Shaw names precisely Guinea-Bissau’s president, Lino Vieira who came back to power in July 2005. He is said to have invited some Colombian contacts he met in Portugal with the help of Guinean president Lansana Conté and Francisco Barros a Cape Verde intermediary also called ‘Chico’ (Shaw 2012). Another story I was told by a former insider is that trade links developed particularly with the help of West African consuls and ambassadors, who initially organized it for their personal benefits. Some arranged with intermediaries to buy and import larger quantities and sold their protections for networks and to use their countries to access Europe with the involvement of local police forces and armies. This interpretation could echo different cases involving Equatorial Guinea officials and diplomats buying cocaine in Brazil and exporting it to Europe or Asia in the beginning of the 1990’s (Observatoire Géopolitique des Drogues 1994) but it is not clear if these were parallel networks or if traffickers used both channels and would require more investigations. In any case, in 2005 Colombians and Mexicans were arrested in Guinea Bissau and investigative journalists reported they had built a landing site for small planes in small islands (Champin 2010). In Guinea Conakry, traffickers were said to be protected by the red berets of the presidential guard at least until 2008 (US Embassy in Conakry 2008). Apart from the narco state Guinea Bissau was said to have become, traffickers used different routes and developed relations with top level elites in different West African countries.

A transatlantic market for patronages appeared with different producers and intermediaries relying on networks in competition with each other. The ability to establish protection became key. As a European custom officer puts it, ‘Each time controls intensify the roads and strategies adapt’, potentially taking any trajectory to make sure the load arrives to its destination. The development of regular flights between Colombia and West Africa through Venezuela could have been a consequence of this strategy, with Colombian entrepreneurs based in Venezuela such as Daniel Barrera Barrera considered to be at the core of the business (InSight Crime 2016). This also became obvious with the so called ‘Air Cocaine’ incident in Northern Mali. In November 2009 a Boeing 727 landed in the middle of the Malian desert. After few hours when the soldiers arrived, they found the plane empty and burned, left with few traces of cocaine. The Boeing had left Caracas after arriving from Colombia and disconnected his radio over the Atlantic Ocean. It is believed that it was transporting about 10 tons of cocaine aiming to the European market and could not have been possible without the high level connections local barons had with government officials (Thiolay 2015).

The development of this market challenges the distinctions between legal and illegal activities, contributing to the what Bayard, Ellis and Hibou called the ‘criminalization of the states’ (Bayart, Elis, Hibou, 1997). But it also shows how much drug trafficking is embedded in the functioning of global economy and how this illegal market relates to legal market and is the product of complex interactions. The ‘Air Cocaine’ Boeing had been registered in Saudi Arabia but had been identified in Guinea Bissau with another registration number obtained with the help of the Senegalese branch of a Spanish company. The Boeing would have been spotted flying between South America and Mali without any action taken by local air authorities (Coulibaly 2016). Another case in point is the story of the Holgam Company lead by Juan Carlos Sanchez, a Venezuelan arrested in Gambia in 2010. Sanchez had spent the last precedent years in Guinea-Bissau where he had settled a dummy company of fishing owning various boats. The company had recently been granted fishing license in Gambia (African Blog 2013). His arrest in a joint operation between the UK’s Serious Organised Crime Agency (SOCA) and local Gambian police raised questions about the protection he had received from local authorities (Champin 2011). Along with his associates he rented an entire island to

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5 Interview in December 2016.  
6 Interview in Dakar in 2016.
develop 'an eco-resort complex' where investigators found money and guns legally owned. In one of its other properties, the company had also settled an underground bunker where 2 tons of cocaine were found. More recently, the Panama Papers revealed how famous drug trafficker used Mossack-Fonseca services to launder money of cocaine trafficking between Peru and the Netherlands (Chittum, Bernstein & Hudson 2016). This shows that these activities trade also relied on demanding financial and judicial skills that were provided by legal companies.

**Developing markets of consumption and production in Africa**

After being used as a transition zone, a local market for cocaine, heroin and methamphetamine developed itself in West Africa along with the parallel increase in ‘substandard drugs’ such as tramadol and codeine (Klantschnig and Huang 2018). Quoting press articles Ellis wrote that in 1983 ‘a Nigerian newspaper [...] reported the existence of what it called ‘a tiny cocaine world’ in fashionable Lagos society’ (Ellis 2009:177). Years later there are evidence that this market expanded, with the number of cocaine consumer believed to have reached 3 million in West Africa in 2013 as compared to 1 million in 1998 (Lasusa 2016). In 2014, the West African Drug Commission published a report entitled ‘Not just in transit: Drugs the State and society in West Africa’ (West African Commission on Drugs 2014). This demand can also be explained by payment of intermediaries in drugs and tourism/expatriates. In hotels and nightclubs in different cities of Nigeria, Cameroon, Senegal the author of this articles visited between 2013 and 2017 there were a regular availability of cocaine and synthetic drugs. Another consequence of the development of this market is that crack consumption spaces appeared in major Africa cities such as Abidjan or Johannesburg (Ghalia Kadiri 2017). Data regarding cocaine consumption are not reliable although in Ghana according to the ONUDC, in 2016, 2.9% of youth between 13 and 25 had consumed cocaine over the last year. In a recent ethnographic exploration of heroin market in Kisumu, Kenya, researchers unexpectedly documented the development of a cocaine market which had been used by 76% of the individuals they surveyed on their use of heroin. Users were pooling to buy cocaine from Mombassa although it was seen as a powerful and expensive drug (Syvertsen et al. 2016). Regarding production, some methamphetamine laboratories run by Colombians were dismantled in Lagos in 2013. Another was dismantled in Delta State in 2016. It was run by Mexicans affiliated with the Sinaloa cartel and with a production capacity of over 3 tons per cycle (Sahara Reporters 2016).

There is still research needed to determine to which extent the production boom of coca in Colombia combined with the increase of transatlantic circulation can produce a decrease in drug prices and protections in West Africa. It is possible that these drugs or their derivatives as crack become more accessible with an alignment of African prices with Latin American prices? On the other hand, meth or heroin derivates coming from Mexico or Asia could also replace cocaine and challenge cocaine.

**How globalization of markets transform cocaine trafficking business**

Brazil is currently considered the first country for cocaine transshipment to Europe, Africa and Asia: according to the 2018 UNODC’s annual questionnaire to states, Brazil was the second most mentioned country of origin for cocaine seized in Europe (16% of the mentions), just after Colombia (20% of the mentions). Brazil is the first and unique country mentioned for seizure on the African continent, the first regarding the Middle East and Asia. These dynamics are likely to change Brazil’s internal drug market, but also to influence the local economy. Taking the economics of cocaine trafficking into account, more research would need to be done on how the development of new international value chains affects all related activities in Brazil. It would be particularly interesting in the case of transport, transfer of load from other countries, storage and retail, money laundering. How does it affect local informal job markets for poor youth? Does it change the relations between criminal organizations and their socio-political environment? I will raise some questions focusing on evidence from researches on Nigerian drug mules and maritime circulation which accounts for the biggest part of Brazil exports to Africa.

**Questions on the impact of growing maritime trade on local markets and development**

The biggest drug circulation happens through maritime trade, including cargo, either dissimulating cocaine in legal shipments, or pirating containers within ports (called 'rip off'). The second tactic implies to have the capacity to unload the shipment before the container is taken out of the arrival port. A first implication of this for Brazil's development is that the extraversion process of drug trafficking produces an extremely fast accumulation of capital.

As pointed out in the first part of the article, there is nothing new in this circulation of cocaine although the volumes of drugs seized tend to augment and confirm that drug barons at the center of drug trafficking...
in Brazil are directly involved. In 2014 for instance, a shipment of 874 kilos of cocaine heading to the Democratic Republic of Congo was seized in Puerto Fénix in Paraguay. It belonged to Jorge Rafaat Toumani killed in 2017 by the Primeiro Commando da Capital (PCC) (ABC Color 2014). The development of this trade relies on access to major ports. In the South of Brazil where most of cocaine is said to come from Peru and Bolivia, the ports of Santos, Paranagua, Itajai and Rio Grande became central in the export of cocaine and are controlled by the PCC and PCC businessman affiliated.7

In his famous Narconomics, Wainwright (2016) finds that local drug markets are much less profitable than exportation ones. This idea stand in line with the findings of Buxton (2006), Bergman (2010, p 30) and Fabre (2002) who all conclude through different cases, products and period of research that the highest benefits do not come from the coca or opium producer and laboratories but from the wholesale exporter in charge of the transport and logistics to the wholesaler in the consumption zone (between ×10 and ×15), also much higher than retail margins (approximately twice the price). One of the implications of these findings is that the evolution of drug trafficking networks in Brazil depends on these incomes and on actor’s capacity in securing their access. This value chain could explain why, in some circumstances there could be surges of violence has it has been the case in Mexico at the border of Ciudad Juarez to have access to the American territory (Wainwright 2016, p. 52–53). While the PCC has contributed to a decrease in urban violence (Pires Ferreira, Sérgio de Lima, de Carvalho Bessa 2009) in Sao Paulo and is credited with having pacified part of the street code of the city (Feltran 2010), the competition for this income could also explain symbolical and spatial dimension of violence since January 2017. The Primeiro Commando da Capital and the Familia Do Norte (FDN) along with the Commando Vermelho (CV) are competing to control major port and hubs areas such as the one in Fortaleza that are used to send cocaine to Cabo Verde and Europe, either through sailboats8 or cargos. The massacres in Manaus have been global explained by the competition for the control of the ‘Solimoes road’ but it could also be ignited by the need to secure access to the port of the city.

In West Africa, the development of competition for protection and control of the value chain is believed to have ignited or contributed to various violent conflicts. Northern Mali and the competition between tribal groups and the Azawad touareg insurgency that lead to 2012 rebellion against the Bamako government could be an example. Ellis and Shaw suggested that the conflict was mainly driven by economic rivalries for the control of cocaine convoys going North and subsidized goods going South from Algeria (Ellis & Shaw 2015). In Guinea Bissau the rivalry and competition would have been concentrated within the army corps (the Navy), the police and different political networks, contributing to the instability of the country (Shaw 2015). The need for stability and constant protection to guarantee the circulation of goods tends to favor actors with access to these patronages. But on the other hand, new sub-contractors or intermediaries can arise from the development of new channels of circulation and markets. They can change the value chain and rely on the development of protection markets to create their own businesses. Mozambique seems to be a case in point of the disruption of monopolies. In this East African country, recent empirical research shows that the 40 tons of heroin passing annual by the country from Afghanistan and Pakistan are not anymore in the hands of the Frelimo officials and related families in power since the end of the civil war (Hanlon 2018). They are circulating through multiplying channels and networks with concurring protections.

Regarding impact on development, Bergman (2010) found that in Mexico, the inflow of foreign currencies in Mexico had a direct impact on the legal economy and competitive of local companies. In the case of the development of export market in Peru, the share of coca cultivation related jobs came to represent as far as 15% of the workforce of the country (Buxton 2006: 106). In Brazil, Christian Geffray showed how the development of illegal cocaine precursors trade between Rondonia State and Bolivia paved the way for a boom in cocaine circulation in this state in the 1990’s. Criminal and political entrepreneurs then laundered their benefits in local coffee agriculture, creating an incentive for production underneath national markets prices and what World Bank officials called the ‘Rondonia coffee miracle…’ (Geffray 2009). It is likely the export boom of cocaine is currently producing similar effects on development.

Risk profiles on the market of drug mules

Nigeria’s centrality in this the mule economy is nothing new. In the 1950’s networks of heroin trafficking organized between Lagos, Abidjan and Beirut were identified in the US while in the 1960’s Nigerians and Ghanians exported cannabis to Europe and heroin trafficking soared, sometimes with the help of the CIA

7 Interview with custom officer, Sao Paulo, November 2016.
8 Interview in Sao Paulo, July 2018.
(McCoy 1991). Nigerians and Ghanians smugglers then switched to cocaine in the '80s (Ellis 2009). As Ellis recalls 'The West African trade route to these destinations appears to have been largely in the hands of people from southern Nigeria from its inception. It is therefore interesting to note that, in the 1980s, Saudi Arabia already figured prominently on the list of countries where Nigerians had been arrested for drug offenses, in third place behind the USA and the United Kingdom. The transport of illegal drugs by Nigerians to the Middle East, including under cover of the hajj, is far more likely to involve people of northern Nigerian origin than the North Atlantic trade, given the historic links between northern Nigeria and the Muslim world' (Ellis 2009: 175). At that time Ellis also recalls that Nigerians smugglers, including some Nigerian Naval officers based in India were credited for inventing the technic of packing South American cocaine or Asian heroin in condoms that would be ingested by mules. In the following years the Babangida regime (1985–1993) is still known as booming time for drug trafficking and number of Nigerians detained abroad for drug trafficking soared (Ellis 2009).

While only a thousand African-born citizens were living in Brazil in 2000, their number reached 30.000 in 2012 (Vilarinho 2014). As Brazil had welcomed less than a thousand asylum seekers in 2010, the movement of refugees from Haiti, Angola, the Democratic Republic of Congo and Nigeria increased this figure to 28.670 people in 2015 (Noel 2018) I became aware of the presence of Nigerians in Sao Paulo this same year when social activists and one of the municipal officers in charge of helping African migrants explained me they were dealing with refugees of the Boko Haram insurgency.9 After some interviews it became clear most of the Nigerians I was meeting were Igbo people who had spent their lives living in the South of Nigeria.10 Most people I spoke with also believed that Nigerians were drug smugglers and expressed a form of prejudice or racism similar to the one against Black people in Brazil. Brazilian mainstream television programs may also have contributed to the fame of ‘international traffickers’ depicted in sensationalist ways.11 With this outlook, drug mules embody the characteristics of black criminal migrants who came to smuggle drugs, they became the more visible individuals behind this transatlantic trade.

Relatives of mules I have met shared with them a common trajectory. It tells us another story. Most Nigerians and Senegalese had paid thousands of dollars to be able to settle in Brazil after they had flown to Equator without visas and crossed the Brazilian border illegally. Others had requested a temporary visa before arrival. At their arrival in Sao Paulo most of them had expected to find a job, especially in the view of the 2014 football World Cup. They ended up working on a daily or weekly basis for major building and civil engineering works companies12 or helping fellow countrymen to run small businesses. Some of them had gathered and socialized around evangelical churches and rooms occupied by other Nigerians, others were informally renting beds in dormitories where they were asked to pay a monthly rent between 600 and 800 BR for a single bed which was highly above their salaries.

Individual profits of these mules are low as compared to the risks they assume. Interviews in Sao Paulo suggest that most of the mules recruited by Nigerians are not only Nigerians but Brazilians, South Africans, from the DRC or Senegal13 and could be considered as ‘low cost’ mules. Some of the drug mules are longing to go back to their countries after their experience in Brazil. While some know what they are doing, it is likely most do not know they risk prison or death, whether because of implosion of the drug capsules or death penalty in some Asian or Middle East countries (Phipps 2015). Instead of being criminalized, those mules could be regarded as victims of a form of human trafficking. They are offered a trip back to their country along with 1000 dollars and have to transport a luggage or items in their own luggage. The ‘business model’ behind these mules is to employ many individuals with higher risk but gambling on the number of them being caught.

In past years this activity boomed and the broad volume of drugs they help circulate cannot be disregarded. In 2013, the federal police proceeded to a control of all the passengers of a flight to Luanda and realized more than 20 of them were transporting cocaine, mostly Nigerians coming from Brazil.14 Some African officials reported that the UNODC forced companies to close flights between Sao Paulo and West Africa due to the high number of mules.15 French judges in Cayenne in French Guyana also estimate that there are...

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9 Interview in Sao Paulo, May 2015.
10 While it is true there are small minorities of Igbo people in the North East of Nigeria, Boko Haram insurgency stand more than a thousand kilometers North to the ‘Igboland’.
11 See for instance https://www.youtube.com/watch?v=B1BBXYcp8_Y.
12 Interviews with Nigerians and Senegalese who settled in Sao Paulo between 2013 and 2016.
13 Interview with police officers in July 2018.
14 Interview with a custom officer in Sao Paulo in 2016.
15 Interviews in Dakar in December 2016.
around 10 mules in each daily flight to the metropole and possibly in flights from Fortaleza to Europe.\textsuperscript{16} But Nigerian mules probably only account for a small part of drug mules which are more visible and probably more easily targeted by the police or foreign authorities operating in Brazilian airports. For instance, in 2010, 362 people were arrested for drug trafficking at the Guarulhos airport, including 53 Brazilians, 53 Nigerians and 46 Angolans (Rizzo 2011b). Police data obtained from Lagos airport in 2015 show that during the first six months of 2015, 75 people were arrested arriving or departing from Lagos Airport. Out of the 75, 15 of them had a document with an address in Sao Paulo and they were all Nigerians. Most of the addresses of their identity document refer to the center of Sao Paulo or to the Zona Leste (Itaquera, Guianazes) and were born in the Southern Nigeria states.\textsuperscript{17} These data could reflect how the police focuses on mules with little investigation: very few of the individual listed are identified as part of a broader network.

The cost of these mules must be compared to the costs of other higher profile mules. For instance, the niece of former president of the independent Biafra, Odumegwu Ojukwu, was arrested in 2015 with a NDLEA (National Drug Law Enforcement Agency) officer as she was landing from Sao Paulo Guarulhos (through Dubai) and delivering him 2.4 kg of cocaine (Eteghe 2016). Another case is that of Okolo Emenike Kingsley, a businessman who was smuggling 9.15 kg of cocaine in his shoes hidden in his luggage. According to interviews with police officers, those mules are considered to have a lower risk profile and are part of a diversification strategy. They carry more drugs with lower risk and accordingly are paid more than the average mule, earning between 5,000 and 8,000 dollars.\textsuperscript{18} Other profiles researched are foreigners, diplomatic passport holders, frequent travelers...\textsuperscript{19} This strategy confirms that depending on levels of risk, recruiters rely on different networks and capacities. With this outlook it seems there are different mule markets.

**Drug mules as an attractive commodity involving new intermediaries and Nigerian criminal networks**

The case of Nigerian mules in Brazil shows how the development of exportation markets created a new commodity (mules) and opportunities for new criminal entrepreneurs. The recruitment of drug mules became a business with different profiles of risk and with criminal actors who are increasingly interested in exploiting cheaper and more vulnerable mules. The Nigerians criminal entrepreneurs have taken a new centrality and seem to have increased their market share and are now important subcontractors for Brazilian and PCC related entrepreneurs.

In the recent years Nigerian criminal actors settled in Brazil and particularly in Sao Paulo. Some of the Nigerians organizers of the traffic are said to circulate extensively between Asia, Nigeria, Brazil and Venezuela. They meet their recruits in the center of the city (Centro) or at churches which play a central role in the communities.\textsuperscript{20} One Nigerian patron is famous for running a legal business between Sao Paulo and Lagos. He is said to buy around 6,000 euros a kg of cocaine in Sao Paulo (hydrochloride, 90% purity)\textsuperscript{21} that would cost between 14,000 and 18,000 euros on the West African Coast.\textsuperscript{22} It is not possible to assess if these price differences can be explained by availability or lower operating costs but accordingly, with one mule costing 1,500 dollars, he would earn more than 8,000 euros per each kilo a mule carries. This explains how having some mules caught in all flight does not necessarily represent a problem and is balanced by very high margins. Even with little success there are very limited economic risks for entrepreneurs involved in this business.

These potential profits have attracted at least one criminal organizations, the *Neo Black Movement* (NBM), a Nigerian cultist group also called *Black Axe* movement, or *Aiye*. Nigerian cultist groups, sometimes referred to as confraternities, were initially selective university student associations based on the Oxbridge model. The first confraternity was created at the University of Ibadan in 1952, initially for the promotion of Yoruba identity. In few years these kinds of secret organizations multiplied. As they were manipulated by the military juntas in order to fight left wing or pro-democracy organizations on university campuses, they progressively transformed into secret groups involved in arsons, markets taxations, drug trafficking and human

\textsuperscript{16} Interviews with French officials in 2015 and 2018.

\textsuperscript{17} Abia, Akwa Ibom, Anambra, Delta, Enugu, Ebonyi, Imo.

\textsuperscript{18} Interviews in Lagos in 2016 and 2017.

\textsuperscript{19} Interview with custom officer in Lagos in 2016.

\textsuperscript{20} Interviews op cit.

\textsuperscript{21} Prices collected in 2018 from two different sources, prices collected in Sao Paulo between 2015 and 2017 were between 4,000 and 5,000 euros for a kilo.

\textsuperscript{22} Prices collected in Senegal and Nigeria between December 2016 and June 2018.
smuggling.\textsuperscript{21} The NBM was created in 1978 at the University of Benin City, current Edo State as a reaction to the development of the Pyrate confraternity. It is based in Lagos and Benin City. Testimonies and internal documents of the NBM confirm that over the last years this group established at least one ‘temple,’ a headquarter in Sao Paulo and another one in Venezuela. While members do not necessarily need to be at proximity of a temple, the creation of a temple in Sao Paulo implies the existence of a broader community and organization of affiliated members. Each ‘temple’ is responsible for a zone which is administered by a ‘zonal chief’ (called chief priest) who is supported and monitored by different bodies, a ‘zonal council of elders’, a ‘zonal Executive Council’.\textsuperscript{24} The chief priest collects contribution of all the members, and he is also responsible for organizing the activities of the cult and supporting the members in need. He relies on a treasurer and a chief of security. These organizations have the leverag to organize and mobilize their worldwide network and to work with local Brazilian and Nigerian entrepreneurs to take care of the logistics of mules and of the organization of larger deals.

While their implications in drug trafficking needs to be studied further it is likely cultists developed partnership with local actors and will have a stronger implication on the globalization of Brazil’s drug market. For instance, in 2016 rumors that Nigerians and Tanzanians tried to introduce heroin to the ‘Cracolandia’ began to surface. (Toledo 2016). The diversity of departures and arrival destinations of the mules arrested in Lagos in 2015 also underlines this dynamic. Amongst Nigerians arrested in Lagos some were en route to Istanbul, Dubai, Johannesburg, Addis Ababa, Nairobi and Beijing. Some other mules arrested during these months were arriving from these same airports. They transported cocaine but also heroin, methamphetamine, ephedrine and cannabis. In this outlook the development of these connections and the use of Nigeria, but also Casablanca or Dubai, as a hub allows Brazil to progressively integrate into a larger illicit global market of drugs. In Italy, starting with lower profit activities such as drug street distribution and mule recruitment, the cultists organizations and specially the NBM became a partner of Cosa Nostra mafia at least since 2011 (Tondo 2016) now taking care of drug networks and human trafficking for sexual exploitation of women from Edo State. Recent trials in France showed another cultist group, the Supreme Eiye, also called Air Lords created in 1963 is involved in human and drug trafficking between the continents also thanks to the agreements with Italian criminal groups.

Conclusion

While African-born migrants were criminalized as Afro Brazilian are, the development of a transatlantic drug market between Brazil towards Africa relied on high level protections within states and on the emergence of a protection market putting different armies, polices and governments protections in competition in Africa. The internationalization of the market and intensification of cocaine crossing Brazil has not been studied but there is evidence that this global market and international dynamics are shaping Brazil’s internal drug market and trafficking actors because of the intense capital concentration and competition wholesale exports create. As seen with the case of Nigerians mules some of whom are actually vulnerable migrants, there is evidence that new traffic related activities are emerging and that these activities were an opportunity for new players. The Nigerian networks also connect Brazil with new illicit markets. Nigerian individual entrepreneurs were at the core of this business which may have attracted new actors such as the NBM.

The questions raised by the development of a very profitable exportation market in Brazil are threefold. The first question concerns the impact of the competition for export points on the use of violence, how to assess it and to which extent can it explain social and spatial determinants of violence. The second question opines how such globalization affects the value chain in local markets? Do the two markets overlap? Do they create less availability locally? Can higher exportation margins account for the lower prices of cocaine derivates within in Brazil? Finally, engaging with the existing literature on other cases, we must question how the development of new value chains affects all related activities (transport, transfer from other countries, storage, blending, selling, money laundering) and how global market variations affect these political economies? Could they affect the relations between these actors and local institutions? For instance, in rural areas where large shipment transit, have traditional activities such as farming or castling been marginalized? What is the impact of trafficking on the job market? Can we make the hypothesis that such professions have since become less attractive to the youth? To what extent does this market absorb part of unemployed youth in some areas while crippling other legal activities?

\textsuperscript{21} Interviews with students and members in Benin City in December 2017.

\textsuperscript{24} Interviews with a researcher in Benin City in December 2017.
**Competing Interests**
The author has no competing interests to declare.

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Journal of Illicit Economies and Development is a peer-reviewed open access journal published by LSE Press.
Illicit economies are an issue of paramount importance and an opportunity for social mobility for millions in Brazil. The literature about them lacks empirical accuracy and less normative interpretive keys. Based on field research conducted between 2005 and 2018, this paper explores two stories: i) that of a young man working for illegal markets in the outskirts of São Paulo; and ii) that of a Toyota Hilux he stole. It adopts an approach centered on a theory of everyday action and focused on the boundary between legal and illegal and its pragmatic social effects. I argue the lack of public regulation of illicit economies has, over the last few decades, prevented their actors from obtaining social rights and started a vicious cycle of violence and reproduction of inequalities on a social level, as well as given rise to criminal populism in the public arena.

Keywords: illicit economies; violence; inequalities; São Paulo: Brazil

Introduction

"even the empirical in its perfected state might no more replace philosophy as an interpretation, a colouring and an individually selective emphasis of what is real."

(Georg Simmel–Philosophy of Money)

This paper is divided into three sections. The first one focuses on the boundary between illicit economies and the legal world by describing the typical life path of a young drug dealer and motorcycle thief from the outskirts of São Paulo, Samuel. By describing that boundary, I show not only the economic permeability, but also the moral, racial, and social demarcation of the illegal world in Brazil. The second section tells the story of a stolen Toyota Hilux to map the illicit car market in Brazil, which feeds formal, informal, and criminal economic niches. It highlights the inequality observed in those worlds. In the last section, I argue the lack of public regulation of illicit economies leads to violence and inequality on a social level, as well as criminal populism on a political level.

However, I start by outlining the theoretical and methodological inspirations of this paper, as well as my arguments against the literature. There are extensive studies on illegal markets across different fields of knowledge—economics, finance, sociology, criminology, law, security, and law enforcement studies. They diverge not only on topics and concepts, but especially on the assumptions of understanding—epistemology. Therefore, the vast majority of them choose to focus their analytical perspective on the State, law and order, so that a strictly economic approach has prevailed for decades (Becker 1968; Masciandaro 2000).2 The interpretation is often based on the absence; the lack of law and order in ‘weak states’ is believed to favor the
development of violent illegal markets (Williams 2009). Based on other more inductive perspectives, it is
now generally agreed there is a porous border between legal and illegal economies (Telles & Cabanes 2011;
Hartnett & Dawdy 2013); a moral, more than an empirical, distinction between them (Misse 2009); and no
natural connection between violence and illegal markets (Andreas & Wallman 2009; Naylor 2009). The most
recent literature shows significant comparative efforts based on regularities and distinctions typical of a
wide range of illegal markets worldwide (Beckert & Dewey 2017).¹

There has been an intense debate over the last few decades in Brazil, in which illegal economies have
been very strong and violent since the 1980s. Even though the social disorganization and broken windows
theories have also thrived in the tropics and played a decisive role in punitive policies, a specific current of
violence studies has sought to examine the connections between illegal economies, violence, and politics
from a situational perspective. Those interpretive efforts focused mainly on the Brazilian context and inductive

Michel Misse, in particular, conducted empirical and documentary research in Rio de Janeiro for decades
and synthesized his findings into a conceptual grid extremely useful for other contexts as well. By exploring
the genealogy of the economies of marijuana, cocaine, and gambling (jogo do bicho [an illegal lottery]) and
their political and criminal effects, Misse shows no economy operates without protection, and it is in the
context of protection that illegality is converted into a sort of ‘political merchandise’ (Misse 2002). It should
be noted the analytical focus shifts from the wrongful—or economic—act in itself to the relationship between
illegal actors and law enforcement bodies in managing illegal economies. That is the game that matters
(Whyte 1943). It sets the limits for each player’s profits, also based on his ability to resort to violence (Misse
2006, 2018). Thus, the extortion and bribery market, which often coexists side by side with illegal economies
in many contexts worldwide, is as important as the first. In short, there is a political and administrative game
to be deciphered wherever there is an illegal economy.

It took a new generation of ethnographers—although they followed in the footsteps of the previous
generation—a long time to realize economic issues⁴ play a central role. In the last decade, we have been
seeking to understand the operation of Brazilian factions, mainly the PCC (Primeiro Comando da Capital, or First
Command of the Capital), Brazil’s main criminal organization (Arias 2010, 2016; Biondi 2016; Willis 2017; Feltran 2019.) Those ethnographies focused primarily on those criminal organizations’ political
and moral dimensions, their strategies to promote extralegal order and justice in prisons and juvenile com-
mitment facilities, and the PCC’s role in the fall of over 70% in the number of murders in São Paulo’s favelas
during the 2000s.⁵ However, field research has dealt with the money issue more and more often in recent
years as members of the PCC itself started regulating more and more illegal markets at borders, ports, and
airports. Different studies have highlighted the cross-border expansion of Brazilian factions and the fact
that they employ a variety of tactics (Hirata & Grillo 2017). In the case of the PCC, this is done to standard-
ize the criminal conduct patterns of drug traffickers, arms traffickers, bank robbers, car thieves, smugglers,
or participants in any other legal or illegal market working together. Carrying out those business activities
separately, PCC members see themselves and each other as equals within the criminal fraternity and are
strengthened both in and out of Brazil by implementing security policies.

This paper follows this line of research, theoretically developed in close keeping with the classical sociol-
yogy of action (Georg Simmel and Max Weber) and the contributions of the empirical turnaround of French
pragmatism (e.g., Thevenot 2006; Cefaï 2010). The Chicago and Manchester ethnographies (Anderson 1923;
Whyte 1943; Mitchell 1956; Gluckman 1958; Goffman 2006) obviously inspired the attempts to apply analy-
tic induction to situations (Goffman 1952, 1967; Joseph 1998; Blokland 2008; Agier 2009, 2011; Cefaï, ed.
2010; Cefaï & Gardella 2011). In short, the purpose is, once the field experiments have been described, to
seek the set of assumptions—form and content—that in the course of the action described ethnographically
give it meaning. It is by contrasting those theoretical assumptions, which are collective and socialized, with
his or her own assumptions, sometimes identical or sometimes radically different, that the researcher can
transcend the level of individual action into that of abstraction, producing comparative inferences step by
step.

¹ Perhaps one of the constraints on those attempts is the conceptual autonomy that ‘markets’ inevitably acquire, thus losing their
clear definition and empirical connection with other economies associated with them.

² For information about the political aspect of the PCC’s organization, refer to Josino (2005), Biondi (2010), Feltran (2011), Dias

Method
This paper is based on two empirical studies. The first is an ethnographic study I have been conducting individually in the outskirts of the city of São Paulo in intensive periods apart from each other since 1997. In this project, I basically describe the lives of individuals, families, and organizations in the outskirts of the city of São Paulo (Feltran 2010b, 2011, 2019). The material I examined comprises systematic and non-systematic field notes, sequential interviews, and many informal conversations later reported in journals. I have been carrying out this study in a single district in the eastern part of São Paulo since 2005. The first narrative in this paper is centered on this individual experience. It focuses on the life story of Samuel as a typical low-ranking actor of illegal economies and analyzes the effects of his work on the boundary between legal and illegal.

The second source of material presented here is a mainly ethnographic collective multimethod study which I coordinated and which involved seven other researchers. Our method consists in following the social paths of stolen cars ethnographically, as in traditional ethnographies of objects (Knowles 2011). We also used a great deal of newspaper, secondary, and documentary material. That allowed us to map the economy of stolen cars in São Paulo. The second part of the paper, which tells the story of a stolen Toyota Hilux, shows how extensive this economy—both legal and illegal, both local and transnational (Knowles 2014)—is and how it operates.

The Boundary between Legal and Illegal
Samuel was born and raised in a favela in East São Paulo. On a Tuesday in April 2015, the 15-year-old black boy worked as a seller at a busy corner in the eastern part of town and earned 300 reais. His 12-hour shift ended at midnight, and Samuel went straight home. He found his mother, Ivonete, crying because he was becoming a drug dealer. The next day, Samuel woke up and went straight to the nearest shopping mall, opened in the 2000s, during Lula da Silva’s and Dilma Rousseff’s administrations (2003–2016), while the economic policy of expanding the low-income consumer market was in place. This policy designed to boost economic growth, to which economists refer as bottom-up economics, continued the state reforms and privatizations Fernando Henrique Cardoso began in the 1990s, and preceded the even more radical liberalism of Michel Temer’s and Jair Bolsonaro’s administrations.

At the mall, Samuel spent the day’s income—which corresponds to 1/3 of the monthly minimum wage of his grandmother, who also lives with them—on a pair of Oakley sunglasses, for which he paid in cash. It was on sale, for only 275 reais ($72), down from the usual 450 reais ($117) or more. With the change, he was also able to eat a sandwich at Subway and an ice cream at McDonald’s. What had been dirty money, obtained by selling drugs illegally, became just money the following day. Samuel paid taxes and honored the global brands he admires: Oakley, Subway, and McDonald’s, like so many others. Companies and governments are thankful.

Dirty money, especially from drug dealing, is laundered mainly through consumption. Drug dealers’ commissions in São Paulo range from 25% to 50% of the amount sold. Marijuana, cocaine, and crack are sold retail almost always by teenagers, prone to compulsive shopping. They do not save the money they receive, which, therefore, goes straight to official economies. Insurance and auctions also serve as legal connections between those economies, which are mutually strengthened, as seen below. There are countless other ways to launder money, and new ones are devised every day.

For economic sociology and anthropology, Samuel’s money underwent a qualitative change at that very moment (Zelizer 2011; Neiburg 2007; Guyer 1995, 2004). That qualitative change of Samuel’s money, from dirty to clean in seconds, involved no legal problem for the boy or for those who sold him the items. It was not money laundering, but merely shopping. That is what is expected in the global economy, in much of the state’s justice system and even in small local businesses, precisely because, on that impersonal level, there is absolutely no concern for the quality of Samuel’s money, only for the amount he has in his pocket (Simmel 1900).

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Samuel’s real name, as well as parts of his trajectory were withheld for preserving his identity. I had contact with him during my field research between 2005 and 2018.
It is, therefore, clear that Samuel is not the only one making money from illegal markets. Oakley, McDonald’s, their franchisees, the mall, and the governments levying consumption taxes also profit from them. On the other hand, some still reject that money. Samuel’s mother, my research interlocutor and friend since 2005, has never accepted his money in her household despite a serious lack of means. In fact, Ivonete made her son pack up and leave home in 2016, when she was sure he had already become a drug dealer.

On another April Tuesday, this time in 2017, the teenager was shot in the back by a police officer while trying to escape a routine blockade on an avenue near his home. By then, the police considered Samuel not only a drug dealer, but also a motorcycle thief, and he was on the run. His girlfriend was pregnant, and he recovered from his bullet wound after many days in the hospital. His baby daughter is now 18 months old.

Still wanted by the police, Samuel is soon about to be arrested. In contrast, Samuel’s dirty money circulates freely. Illicit economies create criminals, and the war between the police and criminals breeds great violence.

How can we grasp this boundary between dirty and clean money, licit and illicit economies, so relevant for Ivonete, but so irrelevant for a fast food restaurant from a global chain in a shopping mall? What is Samuel’s position in an illicit economy such as that of car thefts in São Paulo?

The key issue seems to be the scale, the depersonalization of money. On a local level, illegal money creates people like Samuel—thieves—and ‘urban violence’ by perpetuating from generation to generation a vicious cycle of inequality, violence, and poverty (Tilly 1998). Samuel embodies this finding; he comes from a family with many people active in the world of crime, whom I examined thoroughly in another work (Feltran 2019). His mother is keenly aware of the fate of favela dwellers involved in illicit activities. It is the same as Samuel’s father’s and uncles’; jail or death even if they achieve economic success. Outlaws like Samuel spark a public outcry for repression, and there are many young black Samuels living in favelas and occupying low positions in illegal markets. They repeatedly go to prison and appear in murder statistics in São Paulo. The day after one of them is arrested or killed, there is another in his place.

However, the same illegal money that takes Samuels to prison boosts certain industries and becomes brands, profit, a global financial market, and economic development, calling for growth. Whenever money circulation increases in illegal economies, more jobs are created in their drug, arms, car theft, bribery, fraud, and smuggling businesses. As a result, more opportunities arise to employ other Samuels, who have no access to the formal labor market. Samuel obviously went no further than elementary school and had difficulty completing it. He went to no libraries, speaks no foreign languages, and cannot write easily even in Portuguese.

Even today he supports his daughter with money he makes from illegal economies, mainly by dealing cocaine and by selling motorcycle parts also obtained from thefts in São Paulo, in a small business run by a friend. With the money they obtain by dealing drugs, Samuel and his friend either buy motorcycles legally and illegally to resell them or buy stolen or legally acquired ones to strip for parts. Likewise, major global brands fund national economies, international markets, and even social initiatives, as well as pay lawyers’ fees, also with proceeds from illegal economies, among other sources. Illegal businesses are almost always associated with legal enterprises, not least because of the need to launder money. As a result, the boundary between legal and illegal creates, on the one hand, big business people and, on the other hand, petty criminals and major criminal factions.

Driven by criminal populism, governors, presidents, and senators in today’s Brazil receive big business people from their states directly in their offices and undertake to devise policies to boost economic growth and create jobs with the country’s prosperity in mind. The same governors, presidents, and senators are keen to buy military drones in Israel, have police cars armored, and toughen laws against criminals, who cause so much damage to society. Little do they know—if they know at all—that the money that produces business people produces criminals in Brazil.

The Story of a Stolen Hilux
Even though he does not sell stolen cars as a routine, Samuel once helped a friend hired to steal a brand-new Toyota Hilux. Four young men from the same favela gathered for the operation. The year was 2016. After the successful theft, they made about 1,000 reais (about $265 in early March 2019) each. In 2017, 1,159 pickup trucks like that were stolen in Brazil (SUSEP [Superintendência de Seguros Privados, or Superintendence of Private Insurance] data, 2019.) The market price of those trucks is about 180,000 reais ($47,665) and almost

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* For further details about the economy of stolen vehicles in Brazil, as well as its internal inequalities, refer to Fromm (2019, in this volume).
all the 89,790 similar vehicles in circulation are insured; therefore, insurance companies paid their owners over 200 million reais in compensation for theft alone in 2017. The vast majority of the recipients bought a new car with that money, thus boosting car sales.

Brazil currently has a fleet of 97 million motor vehicles, about 500,000 of which are reported as stolen every year. Only 30% of that fleet is insured, but 80% of all stolen vehicles are covered. Insurance companies estimate 20% of those claims notifications are fraudulent because compensation amounts tend to be higher than used car prices (Fromm 2019, in this volume). In turn, markets estimate about 425,000 vehicles are actually stolen in Brazil each year, a number remaining relatively stable in recent years. Almost half of those crimes occur in the state of São Paulo, the main hub of the illegal vehicle economy in Brazil.

Stolen vehicles quickly leave criminals' hands and become merchandise. Directly or indirectly—and that is a key difference as we will see—they are the starting point of a route that takes them to three major market niches, that is, they may be stripped for parts, resold, or used in drug and arms trafficking. The boys who stole the Hilux in 2016 received 4,000 reais ($1,060) to deliver it to a fence—the owner or manager of a chop shop, a mechanic's garage, a junkyard, or an auto parts store. How many of those establishments are there in Brazilian cities? One on each corner?

The direct route to those market niches starts with the very groups that steal vehicles and deliver them to fences. Half of the vehicles stolen in the state of São Paulo go to fences' hands and completely disappear from radars, tracking devices, law enforcement, or insurance companies (Feltran & Horta 2018). In general, fences are people both thieves and the police know. They may either hire young men to boost any cars or motorcycles they may need, or occasionally receive stolen vehicles they have not requested. In other words, criminals may have vehicles stolen to strip them for parts, to reassemble and resell them, or to send them to the Bolivian or the Paraguayan border. In addition, thieves may steal a given car on their own initiative due to its appeal or price, or because there is a window of opportunity. In those cases, insurance companies lose the entire compensation amount, less the insurance premiums paid. If the insurance rate for a Hilux stolen in São Paulo cost 8,000 reais ($2,120, the average rate) and the car were never recovered, the insurance company would lose 192,000 reais ($50,872) due to the theft.

However, the other half of all cars stolen in the state of São Paulo are found. The indirect route to those markets is taken when thieves—mainly inexperienced ones like Samuel at that time—steal a car just to go on a weekend joyride, keep whatever they find in it, drive around the city, or even use in their everyday lives. This activity, known as take and drive, is common in other countries. Both experienced and inexperienced thieves may also steal cars for an immediate purpose: to run away from the police or use them to commit other crimes after quick procedures such as changing license plates. They abandon those cars shortly afterwards.

Insurance and auctions

Those cars and motorcycles are then found by the police after remaining parked somewhere for a few days. Only 20% of those not covered by insurance are returned to their owners; 80% of them become insurance companies’ property once the time limit for paying compensation elapses, which occurs very often. Insurance companies then have a few options to make money on those vehicles to minimize their losses. The first one is to auction them. There is a law allowing insurance companies to put recovered stolen cars up for auction, with very strict terms about auctioneers.

The auction price of a stolen vehicle usually ranges between 70% and 90% of its list price. Therefore, the insurance company's expense on the Hilux stolen in São Paulo would be between 10% and 30% of the compensation amount paid. If it is auctioned for 160,000 reais ($42,400), the company will lose the difference between that amount and the list price, less the insurance premiums paid, that is, 36,000 reais ($9,540)—and not 196,000 reais ($51,935), as it would if the pickup truck were not recovered. Considering the auctioneer's fee and other costs, such as towing and paperwork, the expenses can total 50,000 reais ($13,250). Recovering stolen cars is, therefore, a big business for insurance companies, which invest heavily in technology, tracking devices, recovery teams, management, and law enforcement relations for that purpose.

However, there are other ways in which an insurance company can not only minimize losses, but also make money on recovered stolen vehicles. For example, it can auction them itself—by hiring private auctioneers as required by law—or send them to its own chop shops and car dealers. Major insurance companies either have

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* Argentinian sociologists have also studied stolen car markets within a fruitful theoretical perspective, though without in-depth empirical research (Dewey 2012; Rodríguez 2012).
had or have been considering having their own chop shops for a few years. In fact, they have been lobbying aggressively for that (Fromm 2019, in this volume). In Brazil, a disassembled vehicle sold for parts brings in about three times as much as the vehicle’s actual resale price on average. Consequently, a Hilux costing 192,000 reais ($50,872) for an insurance company can generate up to 584,000 reais ($155,000) in revenue if it is recovered and its main parts are sold.

In addition, the more completely disassembled the vehicle, the greater the price of each part. An entire car costs much less than the combined price of its parts just as a new engine costs far less than the sum of the individual price of its parts. The engine alone of a car like the Hilux can cost as much as two economy cars in the legal market. All dealers keep their prices secret either because there is always uncertainty about the physical condition, origin, and guarantee of their products or because they are in an extremely competitive market. In fact, information is crucial, and confidentiality plays a key role in those markets.

When seeking auction services, another heavily regulated and very poorly known billion-dollar market, insurance companies or governments must hire private auctioneers. It should be noted many of those professionals make a living from auctioning stolen cars. Private or commercial buyers benefit from the discount given due to the theft to make a profit of about 2% to 5% on each auctioned car. Furthermore, they can also work in partnership with more structured car dealers, which increase their profits by selling on credit, in never-ending installments and at high interest rates. Financialization is obviously an integral part of this market, and actors from the credit industry also profit from it. Therefore, the owner of a car dealership makes a profit of at least 10,000 reais ($2,650) on a Toyota Hilux purchased at auction or much more depending on the terms and conditions of sale. The auctioneer receives about 5% of the vehicle’s auction price as well, or also about 10,000 reais in that case.

Thus, car dealership owners and auctioneers make ten times more than Samuel, who helped steal the Hilux. The vehicle was stolen in forty seconds. In my field research, I have seen an equal Hilux sold in thirty seconds at an auction in São Paulo. Samuel’s crime does not pay for him—who will be arrested sooner or later and whose life will be ruined if he continues his life of crime—nor for urban order, and much less for the victim and his or her family. However, his crime did pay—and handsomely—for all other actors who, acting within the law, made a great deal of money on that car.

Borders

After being auctioned, a Toyota Hilux can also be taken to Brazil’s borders with Bolivia and Paraguay. I have been there twice for one week each time to do field research. That type of vehicle is exchanged for 5–7 kg (11–15.5 pounds) of cocaine paste in the area of Cáceres, in the state of Mato Grosso. A brand-new motorcycle and a passenger car are usually exchanged respectively for 1 kg (2.2 pounds) and 1–3 kg (2.2–6.6 pounds) of cocaine paste, sold for about $2,600 a kilogram on the Bolivian border. That would be a very bad deal for ordinary sellers.

However, it is an excellent deal for those obtaining it from theft and paying only 4,500 reais ($1,192) to the thieves, plus 5,000–10,000 reais ($1,325–$2,650) for someone to take the car to the border. Still, it is not as good a deal as it could be with more criminal contacts and skills.

The deal is really attractive if the seller is also familiar with the inner workings of the local retail drug trade. Factions like the PCC obviously benefit greatly if that is widely known across its networks. My interlocutors in my field research in São Paulo’s favelas, which usually receive cocaine from Bolivia, explained a kilogram of cocaine paste sold retail brings in about 50,000–60,000 reais ($13,242–$15,890). As a result, an investment of 10,000 reais ($2,650) can yield a gross amount of 60,000 reais ($15,890) in a short time, without considering the high sales commissions that have to be paid. It is still not bad for someone who would otherwise earn a minimum wage in the labor market.

However, those who manage to exchange a stolen car for kilograms of cocaine paste or even pure cocaine make a much lower initial investment and reap a far greater profit. The stolen Hilux, which required an investment of 10,000–15,000 reais ($2,650–$3,973), allowed the person who commissioned the crime to
obtain 6 kg (13.2 pounds) of cocaine paste, which, once treated, mixed with many other substances and sold retail, can yield up to 360,000 reais ($95,350). That is a lot of money, which explains why so many cars are stolen and the drug trade is so active.

What other business or investment would be so profitable? Exporting this drug, for example. Some interlocutors claim 1 kg of cocaine is worth the same 60,000 reais ($15,890), about £13,000, in the Port of Santos. However, no preparation and no commission payments to vapores and gerentes, retail drug dealers, are needed in this case. Commissions are high in the São Paulo drug trade, between 20% and 50% of the total. Without paying them, drug traffickers make a much greater profit since they pay only for transportation—by helicopter, plane, truck, pickup truck, or car. Drug traffickers pay employees in many other ports and airports in Brazil to make it easier for drugs to be carried in carry-on or checked luggage and parcels. Secret criminal organizations and factions, be it the PCC or any other, talk internally about those contacts and their manner of operation, as well as business difficulties and opportunities. Nevertheless, the PCC is the only one that does not require the members of its mutual support networks to share a portion of their profits with the organization, as we have seen. That is why it has been able to expand so widely.

From Santos, drugs go to Africa, Europe, the Middle East, and who knows where else. Sold retail, they bring in £70,000–£100,000 ($79,306–$113,302), an average of 380,000 reais ($100,652) a kilogram. Therefore, that pickup truck, which each armed teenager received 900 reais ($240) to steal and which made it possible to obtain 6 kg of cocaine paste at the border, can initiate a series of transactions totaling up to 2 million reais ($529,770). The market value of the Toyota Hilux, already very high—200,000 reais ($52,975)—in Brazil, soars tenfold in the car theft market and in the international drug trade. No less than 1,149 Toyota Hilux were stolen in Brazil in 2017 alone, considering just one car model among all others.

Would it be possible to make even more money with that pickup truck? Of course, it would, as always. All it takes is associate the route taken by the car with the import or export of weapons—such as automatic pistols, rifles, or machine guns—acquired legally or illegally in Paraguay and smuggled into Brazil. Compared with those who work on this scale, the boys who stole the Hilux in São Paulo are neither thieves, nor tricksters. They are nothing but the gateway to a frighteningly large money-making machine connected internationally in 2019.

This exchange of motor vehicles for drugs and weapons on Brazil’s borders with Paraguay and Bolivia is targeted by politicians, national control officers, and whoever is interested in security issues. However, as we have seen, those transactions actually deliver much greater profits than stripping stolen cars for parts or reselling them, or even trafficking drugs only. With no regulation, all the repression in the world can be deployed against small-scale actors, yet there will always be others interested in those activities. That is why advocating more imprisonment and more police against the Samuels from the world of crime may sound like a good policy in Latin America, but it is not. It would be better to regulate those economies, offer their actors social rights, thus reducing social conflict and removing them from illegality, which is—at least partly—what makes them so profitable and so violent. However, we are no longer in the 20th century, in which all that was a political project, not a dream.

Closing Remarks
Whenever marijuana or cocaine is seized in Brazil, the cargo must be destroyed to prevent it from being resold, which is considered harmful to society; after all, marijuana and cocaine are drugs. Seized vehicles and weapons are like gold. They fuel major economies comprising a mechanism that breeds inequality. The auctioneer makes 10,000 reais ($2,650) from the Hilux stolen by Samuel and auctions a hundred cars a day. The police officer exchanging fire with the thief earns 3,000–4,000 ($795–$1,060) a month. The thief steals one or two cars a week and makes 1,000 reais ($265) from each one, often complementing his income from drug dealing and informal sector jobs, as did Samuel. A worker with the same qualifications as the thief stealing the Hilux works the entire month to earn 980 reais ($260). The lowest-ranking actors in the chain receive punishment for wages, instead of social rights. In contrast, the highest-ranking actors become themselves legislators or governing authorities.

How can we determine where an illegal market begins if it is certain that empirically a 15-year-old boy can earn 300 reais ($80) by selling cocaine and immediately buy a pair of Nikes in cash at the mall near his home? His ‘dirty’ money from the drug trade becomes ‘clean’ money in the formal economy, with consumption taxes paid, in minutes. Likewise, but on another scale, a coffee container (with hundreds of kilograms of cocaine as overweight) can be shipped from the Port of Santos to Europe and bring in foreign exchange unofficially—paid in cash—to buy, for 4 million reais ($1,059,520), a farm on the Bolivian border, and a
brand-new Toyota SW4, among other items. There are countless means to launder money, all of which are already well-known, in both domestic and international transactions, including: bitcoins, fake invoices issued by hotels, gas stations, or car dealerships, as well as very expensive jewelry and works of art, or even soccer players and investments from multinational churches. ‘Dirty’ money becomes ‘clean’ money. Therefore, there is no point at which an illegal market ends and a legal market begins, in analytical terms, when money is considered a mediating object to study. Both markets are connected directly through consumption or indirectly through other markets (money laundering, but also auctions and insurance, all legally organized). Monetary economy connects legal and illegal markets.

In default of public regulation and in view of the high profits it yields, this mechanism, which creates inequality and in which money circulates, also breeds violence, in this case understood as the use of force, mainly with guns, focused entirely on the interaction between thieves, victims, and police officers, all of which are paradoxically on the same side—the weakest—in this business chain. This violence also reaches auctioneers, car dealers, or automakers, which sell new cars bought with insurance compensation money, as threatened or actual robberies. However, it is much more extreme among young people like Samuel. Data about homicides in São Paulo are clear: 59% of the people killed by the police were involved in carjackings or car thefts (Silva 2019), and over 70% are black youth living in the outskirts of big cities and occupying low positions in illegal markets.

Competing Interests
The author has no competing interests to declare.

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RESEARCH

Creating (II)legal Markets: An Ethnography of the Insurance Market in Brazil

Deborah Fromm
1 Social Anthropology (UNICAMP), BR
2 Center for Metropolitan Studies (CEM), BR
deborahrfromm@gmail.com

This article analyzes the role of the insurance market in the conformation of state regulations, responsible for the creation of frontiers between legal and illegal practices in Brazil, with a focus on car insurance as well as the industry agents’ commitment to the creation of laws and the competition for new market niches. The aim of this study is to explore how the collaboration between public and private players constitute the governing rules of illegal and informal markets by analyzing two empirical cases: The approval of the Dismantling Act, whose goal is to regulate car parts trade and curb car theft, and the attempts to criminalize vehicle protection products, known as pirated or parallel insurance (seguro pirata or seguro paralelo). The article showcases partial findings from ongoing research based on three different methodologies, namely: i) Multi-sited ethnography carried out in insurance-related events, entities, and companies; ii) Compilation and analysis of ancillary materials, such as news articles, official documents, and industry-specific documentation; iii) Interviews with insurance brokers and insurers’ representatives, directors, and employees.

Keywords: insurance; car regulation; (il)legal markets; Brazil

Introduction

Other industries, like the agrobusiness, did their homework.1 They educated themselves, they reinvented themselves. They improved distribution and, most importantly, they now have their own representatives in the government. They developed sectoral policies and engaged in macro-politics. This can be verified by the fact that the agrobusiness group is one of the few organized groups in the House of Representatives. The group is represented by large agrobusiness entrepreneurs. They made themselves noticeable. If we [the insurance market] have such power and magnitude, if we were able to grow 9% in the first semester during hard times in Brazil, imagine what we could do if we organized and went beyond sectoral policies, if we took a stand in party politics. We have to do whatever it takes. You either take part in party politics or will be subject to the wishes of those that represent you in it. (Speech given by Cássio,2 State Representative candidate, at an insurance market event in September of 2018; my emphasis)

This article analyzes the role of the insurance market in the conformation of state regulations, responsible for the creation of frontiers between legal and illegal practices in Brazil (Telles 2010; Telles & Hirata 2010; Beckert & Dewey 2017), with a focus on car insurance as well as the industry agents’ commitment to the creation of laws and the competition for new market niches. The goal of this study is to explore how the collaboration between public and private players constitute the governing rules of illegal and informal markets by analyzing two empirical cases: The regulation of the Dismantling Act (Lei do Desmonte, no. 12,977/2014),

1 This research is funded by Fundação de Amparo à Pesquisa do Estado de São Paulo (FAPESP), process no. 17/24649-7.
2 All interviewees’ names are fictitious in order to preserve their identities.
whose aim is to regulate car parts trade and curb car theft, and the attempts to criminalize the trade of vehicle protection plan (as of PL 3139/2005), known as pirated or parallel insurance.\(^3\)

The entire insurance market (comprised of all its categories) is a R$1.2 trillion (US$326 billion) market in Brazil and one of the country's largest institutional investors. It represents 6.5% of the Brazilian Gross National Product (GNP) and announced a R$428.9 billion (US$117 billion) revenue for the fiscal year of 2017.\(^4\) In 2015, the Brazilian general insurance market\(^5\) announced over R$68 billion (US$18 billion) in revenues, a dramatic 70% increase in comparison to 2010.\(^6\) It is a massive, profitable market with great potential for expansion. Considered the 9\(^{th}\) world’s economy, Brazil occupies the 46\(^{th}\) position\(^7\) in terms of per capita revenue in the insurance market, behind other Latin America countries, such as Uruguay and Chile.

Despite its relevancy and magnitude, the insurance industry in Brazil has not yet caught the attention of anthropologists in the country. Recent research studies carried out in Canada and the USA highlight the importance of Social Sciences (Ericson, Doyle & Barry 2003; Zelizer 2017). According to Ericson, Doyle and Barry (2003: 4), ‘insurance is an institution that should be central to sociological investigation because it is a key component of political economy. Insurance companies interlock with other powerful corporations and the state to negotiate political economy on all levels of society.’ It is even more than that—it is a privileged empirical object that allows us to understand the ‘organizational patterns of existing state-private relations so integral to governance and society’ (Wedel 2003: 139).

As Cássio emphasized in his speech, the sector is making an effort to play an active role in the State—which is ‘actually an unstable complex of people and functions’ (Herzfeld 2008)—and impose formal and legitimate measures to influence decision making and promote the industry’s mutual interests amidst political, financial, and strategic partners. In this sense, those are important actors, who use their relationship networks to organize and mediate interdependencies among politics, economy and the Legislature. The access and success of these domains are often interdependent, and that is why political connections and economic opportunities interweave. It is not solely about benefitting the agenda of one economic group, but also about fostering specific rationale and promoting safety across governmental agencies. According to Ewald (1991: 199), insurance must be understood as a rationality scheme, a risk management category: a way of breaking down, rearranging, ordering certain elements of reality.\(^8\) It is noteworthy that ‘the insurer’s activity is not just a matter of passively registering the existence of risks, and then offering guarantees for them. He “produces risks”(…)’ (Ewald 1991: 200). In its turn, according to O’Malley (2009), what is usually seen is not the ‘risks themselves’, but rather, a predisposition (and a direction about how) to deal with processes according to their risks. Addressing the insurance market implies the need to address the notion of (in)security. As Didier Fassin et al. (2015: 2) point out: ‘(…) the multiple aspects of a notion as central as it is ambiguous elements of reality. The expression “taking risks”, used to characterize the spirit of enterprise, derives from the application of this technology of risk, insurance is first and foremost a schema of rationality, a way of breaking down, rearranging, ordering certain elements of reality. ‘As Kant might have put it, the category of risk is a category of the understanding; it cannot be given in sensibility or intuition. As a technology of risk, insurance is first and foremost a schema of rationality, a way of breaking down, rearranging, ordering certain elements of reality. The expression “taking risks”, used to characterize the spirit of enterprise, derives from the application of this type of calculus to economic and financial affairs.’ (Ewald, 1991: 199).

As Ericson, Doyle and Barry highlight (2003: 6): ‘Insurance systematically grafts morality onto economics and thereby perpetuates questions about moral citizenship and responsibility. Questions include whose risk and whose security are at stake, and who is responsible to whom in this regard? The welfare state model urges strong central government to create large and undifferentiated risk pools that foster social responsibility. The private insurance model makes risks the property of non-state organizations and individuals. It therefore urges differentiated risk pools, based on market segmentation and ability to pay, that foster individual responsibility. Its moral economy is to minimize welfare social transfers to the level of organizations and individuals.’

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\(^3\) The use of bold emphasizes and differentiate emic categories.


\(^5\) The general insurance segment encompasses damage insurances, a category consisting of 13 groups, as determined by Private Insurance Superintendence [Susep], namely those that cover cars, properties, DPVAT, home, equity, transport, financial risk, rural, credit, liability, and watercraft insurance; available at http://www.cnseg.org.br/fenseg/servicos-apoio/perguntas-frequentes/perguntas-frequentes.html. Last Accessed 11 February, 2019.

\(^6\) According to data released by the National Federation of General Insurance (FenSeg).

\(^7\) Source: SIGMA, dados 2016. It does not encompass C-Bonds and complementary pension funds. In terms of health segment, only health insurance companies are included.

\(^8\) As Kant might have put it, the category of risk is a category of the understanding; it cannot be given in sensibility or intuition. As a technology of risk, insurance is first and foremost a schema of rationality, a way of breaking down, rearranging, ordering certain elements of reality. The expression “taking risks”, used to characterize the spirit of enterprise, derives from the application of this type of calculus to economic and financial affairs.’ (Ewald, 1991: 199).

\(^9\) As Ericson, Doyle and Barry highlight (2003: 6): ‘Insurance systematically grafts morality onto economics and thereby perpetuates questions about moral citizenship and responsibility. Questions include whose risk and whose security are at stake, and who is responsible to whom in this regard? The welfare state model urges strong central government to create large and undifferentiated risk pools that foster social responsibility. The private insurance model makes risks the property of non-state organizations and individuals. It therefore urges differentiated risk pools, based on market segmentation and ability to pay, that foster individual responsibility. Its moral economy is to minimize welfare social transfers to the level of organizations and individuals.’
This research study is part of the field of safety-related urban studies. Nevertheless, it goes beyond that, as consolidated approaches about the theme in Brazil are also concerned about matters related to repression and violence. While there are ongoing studies investigating the private security market (Cubas 2002; Zaneti 2009; Paoliello 2011; Nasser & Paoliello 2015), there is still a significant gap in anthropological literature regarding the insurance sector.

The car insurance market was chosen as the object for this study because car theft is perceived as a significant ‘social problem’ in Brazil, capable of interlocking legal and illegal markets, the insurance industry, and public safety issues (Feltran & Horta 2019; in this dossier). A variety of methodologies were used with this intent, namely: i) Multi-sited ethnography (Marcus 1995; Hannerz 2003) carried out in insurance-related companies, entities, and events; ii) Compilation and analysis of ancillary materials, such as news articles, official documents, and industry-specific documentation; and iii) Interviews made with insurance brokers and insurance companies’ representatives, directors, and employees.

An average of 500,000 cars are stolen in Brazil every year; estimates show that 8 out of 10 have insurance. In the city of São Paulo, one major insurance company deals with an average of 100 stolen cars per day. Recovery rates are around 50%. The company is a conglomerate of three brands that, together, report over 12,000 missing cars every year. Once a vehicle is stolen, the insurer opens up a claim and, if there is no suspected fraud, the policyholder receives a predefined value for the insured car. From then on, the stolen vehicle belongs to the insurer. The customer is likely to buy a new car and a new insurance plan, which boosts sales in the automotive and insurance industries. When the vehicle is never found, the loss is added to the policy premiums after the insurer recalculates the risks. A great increase in car theft cases in a certain city or neighborhood directly impacts policy prices and insurance sales, which may boost the expansion of what is known as parallel market. This will be addressed in the second part of this paper. Therefore, if on the one hand car theft may boost insurance demand, on the other hand, high, concrete risks can be detrimental to insurance companies.

In order to keep rates under control, insurance companies engage in politics, build alliances, and push public agencies to devise public safety measures and even new regulations, such as the Dismantling Act.

Creating Laws, Managing Markets: The Dismantling Act

The Dismantling Act (Lei do Desmonte, Federal Law no. 12,977/2014) was approved in May of 2014, after over 10 years of proceedings and vetoes at the House of Representatives. The objective of this law is to regulate the dismantling of vehicles and the sale of car parts in order to curb illegal dismantlers that harvest parts from stolen vehicles. Inspired by the Dismantling Act in force in the state of São Paulo (State Law no. 1,527/14), the federal law was created by former Representative A. V., an insurance broker whose electoral campaign was funded by large insurance companies. According to him, the enforcement of this law is paramount to curb the vicious cycle of car theft in the country. He states:

The illicit auto parts market is an important foundation for organized crime, that is the cause of several casualties and has a significant negative impact over the economy. Tearing down this structure is paramount to weaken organized crime. (...) Once the illegal market of auto parts is eradicated, the segment is regulated and strictly inspected by the State, we shall see significant improvements in public safety and a large number of direct jobs shall be created in specialized garages.

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10 There are several related research pieces in Sociology and Anthropology focused on public safety policies (de Lima, Ratton & de Azevedo 2012; Feltran 2018, 2017, 2016; the ‘world of crime’ (Feltran 2018; Biondi 2016; Hirata & Grillo 2017; Hirata 2018; Hirata & Grillo 2019, in this dossier); police forces (Sinhoreto 2014; Durão 2011); prisons and juvenile detention centers (Godoi 2010; Padovani 2015; Mallart 2014); legal-illegal market management (Telles 2010; Hirata 2018; Rabossi 2004); and the war on drugs (Fiore 2012), especially on crack (Rui 2014; Magalhães 2015; Fromm 2016 and 2017).

11 This mode defines for itself an object of study that cannot be accounted for ethnographically by remaining focused on a single site of intensive investigation. [...] Strategies of quite literally following connections, associations, and putative relationships are thus at the very heart of designing multi-sited ethnographic research.’ (Marcus 1995).


13 Data provided by the Union of Insurers. See ‘Preço de seguros de carros dispara devido à violência no RJ’ G1, 5/11/2017.

14 ‘Art. 2º. For the purpose of this law, I) Dismantling is the act of disassembling or destroying a vehicle in order to use its parts as replacements, scrap, or similar final destinations.’ About the process of regulating the auto parts market in Argentina, see Dewey (2012).

15 Available at https://www.brasil247.com/pt/247/goias247/366989/Armando-Verg%C3%ADlio-cobra-aplic%C3%A7%C3%A3ode-lei-sobre-reaproveitamento-de-pe%C3%A7as-de-carros.htm. Last Accessed 11 February, 2019.
This is justified by the fact that, according to data disclosed by the insurance sector, around 60% of stolen cars are dismantled for their parts. In this sense, the law aims to regulate dismantling activities to curb the trade of auto parts harvested from stolen vehicles.

The law in force requires salvage yards to register with traffic supervision agencies. For that, the owners must present a series of documents, such as technical diplomas and background checks. Uncompliant workshops may be interdicted, lose assets, pay fines, have their registration voided, and face administrative charges. The sole fact of diverging from standard and bureaucratic procedures already makes them ‘suspicious’ and subject to fines, as it is rapidly assumed that they trade stolen parts. In São Paulo, registered dismantlers must label and catalog used parts at the supervision agency’s system. Each part has its own QR code that, when scanned, allows to track information about the part, such as the vehicle of origin and invoice number. Furthermore, a mobile app allows anyone to use a smartphone to check part information and report any potential wrongdoing. According to the state governor at the time,

Innovation runs in São Paulo’s DNA. The state paved the way for regulating dismantlers in the country. It was a success in São Paulo and gave rise to a similar federal law. It has been a great benefit to society, especially in terms of public safety, as we reduced the number of car thefts—many used to be stolen only to be dismantled and have their parts sold at the illegal market. It has been very beneficial to public safety and people’s lives. (...) The consumers will be safer. They will have access to a bar code that will promptly show them whether the acquired part funded crime-related activities at some point.³⁶ (State Government’s Portal, October 2015)

This technology was developed by the state government in collaboration with a large insurance company. According to a source, the first (and most efficient) idea involved the use of nanotechnology.³⁷ However, only two companies would be able to develop this tool. For this reason, the public agency is said to have declined the idea to avoid accusations of unfair advantage. My source reported that the concept failed right from its onset: The design of the label made it hard to scan the QR code and counterfeit labels were already circulating by the time the official ones were released.

According to government data, the police shut down 688 irregular salvage yards in the state of São Paulo during large operations carried out between July of 2014 and October of 2015—243 facilities in the capital city were inspected, and 188 were shut down (almost 80%). Records show a 17.11% decrease in car theft in the state between August 2014 and August 2015 (17,921 registered thefts in August 2014 against 14,854 in August 2015). Government and insurers’ representatives state that the reduction in theft rates was due to the shutdown of irregular dismantlers.

However, if on the one hand insurance companies were happy with the law because it helped reduce the number of car thefts, on the other hand, the law gave rise to another type of product: low cost car insurance. According to A.V.,

Mr. President, I would like to ask my peers to calm down so that I can reply to Mr. [Representative’s name], and I would also like to ask him to calm down. This project brings along several benefits. I listed some of them and, to make them very clear, I’ll ask for your patience so that I can list them: More public and traffic safety; protection for national industry and commerce; creation of thousands of new jobs; the formalization of a [legal] market that does not exist yet; increase in tax revenue; environmental benefits; and cheaper car repairs, especially for the older models. Why? Because used parts will now be legally sold, with warranty. This will greatly reduce the price of car insurance plans, which is something I understand about. If insurers are allowed to leverage used, certified parts with proof of origin to repair 4–7-year-old cars, insurance prices will go down. Thousands of car owners that cannot afford insurance now due to its high prices will have access to it in the future. Should this law be approved, I am positive that car insurance prices will go down more than 30%. And this is a side effect, since the main goal is to reduce violence and car theft in the country. Thank you very much. (Speech given by former Representative A. V., House of Representatives, June of 2013 – my emphasis.)

³⁷ This technology consists of a spray that engraves part data (origin, code, properties) onto its body; this data can only be read by a specific tool.
Insurance agents greatly anticipate the potential creation and expansion of this new insurance modality. To make sure that it will happen, the Private Insurance Superintendence (Susep) published a motion regarding the rules and criteria pertaining new low-cost car insurance plans in March 30, 2016. Before the Dismantling Act, insurers could only use new, original parts, which greatly impacted policy prices for old cars (often more prone to malfunction). By offering a cheaper, more competitive product, the industry expects to increase the national fleet of insured vehicles, which is relatively stuck in terms of percentage points since 2006 (around 30%). However, few insurance companies have made the product available in the market. According to the Chief Commercial Officer of a large organization in the field, expectations are that the number of insured vehicles start to rise again once this new product gets to the market.

The new class\textsuperscript{18} cannot afford to pay R$ 1,500 (US$380) for a car insurance policy, which means a great number of vehicles in circulation is not insured. Things are likely to be different if we are able to sell policies priced at R$ 1,000 (US$270). [...] The company’s name currently trades over 4,000 policies every month. With the new product, they expect to be able to sell 7,000 policies per month. [...] Eighty percent of vehicles in use are 5 years-old or newer. This group will be the focus of the new insurance type and we hope to reach 40% of the national fleet.\textsuperscript{19} (Chief Commercial Officer, Apólice Magazine, 2013)

In addition to facilitating the regulation of the low-cost car insurance, the Dismantling Act also led some insurance groups to open their own salvage yards. Vehicles that are claimed by the insurer after collisions, floods, total losses, and thefts are dismantled by the organization itself and the parts are sold to the general public, usually through the Internet. They can also be used to repair cars insured under the low-cost plans.

Since the law came into force, insurers became competition to the traditional salvage yards, which are criminalized and often do not have the resources to (nor are interested in) adapt to the new system to control the sourcing of parts. Considering that the trade of separate car parts can be worth up to five times the price of the actual car in the market, the Dismantling Act enabled large insurance companies to compete against the illegal market and control an entire life cycle (sale of insurance policy – claim – dismantling – sale of auto parts – repair of claimed cars). It is worth noting that:

It may sometimes be difficult to distinguish between legal and illegal, but that does not mean there is no difference between them. Formal laws, codes, and rules have power and circumscribe force fields (...). It is not about parallel universes, much less contrasting formal vs. informal, legal vs. illegal. Rather, it is in the intersections that power games, power relations, and playing fields are circumscribed. These force fields are displaced, redefined and recomposed according to multiple forms of control and also (or mainly) because of the criteria, processes, and apparatuses used to criminalize such practices and activities, varying from tolerance and consented transgression to repression in response to contexts, political micro-scenarios, and power relations that arise out of each plight. (Telles 2010: 30)

In this respect, analyzing the Dismantling Act case surfaces matters related to the frontiers between formal and informal, legal and illegal (Telles 2010; Dewey & Beckert 2017)—but it goes beyond, as it allows us to envision how these classifications, which are integral part of the formalization process, are critical to understand how control mechanisms are put in place to favor certain agents in detriment of others. On top of that, the low-cost car insurance is an important product to compete at marginal insurance market level.

The Insurance Parallel Market: Between Regulation and Criminalization

I’ll make a comparison. According to medical dictionaries, a pandemic is an epidemic of massive proportions that spreads freely across a certain region. It is a contagious disease that simultaneously infects a large group of people and kills. The Brazilian insurance market faces a dangerous

\begin{itemize}
\item The national insurance sector is looking at reaching new market niches by designing products for lower-income classes. This has also been on the World Bank’s radar since 2005, when the Micro Insurance Agency was created. For more information on insurance sales for lower-income groups (in South Africa), see Erik Bähre (2010).
\end{itemize}
The excerpt above illustrates the panic across the insurance sector in face of the creation of a potential *marginal* (or *parallel*) insurance market. In the past years, especially 2016 and 2017, the rise on car theft numbers in some Brazilian states has dramatically impacted car insurance sales and pricing.

In the first half of 2017, for instance, the search for insurance plans grew 5% in Minas Gerais due to high car theft rates in the state. According to the National Confederation of Insurance Companies (CNSeg), organizations from Minas Gerais paid R$1.4 billion (US$380 million) in claims related to robbery, theft, or accidents. Car theft has also been mobilizing public authorities, insurers, brokers, and policyholders in Rio de Janeiro. According to data published by Rio de Janeiro’s Public Safety Institute, seven cars were stolen every hour in the state in February of 2018. The state registered 5,300 car thefts in March of 2018, the highest number of thefts since 1991. Given this scenario, insurance companies raised policy prices between 10–25% and have declined new sales and renewals to policyholders from neighborhoods that show high robbery and theft rates.

The same period saw a dramatic increase in the number of vehicle protection offers sold by associations and cooperatives across the national market, mainly in the states of Rio de Janeiro, Minas Gerais, and São Paulo. Their product is up to 70% cheaper than traditional insurance plans and includes a free tracker, life insurance and funeral assistance. Pricing is their chief advantage: Different from traditional insurers (name used by these associations to refer to large organizations), the cooperatives do not carry out analyses of customer profiles nor offer different policy prices based on the car make and year. For this reason, this business model expands mostly among those considered ‘high risk’ cases (people with debt, trucks, old cars, dwellers of neighborhoods with high theft rates etc.) and that often have their applications for traditional insurance declined. According to CNSeg, approximately 1 million cars are under vehicle protection in Brazil. In light of estimates like this, insurance market agents are mobilizing to curb and regulate the commercialization of vehicle protection plans.

In response to the negative impact of vehicle protection over insurance sales in 2018, labor unions launched the Vehicle Protection is not Safe/Vehicle Protection is not Insurance Campaign (in Portuguese, *Apólice* magazine, December 2017)

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21. Representatives of consumer protection agencies, civil society, and organizations from the insurance industry (Susep, Fenacor, Fenseg) attended a public hearing that sought to clarify the disproportionate price increase practiced by car insurers for hiring and renewing insurance plans, in addition to discussing the rise of a parallel insurance market brought about by cooperatives and associations [focused on vehicle protection plans]. See ‘Aumento no preço de seguros para veículos é tema de debate em comissão da Alerj,’ 4/18/2018, available at http://sindsepp.org.br/site/noticia-texto.aspx?id=29866. Last Accessed 11 February, 2019.


Proteção veicular não é seguro—the word seguro means ‘safe’ and ‘insurance’ at the same time). They created YouTube videos and an online booklet to argue that vehicle protection puts the population at risk, as they allegedly offer the same conditions as traditional insurers while that is actually not true. According to these materials, vehicle protection is a mutual protection agreement whose members do not pay a fixed price for the insurance, but they split claim costs on a monthly basis. Brokers and insurers claim that there is no guarantee of claim compensation, as this would come down to the association’s cash flow in a particular month.

Furthermore, vehicle protection was not yet regulated and there was no public agency in charge of its supervision, whereas insurances are supervised, regulated, and inspected by Susep. During field research, it was emphasized by a source and an insurance broker that the new law would ‘sweep out the market’—that is, the regulation would raise costs for associations and hence the market would lose its appeal to them. Vehicle protection plans are bound to be more expensive, since they now must comply with the same requirements as insurance companies. The expected outcome is that most agents will not be able to afford operations any longer, giving room to large groups.

The passing of the bill was celebrated by several entities and agents in the national insurance market.25 A. V. praised his son’s project and stated that the voting was ‘symbolic’, since there were no objections or votes against it. According to him,

The approved bill is really beneficial to society as a whole. Everything is easier when good forces (sic) and the insurance market are in sync, united, as were the Congressmen from this special committee, some entities representing vehicle protection, Fenacor, Sincor, CNseg, Fenseg, the National School of Insurance, and other institutions. This is particularly true when there is a legitimate representative in Congress [his son, L. V.], who has deep knowledge of the sector and is truly concerned with the consumers’ rights.26 (my emphasis)

Conclusion
This article explored the presence of representatives of the insurance sector in the Legislature and called attention to their practices and discourses around safety in relation to the regulation of illegal and informal markets. On the one hand, their proposals are based on discourses around the fight against crime and violence, consumers’ rights and even environmental conservation. On the other hand, there is also the goal of ‘sweeping out the market,’ as mentioned by a source within this study. In addition to alleged positive social impacts, the regulation of the car parts market brings at least three benefits to insurance companies, namely: i) Reduction in car thefts, which represent great losses for those organizations; ii) Cheaper insurance policies, expected to lead to a larger number of insured cars and curb expansion of pirated insurance offers; iii) Competition over the control of the car parts market against salvage yards, that are now unable to operate under their former rules. The bill that seeks to curb the pirated insurance offers pandemic also helps restrain the growth of competitors by establishing legal benchmarks to their operations and forcing them to raise their prices. Following other articles that constitute this dossier (Feltran & Horta 2019; Hirata

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26 Cássio followed up closely the negotiations for passing the bill in Brasilia. While celebrating victory, he stated: ‘We took a big step yesterday (5/22/2018), we did a great job passing bill 3139/15 that regulates cooperatives and associations engaged with vehicle protection. We would like to thank Congressman L. V. for bravely advocating for our cause. We would also like to thank the committee chair […] for understanding the importance of preserving our institution, insurance, and advocating on behalf of consumers. Furthermore, we would like to show our appreciation for Fenacor, hereby represented by A. V., for their support in this endeavor.’
Fromm: Creating (Il)legal Markets

This paper does not infer, a priori, that the frontiers between legal and illegal are economic or analytical barriers. Rather, they help understand the social and political processes involved in building these barriers, as they offer the elite the possibility to criminalize and socially control certain groups.

In this sense, the two cases addressed herewith—the enactment of the Dismantling Act and the bill that regulates cooperatives and insurance associations—put in motion both formalization and criminalization processes that can define the frontier between legal and illegal, as well as between formal and informal (Telles 2010; Beckert & Dewey 2017). The economic agenda surfaces as an intrinsic part of the political agenda and of the parameters set up for legality, in a way that ‘state-private distinction may be fluid, subdivided, overlapping, or otherwise obscure’ (Wedel 2003: 156). This dynamic gives rise to hierarchies and a divide that benefit a few economic actors in detriment of others. Afterall, as Cassio expressed in his speech: ‘You either take part in party politics or will be subject to the wishes of those that represent you in it.’

Competing Interests

The author has no competing interests to declare.

References


This paper explores some of the interactions between community workers, drug traffickers and militiamen in the city of Rio de Janeiro and in the Baixada Fluminense region. It is mainly intended to examine and compare the tensions created by the territorialization of social housing policies into drug gang-controlled favelas and militia-controlled areas. To conduct this examination, I specifically sought to grasp how the interactions between public policy agents and illicit market actors can be framed (in the goffmanian sense) to avoid the use of force and how different interactional framings impact drug and illegal security markets. My fieldwork and interviews with community workers allowed me to identify two lines of argument successful in maintaining social interactions and pushing away the use of force: the good of the community and the good of the business. I argue that the negotiations between community workers, drug traffickers and militiamen eventually fuel illicit markets in unexpected manners.

Keywords: urban policy; illicit markets; community work; drug trafficking; militias

Introduction

Once again, the routine of the two social workers and five community workers responsible for community work in the condomínios populares of Parque São José, in the city of Duque de Caxias, had been interrupted by shootings. Rumors that drug dealers had raided a construction site in a nearby neighborhood overlapped with rumors that a mob had attempted to lynch robbers at the bus stop across the street. The shootings lasted longer than usual, so the seven women decided to stop their fieldwork to have an early lunch. At the restaurant in downtown Duque de Caxias, away from the condos and their residents, they were free to talk about their daily routines of visiting homes, inspecting buildings for maintenance issues and meeting with condo managers. At that specific time, residents were mainly concerned about the collection of security fees, questioning if they were paying for a legitimate service or being extorted by the militia. None of the community workers recorded those fees in their fieldwork notebooks, but they were impelled to...
act as mediators between residents, condo managers and their dangerous liaisons in view of those mounting concerns.

During my six-month fieldwork with that team of community workers, I repeatedly heard them explain the collection of security fees as an illegal way to “fill the void” left by the “absence of the State.” The social and community workers are public policy agents themselves and act “on behalf of the State”, as they say, in urban peripheries. Nonetheless, they regard the beneficiaries of the housing program “as children” who need to be taken care of and guided continuously; otherwise, they would be manipulated by ill-intended people. Even though it had taken the community workers months to enroll the thousands of families that moved to those five large housing estates and the daily plantão social, or “social duties”, in which they kept monitoring the new residents settling in, all this effort was regarded as insufficient because it had failed to “strengthen the community ties” among those families, who came from widely different areas of Duque de Caxias (Figure 2). If no strong social ties were built among the residents, a parallel power—either drug gangs or militias—would fill the “institutional vacuum” left by the State, providing services, such as cable TV, public transportation, cooking gas and security. Accordingly, the program managers believe informal and illicit markets spring up to “fill the gaps” left open by public policy and its inability to create a social fabric from which a legitimate political system can emerge.7

I gradually arrived at an alternative interpretation for the expansion of illicit markets in urban peripheries under government intervention, after observing the work routines of community workers involved in the PAC Favelas,8 Morar Carioca9 and Minha Casa Minha Vida (MCMV) programs for over eight years. As I will be showing throughout this paper, the very negotiations conducted by community workers employed in urban policy fuel illicit markets organized in poverty-stricken areas in unexpected ways.

This paper is intended to serve as a contribution to two corpora of literature on urban studies. First, it provides an ethnographic account of the ambiguities and contradictions of social development policy in Brazil. After an “urban adjustment” in the 1980s (Arantes 2004), multilateral agencies, such as the World Bank and the InterAmerican Development Bank, have become key political actors in Latin America’s urban policy. The creation of the United Nations Human Settlements Program in 1978 paved the way for a new scale of international funding for social policy in developing countries. If the absence of local resources justified international funding, the funds came with numerous mandatory prescriptions of state restructuring. Brazilian architect Pedro Arantes (2004) analyzed the institutional building process that gave birth to a prolific development niche in Latin America designed to eradicate urban poverty. Brazil particularly has been standing as a “laboratory” for housing programs in this ever-growing circuit of “poverty capital” (Roy 2010). For the last four decades, accounts of urbanization experiences across Brazil have been compiled and systematized in social reports, political assessments and best practices handbooks exported as guidelines to other developing countries (e.g. Villarosa & Magalhães 2012). In this emerging “circuit of capital and truth”—in which knowledge and truth politics on urban poverty (Roy 2010) have consolidated a powerful “interpretative community” (Mosse 2005) of consultants and managers—people, documents and intervention models circulate in a certain way.

1 I have borrowed the phrase ‘dangerous liaisons’ from Michel Misse (1997), whose work traces the connections between the drug market and police corruption. This phrase is good enough because it demonstrates the overlap between criminal and state practices, which ultimately allows the reproduction of the illicit market. In the above-mentioned case, the expression “dangerous liaisons” describes the relationship between the type of condo management and the connections with the militia controlling the area in which the condomínio popular has been built.

2 Concern about the organization of illicit markets in areas under government intervention, whether they be favelas being urbanized or housing projects and condomínios populares, was not limited to the social work team I observed between 2014 and 2015. In 2014, the Caixa Econômica Federal (CEF), or Federal Savings Bank, a government-owned bank responsible for funding countless social policies, issued a call for urban and social intervention projects in twelve condomínios populares built under the MCMV program throughout Brazil. The purpose was to use the bank’s social and environmental fund to introduce a plan for the integrated and sustainable development of territories to handle the “issue of urban violence” in those new housing areas, then profusely covered by the media throughout the country. I worked as a consultant in two of the condomínios populares selected in this CEF call for proposals: one in Ribeirão das Neves, Minas Gerais State, and the other in São José de Ribamar, Maranhão State. Just as the Duque de Caxias community work team, the employees from the CEF and the housing departments of those cities regarded illicit markets—in both cases, the drug market specifically—as a result of insufficient community work.

3 The PAC Favelas program was a part of the Programa de Aceleração do Crescimento (PAC), or Growth Acceleration Program, created in 2007 by the federal government under the Workers’ Party. The PAC was an important infrastructure investment policy in Brazil. PAC Favelas focused specifically on the urbanization of poverty-stricken areas, with the construction of urban infrastructure and social service facilities.

4 Morar Carioca was a favela urbanization program created in 2010 by the city of Rio de Janeiro. It was designed to ensure homes had minimum living conditions and to build urban infrastructure in a number of favela clusters in the city.
In the contemporary flows in this circuit of poverty capital, Medellin rose as a best practice hub in 2014 when it hosted the Seventh World Urban Forum. **Social urbanism**, the urban planning theory that guided the urban interventions in Comuna 13, is based on two premises: first, that the citizens (not the government) are the urbanist’s clients, and second, that urban planning is only one gear in the social organization of space, alongside social work, urban law and sanitary medicine, among others. On its turn, the ongoing interactions between beneficiaries and social technicians, before, during and after the urban works is the key element in the promotion of social inclusion, resulting, it is expected, in increasing rates of employment and income and decreasing rates in crime (Echeverri 2016; Quinchía 2011).\(^{10}\) In Brazil, social policies based in **community participation** are not a novelty and have existed since the end of the 1970s (Araujo 2013; Cortado 2018). Despite the presentism in the urban studies (Fischer 2014), **social urbanism**, as implemented by the Colombian architect and urban planner Gustavo Restrepo in the famous interventions in Medellin, was widely disseminated in Brazil by the Conselho de Arquitetura e Urbanismo, or the Architecture and Urban Planning Council. In 2013, it also inspired the national methodology of poverty eradication consolidated in the Caderno de Trabalho Técnico Social (CEF 2013), the Social and Technical Work Guideline for nationwide urban policies, such as the PAC Favelas and the MCMV programs. The community workers in the opening scene of this paper followed this specific methodology in their work routines.

In the face of these patterns of capital urbanization (Harvey 1982), it is not surprising that urban scholarship in Latin America shares an agenda. In Brazil (Rizek & Georges 2014; Shimbo 2010), Mexico (Carvalho 2016; Valenzuela-Aguilera 2015) and Chile (Araos 2016; Hidalgo 2005), researchers have explored the commoditization of housing and the effects of housing policies on low-income family arrangements. Furthermore, economist Mariana Fix (2011) examined the financialization of the Brazilian real estate market. Architect Lucia Shimbo (2010) investigated the development of the “social housing market niche” as a result of the new relationship between the state, construction companies and financial capital, in which the right to housing drives capital accumulation. Architect Eliana Andrade (2011) analyzed the differences and continuities between the Banco Nacional de Habitação (BNH), or Brazilian National Housing Bank (1965–1986) and the MCMV program. Architects and urban planners Adauto Cardoso and Luciana Lago (2013) explored the peripherization effect of social housing nationwide, driven by the MCMV program. Wellington Conceição (2016) studied the efforts to discipline the program’s beneficiaries. My own doctoral dissertation in sociology (Araujo 2017a) dealt with what I called the “circuit of urban construction works” that regulate the flows of money, people and documents through which housing is produced and distributed to the low-income families.

This paper, in turn, is intended to shed light on the invisible dynamics of policy administration: those which are morally repelled and overlooked in the production of social reports and the negotiation with illegitimate actors who control prolific illegal markets in Brazilian urban peripheries. As I have pointed in the opening scene of this paper, the interactions between community workers, drug dealers and militiamen are crucial to the daily management of housing projects, but they stay out of the official documents.

Community work is a key part of the enrollment in, and the distribution of homes under, Brazilian housing programs. Part of a lasting political tradition dating back to the 1960s, when the Catholic Church antagonized the Communist Party over the political guidance of urban workers (Lima 1989), community work was institutionalized in the late 1970s as part of the social services the state provides for the urban poor. Since then, community workers are themselves residents of Brazilian peripheries hired as public policy agents responsible for “creating ties between the peripheries and the government” (Araujo 2013; Feltran 2007), through a wide range of activities: enrolling beneficiaries in social programs, providing urban planning guidance, assessing shacks and houses and organizing meetings with local leaders. Community workers, therefore, gather information without which architects, urban planners, sanitary physicians and social workers would not be able to work and negotiate the territorialization of urban intervention plans with local residents.

Negotiations over the performance of public works in poverty-stricken areas involve a great deal of tension. As some researchers have been arguing (Abramo 2009; Araujo 2016, 2017a; Magalhães 2013), social housing policies eventually boost local real estate markets because they impact overall housing conditions.

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\(^{10}\) Housing policies focusing on community engagement are not new to Brazil. They have been in place since the 1980s, when it was recognized that favelas (Araujo 2013) and loteamentos irregulares, or illegal urban lots, (Cortado 2018) should be urbanized, rather than eliminated by evacuation policies. My research on the emergence and consolidation of community work, as opposed to what the supporters of social urbanism say, shows the effects of housing policies are far more complex than the much sought-after social inclusion, with controversial consequences regarding the fall in urban crime rates.
During the execution of urban construction works, community workers start managing the purchase, sale, leasing and exchange of, as well as compensation related to, houses and apartments. The price and symbolic value of buildings and urban services involve fierce disputes in those transactions. Although the consequences of social housing policies for beneficiaries have been studied previously (Abramo 2009; Araujo 2017a; Cavalcanti 2007; Conceição 2015; Coutinho 2017; Magalhães 2013), little has been said about the effects of those policies on illicit market actors operating in favelas and comunidades.1

What sense do drug traffickers and militiamen make of urban public works? How is authorization to implement public policy in the areas under their control obtained?

To that end, I use ethnography as a sociological magnifying glass that allows grasping the patterns of interaction between community workers, drug traffickers and militiamen. Community workers anticipate the effects urban policies might have over illicit market dynamics and develop approaching strategies that help prevent the use of force against them. In the attempt to turn fear into strategies, community workers assume the point of view of drug dealers and militiamen and reflect upon the values that light poles, paved roads, sewerage system and garbage collection might embody for those illicit actors. How community workers frame the approach to those violent actors to defuse tensions is the question I seek to answer.

In this regard, my interest in this paper focuses on the different “techniques of social management,” or the arrangement of social activities in space and time (Goffman 1982), employed by community workers to do community work: the skills to interpret the important elements that make it possible to frame the interactions at issue, the ability to “put into brackets” the social action of the other and to create zones of relevance to their own attention and action (Schutz 1974). What conflicts arise and what adjustments can be made in the face-to-face interactions between those social housing policy workers and illicit market actors? (Thévenot 2002). How do community workers “take hold of the environments” (Thévenot 2001: 5) in favelas and militia-controlled areas?

Taking the community workers’ perspective, I describe and compare the negotiations occurring in drug gang-controlled favelas and those occurring in militia-controlled areas to figure out how urban public works conflict with, and accommodate, illicit markets.

Negotiating with the boys of the drug trade

The municipality began to mediate contact between contractors and residents’ associations in the 1990s, during preparations for the urban public works. Residents’ associations were entrusted with collecting resumes from residents seeking job opportunities and with mediating the relationship between construction teams and drug traffickers.

The use of force always looms large in the interactions between community leaders and drug traffickers, and rumors and stories of extremely gruesome acts abound. However, some transactions make it possible for the works to be performed in the favelas. Leaders may pay a permit fee in cash or cement bags, or provide favors, such as signing someone’s carteira de trabalho, the Employment and Social Security Record booklet, giving a family member a job or providing bandidos, criminals with construction worker uniforms so that they “dress as workers” during police raids. In return, they obtain the authorization needed to perform the works, a guarantee that becomes “political merchandise” (Misse 1999) because the strikingly asymmetrical power becomes a resource with economic value. Since the pioneering interpretation of Michel Misse on drug trafficking (1999), the arrego, or fix (i.e., the permission drug traffickers purchase from the police to conduct their trade in the favelas) has been seen as a type of “political merchandise” that ensures the existence and operation of the drug market in Rio de Janeiro’s favelas. My interviewees emphasize traffickers themselves charge community leaders and community workers for authorization.

Although necessary, that transaction is not all that is needed for works to be performed. Authorization for works is merchandise that prevents and postpones the use of force, but there is never any equivalent to it. Those who buy authorization are trapped in a spiral of debt that is hard to manage. Accordingly, those paying the arrego must adopt a series of self-monitoring strategies. The construction workers are cautious about saying where they actually live, fearing the wrath their address in favelas under the control of opposing

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1 I make a distinction between favelas and comunidades as native categories to stress the moral distinction made by the social actors themselves between drug gang-controlled favelas and militia-controlled areas. The term comunidade is widely used as a means of moral cleansing (Machado da Silva 2008) and distinction between residents and criminais (Birman 2008). In militia-controlled areas, comunidade refers to the moral region of tranquility, of freedom from the drug trade (Araujo 2017b). Because the presence and activities of militia groups are scarcely discussed in the public life of those localities, the term also establishes a distinction from criminais. I will be using the term ‘poverty-stricken areas’ to refer to both spaces just as Machado da Silva (2008) did.
gangs might cause, as well as using expressions or singing songs associated with rival factions. It is crucial to do favors, such as buying a quentinha, a packed lunch, or carrying a drug load, to maintain the authorization. The construction workers never know to what situations they may be submitted.

Community workers also engage in specific interactions with drug traffickers, in addition to residents’ associations. They all, mainly those living elsewhere, must have an ID, wear a uniform and a badge and carry a clipboard to move around the area. Above all, they must be able to feel the “atmosphere of the favela” (Cavalcanti 2008) and interpret the changes of the elements that make up that environment. It is important to know the terms and slang; however, it is imperative to be able to ler o movimento (i.e., interpret the dynamics of the boca de fumo [the drug-selling spot], the circulation of bondes [the groups of drug dealers], gerentes [managers of drug selling spots], soldados [armed security guards], aviões [bagboys], olheiros [lookouts] and motorcycle taxis around the favela, as well as the relaxed tone of the conversations in drug-selling spots and the sound of firecrackers) to move around safely. Nevertheless, community workers are often caught in crossfire, in shootings with rival factions or the police. Instruction about those situations is an important part of training new community workers.

Gender and age are two key distinguishing categories in framing the interactions between community workers and drug traffickers. If community workers were mostly women in the late 1970s because their activities were regarded as a woman’s job, gender has gradually become a decisive factor in the expansion of social programs. From the 1990s, care activities and the supposedly feminine qualities of empathy and understanding were merged into what Brazilian sociologist Bila Sorj has named ‘social care’ (2016) in community work team selections. I have also pointed out the consolidation of the illicit drug market has made gender a key distinguishing category in both the circulation of technicians around favelas and the performance of public works (Araujo 2013). Let us look into how gender frames social interactions and makes negotiations between community workers and drug traffickers possible.

In any favela, women inspire less mistrust than men, who are always suspected of being undercover police officers. Just as leaders, community workers depend on authorization to do community work. The resources at their disposal—enrollment in social programs, assessment reports, social diagnostics, et cetera—are much less tangible than money and disguises. As a result, authorization is obtained through other means, (e.g., small services, such as escorting drug traffickers out of the favela or taking messages between morros [literally translated as hills, but widely used to mean favelas] controlled by the same drug faction).

Although women do not capture drug dealers’ attention or inspire mistrust, their gender alone does not set the tone of their interactions in the bocas de fumo. Age is the second distinguishing category handled between the actors. Older community workers are seen mainly in their roles of mothers and aunts. To them, the criminals can be seen as the boys of the drug trade. The men’s chronological ages matter less than the relationship established with them, based on moral superiority. This may have a twofold effect. The women involved in taking care of the boys of the drug trade when they were little—as mothers, neighbors, childminders or daycare workers—earn enough attention to talk. Their social role as caretakers inspires respect and authority. Depending on how close their personal relationship with the boys may be or might have been, those women take into account certain elements of the boys’ life stories to excuse their involvement in crime. Therefore, age is more than just a distinguishing category, it is a moral category.

In contrast, younger community workers refer to drug traffickers as the guys of the movement and are always alert to any flirting signs. In the favelas in which those women live, their social ties help prevent those situations. Being someone’s wife, knowing, or being related to, someone from the movement, those women are in a position to demand respect. In those cases, the existence of a male figure between the community worker and the criminal interested in her ensures the latter will keep his distance.

Therefore, the forms of address between community workers and drug traffickers involve a certain morality. Just as drug traffickers can request information about the people moving around the morro, their activities and the urban intervention projects, community workers can introduce themselves to conduct

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12 For information about the hierarchy of a boca de fumo, the drug-selling spot, see Grillo 2013.
13 The first community workers in the early 1980s were teachers, cleaning ladies, healthcare center assistants and monitors at daycare centers or community schools (i.e., women dedicated to providing care).
14 By describing supermarket situations, Brazilian sociologist Alexandre Werneck (2011) explores how old age serves as a moral device to adopt certain morally questionable behaviors. In the case discussed in this paper, the infantilization of drug traffickers as boys, regardless of their biological ages, is used to distinguish them, frame any possible interactions with them and pave the way for negotiations.
negotiations. The manner in which the rapprochement among the actors unfolds is crucial to coordinate expectations and “take hold of the environment” (Thévenot 2001).15

The use of the terms boys of the drug trade or guys of the movement to refer to criminals also depends on a third factor: the use of force. An aggressive attitude—extorting, constraining, demanding excessive favors and imposing degrading conditions—which shows a wicked nature that resorts to the power of ferro (literally iron, but used to mean gun) (Zaluar 1985) to impose oneself, is frowned upon.16 It shows a lack of respect for others and indicates rapprochement and negotiation are not possible.

Respect is a key value in the combination of gender, age and the probability of the use of force and sets the tone for certain negotiations to unfold. It is not possible to negotiate with bicho ruim (violent criminals), only with the boys of the drug trade or guys of the movement. By introducing themselves as mothers, aunts, caretakers or respectful women, community workers ensure a territorialization of their selves (Goffman 1982), which gain the attention they need to express their ideas.

Having met and interviewed over twenty community workers, I identified two arguments mainly used as the most generalized and effective convincing strategies: the good of the community and the good of the movement.

In the former case, there is an effort to develop identification and empathy. Having known the traffickers’ families or the traffickers themselves from birth or childhood, community workers can tap into this closeness to set the tone of the interaction and ask for circumstantial attention. In this case, they put the boys’ illicit activities “into brackets” (Schutz 1974) and focus on other ties—kinship, neighborhood or friendship—so a set of certain shared interests and values can prevail. The community serves as the bonding category that encompasses the entire group of favela dwellers, no matter how they make a living identified by their lack of social prestige. Based on that framing category, certain sets of improvements are seen as efforts to implement the good of the community effectively (e.g., cleaning, opportunities for children and decent housing).

An example may help understand how the good of the community is engaged effectively. A community work team was struggling to keep the favela’s garbage deposit clean. Some residents, along with technical teams from the city hall, organized a mutirão, a joint effort, and everyone pitched in with the work; however, some dwellers failed to dispose of trash at the scheduled days and times, and the area became infested with rats, cockroaches and flies again. Recognizing the community workers’ commitment to keeping the place clean, one of the gerentes da boca (managers of the drug-selling spot) called a meeting with the head of the team and installed a sign with the dono do morro’s (highest ranking member of a favela-based drug gang) initials commanding the garbage deposit be kept clean.

It should be noted housing and urban service issues mess things up at the drug-selling spot if any gerentes or soldados are called to solve them. On the other hand, stepping in to provide an external guarantee to the community work is not necessarily a problem. Respecting community workers carrying out their activities ensures some level of cooperation.

The second most effective argument I identified is the good of the movement. The market regime (Boltanski and Thévenot 1991) is used to convince drug traffickers of the benefits the public works can bring to the drug-selling spot. I have heard countless times that “the drug trade is their job”, in a clear effort to qualify those business activities by putting the illicit nature of goods traded “into brackets” (Schutz 1974). In this regard, the interventions of public works should be considered based on their positive effects on the business. No case can be made for the installation of a light pole near the place in which cocaine is packaged for sale because that would draw too much attention to this important stage of the production process. In contrast, small squares and paved streets make it easier to organize the activities of the drug-selling spot, make the area more comfortable for gerentes and soldados and provide easier access to customers. Those are good arguments for businessmen.

15 In Thévenot’s own words, “My approach aims to account for not only the movements of an actor but also the way his environment responds to him and the way he takes into account these responses. That is what I refer to as the “realism” of each regime. Most conceptions of practice pay little attention to this type of responsiveness. […] Differentiating regimes brings to light variations in the relevant reality which is put to a test in the dynamics of each kind of pragmatic engagement. The relevant reality depends on the different ways one has to “take hold” of the environment” (2001: pp. 4–5).

16 In turn, the use of law enforcement against drug traffickers in the many violent raids occurring in favelas turns drug traffickers back into boys.
Negotiation with the militia guys

The dynamics of social work are somewhat different in militia-controlled areas. The association is the parallel power (i.e., the local political institution itself controls illicit markets). Security is the militia’s distinctive political merchandise (Misse 2011) due to the privatization and sale of the service provided by security officers. As I have argued previously (Araujo 2017b), the manner in which security is provided is what distinguishes militiamen’s activities from the protection provided in drug gang-controlled favelas, as anthropologist Alba Zaluar (1985) showed in the early 1980s, and the security services sold by private sector companies operating in this market niche. There is a range of possibilities in those areas, from extortion to the deliberate purchase of goods (Cano & Duarte 2012.) I have argued the distinguishing feature is the moral claim that warrants the use of force against the very same people who pay for security services. Reports of corrective coças, trashings said to have turned younger people into good citizens, are very common.

If militiamen can batter and even kill locals in the areas under their control,17 against what exactly do they sell security? The specter of urban violence (Misse 1999) looms large in those areas and is believed to be lurking around all the time, just about to take them over. As I have pointed out, the ‘fear of living in fear’ eventually leads to submission—more or less legitimized—to the rule of militiamen. The residents of militia-controlled areas pay to keep violence away.

Security fees can be charged from residents and merchants depending on each area. As Misse (2011) shrewdly observed, the value of the merchandise is set not by the supply side—by improving product quality, increasing production or enhancing techniques—but by the demand side. The more people pay for security, the more valuable it is. After all, no one wants to be left out. Therefore, the greater a militia’s capacity to expand the areas under its control, the higher the demand for its security services.

The negotiations with community workers eventually pave the way for the militias to take over new areas. My research has shown that the expansion of militia-controlled areas in the city of Rio de Janeiro and in the Baixada Fluminense region is not determined solely by conflicts with drug traffickers for territory, as Alba Zaluar and Isabel Conceição identified in 2007. Based on my fieldwork and interviews with community workers, I identified two specific unexpected consequences of the interactions between those professionals and militiamen.

The first is a strengthening of the respective militia’s political domination. That effect is not exactly different from that which results from the community workers’ relationship with any residents’ association. Social programs bring urban services and infrastructure to poverty-stricken areas, strengthening local powers (Araujo 2013; Silva & Rocha 2008.) Indeed, an entity must prove able to provide services for the locals to exercise power legitimately, as sociologist Luiz Antonio Machado (1967) showed so many decades ago.

In the case of residents’ associations in militia-controlled areas, the incidence of community work on local real estate markets has specific effects. I cannot say the militias control the real estate markets in their areas. A survey I conducted jointly with the anthropologist Mariana Cavalcanti about the labor and real estate markets in some communities close to the Olympic Park, in the western part of the city of Rio de Janeiro (Figure 1), showed a small concentration of properties in the hands of some individuals; however, we did not collect enough information to establish a connection between those individuals and residents’ associations (Figure 2). In any case, the impact of community work on housing conditions, serving as an intermediary between public and private works, affects the size of militia-controlled areas and has specific economic effects.

Those interventions are not a new phenomenon. The experience of one of the community workers I observed allowed me to trace them back to the early 2000s. In the late 1990s, a housing project was built in the Vargens region, in the western part of the city of Rio de Janeiro, as part of the works of the Favela Bairro18 urbanization program. Families from different areas prone to geological hazards in the city were evacuated to the Prefeito housing project (real name withheld) so that people from drug gang-controlled favelas and a major militia-controlled area started living side by side. The negotiations with the militia-controlled area’s residents’ association for the evacuation were quite tense, with many people threatened at gunpoint. The

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17 It is worth noting that, as Misse, Grillo, Teixeira & Neri (2013) showed, the areas with the highest rates of autos de resistência (killing suspects supposedly resisting arrest) (i.e., deaths resulting from police activity) are in the western part of the city of Rio de Janeiro, widely controlled by militias.

18 Favela Bairro was created in 1993 by the Municipal Housing Department, the program aimed at providing urban infrastructure that would transform the favelas into formal neighborhoods. Funded by the InterAmerican Development Bank, Favela Bairro lasted more than ten years. For more information on the program, see Mariana Cavalcanti’s doctorate dissertation (2007).
proposed evacuation of about a thousand families from the sandy area to new homes would affect the collection of security fees significantly.

The solution found by the head of the community workers’ team was to take some members of the residents’ association’s executive board to visit the new housing project. Unlike other housing projects built in the vicinity of favelas covered by the Favela Bairro program, the Prefeito project had a city guard station, school, daycare center, healthcare center and sports court. Envisioning the possibility of expanding security and so many other services to that housing project with a good infrastructure, the residents’ association was convinced that the eviction could be a good deal.

And it was. A group connected with the residents’ association of that militia-controlled area took over the local association, which was then headed by a community worker evacuated from the Cidade de Deus.
favela four years earlier. That woman had capitalized on her contacts in the governmental bureaucracy and established herself as a community leader of the new housing project. After the militia people came, she was ousted from her position and the association was relocated to the facility supposed to house the city guard station. I do not know whether there was any negotiation between the militia people and the city guards living in the housing project.

More recently, community workers from the MCMV program also found themselves involved in negotiations with militiamen over housing units. Some communities near the Olympic Park almost ceased to exist when families were registered for evacuation due to the combination of a number of urban policies. In one, apartments were granted to members of the residents’ association’s executive board, and this allowed the militia to expand its territorial control. One of the community leaders became the condo manager and, as such, started charging security fees from the hundreds of condo dwellers.

In the city of Duque de Caxias, the managers of MCMV condomínios populares also started charging fees. The five housing projects of the opening scene of this paper were built in a vacant lot in an area controlled by a militiaman. In turn, the construction of stores was agreed upon in negotiations with the contractor; however, they remained empty as late as 2015, when I conducted my fieldwork. All condo managers charged for security and passed on the money to the militiamen.

In all those cases, security fees were left out of community work reports. As I said in the introduction to this paper, I heard residents question the legality of the fees countless times during home inspections and visits. The beneficiaries started paying for utilities—water, light, cooking gas, taxes, et cetera—every month after moving to the condos; therefore, many of them wondered whether they had to pay for security as well. Unlike in other cases, no invoice was issued for this service, which had to be paid for in cash directly to condo managers.

Different paths can lead to an acceptance of the fee depending on a comparison between the institution charging for it and other forms of protection provision in urban peripheries. A comparison between the stories mentioned above allows us to examine certain differences thoroughly.

In the case of the Prefeito housing project, the families from the militia-controlled area were evacuated to their new homes in the project after the dwellers of the drug gang-controlled favela had already settled in. As a result, each side of the housing project had its own market and territorial control for a certain time. The attempt to expand business—both the drug trade and security services—led to a war eventually won by the militiamen.

The drug trade had no territorial control in the vicinity of the the condomínio popular in the Olympic Park area. The acceptance of the security fee was mainly based on an ideology of fear. In fact, there is a widespread fear of raids by drug gangs in the region. Recurring rumors that retail drug trade factions were about to “raid the areas” shaped residents’ expectations and experiences. At first, any conflict or use of force triggered a red alert just as any murders and shootings were seen as raid attempts. Then, there were extensive investigations into all the emerging rumors, and the nature of the events was determined more precisely after collective inquiries. Those rumors caused widespread tension, which warranted the collection of security fees by the condo manager.

In the condomínios populares in Duque de Caxias, security started being sold as an alternative to two types of territorial control. There are numerous drug gang-controlled favelas in the vicinity, so the same ideology of fear mentioned above prevails. On the other hand, there is also an effort to relativize the security fees charged for surveillance services. Active for decades, the polícia mineira controlled that area through intimidation and murder. In comparison, the militia did not use force against the locals so arbitrarily and “only” charged “modest” fees, supposedly compatible with family budgets. In contrast to the aggressiveness of the polícias mineiras, paying security fees provided a sense of continuity of everyday life that was far from negligible.

Experiencing war, the ‘fear of living in fear’ and the fear of death leads to three ranges of possibilities that allow the militias to prevail eventually. Distinguishing between them allows us to understand how militia-controlled areas shape a moral region (Park & Burgess 1967 (1925)), with specific social boundaries within which a certain urban sociability prevails: the tranquility of keeping violence away, which allows daily routines, and the prospect of progress in life (Araujo 2017b).

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19 It would be interesting to conduct a study on the rumors circulating in militia-controlled areas, based on Palloma Menezes’ thesis about the rumors about the pacification (2015). That could be an interesting methodological strategy as far as violent settings are concerned. However, it falls out of the scope of this paper.

20 Polícias mineiras were vigilante groups that killed robbers on behalf of merchants. They became known in the 1950s, especially in Greater Rio de Janeiro. Zaluar and Conceição (2007) discussed the lines of continuity between polícias mineiras and militias.
As can be seen from the three cases discussed, the market regime makes it possible to frame the interactions between community workers and militiamen. Unlike drug traffickers, militiamen are always guys, never boys. They are grown men who run a well-structured business. As the president of a residents' association once pointed out to a community worker, both “work for the city hall.” Therefore, competition between community workers and militiamen over the control of real estate markets may entail risks. In one of the housing projects in Duque de Caxias, the condo manager, who presented himself as a former police officer, threatened to kill a community worker. To dispel the rivalry over the control of real estate markets—less economic than political—the only argument community workers could use in negotiations was the economic gains resulting from urban interventions. Urban services strengthen the local political power relations significantly. Home evacuations cause the most strain. In those situations, the community workers had to recognize the monopoly of power and ensure housing units were effectively granted, which allowed people from the militia to expand their services to new territories and take over representative bodies—residents' associations or condo management boards—through intimidation. The security business starts once the territorial political control is guaranteed.

**Closing Remarks**

Different transactions result from the manner in which community workers' interactions with drug traffickers and militiamen are framed. The good of the community can be used as an argument in negotiations with drug traffickers; whereas, the good of the business seems to be more effective when dealing with militiamen. In both cases, what is at stake is the value of infrastructure and urban services for the respective illicit market actors. To prevent public works from putting a strain on those markets, community workers must prove duly competent, as well as be able to put into brackets the illicit nature of the goods traded and argue for the value of urban improvements to the business by taking the point of view of the other party. It is worth noting how effective the value of the community is for the execution of community work activities in drug gang-controlled favelas. However, framing the illicit drug and security markets in purely economic terms ensures rapprochement, interaction and some understanding between community work teams and the actors of urban crime.

The consequences are different, just as the manner in which the negotiations with each of those markets are conducted. That does not seem to be a fortuitous difference, nor can it be overlooked. By exchanging authorization for disguises and money, drug traffickers raise funds to use in their interactions with the police. In addition, they take tables, benches, light poles and sidewalks as their own to improve both their “working conditions” and access for their customers. Militiamen, in contrast, find in public works and urban services resources to strengthen their power relations with the residents of territories under their control. As leaders who bring improvements, they lay the political foundations on which they start organizing the sale of security services. During evacuations, they negotiate for homes and take new territories, with which they then expand their protection business.

The effectiveness of both systems also makes it possible to consider the prospect of violent sociability, as proposed by Machado da Silva (1994, 1999, 2004). Machado da Silva argues the urban crime wave emerging in large Brazilian cities in the 1980s differs from previous criminal practices, especially the jogo do bicho (an illegal animal lottery), for two main reasons: On the one hand, the social organization of crime is centered on the drug trade. On the other hand, the interactions have undergone a qualitative change. Not only has the number of crimes risen, but also the use of force has ceased to serve as an external guarantee and has become a means of interaction among criminals themselves. Silva (1994, 1999, 2004) also argues the development of a pattern of sociability centered on the use of force, sufficiently permanent, takes on the character of a social order—a violent order—for practical purposes. As Silva himself acknowledges, the analytical consequences lead to the paroxysm of social theory. Ultimately, handling violence as a mode of interaction shatters the assumption of otherness on which social theory is based.

Machado da Silva's view on the formation and consolidation of the drug trade in Brazilian favelas and peripheries is innovative for a second reason as well. He suggests the development of this pattern of sociability leads to the emergence of a sphere of independent social life that does not challenge the internal legitimacy of the state, but coexists with public order. Consequently, the violent order runs parallel to the state order.

As I have shown throughout this paper, the use of force is within the realm of possibility, but it is possible to prevent it by approaching the actors of urban crime in specific manners. On one hand, what is interesting about the good of the community is that it allows claiming the recognition of a coexisting social order
that neither supplants, nor comprises the violent order. The above-mentioned example of the warning sign shows the use of force becomes an external resource when the good of the community prevails.

On the other hand, the principle of the good of the movement brings into focus the importance of money as a mediating factor in the coexistence between both social orders (Feltran 2014). The effort to translate the value of urban infrastructure from “improvements to the community” into “improvements to the business” can be seen as a tournament of value (Appadurai 1986) in which the very object of value moves between social arenas governed by different principles—the law arena and the market arena. It is by bringing economic value to the drug markets and the security markets that the value of public works, infrastructures and urban services eventually becomes effective as the community’s right to housing.

Competing Interests
The author has no competing interests to declare.

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Journal of Illicit Economies and Development is a peer-reviewed open access journal published by LSE Press.
The article comments on a new generation of researchers studying the illegal markets in Brazil. In doing so, I summarize the interpretative model of ‘social accumulation of violence’. Initially applied to Rio de Janeiro, several researchers have now expanded it to other Brazilian states as well as to countries with high violence rates, such as Colombia and Mexico. The model is both historical and social. It combines three main factors that have been feeding one another throughout times and expanded across several places: (1) social accumulation of disadvantages; (2) criminal subjection; and (3) expansion of acquisition strategies across networks of informality and illicit markets, for which the offer of political merchandise is decisive. As proposed in previous works, political merchandise means political assets originated from the privatization of segments of the State’s pretension to sovereignty over the monopoly of violence by different agents, who negotiate these assets in exchange for economic assets or other political goods.

Keywords: Violence; disadvantages; criminal subjection; illegal markets; political merchandises

Two articles in this special JIED edition bring very competent and original analyses of multiple aspects of what can be considered a core ‘puzzle’ related to social accumulation of violence in Brazil. In this article, puzzle means a theoretical challenge that lives on the edge of what shall be considered a successful sociological explanation. The article written by Daniel Hirata and Carolina Grillo is a great comparative synthesis of faction movements in Rio de Janeiro and São Paulo and offer an opportunity to reflect upon part of this puzzle. In her turn, by detailing the relationships of community agents (that work for the government) with drug dealers and milicianos¹ at a micro level, Marcela Araújo (2017) adds another critical dimension to our puzzle that is tied to the well-known issue of the alleged ‘absence of the State.’ This article addresses the consolidation of the most well-known, common aspects of a process that I have called social accumulation of violence (Misse 1999, 2006, 2018) and proceeds to outline the puzzle in question.

The process that I have called ‘social accumulation of violence’ has been taking shape since the 1980s and, today, is observed in practically all Brazilian urban areas. The homicide rate jumped from 12 per 100,000 inhabitants in 1980 to 30 per 100,000 inhabitants in 2017, more than a twofold increase that has not showed signs of slowing down. The Brazilian prison population went from 60,000 in 1980 to around 800,000 in 2019—one of the largest in the world. The pattern of urban criminality went through dramatic changes within the same period; the occurrence of violent crimes has increased in comparison to non-violent ones (Adorno 1995; Zaluar 1994; Misse 1999). However, the greatest change was observed in the transition of small groups formed by individual criminals to large-scale criminal networks. Traditional family-based organizations (who were in charge of jogo do bicho²) in Brazil over decades were replaced with horizontal gang-like networks called factions (fações). Born from within prisons as a means of protection, factions were then combined under common leadership into networks of small drug-dealing companies that also perform

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¹ The member of a militia.
² Jogo do Bicho (The Animal Game) is an illegal gambling game in Brazil; the lottery-type drawing game is controlled by criminal groups at a regional level. For a reference in English, please see Chazkel, A. 2011. Laws of Chance. Brazil’s Clandestine Lottery and the Making of Urban Public Life. Durham and London: Duke University Press.
other types of crime. The amount of arrests for drug trafficking in relation to the total number of arrests in the period is a good indication of this transition.

The first factions date back to the 1980s, when they were first formed in the prisons of Rio de Janeiro. The term ‘faction’ was coined in relation to the dispute over the monopoly of protection and the illicit drug market. The most prominent criminal collectives in Rio are Comando Vermelho (CV), Terceiro Comando (TC), and Amigos dos Amigos (ADA), a dissident group that grew out of CV in the 1990s. Influenced by the demonstration effect of factions in Rio, the Primeiro Comando da Capital (PCC) was born within prisons in the state of São Paulo in the 1990s. It soon won the dispute against smaller factions and became the only major criminal collective in the state. However, unlike Comando Vermelho and Terceiro Comando in Rio, PCC looked to establish less vertical, (sort of) more equitable forms of power distribution—this will be the focus of this article at a later stage.

Year after year, the process that gave rise to Comando Vermelho and Primeiro Comando da Capital has been taking the stage in most Brazilian states, also emerging from within the prison system or in connection to it. The process is characterized either by the expansion of CV’s and PCC’s ‘branches,’ by the creation of ‘franchises’ of local criminal collectives, or by the inception of new collectives of prisoners that adopt new names and acronyms to dispute control over the wholesale/retail drug market and weapons market against CV and PCC in their local routes and cities. Criminal collectives of different sizes and relevancy are starting to make news and grow in importance in their states. Some examples include Família do Norte (in Amazonas), Família Monstro (in Minas Gerais and Goiás), and Okaida (in Pernambuco and Paraíba). In Rio Grande do Sul, local market and control is disputed by seven different collectives (Os Manos and Os Brasas are the oldest ones) engaged in conflicts inside and outside prisons. How have we come to this? What enabled the ‘nationalization’ of criminal collectives from Rio and São Paulo? How were CV and PCC able to expand to the extent that they now control the distribution of a significant part of the drug and weapons market originated in Paraguay and Bolivia?

**The Social Accumulation of Violence**

Such radical changes have been credited to a complex of factors involved in accumulative causal circularity. The model of ‘social accumulation of violence’ is an attempt to summarize the most important ones. Initially applied to Rio de Janeiro, several researchers have now expanded it to other Brazilian states, such as Alagoas and Espírito Santo, as well as to countries with high violence rates, such as Colombia and Mexico. The model of social accumulation of violence is both historical and social. It combines three main factors that have been feeding one another throughout times and expanded across several places: (1) social accumulation of disadvantages; (2) criminal subjection; and (3) expansion of acquisition strategies across networks of informality and illicit markets, for which the offer of political merchandise is decisive. As proposed in previous works, political merchandise means political assets originated from the privatization of segments of the state’s pretension to sovereignty over the monopoly of violence by different agents, who negotiate these assets in exchange for economic assets or other political goods (Misse 1999, 2006).

**Social Accumulation of Disadvantages**

The social accumulation of disadvantages relies upon multiple factors throughout history and expands within the niche to which it pertains: Rapid urbanization and low capacity of public services (education, health, security, housing, transport) to absorb migrant populations, generating an ongoing increment of social accumulation of inequality; this population’s will to be inserted in a consumer society marked by strong income inequality, producing high levels of relative deprivation and informal acquisition strategies, mainly among the youth; and cultural transition from hierarchical identities to of equal social identity demands, producing anomic changes in family structure, in the collective efficacy within the family scope, in vicinal and community forms of life and in the emergence of conflicts of race, gender, and of legitimation of authority at local and institutional levels, especially in relation to the police. Thanks to the use of overly repressive criminal policies to suppress the impact of these strategies on urban informal and illegal markets, particularly in the favelas and peripheral neighborhoods, poor youngsters now fall victims to even deeper criminal subjection. Small thieves and poor youngsters who operate the retail drug trade on behalf of local bosses took part in an ‘arms race’ to protect their sales points from other similar gangs that looked to take over their places. Combined with armed conflicts against rival gangs and the police, the territorialization process of retail drug trafficking in the favelas of Rio de Janeiro resulted in several deaths and arrests, thus strengthening the cycle of social accumulation of disadvantages, now in relation to the state (especially the police, the criminal justice system, and the penitentiary system). This scenario led to more repression, marked by violent operations targeted at the population from the favelas. In response, the collectives grew
even stronger. The expansion of acquisition strategies across networks based on illegal markets and informality was the solution found by poor youngsters to produce resilience, create protection agencies, and resist the social accumulation of disadvantages. Nonetheless, this caused them to be even more vulnerable to criminal subjection, carrying their families, neighbors, and other community dwellers with them. The association of violent, arbitrary, and lethal police repression with police officers’ offer of political merchandise to drug trafficking bosses led to an increase in the price of drugs and firearms and resulted in rebellions conducted by Comando Vermelho, who was not happy with losing part of its revenue to the police. The rampant incrimination of poor youngsters led to a systematic rise in incarceration rates, inflating penitentiaries beyond capacity and worsening life conditions in prisons, thus leading prisoners to organize to fight for their rights and to protect themselves against the violence perpetrated by correction officers and other inmates. The criminal subjection of various individuals started taking the shape of a collective identity in the early 1980s, influenced by the demonstration effect of political prisoners arrested by the Brazilian dictatorial government with whom they shared cells. This led to the creation of the first collective criminal subject still within prison walls: Comando Vermelho.

**Criminal Subjection**

The concept of criminal subjection explains a social process that preventively anticipates incrimination, thus socially producing a subjectivity that is supposedly prone to crime (Misse 1999, 2018). In other words, it is a belief shared by large segments of society that crime dwells in the subject; that a subject may be prone to commit heinous crimes and is potentially unrecoverable. It also makes reference to the subjectivization process that, within the scope of social experience, builds this subject as a criminal subject to match that archetype and hence to be the object of extermination policies, religious conversion, and resocialization (Teixeira 2013). The kinship between the subjectivization process and one’s belonging to low-income social groups and ethnic or racial minorities completes the process, whether by consolidating the dimension of their prospective preventive incrimination or by materializing crime subjectivation in their social experience. In Brazil, they are called *bandidos* (bandits) and are currently associated with drug trafficking and armed robbery (Misse 2018; Willis 2017). They constitute the *comandos*, or criminal collectives—actually, ‘collective criminal subjects’, as they have their own names and identities, stable networks, resilience, and are proud ‘bearers of crime’; they bear ‘violent sociability’ (Silva 2016) as a threat to the police and whoever else does not side with them.

I now proceed to examine two of the country’s most important models of such collectives, Comando Vermelho and Primeiro Comando da Capital. They have also been researchers’ preferred objects of study thus far (about CV: Zaluar 1994; Misse 1999, 2006; Barbosa 1998, 2005; Dowdney 2003; Souza 1996; Arias 2006; Lessing 2018; Grillo 2013; Glenny 2016. About PCC: Jozino 2005; Dias 2013; Biondi 2010, 2018; Feltrin 2011, 2018; Hirata 2018; Willis 2015; Dias & Manso 2018).

**The Two Main Collective Criminal Subjects: CV and PCC**

Two researchers who worked under my supervision, Luke Dowdney and Carolina Grillo, developed the framework I introduced in 1997 regarding the structure of Comando Vermelho’s *bocas de fumo* in Rio de Janeiro, that I shall henceforth recover in greater detail. In fact, there are two frameworks: In the most general one, connections take place through distinctive, not very hierarchical networks—except for the relationship with CV within the penitentiary system, which is completely hierarchical. This is done through ‘visiting connectors’ (*conectores visitantes*: fiéis, donos, advogados, familiares, or ‘believers,’ ‘owners,’ ‘lawyers,’ ‘relatives’) or through prisoners’ use of clandestine cell phones. In the other one, represented by *bocas de fumo* (territorialized sales points), there is a hierarchical structure that goes from donos all the way down to soldados (‘soldiers,’ armed drug dealers that protect the *boca*), vapores (drug retailers), and aviões (bag boys who resell drugs somewhere else). There have been reports of clandestine general meetings attended by dozens or hundreds of donos and general managers at critical times, but this does not happen often. The same model is adopted by other factions in Rio de Janeiro, such as Terceiro Comando (and its dissident group, Terceiro Comando Puro – TCP) and Amigos dos Amigos (ADA).

Three recently published books showcase findings of many years of research regarding Primeiro Comando da Capital. Gabriel Feltran (2018a), Daniel Hirata (2018b), and Bruno Paes Manso & Camila Dias (2018c) argue that the faction from São Paulo transitioned from a vertical hierarchical framework in its first years to a layered structure—called by the significant name of ‘tuning’ (sintonia)—in the late 1990s. The cell phone invention was decisive for the creation of an original management model. Tunings are cells built inside prisons and in neighborhoods where PCC is present. They are meant to be connected at local, national, and international levels. Each site has a PCC representative in charge of administering activities and mediating...
local conflicts. According to Bruno Manso and Camila Dias, authors of ‘A Guerra – a ascensão do PCC e o mundo do crime no Brasil’ (published this year), the state of São Paulo houses the two top PCC instances: Sintonia Geral Final (‘Final General Tuning’) and Resumo Disciplinar (‘Disciplinary Summary’), formed by a select group of prisoners from Penitentiary II, located in the city of Presidente Venceslau. Tunings in charge of activities in other states and countries reside outside of São Paulo. There are also ‘thematic tunings’, such as the gravatas (‘ties’), in charge of hiring and paying for lawyers; the ajuda (‘help’), that distributes food staple and support to the poorest members of the collective; and the cadastro (‘registration’), that registers affiliations and ‘baptisms’ (a compulsory ritual for prospect members to join the comando; they also have padrinhos, or godparents, and take an oath, or juramento). All members that are not in jail must pay a monthly fee to the sintonia da cebola (the ‘onion tuning’), the one in charge of this task. Some other examples are the cigarette tuning, in charge of the contraband of cigarettes; the jogo do bicho tuning and, particularly, the sintonia do progresso (the ‘progress tuning’), that coordinates sintonia do Bob (the ‘Bob’s tuning’, that trades marijuana); sintonia da 100% (the ‘100% tuning’, that trades pure cocaine); and sintonia da FMS (the ‘FMS tuning’, that controls bocas de fumo) (Dias & Manso 2018: 14–15).

PCC seems to have accomplished CV’s initial goal: Constitute a form of oligopoly, a political organization (in a broader sense, unrelated to political parties) to distribute drugs from cities’ poor areas. In his book entitled ‘Irmãos – Uma história do PCC’, Gabriel Feltran compares PCC’s organization framework to that of Freemasonry due to its ‘brothers’ and ‘rituals’, and the fact that decisions are made through ‘debates’ carried out by cell phone. The application of justice and death penalties are enforced after ‘debates’ among local tunings and stakeholders. Offenders have the right to defend themselves. Several authors mention the collectively constituted criminal subject’s pretension of equitable management. PCC’s ability to produce and control violence has been demonstrated in several occasions. Two of the aforementioned authors argue that PCC’s social control skills evidenced through their ‘debates’, as well as the disciplines that rationalize interests in drug sales points and other illicit activities, have had more preponderant roles in the reduction of homicide rates in the state of São Paulo in the past 20 years than the governmental policies in force in the same period.

A Third Collective Criminal Subject: Cops, Militias, and Political Merchandise

By modernizing an old practice of extermination groups from the 1950s, a group in Rio de Janeiro set the stage for the emergence of a new model of illegal activity (Neto 2016). It is also a form of collective that reproduces, in a disciplined and quasi legal way, practices perpetrated by police officers against drug dealers decades ago. The early 2000s saw the onset of collectives of civil and military police officers, firemen, correctional officers, and other public agents, either active or retired, that took on the role of ‘protectors’ in neighborhoods supposedly under the threat of being occupied by drug dealers and/or assailants. They created the militias, who operate at armed capacity and are capable of killing and disposing of their victims’ bodies. In contrast with extermination groups, who showcased similar means of operation but charged local retailers for their services, the militias charge all dwellers a monthly fee under the assumption that something could happen to them should they not be properly ‘protected’. What is the moral and juridical category of ‘extortion’ if not a type of political merchandise? Political merchandise often involves asymmetrical and/or compulsory exchanges, as well as calculations of power and power relations among those involved. There is usually an offer of political assets—even of those supposedly reserved for the state—that are exchanged for economic assets as if they were private commodities. They are not ‘taxes’, since there is no effective pretension of territory’s overall empowerment, but commodities that can (or cannot) be commercialized (Misse 2011). The militias face resistance from community dwellers and have already been defeated on occasion after denunciations to the government—several milicianos have been arrested, including city councilors. The militias thrive in several neighborhoods in Rio thanks to the population’s tolerance of informality; protection offers are initially made by individuals or small groups, such as flanelinhas (people who watch cars in public places), illegal security guards who work for condominums in middle-class neighborhoods, and other social types who make a living out of preventing the presence of criminal subjection in their workplaces. Articulated with the intent to suppress and physically eliminate alleged criminal subjects, the militias partnered with far-right politicians—even the Brazilian President’s sons are being investigated for their involvement with those groups. The current Governor of the state of Rio de Janeiro, a former judge, has publicly declared his support for the use of lethal force against crime. He has recently stated his support to the police after an incident in which security forces killed 13 young drug dealers from Fallet, in the hills of Santa Teresa—the episode is being considered a slaughter by many. The police reportedly ambushed the youngsters in a house and shot them repeatedly with machine guns after having tortured them.
Conclusions
Throughout the decade, over 10,000 suspects were killed in alleged confrontations during legal operations in Rio de Janeiro (Misse et al. 2013). The police’s disproportional use of lethal force aggravated the ‘criminal subjection’ of poor black youngsters from the favelas and peripheral neighborhoods, while officers charged drug dealers for various political goods on offer to retail traffickers (protection, release of faction members who had been arrested, inside information about police raids, and commercialization of firearms).

This matter has already been amply scrutinized by researchers in Brazil (and other countries) in the last three to four decades (Lima et al. 2000; Imbusch, Misse & Carrión 2011; Barreira & Adorno 2010). However, a few questions remain, accompanied by new concepts and, at least, one important puzzle in relation to the Brazilian State.

The most overarching analytical challenge arises from the contradiction between the state’s modernization ideals (in Brazil and in across Latin America), an imaginary built upon an evolutionist line expected to ultimately lead the way to state model standards adopted in Western Europe or the US, and the everlasting resistance to these ideals that emerge from power relations, existing capital and market forms. The thesis of ‘social accumulation of violence’ I defend means that Latin American States drive violence while urging to control it. Overall, their responses are anachronistic and dysfunctional, as well as incapable of realizing the differences between the constitutive problems they intend to overcome.

Increasing violence has surfaced the state issue in Brazil and Latin America and thus revealed a type of state and society disjunction born out of a historic fracture of society itself, in its contradictions and internal differences. European and North American citizenship parameters cannot be used to classify the majority of Latin American populations, to say the least. Lack of state representation, persistent poverty, and massive social exclusion and inequality in terms of civil, political and social rights greatly account for the disjunction that affects the region and the forms of repressive normalization developed by states to deal with these populations. These factors also explain distinctive acquisition strategies used by public agents to own part of their sovereignty just to privatize it, producing different types of political merchandise. After all, what does ‘absence of the state’ really mean? Would it not be better to say that our puzzle consists of a different type of state presence,’ instead? How can we move towards that direction?

A recent process of generalization of the criminal subjection beyond comandos, factions, and militias reached important entrepreneurial and political segments, who have recently been accused of creating ‘crime organizations,’ and helped in electing an Army Reserve captain who defends the memory of one of the country’s most infamous torturers during military rule and introduces himself as a far-right leader, ideologically tuned to military power. To ensure support of his nomination, the army demanded the appointment of a general as his vice-president and several others as ministries in civil sectors. What is more, a federal court judge was invited to lead the Ministry of Justice—not any judge, but the one who set off the process of generalization of criminal subjection and that condemned former President Luiz Inácio Lula da Silva, who in turn was prevented from running (and probably winning) the last election dispute. Whether or not a representation of the crisis faced by the Brazilian State, the generalization of criminal subjection is justified as a means to fight against the generalization of political merchandise in the Brazilian party system and the countrywide expansion of comandos and factions from Rio and São Paulo. The Brazilian (and foreign) intellectual elite watches all these happenings in astonishment—much in the same way the populace watched the developments of the military coup that proclaimed the Brazilian Republic in 1889 (Carvalho 2019).

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The author has no competing interests to declare.

References


RESEARCH

Problem and Power: Informal Commerce Between Repression and Enterprisation

Felipe Rangel
Federal University of São Carlos, BR
feliperangelm@gmail.com

More often than not, the idea of ‘informal commerce’ is associated with precariousness, informality, illegality, and poor product quality. This is the common representation of this market historically and systematically built based on everyday conversation, official discourse, and the media, which also tends to reinforce the aspects of insecurity and disorder of the spaces and marginality of those involved to describe it. Based on interviews, media coverage, and ethnographical observation of business practices carried out by a group of traders, the objective of this paper is to analyze the transformations this market has gone through in recent years and reflect upon the reasons for, and the effect of, new regulatory strategies that were put in place. I shall discuss this transformation in light of the concept of enterprisation of informal commerce (i.e., the application of enterprise models to such business activities), which have been transforming spaces, regulations, and even workers’ conducts, perceptions, and expectations. I hereby argument that regulatory strategies have been set forth based on a double narrative that responds to both economical exploitation interests and the discourse against certain illegal activities, and that this resulted in a process of labor gentrification.

Keywords: Informal Commerce; São Paulo; Feirinha da Madrugada; Entrepreneurship; Enterprisation

Introduction

I have vivid memories of the day I first visited the nocturnal street market in Brás,\(^1\) in mid-2016. I strolled down a very familiar path that I had covered many times during the day. However, at night I felt like an alien there. There was no one on the streets. My starting point was a small guest house close to the metro station. For about 10 minutes, I strolled around the historic neighborhood, heart of the state’s industry between 1930–1950, and massive buildings that once were fabric factories and have been gradually occupied by shops and shopping centers since the 1990s.

Statistically, Brás is currently one of the most violent districts in the city of São Paulo.\(^2\) The media greatly emphasizes the actions of thieves and the influence of crime organizations in local trade. When I walked

\(^1\) Once a predominantly rural area, Brás turned into a working-class neighborhood, then a center for Italian immigration, and afterward a destination for intense migration from the northeast of Brazil, which gave rise to one of Latin America’s largest and most important informal markets. Factories fled from Brás in 1970, which led to fewer job opportunities, reduction in population, physical deterioration, and abandonment of industrial barns. Thanks to the permanence of clothing manufacturers in the area, this shift resulted in the intensification of economic activities related to services, wholesaling, and retail. There was also an increase in the number of street vendors, who took advantage of the great circulation of people between train, metro, and bus stations. This is a quick overview of how Brás came to be. For practical reasons, I opted for keeping this description short, even though I believe knowing its history is important to understand the current setup and dynamics of the informal commerce in the area. For additional information regarding the neighborhoods’ development, refer to the following references: For a historic background of Brás as a prominent industrial district, see Torres (1981); for the impact of Italian immigration in the area, see Andrade (1994); for the migration from the northeast of Brazil and its relation to the informal commerce, see Gomes (2006).

\(^2\) In 2017, the homicide rate in Brás was 38.76 per 100,000 inhabitants overall and 133.45 per 100,000 inhabitants for youngsters. This makes it the subdistrict with the highest number of homicides in São Paulo, according to Rede Nossa São Paulo’s Inequality Map. However, Brás’ population density is among the smallest in the city, which makes it necessary to relativize those rates, because proportional numbers may indicate something different. Furthermore, according to the São Paulo Secretariat of Public Safety, 1,348 robberies and 3,805 thefts were registered in the neighborhood in 2017.
recent media coverage, I shall discuss the changes in this universe and their relation to the enterprisation of informal markets.

All of a sudden, demographics changed quite radically. As if out of nowhere, streets were flooded with people, stalls, bags, carts, mannequins, and products of all types, among which clothing items and fabrics prevailed. The space in the early hours was filled with colors, lights, shouts, smells, and music. Traders’ faces and accents gave away a great variety of ethnicities, the most notable being those from different parts of Brazil, China, and Latin America (mainly Bolivia, Peru, Paraguay, and Ecuador). There was also a significant number of street vendors of African descent (fewer in the early hours than during the day), especially from Senegal, and Haiti, selling their goods over linens along the sidewalks and occupying more peripheral positions at the market.

Wooden planks over iron tripods are used to improvise small stalls where goods and mannequins are displayed, advertising the items available for sale. The main commercial item is clothing. Some streets have up to four rows of stalls, which leaves three aisles for the circulation of customers.

Some snack bars also operate there. Together with food carts, they provide the first meal of the day for traders and thousands of customers who traveled many hours from different parts of Brazil—and sometimes from other countries. The consumer public is diverse, but wholesaling stands out: lured by low prices, thousands of sacoleiros3 come all the way to buy goods to resell in other cities, states and across borders. Many come in chartered buses; the space known as Feirinha da Madrugada alone has a parking lot for 300 buses.

Business activities extend till dawn so that customers can buy goods during the night and be ready to resell them in different locations the next day.

Several open doors reveal a large number of arcades segmented in small spaces (called boxes) that sell the same types of merchandise found in the stalls on the streets. By the doors, retailers show off their goods in hangers to lure customers into the more discrete arcades. Another standout are the new shopping centers that trade low-cost items and also feature hotels, restaurants, and parking lots for cars and buses.

More often than not, the idea of informal commerce is associated with precariousness, informality, illegality, and poor product quality. This image is historically and systematically reproduced in everyday conversation, official discourse, and the media. Unsafety and disorder are also divulged aspects of these spaces, as well the marginalized status of people engaged in these activities, which is twofold: it refers both to the distance between them and formal workers and also to the perception that they would pursue higher personal gains by performing activities at the margins of legality. However, studies have identified several changes in informal markets of different Brazilian regions over the past years. Researchers identified new worker profiles (Durães 2013; Rangel 2017) and changes to social statutes of such activities; once relegated almost exclusively to marginal positions, they are now recognized to be tied to large production and circulation chains (Rabossi 2004; Pinheiro-Machado 2011; Freire da Silva 2014).

Informal markets are no longer mere spaces of poverty and illegality. In the attempt to comprehend their reconfiguration and their significant role in urban economy, the main objective of this paper is to analyze recent transformations faced by informal markets by reflecting on the meaning and effect of regulatory strategies, which respond to both economical exploitation interests, and anti-informality and anti-illegal activity discourses.

Given that informal commerce is related to work relationships at several levels, I focused on a particular segment of this universe: the workers at indoor spaces, chiefly those who work at Feirinha da Madrugada and at the new arcades commercial spaces and shopping centers for sacoleiros in the Brás district. One shall consider that the merchants who work at these spaces perform their activities in a significantly less precarious manner than street vendors in terms of working conditions, stability, and even institutional safety. I opted for this group because indoor arcades are a relatively new element in this universe. They brought along with them different perceptions and expectations about their activities and offer a privileged perspective of the resulting tensions that exist even between integrable elements of this new organizational model of informal markets.

Through ethnographical observation of everyday activities of a group of merchants, interviews, and recent media coverage, I shall discuss the changes in this universe and their relation to the enterprisation of informal markets.

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3 In Brazil, sacoleiros are people who travel to buy large amounts of goods at lower prices in order to resell them in their place of origin. The term stems from the large bags (sacolas in Portuguese) they use to carry the goods.
informal commerce. Enterprisation means the combination of three operations: (1) infrastructural changes (moving trade to indoor spaces) reflected in the creation of new shopping spaces, hotels, and services targeting this audience; (2) the creation of an MEI (the Brazilian acronym for Individual Micro-Entrepreneur) regulatory act whose goal is to convert street vendors in micro-entrepreneurs; and (3) the subjective adaptation of agents and the propagation of the entrepreneurial discourse.

The Enterprisation of Informal Commerce

A series of studies have pinpointed enterprisation strategies—usually travestied as modernization—of market spaces associated with the work and consumption of lower classes in several countries, such as Argentina (Kopper 2015), Mexico (Crossa 2016), Ecuador (Bromley 2002), Peru (Bromley & Mackie 2009), and also in more developed countries, such as the case of the English towns studied by Gonzales & Waley (2013). All these situations rely on the existence of large stakeholders who see economical potential in business spaces that once were repressed or barely tolerated in big cities.

The Brás district, in the heart of the city of São Paulo, is considered a benchmark for informal commerce in Brazil. According to the Brás Retailers Association (Alobrás), local commerce spans across 55 business streets and 5,000 shops and creates 150,000 direct jobs and 300,000 indirect jobs. Circulation is estimated at 300,000 average visits per day, peaking at 1 million close to commemorative dates. The market’s annual revenue was estimated at R$13,300,000,000 (nearly USD 3.5 billion) in FY 2014. This may be a conservative figure because it is difficult to calculate the revenue of informal activities.

The global dimension of informal commerce in downtown São Paulo, which can be described as a node of the ‘globalization from below’ (Portes 1997; Tarrius 2002; Knowles 2014), makes any attempt of legal classification very difficult, especially at a wider scale. Given the variety of means of production and commerce in this space, many are the types of activities that move around different regulatory statutes. The goods found in Brás come from different origins, but three are predominant: China, the Northeast of Brazil, and local production (there are many factories and shops of all sizes, with different legal statuses, located in Brás or in the city outskirts). Freire da Silva (2018) highlights the necessary negotiations for the massive amounts of Chinese merchandise reach low-income markets like Brás, whose target audience is the lower classes that circulate in those spaces. Even though this merchandise goes through the Internal Revenue Service, Freire da Silva states that throughout their trajectory, the goods are subject to corruption performed by fiscal authorities at customs and other public officers (Freire da Silva 2018). It is also common for these goods to be underdeclared, and there are known loopholes in customs inspections carried out in ports.

In her research about the transnational commerce involving China, Brazil, and Paraguay, Pinheiro-Machado (2008) shows that it is possible for a counterfeit product to be legally imported and sold at a Paraguayan shop after being manufactured at a Chinese plant. Illegality comes into place when the product arrives in Brazil and this happens for two reasons: (1) Brazilian copyright laws; and (2) the goods’ form of entrance in the country (often as contraband). As Rabossi (2004) points out, it is precisely the existence of regulations that enables agents to profit from their violation.

Hence, the negotiations that define illegality—as well as tolerated and repressed illegalisms (Foucault 2012)—in each context happen throughout the whole merchandise’s life cycle. In this sense, the lines that separate formal, informal, legal, and illegal activities are practically indiscernible. For the reflection I proposed, the possibilities of such classification are only important to the extent that they offer a social and political field that enable the criminalization of activities commonly performed by subordinate social groups (Feltran & Horta 2019).

In this sense, the negotiation of political merchandise (Misse 2006) is the reason why arcades and shopping centers in Brás are allowed to trade large amounts of counterfeit products, whereas Haitians are violently repressed for doing the very same on the streets. As Hirata and Grillo (2019) note on the drug trade, the political markets are paramount for the operation of markets based on illicit activities, since they enable a better flow of otherwise banned products.

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4 This study was conducted with the support of Fundação de Amparo à Pesquisa do Estado de São Paulo (FAPESP), Process no. 2015/12742-7.
6 Rizek (2012) discusses the broadening of the production circuit and shows its spatialization in the outskirts of São Paulo, which occupies a gray area that defies any attempt of characterization. The author reveals that workshops of all sizes and regulatory statutes create a productive territory where sweatshops, pseudocooperatives, and entrepreneurial agencies come together, including mediating relationships with government income-generating programs.
However, criminalized illegalisms are often exposed and many are the proposals to regulate these markets. In the last 10 years, for example, there was a boom of new informal shopping centers in Brás. They consist of large spaces segmented into what are called boxes, adapted for the display and storage of merchandise. These new enterprises are the result of private investments that, supported by the government, promise to improve this line of business and consequently bring benefits to society as a whole. These enterprises are allegedly capable of attracting other customer profiles to the informal commerce, thus boosting its economic significance, and are also present in moral and political discourses: Once peddlers, these traders can now become entrepreneurs and rent their own space at the arcade’s new commercial buildings, which may lead to a reduction in criminal activity (mainly due to the control of counterfeit products) and to aesthetical changes in these markets, usually associated with poverty and disorder.

Alba and Freire da Silva (2014) highlighted part of this process when analyzing the growth in demand for space in shopping buildings, associating this movement with the repression against street commerce, which led to the convergence of private investments and violent production of urban order. Hirata (2014) also discusses the changes in informal commerce in São Paulo: He highlights the formalization trend of these activities under new ordinance, which responds to both the rise of entrepreneurship and ‘military-securitary’ control strategies of urban spaces.

The actions affecting informal markets stem from different matters and showcase a specific and contextual combination of the discourses about what is ‘good for the community’ and what is ‘good for business’ (Araújo 2019). Proposals for urban revitalization, public safety, and the end of informality and illicit activities converge with the identification of economic possibilities in a space once seen as precarious and unrecoverable. Hence, informal markets are ambivalent symbols in the sense that they are perceived as trailblazers of an important economic niche and, at the same time, a stigmatized activity.

The same street commerce that helped build Brás’ business reputation is also a token of urban degradation and illegality, represented by the trade of counterfeit goods, contraband, and stolen items. There is also a common sense that this type of activity prevents proper circulation of people and cars on the streets, and thus its repression is seen as a way of ‘revitalizing’ the space. The increasing number of shopping centers is partly justified by the will to modernize, which in this perspective also implies reorganizing according to the market logic.

Operating under the market logic means that only those who can afford to adapt to the desired business model are accepted to stay. Private stakeholders who invest in the new shopping centers expect to achieve return on investment through rent, which tends to be too high for the majority of workers—a box can cost over R$4,000 (around US$1,100) per month at the busiest arcades. Because contracts are precarious and can be easily broken, those with more difficulties to invest are practically banned from the best spots, which in turn are increasingly more expensive due to higher customer flow. Hence, even though less capitalized traders do not abandon Brás, they are displaced to areas with less business potential and, consequently, earn lower incomes.

Rent goes up every year. They may charge a *luva*. I’m not sure how much that’ll be, R$5,000, R$10,000, R$30,000, ... I can’t afford it... I don’t know if it’s legal or not, it’s just the way it is. I’ll have to go look for someplace else where rent is cheaper. (Jorge, 42 years old, trader at a shopping center in Brás)

In addition to the investments in infrastructure in informal commerce, there is also an increasing trend of workers’ formalization policies. This happens particularly through the incentive to entrepreneurship. If the regulation of informal commerce has long been an issue for the government, there has been an effort to shift the way such activities are perceived by transforming street vendors in small entrepreneurs. In contrast with the repression strategies commonly used to deal with informal commerce, the entrepreneurial logic innovates by fostering certain business practices, building partnerships between the public and private sectors and creating programs to promote workers’ stability through the possibility of formalizing their enterprises (Hirata 2014).

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7 In business jargon, *luva* is an amount of money paid by a tenant in exchange for the commercial value represented by a certain business spot. It is common practice in commercial real estate and is usually charged only once, at the time the tenant signs the renting agreement. Nonetheless, given the fragile aspect of contracts in informal commerce, there have been reports of yearly charges. The value tends to vary according to the commercial flow of each shopping center.
The most important initiative was the creation of MEI. With the aim to regulate informal workers, this is a relatively cheap and less bureaucratic way of opening one’s own business. Once officially registered as MEI, traders have easier access to credit and social benefits, such as paid sick leave, age/invalidity pension, and maternity leave. In other words, by becoming a businessperson, traders have access to labor rights. In spite of the formalization discourse surrounding MEI, it is worth noting that the program only covers part of the activities. What is the formal statute of a MEI trader who sells counterfeit goods? In fact, what actually comes into play is a shift in illegalisms: they give rise to new positions in which workers can be classified on a scale of criminalized activity. That is to say, even when selling counterfeit merchandise, MEI traders are not subject to the same type of sanctions faced by street vendors. In addition, the status of their business location now plays a role on legal accountability for the practice of criminalized activities.

In any case, a great part of traders from Brás adhered to MEI due to the possibility of access to social benefits and to set themselves apart from informal traders. However, it is necessary to note that the ‘success’ of this policy is tied to coercion and to the power differential. Many of the popular shopping centers currently require traders to have a business registration to operate. One reason for it is that real estate owners exempt themselves from responsibility regarding potential crimes that may take place at those spaces. This is important because MEI does not effectively rule the statute of merchandise, regardless of whether or not traders are registered businesspeople.

Furthermore, it is worth noting that the conversion of street vendors into registered businesspeople was, in many cases, a violent process. Several police raids were carried out to restrain street commerce. The most notorious occurrence came to be known as Operation Delegation (Operação Delegada) in December of 2009, which mobilized a large number of police officers to suppress street commerce. As Freire da Silva (2014) observes, the demand for space in the new facilities is closely related to the repression of street commerce because it forces peddler out of the streets.

The demand forged by street commerce repression impacted renting prices of the boxes within Brás’ shopping centers and arcades—nowadays, they can cost more than business spots in more ‘noble’ areas. This has not translated into an actual decrease in street commerce, but the existence of a more legitimate market model—at least in the government’s and part of society’s perspective—now serves as justification for even greater coercion. In this sense, it is not a governed universe but rather one that is traversed by the ‘will to govern’ (Rose & Miller 2010), and even failures have their role in shaping actual possibilities and practices. The dialects between fostering entrepreneurism and suppressing informal commerce outlines the process of public legitimation of another informal commerce model, whose protagonism must be taken by large private investments. The case of Feirinha da Madrugada is especially interesting in this sense because it went from a little-known place where street vendors used to trade their goods during the night to the object of billionaire investments.

Feirinha da Madrugada’s Enterprisation Process

Feirinha da Madrugada was once a business center located at the facilities of a former Federal Railway Service that had been long ceded to private administration and was used as a parking lot for buses. The place was known as Pátio do Pari (Pari’s Yard). Feirinha’s outset can be traced back to the night commerce that took place at nearby 25 de Março St. in the early 2000s. The market was then relocated to Brás in 2004 after a round of negotiations with the municipal government. Pátio do Pari was right next to it, and small clothing manufacturers began to display their merchandise on the floor there. The conflicts among street vendors, retailers, and the government intensified around street obstruction, the trade of stolen items, and illegal charges for trade positions on the street, which forced the migration of great part of the commerce to Pátio do Pari. According to the subprefect at the time, the control of commerce and traders would be more effective in a closed space: ‘The operations within the pop-centers [the name given to informal commerce in the 2000s] were much more effective to suppress piracy, because it was more difficult for traders to scape’ (Odloak 2013).

At the beginning, the municipal government licensed 1,500 units within the space. Each facility should consist of iron tripods covered with canvas. In contrast, Feirinha’s final layout showcased 4,000 boxes of 3 square meters each, cemented walls, and steel doors. To work there, traders had to pay an administration fee called ‘Stipulation of Permission for Use’ (TPU, in the Brazilian acronym). The fee cost about R$910 (US$242) in 2017.

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The consolidation of *Feirinha da Madrugada* was important for the dynamization of commerce in the area, as it attracted a large influx of *sacoleiros* from different parts of the country. It also paved the way for the creation of several commercial buildings nearby, where traders hoped to take advantage of the market potential brought about by *Feirinha*.

Administration shifted throughout the time. Many were the reports on the sale of illegal items, illegal negotiation of boxes, and lack of security. The space was interdicted several times, mainly due to the apprehension of pirated goods. It was given back to public administration and put out to tender in 2016, when it was acquired by a consortium engaged in the construction of malls of the kind in other parts of the country. The consortium paid R$1.5 billion (US$400 million) and committed to invest R$500 million (US$135 million) in infrastructure in exchange for commercially exploiting the space for 35 years.

*Feirinha da Madrugada* was demolished in April 2018; in its place, a modern mall is to be built. Traders were banned from the area for the construction. Another space was made available for the *Feirinha* during works, but because it is smaller, only about half of the traders are able to carry on their activities there. In addition, those traders who had outstanding TPU payments (turned into regular renting fees under the new administration) will not be allowed to return to the new building once ready.

Traders organized several rallies to question their removal and even the tender itself, arguing that *Feirinha* had lost its original ‘social function.’ An investigating commission was established to review the consortium’s actions. Their final rule was favorable to the private enterprise—contrary to traders’ expectations, who had been calling attention to the despoiling aspect of the ongoing modernization project for some time. Alex, a trader at *Feirinha da Madrugada*, clarifies this during his speech at one of the investigating commission sessions.

Dear councilors, the market was created to get peddlers out of the 25 de Março St., Oriente St., Rodrigues dos Santos St., Maria Marcolino St., and Concórdia Square, to force them to work at a specific area. We struggled to build that space. We shared food during the works. Because there was no one there. Pari was worth nothing... We grew business in that area. It became so relevant that it caught a lot of attention from larger businesses. We built it. We just want a place to work. Unfortunately, when no one was watching, the Government carried out meetings and sold the market to a group of businesspeople. The whole thing has been built with public money, paid with our money, and now it will be torn down for the construction of a mall that will not cater for... We don’t want a mall, because we already have one.

Alex exposes how private businesses became interested in Brás exactly because of the appreciation process resulting from informal commerce—that is, from the development of activities that are often regarded as illegal, poor, and marginal. The appreciation and identification of business and financial potential gave rise to new entrepreneurial segments specialized in the informal market, and the mall is a token of this movement. In Brás, six families form the group of investors that owns 11 malls in the region.⁹ The consortium who won the *Feirinha da Madrugada* bidding, for instance, consists of businesspeople involved with the construction and administration of large commercial enterprises in other parts of the country—Belo Horizonte, Manaus, Toritama, and Pernambuco—and they also have plans to build a mall at a slum in Complexo do Alemão (Rio de Janeiro).¹⁰ According to Roy (2010), investing in informal markets seems to be a global trend that converts informal economies, or shadow economies—often associated with spaces of poverty—into objects of revenue, in which public (and allegedly collective) resources are redefined as private channels of wealth accumulation. In this case study, redirecting funds from informal commerce to property owners and investors is justified by the discourses of formalization and modernization. In her analysis about the ‘neoliberal bureaucratization,’ Beatrice Hibou (2013) sheds some light to think theoretically about the regulation strategies underway.

It is common thinking among neoliberals that such norms, rules and procedures showcase ‘good governance’ and that these formalities are merely technical. Emphasis is nevertheless placed on

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⁹ The increasing investments on malls in Brás recently caught the media’s attention. Please refer to ‘Um império bilionário do varejo do Brás.’ Available at https://economia.estadao.com.br/noticias/negocios,um-imperio-bilionario-do-varejo-no-bras,70002249579 [Last accessed 26 September 2018].

¹⁰ The plans for this mall were announced a few years ago. Although constructions have not started yet, the same group has other enterprises already up and running in other slums. Available at http://g1.globo.com/rio-de-janeiro/noticia/2013/02/primeiro-shopping-em-favela-brasileira-sera-no-alemao-no-rio.html [Last accessed 26 September 2018].
universality; economic and entrepreneurial rationality; on the technocratic dimension of such processes and their efficacy; on safety and morality; and on a depoliticized view of the Government, which is nonetheless a very political way of analyzing politics. (Hibou 2013, 10; my translation)

In this case study, the formalization process is more than a strategy to regulate and legitimize informal commerce—it is a resource derived from the neoliberal competitive logic, albeit under the notions of social inclusion and development. When perceived as indisputable value, the formalization imperative is legitimized in spite of the inequalities it may beget if informed by principles of better life and working conditions. In a nutshell, formalization says little when not analyzed together with the logics behind its operationalization.

Formalizing commercial activities is not the same as formalizing the workers engaged in them. In addition to forcing street vendors into closed spaces and displacing those who cannot afford rent, I could also verify another important fact: the massive number of new traders who had never worked with the craft before. A trader’s speech illustrates the tensions and distinctions involved in the process.

I never thought I’d end up working in a place like this. I was here only once before to help my sister buy a dress. I thought it was horrible! Too crowded, people bumping into each other, a whole lot of confusion. I swore I’d never set foot in here again. Yet, here I am. [laughter]... Many friends of ours don’t understand why we ended up here... I never thought I’d work here. Once I came, it felt different. I thought everyone here was a peddler. Then I realized there are peddlers, but also regular traders. (Marcos, 35 years old, trader at Feirinha da Madrugada, BA in Business).

His words illustrate how the formalization and entrepreneurism discourses and the physical transformation of the space impacted traders’ profiles, resulting in less stigma and, to an extent, the positivation of these activities. Those are people from different professional backgrounds, many out of the formal market, who engaged in informal commerce seeking better revenues.

In this sense, enterprization has set the stage for these activities to become plausible for those workers who do not fit the traditional street vendor’s profile. Objectively and subjectively, this new profile seems to be a better fit to this new market model. These people have more capital to invest, higher education levels and a strong entrepreneurial discourse. Not only do their social trajectories differ from that image of the poorly qualified street vendor that seeks refuge in informal commerce, but there is also a strong, conscious intent to distance themselves from that image.

People here don’t want to learn, they don’t want to learn. They’re stuck in this life and will die in it. For us that have different backgrounds... Because you know, there are the peddlers and there are those that came afterwards. I came afterwards, from a different field, completely unrelated to peddlers... Peddlers are very narrow-minded. They want to work without spending a dime. So, for them, this life here is good enough. I came from a different place, so I went down a different path. I came from a different background. I’m not better or worse than anyone, I just have different ideas. Peddlers don’t. They got stuck. They cash in R$1,000 (US$270) and are over the moon about it. (Jorge, 42 years old, informal trader in a mall in Brás, BA in Business)

In effect, since distinct parameters were brought about, the process has contributed to resignifying this line of work for those who outlived the gentrification of the activity or who came from different professional fields. Throughout the years, the term gentrification has been broadly used to designate several types of excluding displacements (Wacquant 2008; Shaw 2008; Janoschka 2016; Bromley & Mackie 2009). Janoschka (2016), for instance, expands the concept by integrating David Harvey’s (2003) idea of accumulation by dispossession, which points toward an accumulation pattern that, albeit contemporary, mobilizes strategies identified as primitive, such as the privatization and expropriation of specific groups’ livelihoods.

Having that said, when I speak of work gentrification, I mean to evoke the image and the sense of this displacement, as less capitalized workers are banned to make room for others who are also unstable and may even belong to the same social class, but who have better investment options and some managerial skills and are more subjectively aligned with the entrepreneurial logic. All of this takes place at spaces that suffered interventions from public forces and sparked the private capital’s interest.

Hence, this process would be based on capitalism and the state’s rationale, but also on the rationale shared by the subjects themselves. This can be verified by (sometimes contradictory) demands and expectations in terms of safety, the search for easier forms of organization, and even the desire for autonomy and
emancipation of oppressive forms of work. In fact, for these projects to succeed, the subjects who foster the market also need to take part and subjectively engage in this new setup. In this respect, shrinking horizons of possibilities—reflected by precariousness of work and the dissemination of entrepreneurial logic—play a fundamental role in legitimizing the new forms of formalization devised by the state, that no longer ensure protection and social mobility.

Also evident are the demands that legitimize the excluding formalization of informal commerce in São Paulo. Brás’ public image is that of an unsecure social space that favors the trade of illegal merchandise originated from contraband and workforce exploitation—elements that are indeed found there. Starting from these conceptions, any intervention that brings about a sense of order is promptly justified. This holds true even for those who work there, even when they come to feel harmed by the very same interventions afterwards. This is the case of many traders who celebrated the cession of Feirinha da Madrugada to the private sector and thought that their alleged management skills would modernize and boost business. One year went by, and many of these traders are out of work due to Feirinha’s demolition.

In addition, anyone who strolls down Brás can witness counterfeit goods being traded at informal malls, and most of the transactions are carried out without the issuance of invoices. In practice, the negotiation of political merchandise shifted scales: it is now a wholesale commodity (Hirata 2014) whose costs are often embedded in rent prices. This gives a better sense of security to traders of illegal goods, even if the dimension of illegibility (Das & Poole 2008) of such negotiations remains the same. Alcione works at an arcade in Brás. She manufactures and sells forgeries of big brands. Every month when paying her rent, she also pays R$800 (US$215) to the arcade’s security guard. Other traders do the same. Alcione mentioned, ‘Some pay more, others pay less. It depends on the amount of merchandise, the stall’s size, I don’t really know.’ The security guard supposedly passes on the money to public agents in charge of inspecting and apprehending illegal goods. She goes on. ‘So that they don’t come here … They pay the federal police, the civil police, beats me. But they still show up from time to time.’

Final Considerations

The historical image of an informal trader is that of a person who is either a desperate worker or an outlaw who lives in the margins. In fact, all informal commerce—more often than not considered under the terms of informality—was devised as something that would fade away once Brazil took an official stand in global capitalism and sufficient registered work places were created. Obviously, this was not the case. Not only did those markets not disappear, but they the hopes for a more just society based on salaried work die day by day.

From then on, it seems clear that there was a shift in thinking: from the integration of informal (marginalized) workers to formal markets based on civil rights and citizenship, to the insertion of informal activities into market logic. In this case study, we can see a shift in the debate: from the right to the city and the creation of jobs to the centralization of technical management through contracts, rent, entrepreneurism, and market modernization—which has the effect of overshadowing the political aspect inherent to this model. This indicates the expansion of ‘systematic formalizations’ (Hibou 2012), showcased as mere management techniques that carry no ideological bias. The modernization discourses allow partnerships between the local government and private agents and promise to improve these business practices, which they say would result in collective benefits.

By reflecting upon the regulation strategies of informal commerce in São Paulo, I argued that such interventions articulated between the government and large private investors are justified by a ‘twin’ narrative (González & Waley 2013) that defines these markets simultaneously as problematic and powerful. On the one hand, these markets have been long associated with the process of urban degradation and illegality (piracy, contraband, exploitation of workforce); on the other hand, there is a more contemporary movement that recognizes them as economical forces, where poverty is resignified as a new field of accumulation.

The enterprise group that won the bidding for Feirinha da Madrugada describes their mission as

becoming a network of malls that promote inclusion through social, cultural, economic, and political development by providing quality products and services in a way that is safe and profitable for consumers, traders and investors. (Grupo UAI)

This statement illustrates a common formula used in the administration of poor populations: the combination of social development and repression discourses (Motta 2017). It is important to highlight the key elements in the narrative that legitimize the enterprisation of informal commerce, and its efficiency stems from the ability to articulate different dimensions of social life—the moral government of subjects (Lautier 2014) through ‘social, cultural, and political development,’ the concern over safety, and the dimension that has been guiding regulation forms to ensure that the entire process is profitable. As positive elements, these aspects are enunciated as technical agencies that depoliticize all referential logic and its effects. By combining these analyses, we can redefine the (strategic and unconscious) political meanings of these processes and thus understand the ambivalences that characterize the interventions in these markets.

Competing Interests
The author has no competing interests to declare.

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RESEARCH

Pioneers: The PCC and Specialization in the Market of Major Robberies

Jania Perla Diógenes de Aquino¹,²
¹ Federal University of Ceará, BR
² University of International Integration and Afro-Brazilian Lusophony, BR
perladiogenes@hotmail.com

Having studied sociality among robbers, mainly the pioneers of the PCC [Primeiro Comando da Capital, or First Command of the Capital], in Brazil, I argue that contrary to popular belief, individual entrepreneurship provides the foundation for major robberies of banks and other financial institutions in Brazil. Based on 18 years of research on robberies and robbers in Brazil, this paper explores the specialization of an illegal market, thus breaking on the one hand with the idea of urban violence as a lack of rules, civility, and modernity, and on the other hand with pure economism. By establishing a dialogue with the Brazilian ethnographic literature on the crime universe, it examines how the PCC is strengthened even though its members are fiercely independent and work on the basis of short-term projects.

Keywords: major thefts; financial institutions; PCC; robbery

Introduction

The market for robberies of banks and other financial institutions currently plays key role in structuring the main criminal factions in Brazil, including the PCC. Chiefs of police and crime reporters alike often refer to those robberies, from the most low-profile to the most high-profile, as ‘Hollywood-style.’ It is hardly an inappropriate adjective. One of my interlocutors, a perpetrator of major bank robberies, says he is a fan of the Corleone family from Francis Ford Coppola’s 1972 movie The Godfather.

While interviewing other robbers, I have repeatedly heard them praise the 2001 blockbuster Ocean's trilogy, starring George Clooney and Brad Pitt. An interviewee points out the BC [Banco Central do Brasil, or Brazilian Central Bank] burglary in Fortaleza in 2005, the second largest ever in Brazil, was inspired by Woody Allen’s Small Time Crooks, released in 2000. In 2006, a bank heist in the state of São Paulo used the modus operandi shown in Spike Lee’s Inside Man a few months after the movie opened. Robbers and hostages were dressed in identical clothes, so the police, when they arrived, were not able to distinguish between them. The fictional robbery of the Royal Mint of Spain, about which the 2017 Netflix series Money Heist revolves, also reproduces the same technique, with victims’ and criminals dressed in the same way. The transnational cultural repertoire is reflected in practices used in the crime universe as well.

The academic literature on major robberies is mostly restricted to criminology (Matthew 1996; Matthew 2002; Paes Machado and Viodres-Inoue 2017), and empirical studies are still scarce in Latin America (Nascimento, 2003; Aquino, 2010; Caminhas, 2018). The prevailing view on the matter sees extremely sophisticated and heavily hierarchical organizations behind impeccable criminal acts. Contrary to this view, I argue the starting point of those robberies—even though they are extremely sophisticated, Hollywood-style operations—is the individual entrepreneurship of people joining forces in one-time projects without a hierarchy. However, that individual specialization favors, and is favored by, criminal factions because it is a win-win game for both individuals and groups. I have been researching those criminal acts and their protagonists since 2000 by means of interviews and ethnographic incursions among robbers, their relatives, and their friends; interviews with police officers and chiefs of police; articles running in print media and online news portals; and legal proceedings in which the defendants are involved in this illegal activity.
I have been pointing out major robberies are engendered by groups of robbers in different phases, such as creating the group, planning the operation, distributing tasks, creating the infrastructure, robbing the target place, running away, splitting the money, and disbanding (Aquino 2004; Aquino 2015, 2017.) I have also been arguing those robberies constitute a specific branch of illegal markets, with carefully planned criminal undertakings involving a sizeable investment in logistics, usually recovered multifold after the operation (Aquino, 2015, 2017).

In the first part of the paper, I focus on the sophistication and diversity of the *modi operandi* used in those criminal acts. In the second part, I examine groups of robbers, mainly the so-called interstate gangs. In the conclusion, I argue major robberies constitute an important segment of illegal markets in Latin America in view of their specialization, planning, and logistics. In addition, the PCC should be considered a pioneer in this business activity, which now reaches beyond national borders.

This reflection is the result of two points of my 18-year field research. I ventured into the world of bank robberies for the first time in 2000. By 2009, I had interviewed or talked informally with 41 robbers. Around 2003, I started hearing stories about the PCC, which became more and more common in the following years. At first, they seemed fragmented and inaccurate to me; however, those accounts became clearer over time.

Important studies investigated the PCC and its inner workings thoroughly in the following years (Biondi 2010; Biondi 2017; Biondi 2018; Dias 2012; Feltran 2011; Feltran 2012; Feltran 2018a; Feltran 2018b; Hirata 2010; Malvasi 2012; Mallart 2012; Padovani 2015.) Having reviewed that literature, I made more sense of the statements and comments collected in my field and was able to grasp how those men conducted their illegal activities. I was mainly struck by how freely they managed to spend the sums they obtained even though they were PCC members.

Biondi’s studies (2010, 2017, 2018) show the CCP has no individual leaders or leadership positions, unlike the CV [*Comando Vermelho*, or Red Command] and other major criminal factions in Brazil, which have hierarchical structures (Barbosa 2001, Grillo 2013.) Instead, it is organized in *sintonias* (translated as *tuning*, but used to refer to leaderships), which work as groups in charge of specific tasks. From a perspective similar to that adopted by Biondi, Feltran (2018a, 2018b) points out the PCC has no owner or head and constitutes a ‘fraternal secret society.’ He states the *sintonias*, although implying some hierarchy, exercise authority in an impersonal manner. He explains the PCC’s operation by making an analogy with Freemasonry. The fact that a Freemason is a businessman does not make Freemasonry a business, and neither do his qualities or capital allow him to rule others. Because neither Freemasonry nor the PCC have centralized power structures, mutual support prevails among their members, who don’t share profits with the group but help strengthen those ‘fraternities’ by other means (Feltran 2018a; Feltran 2018b.) The data from Biondi’s and Feltran’s field work and analyses are largely consistent with the information I obtained by interviewing robbers, as seen below.

Supplied with a great deal of information about the PCC’s operation from the above-mentioned ethnographies, I continued to the second phase of my research and started inquiring about the PCC’s involvement in bank robberies, as well as its role in making them a serious issue in Brazil and neighboring countries. Since 2016, I have been able to meet again some of the robbers whom I had interviewed or with whom I had talked informally between 2003 and 2009. Through them, I met eight other bank robbers who also belonged to the PCC. Based on that research path, I argue major robberies have become a branch of Brazil’s illegal markets whose steps and know-how, such as planning, logistics, execution, flight, and profit sharing, have been planned and sometimes executed transnationally after the PCC emerged.

**Factions, Politics, and the PCC’s Involvement in Bank Robberies**

Bank robberies attracted a great deal of public attention in the years following the 1964 military coup in Brazil. At that time, members of militant groups opposing the dictatorship introduced by the coup robbed banks and kidnapped high-profile political figures. The media referred to them as political robberies. The proceeds from those armed actions were used to fund political activities opposing the military regime (Torres, 2017.)

Later, bank robberies were committed by the so-called ordinary crime. From the 1980s, the most notorious bank robbers were members of the CV, a criminal organization created in the Ilha Grande Penitentiary, on an island off the coast of Rio de Janeiro State, in 1979 as a consequence of the close contact between ordinary prisoners and the dictatorship’s political prisoners. During that decade, CV members robbed banks, armored cars, and jewelry stores in different regions of Brazil. The proceeds were used to organize prison breaks and boost drug trafficking in the periphery of Rio de Janeiro (Lima 2001.) After the CV established
itself in drug distribution and trafficking in the 1990s, its leaders stopped organizing bank robberies, which ceased to be a relevant activity for the faction.

Just like the CV, the PCC was founded in a penitentiary, the Taubaté Custody Facility, in the state of São Paulo, in 1993. It expanded quickly, at first inside the prison system and then in the periphery of the city of São Paulo and throughout Brazil from the 2000s. Police investigations in different states have revealed drug imports, distribution, and exports are the PCC’s main revenue sources. Nevertheless, PCC members have also been robbing banks—in operations attracting extensive media coverage and often described as ‘Hollywood-style’—continuously since the PCC was created. Although non-PCC members are behind most of the bank robberies in Brazil, those committed by PCC members, mainly against armored transport companies, involve the largest amounts and highest degree of specialization. If the proceeds from individual bank robberies never reached a six-figure amount before the PCC, they have amounted to millions of reais since PCC members started committing those crimes.

During the 1990s, Brazilian banks started improving the security systems of their branches by installing cameras and revolving doors with metal detectors and alarms. In response to increased security, which makes it difficult for people carrying guns to enter banks, PCC members started using a new technique quickly adopted by robbers not connected with the faction. They started kidnapping branch managers’ family members to rob banks. With his or her family members threatened at gunpoint and held in captivity, often in their own homes, the manager was forced to let the gang into the branch and grant it access to the vault. Even though robbers refrain from physical abuse in those operations, they use intense psychological abuse to threaten the hostages as I have shown in previous papers (Aquino 2010.)

As early as the 1990s, PCC members started kidnapping family members before robbing armored transport companies as well. Police investigations attributed to the PCC eight robberies of those companies in 1999 alone. Entrusted with the safekeeping and secure logistics of considerable cash amounts, armored transport companies almost always handle more money than banks, and their headquarters have strong security systems, comprised of armed men and equipment such as electric fences, cameras, sensors, and alarms. When those companies started being robbed, law enforcement authorities from different regions of Brazil went on alert.

It became clear the bank robberies committed by the PCC had reached new levels in terms of planning and sophistication, and the amounts stolen from their targets now totaled millions of reais. One of my interlocutors told me about his decision to start conducting those more ambitious operations.

We thought it over and saw we wouldn’t get anywhere robbing dinky banks. We’d just do time and that’s it. It was two or three hundred thousand split among four or even more people. Then, some partners and I decided to go to the bases of armored cars (the so-called safekeeping companies) because there was about fifty times more money there. We were sticking our necks out in banks and had to go into action more often. Robbing armored car bases a few times, we raked in a lot of money. The least we got was 5 million…. We got homes, (legal) businesses, assets to help our families, to secure our children’s future. (Interview with Bernardo in February 2009)

During the 2000s, PCC members put into practice in part of their attacks another method of committing robberies without direct confrontation and physical abuse: building tunnels to reach the vaults of banks and safekeeping companies. After providing convenient escape routes in prison breaks, tunnels began to be used in PCC operations. Among those operations is the one that has generated the highest proceeds and attracted the most extensive media coverage ever: the burglary of a BC branch in Fortaleza, from which R$164.7 million was stolen in August 2005. The news article below describes the event.

It could be a movie plot, but it is a true story. A house on Rua 25 de março, a 200-plus-meter tunnel and a Banco Central vault in the bank headquarters at the intersection of Avenida Duque de Caxias and Avenida Dom Manuel, in downtown Fortaleza, provide the setting. The plot climax is

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1 Banks and armored cars have been targeted by more and more robbers in operations more modest than those organized by CV members in the 1980s, and by the PCC in the following decades. However, they are more profitable than robberies of other types of targets.

the theft of about 150 million reais, the largest ever in Brazil and one of the largest worldwide...
The BC did not officially report how much money was in the vault at the time of the burglary, but confirmed five containers with 50-real bills had been broken into. The bills had been withdrawn from circulation, and their physical condition was going to be assessed. After the assessment, part of the bills would be returned to circulation and part of them would be incinerated. To reach the vault, the burglars dug a 200-meter-long tunnel from a house on Rua 25 de março to the bank.

Confederation of Watchmen and Service Providers The crime is thought to have occurred over the weekend, but the Polícias Civil, Militar and Federal were called only yesterday morning, when the crime was discovered. The vault has motion sensors and surveillance cameras, but the alarm system did not go off during the burglary. According to an investigator from the Polícia Federal... the hole was made in the only part of the vault not equipped with security cameras. The house on Rua 25 de março that served as the gang's base of operations was rented three months ago. On the façade... there is a sign of a company making artificial turf. (*O Povo* newspaper, 09/05/2005)

By using the artificial turf store in the rented house as a facade, the burglars carried bags of debris from the tunnel excavation every day without raising suspicion among neighbors.

A burglary committed in São Paulo in December 2009 and also attributed to the PCC by the police bears considerable similarities to the BC burglary in Fortaleza. The news article below describes the event.

Burglars... stole millions in São Paulo during the Brazilian championship games on Sunday... The criminals dug a tunnel from a modest house across the street... [The tunnel] extends 150 meters under a square and reaches under the shipping company’s vault. The burglars broke through the vault floor about 5:00 p.m. on Sunday, just as the Brazilian championship finals began, and off with the money. The security guard told the police he had heard a noise, but thought it was soccer fans setting off firecrackers. The house used as a base of operations even has Christmas decorations and was carefully prepared not to raise suspicions. When it started occupying the house four months ago, the gang covered up the yard and started digging the tunnel, which the neighbors was just a renovation. The earth removed was put into bags or stored at the back of the house... In order not to leave any fingerprints, the criminals painted the house after stealing the money... The shipping company’s owner says his loss may come to 20 million reais. (*Jornal Nacional*, December 07, 2009)

PCC members have dug tunnels in many other operations. At least three PCC members I interviewed pointed out that despite the advantage of not involving confrontations or hostages, this strategy required considerable investments and the participation of people with civil construction expertise.

Another robbery involving millions of reais and committed in a discreet and precise manner—the police investigations into which also indicated PCC members as perpetrators—occurred in the wee hours of the morning in August 2011. The target was the safe deposit boxes of a Banco Itaú branch on Avenida Paulista, the main road in São Paulo’s business district.

Diamonds as large as marbles, rare emeralds, bars of pure gold, necklaces studded with dozens of rubies, collections of watches that cost more than a luxury apartment, 500-euro banknotes—this is just a small fraction of the losses from the largest robbery of safe deposit boxes ever in Brazil... The target of the operation was the basement of an Itaú branch on Avenida Paulista... That is where the bank has a vault with 2,500 safe deposit boxes rented to its VIP clients. Access to the area requires passing through security guards and two doors: a grid door and a steel door. The security system includes areas monitored by cameras and motion sensors... However, at 11:50 p.m. on Saturday, August 27, twelve men wearing lab coats raided the facilities and broke into 138 safe deposit boxes belonging to 120 clients without firing a single shot. Ten hours later, on Sunday morning, they ran off with a fortune... No alarm went off. The criminals... said they were part of a maintenance team responsible for changing the furniture of the branch. The watchman suspected nothing since the branch was undergoing renovations and he had been told there would be works that morning... The men went to the main area of the branch and overpowered the only armed watchman on duty, who, threatened at...
gunpoint ... shut down all the alarms. Then, he was forced to open a door to the branch, and ten more men came in ... with tools ... among them [was] a magnetic drill capable of boring through steel rod, an electric saber saw and a rotary hammer, used to tear down walls. With that equipment, it was easy to reach the treasures in the safe deposit boxes. The night watchman and his morning colleague, also overpowered when he arrived at work at 6:45 a.m. on Sunday, were able to sound the alarm only after the gang had disappeared. (Confederação Nacional dos Vigilantes e Prestadores de Serviços [National Confederation of Watchmen and Service Providers], December 7, 2018)

Only 5 of the 120 owners of safe deposit boxes broken into during the robbery lodged a complaint with the police, raising the suspicion that the others either had not reported the stolen assets to the tax authorities or used them as a means to launder money. To this day, the bank has not disclosed the stolen amount, however, the police team in charge of the case estimates it at about 250 million reais, which would make this the largest robbery ever in Brazil, surpassing the Banco Central burglary previously described.

Although most robberies of banks and safekeeping companies by PCC members are committed in a discreet manner, there have also been more high-profile operations involving shootings and confrontations. In a robbery in Greater São Paulo in 2007, 40 men allegedly blew up the gates of a safekeeping and secure logistics company. The news article entitled ‘Marcola e os quarenta ladrões’ [Marcola and the Forty Thieves], a humorous reference to the man the media considers the top leader of the PCC, is part of a longer piece headlined ‘Relembre 8 assaltos cinematográficos do Brasil’ [Recall Eight Hollywood-Style Robberies in Brazil]. It reads:

In September 2007, about 40 men used dynamite to blow up the gates of the secure logistics company Protege, in São Paulo. The gang overpowered and tied up the employees at the location and stole pouches containing 15 million reais in two hours.... According to the police, Marcos William Herbas Camacho, alias Marcola, the leader of the Primeiro Comando da Capital faction, had to step in when the stolen money was split since the group was formed by two gangs from different parts of the city. (Terra online news portal, April 8, 2015)

Even though robberies involving the PCC occur mainly in the state of São Paulo, in which the criminal organization was founded and most of its members strike, the gang’s radius of operation comprises all Brazilian regions, as well as neighboring countries. In the wee hours of the morning of April 24, 2017, PCC members allegedly robbed a safekeeping and secure logistics company in Ciudad del Este, Paraguay, bordering the city of Foz do Iguaçu, Brazil. Men carrying heavy weaponry overpowered the company’s guards and ran off with an amount equivalent to $40 million, in the largest robbery ever in Paraguay. The news article reads as follows.6

Brazil’s and Paraguay’s police departments believe the Primeiro Comando da Capital (PCC) is involved in the million-dollar robbery of the secure logistics company Prosegur, in Ciudad del Este, Paraguay, in the wee hours of Monday. At least 30 men armed with war weaponry—such as machine guns, rifles and explosives—stole $40 million (120 million reais.) One police officer and three robbers died, and four people were injured. The robbery has been described as the largest ever in Paraguay ... Paraguay’s Minister of the Interior Lorenzo Lescano says, ‘Everything indicates it was to the PCC.’ He adds the cars used in the robbery had license plates from Brazil and the criminals spoke Portuguese. (Veja Magazine, May 5, 2017)

The robbery in Ciudad del Este occurred a few weeks after PCC members murdered Jorge Rafaat, a notorious arms trafficker and supplier to Brazilian criminal organizations, among which were the CV and the FDN [Família do Norte, or Northern Family], a group distributing drugs in the north and northeast regions. Rafaat’s death, despite having prompted the CV and the FDN to declare war on the PCC, strengthened the PCC’s position on the borders of Brazil with Paraguay and Argentina. In interviews, the chiefs of police in charge of the case said that the robbery in Ciudad del Este was also a show of force. The robbers’ boldness and truculence were thought to be explained by the leading position the PCC had secured in the local illegal drug and arms markets.

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In March 2018, another carefully planned attack was attributed to PCC members by the police. It was the robbery of a Lufthansa plane in the International Airport of Viracopos, in Campinas, São Paulo State. A news article about it reads as follows.\(^7\)

Another Hollywood-style robbery has gone down in the history of major robberies in Campinas, São Paulo State. On Sunday night, 4, five men armed with rifles and using a cloned car to bypass security raided the runway at the Viracopos International Airport, overpowered the employees and stole $5 million—equivalent to 16.5 million reais—being shipped on a German airline Lufthansa aircraft … The aircraft was scheduled to fly from Viracopos to Dakar, Senegal. The final destination would be Frankfurt, Germany… According to the PF [Polícia Federal], the robbers entered the airport security area after breaking through the fence. In a Toyota Hilux pickup truck disguised as a security company car—with the same colors and features—, they skirted the runway and came across a security car. The two occupants were taken hostage. On their way to the Cargo Terminal, where the German company’s cargo aircraft was, they went past other security guards without being disturbed. The operation lasted six minutes: the employees were overpowered and the pouch with the dollars was placed in the truck. On their way out … the criminals changed cars and burned the pickup truck … to hinder the chase. All the robbers escaped. (O Estado de S. Paulo newspaper, March 05, 2018)

Although the PCC has been targeting mainly institutions from the Brazilian national financial system lately, those establishments have improved their security apparatuses since the 1990s as mentioned previously. In addition, they now avoid keeping large sums in a single place. Those measures are making it increasingly difficult to rob banks. The attack on the Viracopos International Airport reveals a search for targets as profitable as safekeeping companies.

Bank robberies in Brazil in general involve some sophistication, but those organized by PCC members excel in this regard. They require careful planning, and there have even been operations in which nine-figure amounts were stolen, such as the Banco Central burglary in Fortaleza and probably the robbery of the safe deposit boxes at Banco Itaú. Complex infrastructure is another feature of those operations because powerful vehicles and weapons, modern communication devices, and other equipment are used. It is also striking that the robbers’ clothing and equipment are similar to those of police officers and other professionals with easy access to banks and safekeeping companies. Bank employees have often been involved in those robberies; they provide information for gangs in exchange for a share of the proceeds obtained in each operation, sometimes paid in advance. Familiar with the routine of their targets, PCC members attack just as larger amounts of cash are being handled.

According to the PCC members with whom I talked, assaulting ‘victims’ jeopardizes the success of a robbery because it arouses public sympathy, attracts media coverage, and triggers a stronger police response. They described a successful robbery as one in which the perpetrators obtain large amounts of money without drawing the attention of the police or the media, and without being identified or located. One of those men pointed out he had heard Marcola himself say, while planning a robbery in the 1990s, that the hostages could be threatened and frightened, but under no circumstances were they to be physically assaulted or shot by firearms.

Marcos Camacho, alias Marcola, is the most notorious PCC robber. During my interviews and informal conversations, I realized this character and his ‘fame’ stirred my interlocutors’ imagination. Marcola was serving a sentence for robberies committed in the state of São Paulo in the Taubaté Correctional Facility when the PCC was founded in that same penitentiary. He quickly joined the new criminal organization. In 1995, Marcola was transferred to Carandiru, the largest maximum security prison complex in Brazil at the time, from which he escaped in the same year. He was reimprisoned in 2000.

Some of the robbers with whom I talked told me Marcola was already famous in the crime world of São Paulo as a skillful bank robber. However, he became a sort of living legend among robbers throughout the country while out of prison in the 1990s, already belonging the PCC, for his ability to devise operations considered intelligent. Some of his ideas that resulted in million-dollar robberies were described as ‘incredible’ in my interviews. Marcola allegedly planned the first armed robberies of safekeeping and secure logistics companies in Brazil. The large amounts stolen and his creativity in approaching those targets, unprecedented in robberies in Brazil, are believed to have brought him a great deal of symbolic capital in the PCC.

\(^7\) https://sao-paulo.estadao.com.br/noticias/geral,quadrilha-rouba-carga-de-dolares-no-aeroporto-de-viracopos,70002214195.
In 2001, Marcola confronted and defeated César Augusto Roriz Silva, alias Cesinha, and José Márcio Felício, alias Geleião, the two prisoners at the head of the PCC since its creation in 1993. This gave him a prominent position in the PCC so that the police and the São Paulo Public Prosecutor’s Office started referring to him as the criminal organization’s new leader, a title he rejects to this day. Claiming revenge for the death of his companion, Ana Ollivato, allegedly murdered by Césinha and his wife, Aurinete Feliz da Silva, with the consent of Geleião, Marcola ordered his men to expel them from the PCC (Biondi 2010; Feltran 2018.)

My interlocutors from the PCC say that despite the accusation against Cesinha and Geleião, he was still able to bring them down with the support of a significant number of PCC members due to his reputation as a competent, articulate, and fair robber, established throughout the world of crime. Marcola’s ‘good’ reputation had turned into political capital and legitimized both his rise and the changes he introduced in the PCC.

Although robberies committed in the 2000s and in the present decade have brought in larger amounts than those organized by Marcola in the 1990s, some of my interlocutors believe more experienced robbers, especially Marcola, have helped plan and execute those operations. Even though I am not convinced Marcola still masterminds the PCC robberies, I admit he still conveys, for the most part, the image of an ingenious, unsurpassable robber among his peers who have interacted with him at length or heard stories about him, regardless of where in Brazil they come from and whether or not they belong to the PCC.

**Socialities Pervading All Major PCC Robberies**

In Brazil, bank robbers form a sort of elite in the world of crime in and out of prisons, and they are often seen as ‘resourceful and wealthy due to the sophistication of those operations and the large amounts they bring in’ (Aquino 2010.) My informal conversations and interviews indicate these people plan, organize, and commit robberies as if they were performing an economic activity.

Just as any legal business, organizing large-scale robberies requires expenditures. The participants invest in cars and weapons, rent houses for short stays and for the meetings of the team that will carry out the crime, and bribe employees from the targeted establishments. Playing the leading role in those enterprises, robbers act as entrepreneurs: they use funds, develop escape plans and strategies, and assess the probabilities of success and failure. Classified as criminals by legal codes and the established social values, they see themselves as businessmen and their criminal acts as investments requiring special care and skills. In view of their willingness to take risks, creativity, and innovation to circumvent banks’ modern security systems, those robbers somewhat fit the entrepreneur profile made famous by Schumpeter (1961.)

Major robberies are joint efforts that promote social interaction and negotiations among its participants. To examine those connections, I chose to use the sociality category, rather than sociability, based on the observations of Strathern (1988, 1999), who explains the notion of sociability brings to mind community and empathy ties, whereas sociality refers to the web of relationships in which people’s lives unfold, thus allowing us to see social relationships as intrinsic to human existence, with no previous normative connotations. I have been pointing out that sociality among bank robbers changed significantly during the 1990s (Strathern 1988; Strathern 1999).

Accounts from my fieldwork interlocutors and the news show that not only the CV, which had thousands of members, but also other types of gangs of robbers were already active in different parts of Brazil in the 1980s, robbing banks and armored cars. Those were fixed groups with leaders who made decisions and settled conflicts between members. Almost all those groups had fewer than ten members and became known by their names and their leaders’ courage. They would commit robbery after robbery in nearby cities. Sociality in those groups shares some features with other types of criminal groups, such as the ‘bands of cangaceiros [nomadic bandits]’ active in the northeastern hinterlands in the early 20th century, the most famous of which was that of Lampião. Those groups of robbers have become less and less common since the 1990s.

Since then, a type of group that chiefs of police call interstate gangs because they include robbers from different parts of Brazil has prevailed in the planning and execution of bank robberies. Almost all my

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1 I have never heard of any women playing a central role in this illegal activity. In some cases, robbers’ wives or girlfriends carry out secondary tasks in criminal acts, negotiate rents for the properties in which the gang will be staying, or provide meals at the robbers’ meetings, but that sort of cooperation is not common.

2 Virgulino Ferreira da Silva, alias Lampião, was born in the hinterlands of Pernambuco State, in northeastern Brazil. After his father was murdered by the police due to a land dispute, Lampião formed a band of armed men and committed dozens of robberies and murders in revenge while traveling around the semi-arid backlands of the Northeast in the first decades of the 20th century. He inspired many books and films after being killed in a conflict with the police. He was one of the outlaws historian Eric Hobsbawm studied in his classical analysis of social outlaws worldwide (Hobsbawm, 2010).
interlocutors in this research belong to those interstate gangs. I have observed those groups are not formed previously. Instead, their composition is defined while each operation is planned and the infrastructure is obtained. They are ad-hoc groups that usually disband after the robbery is committed and proceeds are split. Friendship ties, when they exist, usually involve two or three members, not the entire group. Each robber is free to use his part of the money as he wishes, without giving any explanations or any portion of it to a leader or the faction. When one or more participants receive more money than the others, it is because he or they either invested more or lent weapons for the others to use during the robbery.

Closing Remarks

In conversations with interlocutors with skills hailed by other robbers, I asked them about their ambitions to occupy a possible leading position in interstate gangs. All of them remarked that would involve great responsibility and danger (Aquino 2010a; Aquino 2010b.)

But wouldn’t it be better if it was always the same people, with no newbies? That’d eliminate several problems, there would be more trust, each one would specialize in one or two different tasks.

Lúcio: That’d cause many more problems and involve more responsibility. Robbery is against the law, as you know. There’s always one who falls, always one who dies. If it was always the same ones, it’d be easier to catch us. We’d all lose freedom. No-one wants to be stuck with anyone. We may even spend time with friends because we trust them enough to stick with them. But in general, you spend more time with someone if you owe them money or favors. In general, it’s much more convenient to split the money, and each one goes his way. In our line of work, you can’t let anyone know a lot about you.

But would it be good for you to have your team? The way others talk about you, you’d be the leader. The group would be yours.

Lúcio: But who told you I want to be a leader? You get no advantage. It’s very dangerous … Imagine me becoming a leader, the big boss, and imposing myself on others. If I make a mistake one day, I make a decision and others lose money or go to prison because of me, the guys will kill me… Seriously, when I went, I always had my way, but I didn’t let others see it. It has to look like everyone is making the decisions.

But your secret doesn’t seem to be very well-kept. I’ve read newspaper articles calling you an ‘intellectual mentor.’

Lúcio: I’ve never accepted, nor will I ever accept that title. In fact, there’s some guys out there who are too vain, but dumb as soup who like to be called intellectual mentor, leader, but those guys come off badly… In our line of work, trying to show off, to show others up is the road to death.

(Interview with Lúcio in May 2008)

I have observed bank robbers are not guided only by economic motives. They also weigh other reasons and developments related to living a life under persecution in their choices and actions. One of the advantages of ad-hoc groups, which disband after robberies and have no leader, is that they make it more difficult to locate and arrest their members. Most of my interlocutors believe police investigations are more complicated if robbers escape individually than if they remain in groups. Each robber has a network of contacts, some of whom are personal connections, but most are strictly professional contacts. This allows them to invite others, and be invited, to participate in criminal operations. In addition to technical skills, money, and weapons, a good reputation among peers is a decisive factor in forming partnerships and being sought after.

Those who use excessive violence and assault, kill, or rape hostages are usually isolated and no longer invited to robberies. Spreading rumors about robberies being planned, cheating colleagues, or taking advantage when stolen money is split also brings a bad reputation. On the other hand, acting discreetly when participating in those operations and using the money obtained, showing loyalty to and empathy with partners who are just leaving prison and have no money, and other attitudes are positively regarded. In the web of relationships related to the world of robberies, moralities are key factors in guiding positions and expectations, leading certain people to be considered reliable and others to be excluded. Since the 1990s, those criminal operations have been carried out mainly by temporary gangs instead of fixed groups, created based on personal ties and contacts developed among peers. Those webs of relationships extend to other states and even countries.
According to my interviews, people gathering circumstantially and not necessarily PCC members participate in robberies involving the criminal organization. Whenever they choose a target outside their area of activity, PCC members contact local robbers, from whom they obtain objective information and with whom they plan and organize the operation. Some of my interlocutors have their own weapons. Others revealed they use weapons the PCC provides for its members, which must be returned after the operation for which they were borrowed is completed.

This *sociality*, which involves mainly symmetrical relationships and emerged among gangs of robbers in the 1990s, bears similarities to that prevailing in the PCC since the 2000s. That is what Biondi’s (2010, 2017, 2018) and Feltran’s (2012, 2018a, 2018b) studies explain. Biondi (2010) highlights political changes occurring in the PCC since 2001 due to the turf war that led to the fall of Césinha and Geleião, defeated by Marcola. She explains the PCC had a pyramidal structure under the former leaders. When Marcola took over, he eliminated leaderships and hierarchies, and he introduced egalitarian relationships among the members of the criminal organization, which started operating based on depersonalized *sintonias*. Without a leader, the PCC did not come to a halt when the São Paulo State government, considering Marcola the organization’s leader, placed him in stricter prison conditions, restricting his contacts with other prisoners and the outside world. On the contrary, it expanded to all states and became Brazil’s largest criminal organization in number of members. Biondi says that this expansion in the 2000s was possible precisely because the PCC does not rely on top-down orders to operate (Biondi, 2017).

Feltran (2018a, 2018b) estimates over two million people are currently involved directly or indirectly in activities of the PCC, which does billions of reais in business per year. He stresses the entrepreneurial independence of PCC members, who are involved in legal and illegal activities other than drug and arms trafficking—such as farming, the port industry, car thefts, and robberies—. In its members’ routine, the PCC serves as a network of mutual support among criminals, based on values considered fair (Feltran 2018a; Feltran 2018b).

The inexistence of formal leadership, the egalitarian relationships among its members, and the freedom with which they conduct their own business activities, introduced by the reform put in place by Marcola in 2001, establish unique socialities among many criminal organization active in drug markets in Brazil. However, similar relationship patterns were already in force in the social universe of bank robberies from the 1990s, as I have pointed out. Considering Marcola was a bank robber before overthrowing Césinha and Geleião and even before the PCC was founded, he is likely to have been inspired by the socialities among bank robbers when undertaking the structural and political reform in the PCC. It was apparently the robbers’ point of view, which according to my interviews had been gaining importance in this organization due to the million-dollar robberies they had been committing, that rose in opposition to the power structure maintained by Césinha and Geleião, replicated from factions such as the CV, focused on controlling drug trafficking in areas of urban peripheries. It is clear the major innovations in bank robberies and in bank robbers’ criminal careers from the 1990s, made possible by the introduction of groups with no centralized leadership positions, were the inspiration for the changes implemented by Marcola in the PCC.

With no leaders or hierarchies, bank robberies started being organized by groups of individual entrepreneurs thanks to their contact network, and they reached new heights in terms of organization and profits. As a result, they became a major branch of illegal markets in Latin America. Those operations now required considerable investments in infrastructure and connections with other legal and illegal markets, such as that of stolen and cloned cars, arms trafficking and civil construction, among others. Inspired by moviemakers’ imagination shown in heist movies, bank robbers started devising unusual ambitious plans to perpetrate those major robberies in real life. Robbers expanded their know-how and perfected their techniques, thus becoming ‘skilled professionals.’ Therefore, they managed to obtain larger amounts, buy assets and invest in...

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10 The introduction of an egalitarian structure and the discontinuation of individual leadership positions in the 2000s obviously did not eliminate the tensions among PCC members from the organization’s routine. The challenges in resolving conflicts among members, all now on a level playing field, changed in size. In this regard, I emphasize another commonality between the socialities prevailing in temporary groups of robbers and in the PCC: the importance of moral arrangements. As I have noted previously, partners are selected, and those engaging in conducts considered inappropriate are isolated based on moral principles in the web of relationships among bank robbers. Marques (2007) and Feltran (2012) reveal the PCC introduced ‘debates’ to arbitrate the disputes among its members from the 2000s onward. They serve as informal courts whose decisions are based on moral imperatives prevailing throughout the social world of crime. When a dispute involves outstanding debts, thefts, assaults, or even murders, PCC members organize debates, and the parties are confronted with each other. Once the parties and their arguments are heard, settlements are made or sentences are pronounced and carried out immediately (Feltran 2012). Therefore moral principles are important among criminals involved in major robberies and in the PCC. They shape behaviors and relationships in contexts in which social interaction is mediated by no bosses or leadership positions.
legal businesses. That is why they are able to pay lawyers and bear their families’ expenses while in prison. A
ccording to some of my interlocutors, major robberies, made possible by the introduction of temporary
 gangs, have been proving a successful and promising path. In fact, they are worthwhile even if the robbers
 are caught by the police since the amounts obtained in those operations is often not recovered by their
 owners.

The men with whom I spoke never had the opportunity to go to college or satisfy their ambition of achiev-
 ing material success and personal recognition through noncriminal means. Nevertheless, they obtain such
 high amounts from their robberies that they are able to fulfill all their own and their families’ material needs
 for life if they invest them well in legal markets—a situation more difficult to achieve in legal occupations,
 especially for people from poor or middle-class families.

In this paper, I focused on bank robberies as an emerging segment of illegal markets in Brazil and neigh-
 boring countries. Those criminal acts became a key factor in strengthening and structuring the PCC. In
 addition, I argue their sociality and organizational dynamics triggered changes in the PCC’s operation and
 relations of power. Although major robberies are not among the PCC’s main activities, part of its members
 have been carrying them out continuously since the organization was founded. I consider the members of
 the PCC, with their million-dollar bank robberies, not only the protagonists but also the pioneers of this
 activity, which has become an important branch of illegal markets in Latin America.

Competing Interests
The author has no competing interests to declare.

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RESEARCH

Low Impact, Wrong Direction: Why São Paulo State Drug Policy Is Inefficient and Ineffective

Leonardo de Carvalho Silva\(^1\) and Bruno Langeani\(^2\)

\(^1\) Instituto Sou da Paz, BR
\(^2\) Head of Instituto Sou da Paz’s Justice and Law Enforcement Systems Department, BR

Corresponding author: Leonardo de Carvalho Silva (leonardo@soudapaz.org)

This paper is the result of the study Apreensões de drogas no estado de São Paulo: Um raio-x das apreensões de drogas segundo ocorrências e massa [Drug Seizures in the State of São Paulo: An In-Depth View of Drug Seizures Broken Down by Number of Incidents and Drug Amounts], conducted by Instituto Sou da Paz to encourage a discussion about Brazil’s drug policy. The study focuses on drug incidents in the state of São Paulo, the richest and most populous in Brazil, which accounts for 28% of all drug incidents in the country. São Paulo is also the state with the largest police force—about 100,000 policiais militares [ostensible police officers] and 30,000 policiais civis [investigative police officers]. São Paulo law enforcement seized over 100 MT [metric tons] of drugs in the state in 2015. In 2016, drug seizures totaled over 160 MT.

Data on drug seizures in Brazil are still scarce. It is crucial to have those data to assess the performance of the institutions comprising the criminal justice system as far as drugs are concerned. Based on statistical resources, we found that a large number of drug incidents involve small amounts of drugs, whereas large seizures account for a significant share of the total amount of drugs seized. By comparing those data, we show police resources are largely used in incidents that have no impact on the drug trafficking chain and in which only drug users and small drug dealers are charged.

Keywords: Drug seizures; drug policy; policing; violence; illicit markets

Introduction

Brazil is a continent-sized country, with 8.5 million square kilometers. The IBGE [Instituto Brasileiro de Geografia e Estatística, or Brazilian Institute of Geography and Statistics] estimates Brazil has 207 million inhabitants. Brazil shares its land borders—over 15 thousand kilometers—with major marijuana and cocaine producers, such as Paraguay, Peru, Bolivia, and Colombia.

It is a federative republic organized in 26 states and one federal district; as a result, each of the 27 federal units has at least two law enforcement agencies (LEAs), the PM [Policia Militar] and the PC [Policia Civil], which share law enforcement tasks. The former has a larger force that wears a uniform; it is in charge of preventive patrolling and is the first to respond to calls for service. In turn, the latter is responsible for investigating and clarifying crimes, as well as gathering evidence before court proceedings. In addition, Brazil has a Polícia Federal [Federal Police], a Polícia Rodoviária Federal [Federal Highway Police], and some municipal police agencies [often referred to as GMs, or Guardas Municipais], which usually have less comprehensive powers to protect public property.

Enacted in 2006, the drug legislation in force in Brazil introduced some important changes regarding drug users, who have not been subject to compulsory hospitalization for treatment since then. In addition,
drug users caught carrying drugs for personal use are no longer liable to imprisonment. Therefore, possession of drugs for personal use or drug use are no longer punishable by imprisonment even though they are still considered criminal offenses and, as such, carry punishments such as warnings, community service, and compulsory participation in educational activities (subsections I–III of Section 28 of the Anti-Drug Act).

As far as drug trafficking is concerned, the main changes introduced by the Anti-Drug Act were the criminalization of certain acts (financing, aiding and abetting, and transporting drugs on aircraft and vessels) and the imposition of harsher punishments for drug trafficking, the minimum sentence for which was raised from three to five years in prison. However, the maximum term, 15 years, was maintained. That is a harsh sentence by Brazilian standards considering the term of imprisonment for murder of the second degree is from 6 to 20 years. In addition, drug trafficking became a heinous-like crime. In practice, this prevents certain benefits, such as release on bail, from being granted and requires a convict serve a longer portion of his or her prison sentence before being eligible for transfer to less strict punishments (similar to intermittent imprisonment or home detention in the United States). The connection between the changes introduced by the 2006 law and incarceration are explained by Machado (2019).

It is worth noting RE [Recurso Extraordinário, or Appeal to the Brazilian Federal Supreme Court] 635.659, which the São Paulo Public Defender’s Office filed with the STF [Supremo Tribunal Federal, or Brazilian Federal Supreme Court] in 2011 to request Section 28 of the Anti-Drug Act be ruled unconstitutional, is currently pending decision. If it is upheld, possession of drugs for personal use will cease to be a criminal offense.

The most noticeable effect of the 2006 law was a rise in the number of people imprisoned for drug trafficking, from 47,000 in 2006 to 176,691 in June 2016, according to data from the DPN [Departamento Penitenciário Nacional, or Brazilian National Prison Department] (2016: 42). Some authors argue that rise occurred because the law now makes it possible to charge more drug users as drug traffickers (due to a lack of objective criteria to distinguish between both categories), whereas others say it is more closely connected with an expansion of the illegal drug market. Concerning the first hypothesis, Zaluar (2004) says,

Due to our inquisitorial traditions, the criminalization of certain substances, such as marijuana and cocaine, gave the police tremendous power. It is police officers who decide who will or will not be prosecuted for mere drug use or for drug trafficking because they are the ones that present evidence and initiate proceedings. (p. 88)

Some studies attribute that rise to the development of the illegal drug market, thus ratifying the second hypothesis mentioned above. For example, Hirata and Grillo (2019) point out the development of drug trafficking organizations and describe how they have expanded in different ways in Rio in Janeiro and São Paulo over the last few decades. Following the same line of reasoning, Misse (2007) traces the history of the expansion of drug trafficking—at the heart of the illicit activities emerging in recent decades—by describing the gradual growth of this market.

However, 277,092 police incidents involving drugs were reported in Brazil in 2016, requiring different types of measures and procedures from all the institutions comprising the justice system—LEAs, courts, and prisons. DPN data (2017) show drug trafficking cases account for 28% of the entire prison population. This trend is more clearly observed among specific groups. For example, most female convicts (62%) are serving sentences for drug trafficking. Among adolescents, drug trafficking is the second most frequent reason for imprisonment (24%).

Recent studies show Brazil’s role in the global drug market has increased in importance. A text we studied, Cohen (2019), explores the roles of Brazil and Africa in that market. There are no data on the amount of

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4 The minimum sentence was increased from three to five years. As Machado et al. (2019) points out, this created a restriction on imposing noncustodial sanctions on people involved in drug trafficking, which is only possible for crimes carrying sentences of up to four years.

5 Sentence for homicide stipulated by Section 121 of the Brazilian Penal Code. Executive Order 2.848/1940.

6 For information about the processing of this Appeal to the STF, refer to https://bit.ly/2fHoEq.


drugs seized nationwide, but the number of drug seizures in each state indicates this trend, as seen below. Nevertheless, it should be noted the size of the drug market cannot be determined from data on drug seizures, which reflect only the amount of drugs removed from circulation. In fact, it is impossible to infer the amount of those that remained on the market, evading seizure by authorities.

There are few regular nationwide surveys on drug use. In any case, the federal government published in 2009 a survey showing marijuana as the most used illegal drug and a rise in drug use.

The Ministry of Justice’s report ‘Tráfico de Drogas e Constituição: um estudo jurídico-social do artigo 33 da Lei de Drogas e sua adequação aos princípios constitucionais penais’ [Drug Trafficking and the Constitution: A Legal and Social Study of Section 33 of the Anti-Drug Law and its Adequacy to the Constitutional Principles of Criminal Law] points out the following data.

The latest survey on the demand for drugs in Brazil, conducted in 2005, indicates cannabis (or marijuana) is the most commonly used illicit drug in the country—consumed by 8.8% of all drug users (lifetime use), up from a lifetime use of 6.9% in 2001. In turn, lifetime use of cocaine stood at 2.9% in 2005, up from 2.3% in 2001. However, those numbers are much lower than those recorded in developed countries, mainly the U.S. (Brazil 2009: 75–76)

This paper focuses on drug-related incidents in the state of São Paulo—the richest and most populous in Brazil, with 41.2 million inhabitants according to the 2010 census—which accounts for 28% of all drug-related incidents in the country.

São Paulo is also the state with the largest police force—about 100,000 policiais militares [ostensible police officers] and 30,000 policiais civis [investigative police officers]. São Paulo’ LEAs seized over 100 MT of drugs in the state in 2015. In 2016, drug seizures totaled over 160 MT.

We focused on São Paulo State data, presented below, because that state accounts for a large share of all drug-related incidents in Brazil.

Most of the data presented in this paper are part of the study Apreensões de drogas no estado de São Paulo: Um raio-x das apreensões de drogas segundo ocorrências e massa [Drug Seizures in the State of São Paulo: An In-Depth View of Drug Seizures Broken Down by Number of Incidents and Drug Amounts], conducted by the authors for Instituto Sou da Paz, with the support of the Open Society Foundations and published in May 2018.

**Methodology**

Few Brazilian states, such as Rio Grande do Sul, Santa Catarina, Ceará, and Rio de Janeiro report the number of drug seizures and the amount of drugs seized. The reason is that most federal units tally up those events in a simplistic manner by associating them with positive police productivity. Unfortunately, very few federal units publish data such as the amount of seized drugs regularly.

As a result, we structured this paper by systematizing data to provide a different view of the issue, from the perspective of the effectiveness and efficiency of anti-drug operations.

To conduct our study, we used data on drug trafficking, drug possession, and drug seizure incidents since 2001, available on the SSP-SP’s [Secretaria da Segurança Pública do Estado de São Paulo, or São Paulo State Department of Law Enforcement] website. In addition, we requested two other sets of data by using the Access to Information Act (Law 12.527/2011). The first set was the total amount of seized drugs broken...
down by police precincts in the state of São Paulo, consolidated based on the *Sistema Estadual de Coleta de Estatísticas Criminais* [State Criminal Statistics Collection System], introduced by Resolution SSP 160. The other set consisted of microdata (the most disaggregated data possible) on everyone identified in police reports about any type of drug seizure, along with the respective drug amount. The data covered both adult and juvenile offenses.

The Table 1 shows discrepancies between both sources even though we used a data correction algorithm. We calculated that discrepancy and included it in this paper to show the degree of accuracy of the procedures we used.

Just as in many parts of the world, countless types of drugs in different forms for use are seized in the state of São Paulo (e.g., synthetic drugs in the form of pills or injectable). To be able to analyze the data, we focused on the three most common types of drugs: marijuana, cocaine, and crack. Data on all others were excluded from our databases because they are not satisfactorily recorded in police reports, making it impossible to treat the data and correct any inconsistencies.

It should also be noted the source of data we used in this research did not allow us to identify and distinguish between different types and purity levels of the drugs. For example, the seized drugs may be either ready for use (often mixed with other substances) or in paste form (in the case of cocaine). We do not have many papers focusing only on the different purity levels of seized drugs, but we can point out Botelho et al. (2014), which analyzed 210 drug samples seized by the *Polícia Federal* in eight Brazilian regions between 2009 and 2012. The authors conclude over 50% of the samples contained no adulterants, consistently with cocaine paste traded internationally according to the research.

**Presentation of Data**

We found different types of drug-related incidents followed different trends in São Paulo. Whereas drug trafficking has increased gradually over the last 12 years, from 14,000 cases in 2004 to almost 50,000 in 2017, the number of incidents of drug possession for use has risen less steeply and less steadily. The number of drug seizures without arrest (cases in which the police find drugs but are unable to associate them with anyone) (Source: Coordenadoria de Planejamento e Análise, Secretaria da Segurança Pública de São Paulo 2005) remained stable, never exceeding 5,000 per year, and accounted for about 6% of all drug-related incidents throughout the time series (as shown in Chart 1).

However, we segmented the state data into three geographic regions—the capital [the city of São Paulo], Greater São Paulo (GSP), and the interior—given the size of the state of São Paulo, in which each area has

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**Table 1:** Discrepancy Between Drug Amounts Described in Data Aggregated by Police Precincts and in Microdata for Period between 2015 and 2017* (in g).

<table>
<thead>
<tr>
<th>Type</th>
<th>Aggregate Base</th>
<th>Microdata</th>
<th>Discrepancy %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cocaine</td>
<td>39,028,054</td>
<td>37,900,177</td>
<td>-3.0%</td>
</tr>
<tr>
<td>Crack</td>
<td>5,294,374</td>
<td>5,955,317</td>
<td>11.1%</td>
</tr>
<tr>
<td>Marijuana</td>
<td>372,808,659</td>
<td>354,501,588</td>
<td>-5.2%</td>
</tr>
</tbody>
</table>

* Up to September.

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18 Police precincts or police stations are government offices in which a chief of police oversees judicial police activities. They may be responsible for a territorial area or specialize in serving a specific segment of the population (e.g., police stations assisting women) or handling a specific type of crime (e.g., police stations investigating murder).


20 The first stage is the production of the police report (from which we obtained the microdata); further information can be added later, such as the expert report about the drugs (produced by the Scientific Police.) We consolidated the aggregate data we received based on information from expert reports. We considered the aggregate data more reliable in view of the circumstances in which each type of report is produced and the moment at which the information from both data sources (aggregate data and microdata) is obtained. Therefore, we used the aggregate data as quality indicators for the procedures we performed.
specific social and demographic features. The purpose was to identify how those peculiarities are reflected in the field of law enforcement as far as drug-related incidents are concerned.

Charts 2 and 3 show most drug trafficking and drug possession incidents occurred in the Interior. Nevertheless, we observed each type of incident followed a different trend. Drug-trafficking incidents rose in number in all regions, mainly in the Interior in view of the large number of incidents.

On a regional level, drug possession incidents followed a different trend, rising and falling in number year over year in each region along the time series. The drug possession chart shows an abrupt change from 2013: a fall in the number of cases in the Interior, and a rise in the Capital and in GSP.

Source: Secretaria da Segurança Pública do Estado de São Paulo [São Paulo State Department of Law Enforcement] website.

**Chart 2:** Drug Trafficking Incidents by Region—São Paulo State, 2004–2017.
Source: Secretaria da Segurança Pública do Estado de São Paulo [São Paulo State Department of Law Enforcement] website.
The Table 2 more clearly displays a comparison between regions. It stands out that the Capital’s share in drug possession incidents decreased, from 51% in 2015 to 21% in 2017.

Although they’re an important indicator of how LEAs deal with the drugs issue, data on incidents do not allow us to analyze or classify the results of those events. Therefore we have to complement those data with information that provides a more thorough view of law enforcement’s action against drugs. Consequently, we present data on the amount of seized drugs to be able to assess the quality of those incidents and the effectiveness of police strategies to some extent.


<table>
<thead>
<tr>
<th>Region</th>
<th>Trafficking</th>
<th>Possession</th>
<th>Seizures w/no actor</th>
<th>Trafficking</th>
<th>Possession</th>
<th>Seizures w/no actor</th>
<th>Trafficking</th>
<th>Possession</th>
<th>Seizures w/no actor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital</td>
<td>45%</td>
<td>51%</td>
<td>4%</td>
<td>58%</td>
<td>40%</td>
<td>2%</td>
<td>77%</td>
<td>21%</td>
<td>2%</td>
</tr>
<tr>
<td>GSP</td>
<td>65%</td>
<td>28%</td>
<td>7%</td>
<td>58%</td>
<td>38%</td>
<td>5%</td>
<td>69%</td>
<td>24%</td>
<td>7%</td>
</tr>
<tr>
<td>Coast</td>
<td>57%</td>
<td>38%</td>
<td>5%</td>
<td>49%</td>
<td>46%</td>
<td>5%</td>
<td>50%</td>
<td>45%</td>
<td>5%</td>
</tr>
<tr>
<td>Interior</td>
<td>56%</td>
<td>39%</td>
<td>5%</td>
<td>55%</td>
<td>39%</td>
<td>6%</td>
<td>58%</td>
<td>36%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Source: Secretaria da Segurança Pública do Estado de São Paulo [São Paulo State Department of Law Enforcement] website.

The Table 2 more clearly displays a comparison between regions. It stands out that the Capital’s share in drug possession incidents decreased, from 51% in 2015 to 21% in 2017.

Although they’re an important indicator of how LEAs deal with the drugs issue, data on incidents do not allow us to analyze or classify the results of those events. Therefore we have to complement those data with information that provides a more thorough view of law enforcement’s action against drugs. Consequently, we present data on the amount of seized drugs to be able to assess the quality of those incidents and the effectiveness of police strategies to some extent.

Table 3 shows the time series of the amounts of drugs seized in the state of São Paulo. The large amounts and the sharp rise since 2012 stand out. Marijuana and cocaine seizures have shot up by over 70%, whereas crack seizures have been falling since then. Concerning amounts, we chose to use different units (metric tons for marijuana and cocaine and kilos for crack). We analyzed other federal units that provide data on drug amounts and observed the amount of drugs seized in São Paulo is at least five times larger than that seized in the state of Rio de Janeiro, which ranks second among the five states that published drug seizure data for 2015.

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21 The states of Rio de Janeiro, Rio Grande do Sul, Santa Catarina, and Ceará published those data.
It is worth noting the data we analyzed indicate only one type of drug was seized in 69% of the cases, whereas two types of drugs were seized in 21% of the incidents. Less than 1% of the drug seizures we examined involved the three types of drugs studied in this paper. In fact, 51.5% of the 173,000 incidents in our database involved marijuana only.

Just as we did when we analyzed drug-related incidents, we decided to break down drug amounts by region based on the borders of police precincts in the state of São Paulo. This showed us drug seizures follow different patterns depending on the type of drug considered. The largest amounts of marijuana and crack were seized in the Interior, whereas the largest amounts of cocaine were seized in the Capital and in GSP, confirming information from other papers that show the existence of drug-trafficking routes through the Interior of São Paulo State to other countries. In fact, national borders and state lines are clearly an important factor in marijuana trafficking. Paraguay is a major supplier of marijuana to Brazil, which explains the large number of marijuana seizures in the northwestern part of São Paulo State, in areas closest to states neighboring that country.

Concerning cocaine, large numbers of seizures were recorded in GSP, in the Capital, and on the State Coast, where the main Brazilian port is located, in the city of Santos. Seizures of cocaine paste being shipped from the Port of Santos to Europe—not included in our database—have hit record high numbers in recent months. Cohen (2019) also points out the use of sea routes, which make it possible to ship drugs in bulk (Maps 1, 2 and 3).

Other papers, such as Abreu (2017) and Peralva, Sinhoretto, and Gallo (2012), have explored the use of the Interior of São Paulo State in international drug trafficking routes, as well as the state’s role in the international drug trade. They point out that:

The state of São Paulo, in turn, seems to play a key role in the international drug trade, and its roads, airports and ports seem to constitute an important drug route to the U.S. and Europe. In addition, the state is a major consumer market. There was said to be a drug trafficking route in the interior of the state due to data from the Polícia Militar published in local print media. It was believed to be part of a network used to import and distribute drugs throughout Brazil and to be connected with international trafficking routes from the 1990s. Drugs coming from producing countries would be unloaded in the western part of the state, in the Presidente Prudente region, and go to the cities of São Paulo and Rio de Janeiro through Campinas, Ribeirão Preto and Atibaia. (Peralva, Sinhoretto, and Gallo 2012: 223)

Table 3: Amounts of Drugs Seized by Year—São Paulo State Marijuana, Cocaine, and Crack.

<table>
<thead>
<tr>
<th>Year</th>
<th>Marijuana (in MT)</th>
<th>Cocaine (in MT)</th>
<th>Crack (in kg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>66.9</td>
<td>8.8</td>
<td>2987.6</td>
</tr>
<tr>
<td>2013</td>
<td>70.2</td>
<td>8.6</td>
<td>1928.3</td>
</tr>
<tr>
<td>2014</td>
<td>72.3</td>
<td>9.4</td>
<td>1627.8</td>
</tr>
<tr>
<td>2015</td>
<td>102.9</td>
<td>11.6</td>
<td>1727.3</td>
</tr>
<tr>
<td>2016</td>
<td>148.1</td>
<td>12.3</td>
<td>2079.8</td>
</tr>
<tr>
<td>2017</td>
<td>121.7</td>
<td>15.1</td>
<td>1487.2</td>
</tr>
<tr>
<td>Total</td>
<td>582.2</td>
<td>65.8</td>
<td>11838.1</td>
</tr>
</tbody>
</table>

Source: CAP [Coordenadoria de Análise e Planejamento, or Analysis and Planning Commission]/SSP-SP (Data aggregated by PP).

* Up to September.

22 Based on this geographic division, we have the Capital, Greater São Paulo, and the Interior, which is subdivided into 10 areas, thus allowing us to point out the parts of the Interior with the largest concentrations.

23 The official website says Santos is the largest port complex in Latin America and handles almost one-third of Brazil’s foreign trade operations. Available at http://www.portodesantos.com.br/institucional/o-porto-de-santos.

24 In 2017, 11.5 metric tons of cocaine was seized in the Port of Santos alone. In 2018, 14 metric tons had been seized by mid-August. Survey available at http://www.atribuna.com.br/noticias/noticias-detalle/policia/apreensao-de-cocaina-no-porto-de-santos-chega-a-14-toneladas/?cHash=49480b12946073e08af3703e51be4b3a.
Map 1: Marijuana Seizures by São Paulo State Region (2012–2017*).
Source: CAP/SSP-SP (Data aggregated by PP).
* Up to September.

Source: CAP/SSP-SP (Data aggregated by PP).
* Up to September.

Map 3: Crack Seizures by São Paulo State Region (2012–2017*).
Source: CAP/SSP-SP (Data aggregated by PP).
* Up to September.
Law enforcement action is usually qualified and guided by the connection between the type of incident and the amount of drugs seized. We used different methods to establish that connection in order to ratify our findings.

First of all, we determined the amount of each drug by type of incident. This showed us the tens of thousands of incidents of drug possession for personal use account for a tiny share of the total amount of seized drugs, a pattern we observed across all the three types of drugs we analyzed (Charts 4, 5 and 6).

Considering possession for personal use accounts for about 38% of all drug-related incidents, the police expend a large amount of resources arresting drug users only to seize a tiny amount of drugs, thus producing a questionable effect on illicit drug consumption.

We also categorized the data by LEA reporting each incident at the police station for the appropriate measures.

**Chart 4:** Marijuana Amount Seized by Incident Type (Possession and Trafficking) in São Paulo State, 2015–2017*.

Sources: Microdata.

* Up to September.

**Chart 5:** Cocaine Amount Seized by Incident Type (Possession and Trafficking) in São Paulo State, 2015–2017*.

Source: Microdata.

* Up to September.
Table 4: Incidents by Type and Arresting Agency (2015–2017*).

<table>
<thead>
<tr>
<th>Arresting agency</th>
<th>Possession</th>
<th>Trafficking</th>
</tr>
</thead>
<tbody>
<tr>
<td>PM</td>
<td>50%</td>
<td>60%</td>
</tr>
<tr>
<td>PC</td>
<td>32%</td>
<td>25%</td>
</tr>
<tr>
<td>GM</td>
<td>9%</td>
<td>9%</td>
</tr>
<tr>
<td>Others</td>
<td>9%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Source: Microdata.
* Up to September.

Table 5: Median Amount of Each Drug Type by Incident Type (in g) (2015–2017*).

<table>
<thead>
<tr>
<th>Drug</th>
<th>Possession</th>
<th>Trafficking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marijuana</td>
<td>2.18</td>
<td>39.83</td>
</tr>
<tr>
<td>Cocaine</td>
<td>2</td>
<td>21.61</td>
</tr>
<tr>
<td>Crack</td>
<td>1</td>
<td>9.4</td>
</tr>
</tbody>
</table>

Source: Microdata.
* Up to September.

The Table 4 shows that half of the drug possession incidents in the state of São Paulo were reported at police precincts by the PM. The PC ranks second at 32%. Ranking third, GMs reported 9% of all drug-possession incidents. It is worth noting not all cities in the state of São Paulo have a municipal guard. The PM accounted for an even larger share of drug-trafficking incidents reported even though the PC (mainly its expert departments) would have been expected to show greater efficiency due to its natural inclination (as an investigative agency), as well as its greater expertise and better tools to fight more organized crime structures shipping drugs in bulk. Even though this is brief analysis, the fact that the PC has such a small share, mainly in drug trafficking incidents reported, is a cause of concern.

Another method to relate incident types to seized amounts is by using measures of statistical dispersion. We calculated the median amount of each drug by each incident type to discard any discrepant values in the distribution of the data, as seen at Table 5.
Overall, all the medians we determined can be considered low, which confirms other papers, such as Jesus et al. (2011), whose findings indicate the same. The median amounts in the drug report with data on Rio de Janeiro State, published by the ISP [Instituto de Segurança Pública, or Law Enforcement Institute], were also low.

We observed major differences among incidents, even among drug-trafficking cases, because most incidents involved relatively small amounts, which applies to all types of drugs see table 5.25

To illustrate this heterogeneous distribution of drug trafficking incidents by seized amounts, we calculated the share of each percentile range. This allowed us to analyze different segments (Charts 7, 8 and 9).

The data above show that the share of the 99 percentile—that is, the 1% corresponding to the largest drug seizures—accounts for over half of the total amount seized of all the types of drugs we analyzed, hitting a high of 76% in the case of marijuana (Chart 7).

Those data allow us to say large drug seizures account for a significant share of the total amount of drugs seized in the state of São Paulo. On the other end of the graph, we see the 89% smallest drug seizures have an insignificant share in the total, between 3% and 10% of total drug seizures depending on the type of drug. This shows police operations should focus on the types of incidents leading to larger drug seizures.

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25 According to data from the report Panorama das apreensões de drogas no Rio de Janeiro [Overview of Drug Seizures in the State of Rio de Janeiro], the median amounts in drug-trafficking incidents in 2015 were 56 g marijuana, 32 g cocaine, and 14 g crack.
To examine the incidents involving the largest seized amounts more thoroughly, we cut off the 100 largest seizures of each type of drug we studied, as shown at Table 6.

Tables 6 and 7 shows a very large drug concentration for such a small number of incidents since the top 100 incidents account for over half of the total amount of marijuana seized. In fact, the top 100 incidents comprise less than 0.25% of all the incidents involving each type of drug and stand out due to their specificities, such as distribution across the years analyzed. We see those incidents are unevenly distributed across the different types of drugs, suggesting large seizures of different drug types depend on different factors.

Table 8 displays the number of incidents and the amount of drugs seized to highlight the role of each type of law enforcement action and policing strategy in the state. What stands out is the large share of...
seizures of all drugs, mainly cocaine, on highways and public roads since the top 100 drug trafficking incidents involve amounts that can only be shipped by truck or car.\textsuperscript{26}

By looking at the LEAs in the Table 9, we see the PM once again accounts for a large share of incidents, just as seen above in total drug possession and trafficking incidents. The same can be seen when we consider the total amount seized. The outstanding results achieved by the PM are mostly connected with a specific program in which the highway patrol conducts inspections routinely on São Paulo highways.

We see the PC stands out only in cocaine seizures, possibly due to operations resulting from investigative work and leading to seizures of large amounts of cocaine.

\section*{Conclusions}

The data presented here are part of a larger project undertaken by Instituto Sou da Paz to qualify law enforcement policies in São Paulo State and reduce violent crime. The number of homicides has fallen significantly in the state of São Paulo in recent years,\textsuperscript{27} totaling 7 per 100 thousand inhabitants in 2018.\textsuperscript{28}

On the other hand, the state’s LEAs are still struggling to curb other major violent crimes, such as robberies (defined in Brazil as taking and carrying away someone else’s personal property by force or by the threat of immediate force), which came to 396,000 in 2017, and rapes, which totaled 11,000 in the same year (according to official SSP data).

Examining the state’s law enforcement assessment and finding out more and more police resources are used to fight drug-related incidents every day prompted us to delve into the data to provide a better evaluation of police strategies, considering the countless challenges before law enforcement.

\begin{table}[h]
\centering
\caption{Top 100 Seizures by Location Type and Drug Type—São Paulo State, 2015–2017.}
\begin{tabular}{lcccc}
\hline
Location Type & Marijuana & & Cocaine & \\
 & Incidents & Amount (in MT) & Incidents & Amount (in MT) \\
\hline
Highway & 34 & 55.6 & 13 & 0.9 \\
Public road & 31 & 56.6 & 56 & 3.5 \\
Home & 21 & 32.3 & 21 & 3.1 \\
Place of business & 4 & 5.9 & 8 & 1.2 \\
Others & 10 & 27.6 & 2 & 0.3 \\
\hline
Overall Total & 100 & 178.1 & 100 & 9.0 \\
\hline
\end{tabular}
\end{table}

\begin{table}[h]
\centering
\caption{Arresting Agency in Top 100 Seizures by Drug Type—São Paulo State, 2015–2017.}
\begin{tabular}{lcccc}
\hline
Arresting agency & Marijuana & & Cocaine & \\
 & Incident & Amount & Incident & Amount \\
\hline
PM & 71 & 67\% & 57 & 41\% \\
PC & 24 & 26\% & 38 & 56\% \\
GM & 1 & 1\% & 1 & 1\% \\
Others & 4 & 6\% & 4 & 4\% \\
\hline
\end{tabular}
\end{table}

\textsuperscript{26} The incident in which the highest amount of marijuana was seized involved 15.9 metric tons of the drug shipped in a semitrailer. It would be impossible to ship such a large amount in even the largest passenger cars.

\textsuperscript{27} There is an intense debate among Brazilian scholars about the causes of the fall in the number of homicides in São Paulo. For a better understanding of the different explanations, refer to Feltran (2010a, 2010b), Hirata (2010), Peres et al. (2011), and Manso (2012).

\textsuperscript{28} Data from the SSP-SP published in August 2018. Available at [https://sao-paulo.estadão.com.br/noticias/geral,latrocinios-soberbo-estado-de-sao-paulo-pela-primeira-vez-no-an]

\textsuperscript{29} Data from the SSP-SP published in August 2018. Available at [https://sao-paulo.estadão.com.br/noticias/geral,latrocinios-soberbo-estado-de-sao-paulo-pela-primeira-vez-no-an].
Each drug-related incident leads to the arrest of a suspect, and the arrest *in flagrante delicto* is recorded, which takes a few hours regardless of the drug amount. In case of drug-trafficking incidents, the suspect is usually remanded in custody, at the cost of about $325 per month.

Incidents of drug possession for personal use also increased in number between 2005 and 2017 (35%), albeit less sharply than drug trafficking cases. However, it should be noted the share of those cases in total drug-related incidents has been decreasing, which is good news.\(^{29}\)

This fall has been more significant in the Capital in the last few years. Nevertheless, we have to question whether it makes sense for 38% of all drug-related incidents to be still focused on drug users, who should be the focus of health—not law enforcement—public policies. The thousands of incidents occurring every year (mainly in the Interior) require LEAs and courts to expend energy and resources, affecting many people’s lives, only to remove from circulation some 3% to 5% of the total amount of drugs seized by the police.

There is no evidence that criminalizing and arresting drug users has any impact on drug consumption. In fact, this strategy may have the adverse effect of leading heavy drug users away from assistance policies. Therefore, we believe a short-term solution would be for the police to stop arresting drug users gradually, as they have been doing in the city of São Paulo.

It would be helpful to obtain data from other states and discuss them rationally with society and government institutions now that the Supreme Court is about to reach a decision about the constitutionality of the criminalization of drug possession for personal use.

The data show a steep rise in the amount of drugs seized in the state of São Paulo, mainly of marijuana and cocaine. Indeed, 66 MT of marijuana was seized in 2012, versus 148 MT four years later.

Some of the possible explanations for this dramatic rise are higher drug consumption, increased use of the state of São Paulo as a route to other states and countries, and improved efficiency of police operations. Only one type of drug (of the three we analyzed) was seized in 69% of the cases we analyzed. It should also be noted 51.5% of all drug seizures consisted of marijuana only. Considering the movement for the regulation of marijuana sales in several countries (most recently in Canada), it is interesting to envision about half of all drug-related incidents in São Paulo State could be eliminated if the marijuana market were regulated in Brazil.

An analysis of only historical data on drug seizures could lead us to believe law enforcement is more efficient than it really is; however, we see police operations achieve extremely discrepant results if we consider the entire universe of drug-trafficking incidents. On the one hand, tens of thousands of incidents result in an almost negligible amount of drugs being seized; on the other hand, only a few drug seizures involve significant volumes. Marijuana provides the most striking example because 1% of all marijuana seizures accounted for 76% of the entire amount seized in the state during the period we analyzed. The concentration of cocaine and crack in the top percentile is 57% and 66%, respectively.

On the other hand, thousands of people\(^{30}\) having very low amounts of drugs in their possession are approached by the police, charged with a crime carrying a minimum sentence of five years in prison, and usually remanded in custody.\(^{31}\)

The median we calculated indicates the amount of marijuana seized in at least half of all drug trafficking incidents was equal to or lower than 40 g, corresponding to two chocolates.

Our goal in analyzing those data was to contribute to the debate about law enforcement’s priorities. Because each of those incidents leads to police time spent recording the event (which in Brazil usually means police cars and officers off the street for hours), the production of expert reports about the drug, and hours of evidence processing in police stations and courts, we must reflect on the ideal focus for our law enforcement policy.

We highlighted the top percentile of the ratio between the top 100 incidents and each drug to show which police strategies led to the largest drug seizures, thus making it possible to improve resource allocation.

\(^{29}\) To test the hypothesis that incidents of drug possession for personal use could be categorized as drug trafficking, we checked the time series of median amounts for any changes that might indicate this practice. However, the numbers we found changed only slightly over time.

\(^{30}\) Data from the SSP-SP indicate 48,807 people were arrested for drug trafficking, both in flagrante delicto and with a warrant, in the state of São Paulo in 2017.

\(^{31}\) According to a report from *Instituto de Defesa do Direito de Defesa* [Institute for the Defense of the Right of Defense], the temporary detention of 67.7% of people arrested for drug trafficking is converted into preventive detention. That is the second highest percentage, behind temporary detention for robbery only (p. 52). Available at https://bit.ly/2cLcyIV.
Our analyses of those data allowed us to examine drug trafficking in relation to each of the substances we studied, along with its regional differences and specific dynamics, and discuss the focus adopted by each law enforcement agency.

By reading and examining news about major incidents, we found intelligence (anonymous tips, ongoing investigations, etc.) is frequently used, making it clear that it is crucial to more intensively explore these strategies. Improving intelligence collection not only increases efficiency but also reduces the violence associated with drug trafficking (shootings, car chases, etc.), which helps protect police officers and decrease the number of victims.

It is worth noting that our data show a mismatch between the extensive media coverage crack attracts and the heated public debate about it on the one hand and the very small seizures of this drug on the other hand. In addition, crack does not seem to be among the PC’s priorities. Those findings may indicate that either the crack market is not very large, or the police do not focus so heavily on seizing crack. Improving the collection of intelligence about the crack market will certainly help overcome the discussion about the crack issue in the state of São Paulo.

Competing Interests
The authors have no competing interests to declare.

References


This paper reviews some of the main research on drug law enforcement in Brazil since the 2006 Drug Law came into force, noting a clear and constant pattern of police and judicial focus directed at retail drug trafficking, decisively impacting current incarceration rates. It then examines the lack of understanding of the actual functioning of illicit drug markets by the criminal justice system, leading to judicial decisions not only ineffective for its declared purposes, but also counterproductive in terms of controlling illicit economies.

Keywords: illicit economies; criminal justice system; prisons; illicit drug markets; sentencing

Introduction
The illicit drug market is a multifaceted, profitable one in Brazil. The country of continental proportions shares borders with the major producing countries of plant-based drugs in the world and is itself a large consumer market (INCB 2016). The control over transportation routes and retail sales points is subject to dispute among different criminal organizations. The violence resulting from such disputes, as well as from state repression, is part of everyday lives of thousands of people living in communities that are somehow regulated by this economic activity. The articles in this special edition of JIED focus on different aspects of this illegal market, including routes, prices, operating systems, and criminal organizations.

Official regulation and repression mechanisms are extremely limited. The criminal justice system focuses heavily on small drug retailers, who are highly replaceable and represent the weakest link in the organizations’ framework. Brazilian prisons are packed with criminals charged with small offenses, but this has negligible impact over drug trafficking operations. Instead, this practice helps drive new members to factions, who organize their structure (and criminal activities) from within the prisons (Feltran 2018).

While justice system operators—judges, prosecutors, and assistants—remain oblivious to the complexity of the matter, there is a growing number of research studies focused on drug policy and incarceration in Brazil, and they all point toward similar directions. Hence, the challenge is accessing legislators and the judicial system to finally surface the negative consequences of the current model of confrontation and bring it to public debate.

The Impact of the 2006 Drug Act
The Brazilian drug legislation is mainly punitive. The current law has been in force since 2006 and was generally perceived as a great breakthrough amongst progressists because it showed an effort to differentiate consumers and drug dealers by decriminalizing drug possession for personal use. However, the same law raised the minimum sentence for drug-related charges to five years; this term can be reduced to one year and eight months of imprisonment in specific scenarios.

Expectations about the new law led researchers to develop new studies to understand the impact of its enforcement. In 2009, the University of Brasilia and the Federal University of Rio de Janeiro carried out a research commissioned by the Ministry of Justice to analyze drug trafficking-related court rulings in
the cities of Brasilia and Rio de Janeiro pronounced in the first 18 months of enforcement (Boiteux et al. 2009). In short, the research found that the average drug dealer convicted by the system was male, was young, was arrested in flagrante when alone, and carried only one type of drug, a likely indication of a small retailer. In 80% of the cases, the judiciary declined requests for pretrial release. The study also found that few were the cases of reduced sentences; the average prison sentence on analyzed cases was 4.5 years (Boiteux 2009: 99).

In 2011, the University of São Paulo’s Center for Violence Studies carried out a research about drug-related in flagrante arrests in the city of São Paulo between November 2010 and January 2011 (Jesus et al. 2011). Even though data was gathered at a different state nearly four years later, the findings were very similar to those showcased by the 2009 research: most of the arrests were done in flagrante during military police routine operations, an indication that the arrests were not preceded by any investigation. As observed in Brasilia and Rio de Janeiro, most individuals were arrested alone, unarmed, and carrying small drug amounts, and they were subject to remand. The research also found that more often than not, the only witnesses to the crime were the police officers in charge of the arrest. This was also observed in other studies that followed. The offenders’ profiles were also replicated at more recent studies: mostly nonwhite individuals who completed up to primary education and had no prior records. Nevertheless, the studies differ in relation to the average imprisonment term: in São Paulo, the most frequent ruling was one year and eight months in prison.

The same trend was verified by a research study carried out by the Sou da Paz Institute in 2012, focused on in flagrante arrests in the city of São Paulo between April and June of 2011 (Carlos 2012). Within this period, 22.7% of offenders were detained for drug trafficking, a dramatic increase in comparison to detentions prior to the new law. Most of the offenders were arrested alone and faced pretrial arrest. They also share the same sociodemographic profile found in previous research: mostly young males, low level of education, and no prior records, pertaining to the group of small retailers in the illicit drug trade.

Following this study, Juliana Carlos further analyzed its database to validate several trends identified by those previous ones (Carlos 2015): Most offenders arrested in flagrante for drug trafficking carried a very small amount of only one type of drug. In crack-related arrests, for instance, the average possession by men and women was slightly over 10 g (Carlos 2015: 5). The research simulated the effect of adopting the same quantity thresholds used to distinguish personal use from drug trafficking in other countries, and results show that using moderate criteria (such as the one used in Portugal) would prevent the arrest of 29% of those detained in flagrante for possession of marijuana within the period in question (Carlos 2015: 8).

In the same year, Lemgruber and Fernandes (2015) analyzed 1,437 cases of arrests in flagrante for drug-related crimes in Rio de Janeiro, focusing on alternatives to remand. However, it demonstrated the judiciary’s reluctance to pretrial release to persons accused of drug-related crimes: 70.2% of the defendants were in remand throughout the criminal proceedings. The authors emphasize the divorce between ‘the imaginary and the real’ when describing how the judiciary constructs the image of drug trafficker to justify the need of remand.

In 2018, the Rio de Janeiro’s Public Defender’s Office identified all drug-related rulings pronounced in Rio’s metropolitan area between August 2014 and January 2016 (Haber 2018). Although carried out almost 10 years after that first 2009 research, the findings were mostly the same: people convicted of drug charges were mostly first offenders, arrested in flagrante with small drug amounts. This scenario shows a clear focus of public safety agencies on the retail drug market (Haber 2018: 30). Another interesting piece of information found by this research was that the place of arrest influenced court ruling in 40% of the cases, where longer sentences were given because of the likelihood that the offender would belong to a criminal organization.

The pattern around profiles, circumstance of arrests, and crime types indicate that the criminal justice system—represented by several actors, from the military police in charge of arrests to the superior courts—is undoubtedly focused on retail drug trafficking. This trend is even more evident in two related research studies carried out independently in Rio de Janeiro (ISP 2016) and São Paulo (Sou da Paz 2018).

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1 An arrest in flagrante delicto (henceforth arrest in flagrante) is not preceded by an investigation. It shall be applied when the alleged criminal is caught by police officers just after having committed the crime (being denounced by the victims or witnesses), or with tools, guns, or other objects related to committing a crime.

2 In addition to the information on pretrial detention, the report confirmed data from other investigations into the sociodemographic profile of the defendants and the usual conditions of police occurrences, showing that pretrial detention, primary offenders, and unarmed prisoners prevail.
The first one, conducted by the Rio de Janeiro’s Public Safety Institute, mapped police incidents and drug seizures in the state of Rio de Janeiro between January 2010 and August 2016. The findings did not come as a shock but are still impressive: 1% of police incidents found 85.4% of all marijuana and 46% of all cocaine apprehended during operations in the period. The research has shown that only 1% of drug-related police incidents seized more than 10 kg of marijuana, 2 kg of cocaine, and 1.3 kg of crack. It also showed that the average seizure was 14 g of marijuana and 23 g of cocaine (ISP 2016: 15).

The second study was carried out by Sou da Paz and addressed drug seizures in the state of São Paulo between 2005 and 2017. The results are presented by Silva and Langeani in another article published in this JIED. Study findings in Rio and São Paulo are starkly similar: in the latter, only 1% of the police incidents found 76% of all marijuana, 56% of all cocaine, and 66% of all crack seized in the state. The average seizure was 39.8 g of marijuana, 21.6 g of cocaine, and 9.4 g of crack (Sou da Paz 2018: 36–37). The report highlights the immense gap found between police efforts and their results.

On the one hand, tens of thousands of incidents resulted in the seizure of tiny amounts of drugs. On the other hand, just a very few operations were able to seize relevant amounts. We are talking about thousands of people who were arrested because of very small drug amounts for a crime whose minimal penalty is five-year imprisonment without the right to pre-trial release. (Sou da Paz 2018: 44)

So far, this article showed that a consistent corpus of research was carried out since the current Drug Act came into force and that all studies reached similar findings, regardless of region or period of data collection. It is reasonable to assume that such similarity is a reliable indication of the criminal justice system’s primary target in drug-related offenses: low-level workers who operate the retail drug market, the object of several articles in this special edition.

This reinforces the practice of poverty criminalization in Brazil and contributes to the critical conditions of the national penitentiary system. According to more recent data, 726,712 people were in prison as of June of 2016, an 81% increase in relation to 2006. Incarceration rates rose from 214.8 to 352.6 per 100,000 inhabitants in the same period. Among the prison population, 64% were nonwhite individuals, whereas the nonwhite population represents 53% of the country’s population. The increase in incarceration rates due to drug-related offenses has significantly contributed to this scenario: drug trafficking responded for 10.5% of detentions in 2006, but the number jumped to 26% in 2016 (DEPEN 2017).

The Justice System and Illegal Markets
Despite the soundness of the research and the harsh reality in penitentiaries across the country, justice system agents fail to acknowledge the negative impact of these practices. Frequent are the cases where defendants are severely punished for the apprehension of allegedly large amounts of drugs, even when just a small portion of marijuana was seized, under the justification that small, unarmed retailers must be taken off the streets to contain the violence associated with the illicit market.

Justice system agents build their understanding of the drug market upon the cases brought to them by security forces and upon prejudices and conceptions that are commonplace in their own social group. The sources of information to which they are exposed and the punitive nature of legal careers in Brazil also play important roles in their rulings. They see the real world through an illusory filter and use the resulting image to inform their decisions and determine what must be done to suppress drug trafficking. There are several clear examples of how legal agents lack basic knowledge about the means of operation of the illicit markets they attempt to control.

The final report produced by the Rio de Janeiro’s Public Defender’s Office identified a very particular aspect of the Brazilian justice system that may fall under the radar for outside observers, albeit well known by its agents: The extensive resource to ‘sentence models’, standardized decision templates ‘previously structured

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3 Albeit the shortage of data about enforcement of the Drug Act in other regions, the information gathered in São Paulo, Rio de Janeiro, and Brasilia are numerically relevant. Together, they represent around 30% of the country’s total population and 42% of the Brazilian prison population (IBGE 2010; DEPEN 2017). It is worth noting that the literature review set forth in this article is not exhaustive.

4 Women have been more severely impacted by the new punishment practices perpetrated by the justice system in relation to drug trafficking. The female prison population has increased 146% since 2006; 62% of the women arrested in the country in 2016 were accused of drug-related offenses.
and ready to fit any reality’ (Haber 2018: 59). Sentence models are a clear manifestation of how legal activities have gone through extreme bureaucratization in response to the massive number of similar cases that are analyzed every day. However, even rulings devised from scratch repeat a series of commonplaces that serve as foundation to arbitrate on drug trafficking cases. Most times, the arguments bear no relation to the real dynamics of the illicit markets. They are legal fictions whose mission is both to inform proceedings and legal consequences and appease the conscience of those working for the justice system. After all, for the mechanism to work, it is paramount that all actors involved truly believe that one ragged, weary defendant, who was arrested in flagrante with 40 g of marijuana on him and unarmed, is a major drug dealer whose liberty puts at risk the social order and the lives of law-abiding citizens.

A dramatic example of this practice is the way the judiciary deals with the fact that a vast majority of traffic-related incidents only have as witness the same police officers in charge of the arrest. The Court of Appeals of Rio de Janeiro even felt the need to amend an abridgement1 to include the following statement: ‘Having the depositions of police authorities as the sole oral evidence for an incident does not disallow conviction.’ This fails to acknowledge the complex dynamic between security forces and illegal markets, as well as the incentive-to-arrest policy that is central to local law enforcement—two factors that should certainly suffice for judges to exercise more caution when considering these testimonies.

Another recurring aspect in court rulings is how judges’ perceptions are completely detached from reality in terms of what can be considered a ‘reasonable amount of drug for personal (especially problematic) use,’ or how much can be considered a relevant amount of drug in an apprehension. Thus more often than not, negligible apprehensions are treated as clear evidence of grave cases, as illustrated by the examples below.6

The packaging, quantity and variety of the apprehended drugs suffice to indicate, with reasonable levels of certainty, that the substances were destined to trafficking purposes. The unanimous report of police officers regarding the offender’s behavior also corroborates this perspective. In addition, the quantity and the type of the drug found with the defendant, namely 5 (five) bags of cocaine weighing 4.4 g (four grams, four decigrams) and 2 (two) bags of cocaine weighing 1.6 g (one gram, six decigrams) are absolute proof of the agency and the materiality of the event.7

Those so-called ‘user-dealers’ (sic) must receive equally severe punishment, as they have a critical role in the traffic life cycle and, due to their pursue for an easy profit to afford their own addiction, they take any risks to attract new customers and users. [This case pertains to an apprehension of 13 g of marijuana and 14 g of crack]8

The amount of drug found with the defendant is significant: 59.6 g. According to data found on Wikipedia, a joint usually carries 0.25–1 g of marijuana. Therefore, one can easily assume that this massive amount of drug could not be destined to personal use.9

The defendant confessed to the possession, but she claimed to be a user. However, she also had cash on her, and the drug was packaged in individual bags, which is incompatible with personal use ... Therefore, this is a grave crime that renders the whole society unstable. [The case pertains to the apprehension of 14 crack stones totaling 4.8 g]10

In several cases, apprehensions are taken as evidence of trafficking because the defendant ‘makes a living out of crime.’ When read by itself, the statement may sound merely tautological, but it brings along a world view marked by prejudices of class and unfamiliarity with everyday lives in communities that rely on illegal markets to survive. This unfamiliarity can be perceived in other excerpts of court rulings. They are repeated or rephrased in hundreds of thousands of similar sentences.

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1 In legal jargon, abridgement is a summary of court rulings regarding a certain topic that has the purpose of facilitating compliance with precedents in lower courts.
2 All the examples were extracted from court rulings pronounced in trial courts at the São Paulo’s Central Criminal Forum in 2016.
6 Lawsuit no. 0101165-18.2015.8.26.0050. It is worth noting that the average daily consumption of crack in Brazilian state capitals is of 14.6 stones/day (FIOCRUZ 2014: 61).
Crime factions control drug sales points and fight over them by means of summary execution.\textsuperscript{11}

The illicit traffic of narcotics is one of the most heinous crimes, as it drives the practice of other illegal activities and is becoming a crime against humanity. Particularly in the case of a parent, we would not expect her to be engaged in drug trafficking, as this would bring misery to other mothers, like herself, whose offspring are addicted.\textsuperscript{12}

The criminal justice system’s complete unawareness of reality is out in the open when court rulings assume roles that are not consonant with the actual practices of the illegal drug market and the penitentiary system. For instance, judges often impose imprisonment where the law would allow a milder punishment, arguing that incarceration is necessary to disrupt the illicit trade—even though this small drug retailer will certainly have been replaced by another one before he even gets to the precinct. Insisting in incarceration as the means to solve the ‘traffic problem’ also shows complete ignorance about the forms of recruitment, organization, and development of the country’s most important criminal organizations, which were founded and are managed from within prisons; for more details, please refer to Gabriel Feltran’s article in this special edition.

This phenomenon does not only affect trial court judges. Legal fictions and commonplaces built around the dynamics of the illicit drug market are also vastly used by the high courts, as evidenced by Machado et al. in their article for this JIED.

Consequently, the country’s scenario bears the existence of two parallel worlds: The highly profitable, complex, and dynamic illicit drug market, marked by violent competition for the control over routes and territories; and the picture painted by the justice system, who has leeway to operate of its own accord across all levels and regions. The sole point of intersection between these two worlds is the small drug retailer—a disposable piece of the mechanism whose workforce is readily available and who serves as a scapegoat for the imaginary of judges, prosecutors, lawyers, and even the Brazilian society as a whole.

Conclusion
The criminal justice system is highly unfamiliar with the dynamics of the illicit drug market. Furthermore, they build their interpretation of reality upon their own understanding of how the market operates and hence of how it would be impacted by official repression. These are extremely damaging practices to the Brazilian society.

As set forth in this article, a substantial body of research demonstrates that repression is focused on the lower market ranks. In addition to wasting time and resources of justice and public safety agencies, this approach strengthens the main vectors of the illicit markets, fails to combat the violence associated with its practices, and perpetuates the damage caused by illicit economies.

The official discourse is very powerful; repressive measures are constantly reinforced by national politics. Our objective is to raise awareness around the real impact of current judicial policy and to highlight the complexity of illegal drug markets in Brazil in the hopes that this will brake paradigms and provide rational elements to better inform court rulings.

Competing Interests
LGMP is a federal civil servant at the Brazilian Government. Views are of his own. The other author has no competing interest.

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\textsuperscript{11} Lawsuit no. 0074504-02.2015.8.26.0050.

\textsuperscript{12} Lawsuit no. 0007813-94.2015.8.26.0635.


RESEARCH

Incarcerating at Any Cost: Drug Trafficking and Imprisonment in Brazilian Court Reasoning

Maíra Rocha Machado¹, Mariana Celano de Souza Amaral², Matheus de Barros² and Ana Clara Klink de Melo³

¹ São Paulo Law School (Fundação Getúlio Vargas), BR
² Crime and Punishment Study Center (São Paulo Law School at Fundação Getúlio Vargas), BR
³ Intern Crime and Punishment Study Center (São Paulo Law School at Fundação Getúlio Vargas), BR
Corresponding author: Maíra Rocha Machado (maira.machado@fgv.br)

Brazil has the third largest prison population worldwide—over 700,000 people. At least 28% of them are in prison for drug trafficking. Given that situation, this paper explores the conflicts among the law; the Supremo Tribunal Federal, or Brazilian Federal Supreme Court (STF) and lower court precedents. Based on a qualitative and quantitative study of Tribunal de Justiça de São Paulo, or São Paulo State Supreme Court (TJSP) and Superior Tribunal de Justiça, or Brazilian Superior Court of Justice (STJ) decisions between 2017 and 2018, this paper focuses on the arguments put forward by those courts to prevent the imposition of non-custodial sanctions on people convicted of drug trafficking even though they may be first-time offenders with no criminal record. Our research shows the main arguments used are related to the amount, type and variety of seized drugs; the convict’s criminal history; the person’s employment status at the time of arrest and the insufficiency of non-custodial sentences in cases of drug trafficking. Our conclusion is that the reasoning behind convictions for drug trafficking favors imprisonment even in situations in which the law and the STF precedents would allow non-custodial sentences.

Keywords: drug trafficking; small-time drug trafficking; sentence calculation; sentence reduction factor; alternative punishment; precedent research

1. Introduction

Sentencing is a crucial stage of the criminal justice system’s activity.¹ As far as drug trafficking is concerned, a complex gear system, scarcely discussed in and out of the legal arena,² is in place mainly in Brazil. Based on legislative material, jurists’ opinions and precedents, this paper is meant to contribute to the development of a broader and more thorough examination of the legal factors—the legal framework, decision-making processes and types of legal reasoning—which, along with political factors, have led the Brazilian prison population to soar by over 700% in the last two decades.

It focuses on sentencing decisions and, in particular, the argumentative obstacles created by courts to prevent the application of non-custodial sanctions, such as alternative punishments, in drug trafficking convictions. It is difficult to study the profile of those convicted specifically for drug trafficking because data in Brazil are insufficient and unreliable; however, the profile of the overall prison population leaves no doubt: drug trafficking convicts are mainly young black men and women with poor education, ranking low in illegal

¹ This paper is the result of research conducted at FGV Direito SP’s Crime and Punishment Study Center under supervision of Professor Maíra Rocha Machado. The four people named as authors were involved in determining the sample, collecting and reviewing the appellate decisions, gathering quantitative data and conducting the bibliographic survey, in addition to writing this text jointly.
² The Brazilian prison population totaled about 726,000 in 2016, 707% up from the early 1990s (DPN 2017: 7–9). The 2016 report, the latest available when this paper was concluded, states 28% of all those prisoners are criminally liable for drug trafficking. Among women, that share is 62% (DPN 2017: 43).
markets. This profile is consistent with research findings about the selective strategies of law enforcement and the institutional incentives for detention in flagrante delicto and incarceration at any cost.

Between detention in flagrante delicto and the calculation of the total number of prison inmates, the pivotal role played by courts becomes apparent both in the manner in which they select and interpret the law (legal provisions, precedents and higher court decisions) and in the manner in which it perceives, and the position it adopts about, the use and sale of substances that cause physical or psychological dependence. Both factors appear in different combinations in courts’ statements of reasons—often very concise—based on which the punishment and the length of the sentence to be imposed on a drug trafficking convict are determined.

To explore this point more thoroughly, this paper focuses on the quantitative and qualitative findings of two studies conducted in 2017 and 2018 on appellate decisions from the Tribunal de Justiça de São Paulo, or São Paulo State Supreme Court (TJSP) and the Superior Tribunal de Justiça, or Brazilian Superior Court of Justice (STJ). Based on that material, this paper argues punishing and sentencing is an arena of dispute among different actors, both from the political system (lawmakers) and the legal system (courts). It focuses on three specific conflicts. The first relates to a task distribution scheme that assigns the law the central role in determining punishments. As a result, the role of courts in punishment decisions is somewhat diminished. The second relates to the high value placed on imprisonment to the detriment of all other types of punishment. In addition to those conflicts, described in previous studies, a third has emerged directly from the material examined here: the assignment of a specific moral value to each defendant and his or her world—based on views on drugs, trafficking and traffickers—which has a direct effect on how rules are interpreted and how both punishments and sentences are determined.

This paper is structured around those three conflicts. Accordingly, the next section briefly describes the main features of the Brazilian punitive system regarding punishment decisions. The purpose is to describe the manner in which the STJ rules and precedents make a distinction between the legal treatment of ordinary drug trafficking and small-time drug trafficking (section 2). The following sections focus on the obstacles—created by the very wording of Law 11.343/06 (Anti-Drug Act)—to applying the legal concept of small-time drug trafficking and fitting it into our penalty framework (section 3), as well as the obstacles connected with the rules governing the substitution of imprisonment by non-custodial punishments (section 4). This path showed us the amount and variety of seized drugs are considered at different times during the sentencing process, which is prohibited by Brazilian law due to the double jeopardy rule, or ne bis in idem (section 5).

2. The Legal Restraints and the Centrality of Imprisonment
Punishing under Brazilian law bears the strong mark of a conception of separation of powers that gives lawmakers, not judges, a central role in this regard. Accordingly, lawmakers set the penalty rules by determining types of punishment, as well as the minimum and maximum lengths of sentences. The law provides for a single type of punishment for all crimes except drug use: imprisonment. All other types of punishment—community service, restraint of rights, pecuniary penalties—serve as substitutes for imprisonment and can only be imposed by a judge if other requirements, also laid down by law, are fulfilled. One of those requirements is precisely the length of the sentence pronounced by the judge.

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1 For further information, refer to Jesus (2018), Sinhoretto et al. (2013) and Grillo (2013).
2 The methodological strategy followed in the research about the TJSP is described in detail in Machado et al. (2018). In turn, our research on STJ material focused on all the appellate decisions decided between December 1, 2017, and February 28, 2018, available on the STJ’s website. They can be accessed by entering tráfico privilegiado (Portuguese for small-time drug trafficking) (Section 33, Paragraph 4) in the legislação (legislation) field. The search found 192 appellate decisions—209 cases considering some of those decisions involved more than one person. We refer to both male and female justices named as rapporteurs in the cases we studied in the masculine in this paper because only 6 of the 33 STJ justices are women. In fact, our sample contains only one case in which a woman, Justice Maria Thereza Rocha de Assis Moura, was judge-rapporteur. There is currently only one woman, Justice Laurita Vaz, in the Third Section of the STJ, responsible for criminal cases, according to the Court’s fact sheet dated September 26, 2018: http://www.STJ.jus.br/static_files/STJ/Mídias/imagens/COMPOSIÇÃO_MINISTROS.pdf. Accessed on October 18, 2018. We mentioned the male predominance in the TJSP above. A survey dated February 7, 2018, shows only 4 out of the 79 members of that court were women (Machado et al. 2018: 611–612 footnote 18).
3 For information about this difference and its explanation, refer to Cauchie and Pires (2007, 2011).
4 Even though the Brazilian legislation uses different terms, such as reclusão and detenção, the U.S. legislation does not make this distinction. For a table of punishments—type and length—provided in the Brazilian legislation, refer to Machado et al. (2010). Section 28 of the Anti-Drug Act stipulates the following punishments for drug users: warning about the effects of drugs, community service, participation in an educational program or course.
Only prison sentences no longer than four years can be substituted by other types of punishment. In other words, imprisonment is the punishment for almost all crimes, even if a judge may substitute prison confinement by an alternative punishment in a few very specific cases, also established by the legislature.

Indeed, lawmakers have established different rules to limit judges’ leeway by determining minimum prison sentences, limiting the number of cases in which non-custodial sanctions may be applied, prohibiting the substitution of prison sentences by alternative sentences, et cetera. This legal framework prevents judges from handing out any punishment—other than incarceration (imprisonment)—that they may consider fair and appropriate to each specific person and case. Nevertheless, courts systematically accept, and subject themselves to, this situation. Very seldom do any legal decisions challenge this legal framework in the name of the principle of the individualization of the sentence, which incidentally is enshrined in the Federal Constitution of Brazil. To make matters worse, courts themselves sometimes make decisions that curtail their leeway even further in this regard.\(^7\)

Brazil has a specific law against drug offenses: Law 11.343/06 (Anti-Drug Act). The head provision of section 33 criminalizes any acts considered trafficking and prescribes a punishment of imprisonment for five (5) to fifteen (15) years.\(^8\) In turn, section 42 provides the amount and quality of the drugs seized be considered in sentencing (see Chart 1 below). As shown below, this provision has become one of the main arguments to imprison even first-time offenders with no criminal records, who would be eligible for alternative punishments.

Concerning drug trafficking specifically, the configuration of the sentencing process poses major obstacles to the application of non-custodial sanctions. One of the requirements for the imposition of alternative punishments is a sentence no longer than four years; therefore, Brazilian law automatically eliminates the possibility of administering those punishments for drug trafficking crimes, which carry a sentence of at least five years. In fact, the main reason the Anti-Drug Act increased the minimum sentence for drug trafficking from three to five years was to prevent the application of non-custodial sanctions for drug trafficking crimes after the reform of the Criminal Code, which introduced the requirement of a sentence of up to four years for substitution.

Consequently, the imposition of a non-custodial punishment is only possible if a sentence reduction factor is recognized, as provided for in paragraph 4 of section 33 of the Anti-Drug Act. This provision allows a reduction of the sentence by 1/6 to 2/3 if the judge considers the convicted person a first-time offender with no criminal record, no involvement in criminal activities and no connection with organized crime. That is the legal concept of small-time drug trafficking.\(^9\)

In Brazil, sentence reduction factors are examined in the third phase of the sentencing process, called sentence calculation by both the law and legal scholars. Chart 1 summarizes those three phases.

**Chart 1: The phases of the sentencing process.**

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Phase 2</th>
<th>Phase 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>The nominal sentence—between 5 and 15 years in prison—is established.</td>
<td>Existence of aggravating factors (recidivism, etc.) and mitigating factors (convict under age 21, voluntary admission, etc.).</td>
<td>Existence of sentence enhancing or reduction factors.</td>
</tr>
<tr>
<td>Anti-Drug Act, Section 42. When sentencing, the judge shall consider the type and amount of the substance or product, as well as the actor’s personality and social behavior, all of which shall take precedence over the provisions of Section 59 of the Penal Code.</td>
<td>STJ Precedent 231 states mitigating factors shall not be applied to make the sentence shorter than the minimum stipulated by law.</td>
<td>Sentence reduction factors can lead to a sentence shorter than the minimum established by law.</td>
</tr>
</tbody>
</table>

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\(^7\) This is the case of STJ Precedent 231, which states: ‘Mitigating factors shall not be applied to make the sentence shorter than the minimum term stipulated by law.’ Refer to Machado (2016) for the meaning and effects of that precedent on sentencing.

\(^8\) Section 33. Importing, exporting, shipping, preparing, producing, manufacturing, purchasing, selling, displaying for sale, offering, storing, transporting, carrying, keeping, prescribing, administering, distributing for consumption or supplying drugs, albeit free of charge, with no authorization or in violation of any laws or regulations: Penalty—imprisonment for five (5) to fifteen (15) years and payment of five hundred (500) to one thousand five hundred (1,500) daily fines.

\(^9\) Section 33, paragraph 4 of the Anti-Drug Act: ‘Sentences for the offenses described in the head provision and in Paragraph 1 of this Section may be reduced by one-sixth to two-thirds as long as the actor is a first-time offender, has no criminal record, is not involved
Considering an act ordinary drug trafficking or small-time drug trafficking has significant effects on the type of punishment, as well as on the length of the sentence and the manner in which it is to be served. The main differences are described in Chart 2. For the purposes of this paper, it is worth noting the different possibilities of punishment for these two categories of drug trafficking—regular drug trafficking and small-time drug trafficking—have arisen from normative changes and interpretations adopted by the STF; however, they remain disputed in lower courts.10 The original wording of the Anti-Drug Act expressly prohibited substituting imprisonment by any alternative punishments even if the sentence reduction factor was applied. This prohibition was ruled unconstitutional by the STF in 2010, and its effects were suspended two years later by the Brazilian Federal Senate.11 In 2016, the STF ruled small-time drug trafficking would no longer be considered a heinous crime when

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**Chart 2: Ordinary drug trafficking and small-time drug trafficking.**

<table>
<thead>
<tr>
<th>Ordinary Drug Trafficking (Head Provision of Section 33, Anti-Drug Act)—Heinous-Like Crime</th>
<th>Minimum Term</th>
<th>Substitution</th>
<th>Initial Punishment Option</th>
<th>Transfer to Less Strict Options</th>
<th>Parole</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 years</td>
<td>Not possible</td>
<td>Despite legal provisions requiring imprisonment (Section 2 of Law 8.072/90), there are STF decisions (Petition for Writ of Habeas Corpus (HC) 111.840/ES and Interlocutory Appeal to the STF 1.052.700/MG) allowing courts to determine the most appropriate option to each individual case.</td>
<td>After serving 2/5 or 3/5 or of the sentence (first-time offenders and recidivists, respectively) (Paragraph 2 of Section 2 of Law 8.072/90)</td>
<td>Parole after serving over 2/3 of the sentence, except specific recidivists (actors of a heinous or heinous-like crime after having been finally convicted of a heinous or heinous-like crime) (PC, Section 83, V)</td>
<td></td>
</tr>
</tbody>
</table>

| Small-Time Drug Trafficking (Paragraph 4 of Section 33, Anti-Drug Act)—Non-Heinous-Like Crime | 1 year and 8 months | Possible if the requirements of Section 44 of the PC are fulfilled (HC 97.256/RS and Senate Resolution 5/2012) | Since the decision about HC 118.533/MS, small-time drug trafficking has no longer been considered a heinous crime, so courts may determine the most appropriate option for each individual case. | Eligibility for less strict option after serving 1/6 of the sentence (Lei de Execução Penal (LEP), or Sentence Execution Act, Section 112) | Parole after serving 1/3 of the sentence (1/2 if recidivist) (PC, Section 83, I and II) |

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10 The Brazilian legal machinery is organized in instances. The first instance is a state or federal court, which judges the cases submitted to it. It is possible to appeal this decision, and the appeal will be considered by a Tribunal de Justiça (State Supreme Court) or a Tribunal Regional Federal (Regional Federal Appellate Court), usually composed of three appellate judges. Both of those instances examine all the points of fact presented by the prosecution or the defense, but it is possible to file new appeals to the higher courts. After the second instance decides the appeal, a new appeal may be filed to the STJ, responsible for considering, among other things, issues concerned with the interpretation of federal legislation. Finally, it is also possible to appeal to the STF, Brazil’s constitutional court and court of last resort. It is worth noting higher courts do not consider points of fact, just points of law. Furthermore, any instance may decide a Petition for Writ of Habeas Corpus provided a procedural rule based on court hierarchy is followed: jurisdiction is exercised by the court immediately higher than that whose act the petition is challenging.

11 HC 118.533/MS. Judge-Rapporteur Justice Carmen Lúcia decided at a plenary session on June 23, 2016. For further details about this dispute and the effects of that change on the TJSP decisions, refer to Machado et al. (2018).
judging HC 118.533/MS. As a result, the strict system introduced by the Heinous Crime Act—which prevents courts from imposing any initial punishment type other than imprisonment and increases the sentence time to be served before transfer to less strict options (regime aberto and semiaberto, roughly similar to intermittent imprisonment in the U.S.) and parole—should no longer be applied to small-time drug trafficking, at least in the STF’s opinion.

Therefore, Chart 2 shows both routes for punishing drug trafficking crimes in Brazil based on the interpretative possibilities established by the STF’s decisions. Nevertheless, the studies on which this paper is based show the manner in which lower courts interpret and apply the law creates more and greater obstacles to applying non-custodial sanctions to drug trafficking crimes, thus breaking the limits imposed by the law itself. This will be discussed below.

3. Argumentative Obstacles To Reducing Sentences for Small-Time Drug Trafficking

Chart 2 describes the main differences between the treatment both the law and the STF’s precedents give to ordinary drug trafficking and small-time drug trafficking. There are various differences, from detention in flagrante delicto to the dismissal of sentence. However, the law, instead of allowing this distinction from the classification of the act (i.e., at the very moment of detention in flagrante delicto) postpones it to the last stage of sentencing; after it is ascertained that the acts described in the information from the public attorney’s office were committed and that the accused committed them. Section 41 of the Brazilian Code of Penal Procedure (CPP), which establishes the minimum requirements to file an information, states the description of the criminal act must contain all its circumstances, as well as the identification of the accused.

This requirement is explained by the constitutional guarantees of the opportunity to be heard and to a broad defense (Art. 5, LV of the Brazilian Federal Constitution). It is crucial for the accused to know the details of the conduct with which he or she is being charged to be able to defend him or herself as effectively as possible. That is exactly why authors such as Aury Lopes Jr.12 say the criminal information must set out any sentence enhancing or reduction factors suggested by the circumstances of the act. If the legal concept of small-time drug trafficking is seen from this perspective, its application cannot be considered a benefit or a discretionary option of the sentencing judge. On the contrary, its recognition is a right of the accused—subject to the conditions set forth by law—once the elements required to classify the charge are established (Leite Neto & Silva 2006).

The TJSP is still reluctant to accept this interpretation of the rules. In some decisions we examined, judges construed the use of ‘may’—sentences may be reduced by one sixth to two-thirds—as meaning that the law gives the court a discretionary option. Consequently, the sentence may not be reduced even though the defendant fulfills all the requirements. One of the appellate decisions based on this interpretation states that ‘by using ‘may,’ the legislature meant to state in black and white that it is merely a discretionary option of the trial court,’ not a right of the defendant. In addition, ‘if the legislature believed that the benefit (…) was a right of the defendant, it would have used the word ‘shall,’ thus expressing obligation, strong necessity’.13 Our research found decisions in the opposite direction,14 but that position clearly shows how courts interpret the statutory text, as far as sentences are concerned, and limit their own decision leeway. In addition, it indicates a particular way of interpreting a sentencing rule, the sentence reduction factor discussed here, as a benefit that may or may not be granted to defendants.

However, we can see even greater obstacles when we focus on the circumstances of the act courts must consider when recognizing small-time drug trafficking. Shortly after the Anti-Drug Act went into force,

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12 ‘The information must contain, as required by section 41, a description of the criminal act (a description of the factual situation) with all the circumstances (thus, both the circumstances that enhance/aggravate the sentence and those that reduce/mitigate it).’ (Lopes Júnior 2014: 391).
13 TJSP; Appeal from final judgment 0015220-36.2009.8.26.0127; Jud.-Rapp.: Justice Machado de Andrade; Court: 6th Chamber of Criminal Law; Carapicuíba Courthouse—1st Criminal Court Decision Date: 09/29/2011. In the very same regard, refer to TJSP; Appeal from final judgment 0067972-12.2015.8.26.0050; Jud.-Rapp.: Justice Machado de Andrade; Court: 6th Chamber of Criminal Law; Barra Funda Central Criminal Courthouse—26th Criminal Court; Decision Date: May 11, 2017.
14 Regarding the mitigating factor dealt with in Paragraph 4 of Section 33 of the aforementioned Anti-Drug Act—the defendant is a first-time offender with no criminal record, and there is no proof that he or she is a member of a criminal organization—, the benefit must be granted since it is a right of the defendant.’ TJSP; Appeal from final judgment 0044890-25.2010.8.26.0050; Jud.-Rapp.: Justice Luís Augusto de Sampaio Arruda; Court: 15th Chamber of Criminal Law; Barra Funda Central Criminal Courthouse—2nd Criminal Court; Decision Date: September 5, 2013.
Greco Filho and Rassi (2007: 102) pointed out how difficult it is to prove compliance with negative requirements, as well as how vague the expressions ‘be involved in’ and ‘be a member of’ are.

They argue producing negative evidence is difficult. Therefore, the presumption that the defendant is a first-time offender, has no criminal history, is not involved in criminal activity and is not a member of a criminal organization should favor him or her so that the burden of proof of those elements should fall on the prosecution. This reasoning is consistent with the preservation of the presumption of innocence, established in Article 5, LVII of the Brazilian Federal Constitution. Greco Filho and Rassi also question how the expressions ‘be involved in’ and ‘be a member of’ are used in the statutory text. The former implies doing the activity somewhat habitually but not as a full-time occupation. In turn, being a member means participating actively in a criminal organization. Both circumstances (doing the activity habitually but not as a full-time occupation and being a member of the organization) should be sufficiently proven before the possibility of small-time drug trafficking is dismissed.

In addition to the issues arising from the wording of the statutory text, many others have emerged in the last decade due to the manner in which courts of different instances dispute the interpretation of the law and justify their decisions. Studies on the TJSP’s and the STJ’s statements of reasons for recognizing or not recognizing small-time drug trafficking have identified three controversial issues arising frequently: the manner in which the amount, type and variety of seized drugs are determined; the convict’s involvement in drug trafficking. Operandi based on the idea that the amount and type of seized drugs are evidence that the defendant is involved in criminal activities, according to STF’s reasoning.

The decisions behind the refusal to classify an act as small-time drug trafficking for that reason are often based on the idea that the amount and type of seized drugs are evidence that the defendant is involved in drug trafficking. In addition, the manner in which the drug is packaged is also used as evidence of a modus operandi of the drug trade or familiarity with drug trafficking, sufficient to characterize an involvement in criminal activities, according to STF’s reasoning.

Our study examined 192 STJ appellate decisions, 163 of which contained some information about the seized drugs. A total of 89 cases (46.4%) are concerned with seizures of a single type of drug. The remaining cases involved two or three types of drugs (41, or 21.4%, and 29, or 15.1%, appellate decisions, respectively.) Only four proceedings were related to seizures of four or more different substances. It is worth noting the high number of appellate decisions not mentioning the amount of each drug: 29. Those decisions either

### 3.1. Amount, type and variety of seized drugs

The argument standing out the most in our study about the STJ’s reasoning is the amount, type and/or variety of seized drugs as obstacles to imposing a non-custodial punishment. Section 42 of the Anti-Drug Act states the amount and type of drug must be considered in the first phase of sentencing (i.e., the determination of the nominal sentence, between the minimum and the maximum term, on which the other circumstances will be applied) (Chart 1). However, those elements are considered in other phases as well, separately or along with other arguments, as seen throughout this paper.

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15 In the same regard, Haber (2018: 66) conducted research on trial court decisions about drug trafficking cases in the state of Rio de Janeiro and categorizes judges’ arguments not to grant the benefit provided in paragraph 4 as: (i) defendant not a first-time offender; (ii) defendant with criminal records; (iii) defendant involved in criminal activities; and (iv) defendant belonging to a criminal organization. The study, mainly quantitative, found paragraph 4 was applied in 42.35% of all drug trafficking convictions. The author further points out that judges have conflicting opinions as to the characterization of ‘being involved in criminal activity’ and ‘being a member of the criminal organization’ and that those arguments are often associated with the amount of drugs seized (2018: 78).

16 For examples of this type of argument, refer to the lower court’s statement of reasons to dismiss the application of the sentence reduction factor provided for in paragraph 4 of section 33 of Law 11.343/06 (i.e., the defendant’s involvement in criminal activity, shown mainly by the amount and type of drugs seized—393 g of marijuana, 49 g of cocaine and 12 g of crack—is in keeping with this Court’s understanding (HC 424.570/SP, Jud.-Rapp.: Justice Joel Ilan Paciornik, 5th Panel, decided on December 12, 2017). Moreover, ‘its application was rejected in view of the amount and diversity of the drugs found in the defendant’s possession’ and ‘based on the context described in the appellate decision being challenged, the defendant, although a first-time offender with no criminal record, was frequently involved in drug trafficking’ (HC 332.523/SP, Jud.-Rapp.: Justice Sebastião Reis Júnior, 6th Panel, decided on December 12, 2017). In the latter case, the defendant was carrying marijuana (23.6 g), crack (6.8 g) and cocaine (15.5 g).

17 Agravo Regimental or Internal Interlocutory Appeal (AgRg) in HC 424.059/MS, Jud.-Rapp.: Justice Reynaldo Soares da Fonseca, 5th Panel, decided on February 8, 2018 and HC 413.110/SP, Jud.-Rapp.: Justice Maria Thereza de Assis Moura, 6th Panel, decided on February 6, 2018.
contained no information in this regard or mentioned only the manner in which the drug was packaged (e.g., 20 bags of marijuana).

Considering only the 76 cases in which the STJ recognized small-time drug trafficking and applied paragraph 4, the amount of seized drugs was as follows: crack from 1.79 g\(^{18}\) to 500 g;\(^{19}\) cocaine from 1.90 g\(^{20}\) to 11.886 kg;\(^{21}\) marijuana from 0.85 g\(^{22}\) to 31 kg.\(^{23}\)

In the case in which the sentence reduction factor was applied, even though almost 12 kg of cocaine was seized, the convict was an immigrant sentenced for drug trafficking.\(^{24}\) The second largest cocaine seizure leading to a case in which small-time drug trafficking was recognized was 4.122 kg, also for international drug trafficking.\(^{25}\) Both cases are specific situations because they involve federal investigations and proceedings. However, they clearly show the possibility of interpreting small-time drug trafficking as a legal category regardless of the amount of drugs seized.

Among the 132 appellate decisions in which the STJ did not recognize small-time drug trafficking, the smallest amounts seized were 1.40 g of crack, 0.2 g of cocaine and 3.6 grams of marijuana. In the first case, in which 1.4 g of crack was seized, the defendant was a first-time offender but carried 20.1 g of cocaine and 43.5 g of marijuana as well.\(^{26}\) However, he failed to produce proof of employment—which often leads the Court to assume an involvement in drug trafficking, as discussed below—and was sentenced to prisão em regime fechado (similar to prison confinement in the U.S.) in all three court instances due to the amount, variety and type of drugs. The trial court sentenced him to six years and six months, but the appellate court reduced that sentence to five years in prison. In the second case, in which 0.2 g of cocaine was seized, the defendant was also carrying 5.0 g of crack. He was a first-time offender with no criminal history. His prison sentence (in the trial and appellate courts) was converted to prisão em regime semiaberto (similar to intermittent confinement in the U.S.) only by the STJ. The nominal sentence was set above the minimum: five years and two months and 500 daily fines.\(^{27}\) In the third case, in which 3.6 g of marijuana was seized, the defendant was also a first-time offender with no criminal history and no other drug was seized. The trial court recognized small-time drug trafficking and sentenced the convict to one year and eight months in prisão em regime aberto (similar to home detention in the U.S.). However, he was assumed to be involved in a criminal organization because he was a defendant in another criminal action for drug trafficking—with no final and unappealable judgment. The higher courts dismissed small-time drug trafficking and sentence reduction and sentenced him to five years in prisão em regime semiaberto.\(^{28}\)

Those cases suggest the amount of seized drugs is not the primary reason for courts to recognize or not recognize small-time drug trafficking.\(^{29}\) Nevertheless, the statement of reasons in many cases we analyzed in this study did mention the amount of the drugs seized, alongside other data, such as the type and variety of drugs, or other factors, such as the existence of ongoing proceedings or joblessness, as discussed below. Shimizu and Cacedo (2016) point that out as well by saying `judges never, or almost never, convict anyone of drugs, or other factors, such as the existence of ongoing proceedings or joblessness, as discussed below.\(^{29}\)

During our research, we found no mention of international normative experiences or academic reflections about the use of amount-based criteria to distinguish between different types of drug trafficking, similar to those in place to distinguish between drug use and drug trafficking. In fact, even the latter distinction remains under discussion. Refer to Carlos (2015), Instituto Terra, Trabalho e Cidadania (ITTC) (2016), Plataforma Brasileira de Política de Drogas (PBPD) (2016). Moreover, refer to Giacomello and Guillén (2016) for an account of the devastating effects of the distinction between drug trafficking and use adopted in Mexico, based on drug amounts.

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\(^{18}\) HC 427.177/SP, Jud.-Rapp.: Justice Maria Thereza de Assis Moura, 6th Panel, decided on February 27, 2018.

\(^{19}\) HC 426.070/SP, Jud.-Rapp.: Justice Joel Ilan Paciornik, 5th Panel, decided on February 20, 2018.


\(^{21}\) AgRg in Agravo Recurso Especial, or Interlocutory Appeal to the STJ (AREsp) 560.737/SP, Jud.-Rapp.: Justice Ribeiro Dantas, 5th Panel, decided on February 8, 2018.

\(^{22}\) AgRg in HC 409.216/RJ, Jud.-Rapp.: Justice Antonio Saldanha Palheiro, 6th Panel, decided on December 7, 2017.

\(^{23}\) HC 426.070/SP, Jud.-Rapp.: Justice Joel Ilan Paciornik, 5th Panel, decided on February 20, 2018.

\(^{24}\) AgRg in AREsp 560.737/SP, Jud.-Rapp.: Justice Ribeiro Dantas, 5th Panel, decided on February 8, 2018.

\(^{25}\) HC 418.406/AC, Jud.-Rapp.: Justice Maria Thereza de Assis Moura, 6th Panel, decided on February 8, 2018.

\(^{26}\) HC 389.588/SP, Jud.-Rapp.: Justice Joel Ilan Paciornik, 5th Panel, decided on December 5, 2017.

\(^{27}\) HC 403.987/RS, Jud.-Rapp.: Justice Maria Thereza de Assis Moura, 6th Panel, decided on February 6, 2018.


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seized, among other assumptions about the defendant’s involvement in drug trafficking connected with social class prejudice.

3.2. Involvement in prior legal proceedings

The sample of court decisions we studied showed us some situations in which the existence of other ongoing proceedings or judgments of conviction not yet final—although not considered criminal records or recidivism by the STF—is used as evidence of continuing criminal involvement, thus preventing the application of paragraph 4 of section 33. One of the decisions states ‘the existence of ongoing police investigations and criminal actions, although not affecting the accused’s criminal history, amount to valid evidence of criminal involvement according to the STJ’s Precedent 444’.30 This understanding renders the presumption of innocence meaningless. In fact, our material includes a decision in which the convict’s criminal involvement is based ‘on [his] involvement in juvenile offenses’.31 The only two situations in which defendants charged in other criminal cases were not considered to have a regular involvement in criminal activities relate to a case in which the defendant was acquitted in the ongoing proceedings and another one concerned with a traffic offense.32

In some cases, an involvement in prior legal proceedings, although not considered a criminal conviction or evidence of recidivism by the STJ, is used in combination with other factors, such as the amount of seized drugs and a failure to produce proof of lawful occupation, discussed below,33 to show the defendant’s regular criminal involvement.

3.3. Employment status

Another point often mentioned as indicating the defendant’s involvement in criminal activity is his or her economic situation, usually shown by employment status. In the 209 STJ cases we examined, the defendant’s employment status was somehow mentioned in 35 (16.7%). In 14, the STJ applied, or upheld the application of, the sentence reduction factor as provided in paragraph 4 of section 33 of the Anti-Drug Act. In the other 21 cases, the STJ upheld the decision not to apply the sentence reduction factor. Among the reasons for that refusal is the inference about the accused’s criminal involvement or membership in a criminal organization drawn from his or her failure to produce proof of a lawful occupation. The excerpts from the STJ decisions we investigated show the defendant’s employment status often mentioned to his or her detriment, even in the face of proof of lawful occupation produced in a minority of cases. Our material contains decisions indicating how strict courts are about proof of lawful occupation, as shown by the use of the adverb ‘apparently’ and observations about a lack of ‘sufficient’ proof.34 In one case, the judgment of conviction states the defendant ‘is a retired nursing assistant and earns R$2,000.00’ and was in a difficult financial situation since her daughter was in prison and she had to support her grandchildren.’ Nevertheless, the court argued that ‘her lack of means does not represent a license to commit crimes (...) [a] different understanding would imply a seal of approval to impunity.’35

In general, the argument centers on the idea that a lack of a lawful occupation implies a regular involvement in criminal organizations. Being unemployed, the defendant would not have been able to buy drugs with his or her own money, and this shows an involvement in the criminal organization providing the seized drugs.36

32 HC 357.222/AC, Jud.-Rapp.: Justice Joel Ilan Paciornik, 5th Panel, decided on February 27, 2018; HC 413.562/RS, Jud.-Rapp.: Justice Ribeiro Dantas, 5th Panel, decided on December 7, 2017.
33 Consider, for example, ‘there is enough evidence to prove the defendant’s regular criminal involvement since, in addition to the amount and type of the drug seized […] the actor is a defendant in other criminal actions for domestic violence and offenses against property.’ HC 421.437/SP, Jud.-Rapp.: Justice Ribeiro Dantas, 5th Panel, decided on February 6, 2018. Moreover, ‘the defendant is involved in criminal activities considering he is a defendant in ongoing criminal proceedings—also for drug trafficking—and has not produced proof of lawful occupation, evidence of habitual involvement in drug trafficking, an opinion in keeping with this Court’s precedent’ HC 415.104/RS Jud.-Rapp.: Justice Reynaldo Soares da Fonseca, 5th Panel, decided on December 5, 2017.
34 AgRg in AREsp 1003804/SP, Jud.-Rapp.: Justice Jorge Mussi, 5th Panel, decided on February 6, 2018.
35 Excerpt from a trial court sentence mentioned in HC 419254/SP, Jud.-Rapp.: Justice Maria Thereza de Assis Moura, 6th Panel, decided on December 7, 2017.
36 The following excerpts illustrate those arguments: ‘failed to produce convincing proof of lawful occupation, which indicates his “profession” or means of livelihood is really the vile trade, hence his involvement in criminal activity, incompatible with the benefit, an obstacle reinforced by the massive amount of the drug, closely connected with an involvement in the vile activity’ (Appellate decision quoted in HC 420.955/SP, Jud.-Rapp.: Justice Joel Ilan Paciornik, 5th Panel, decided on December 12, 2017) and ‘the accused has neither a fixed place of residence, nor a lawful occupation; when detained in flagrante delicto, he said he was living
On the other hand, the court had a different understanding in a case worthy of note. It placed the burden of proof not on the defense, which would otherwise have had to disprove the assumption of involvement in an illicit activity, but on the prosecution, which had to prove the defendant was actually involved in the illicit activity. Therefore, it is clear that a minority of judges respect the presumption of innocence.37


Only when small-time drug trafficking is recognized and the sentence reduction factor is applied can a sentence for drug trafficking be equal to or shorter than four years, the first requirement to substitute imprisonment by an alternative punishment. However, Section 44, III, of the Penal Code states substitution is only possible if the substitute sentence is considered sufficient in relation to the convict’s culpability, criminal history, social conduct and personality, as well as the motives and circumstances of the crime. This rule serves as one last criterion for substitution because subsections I and II of the same section prohibit imposing alternative punishments on convicts sentenced to over four years or for crimes committed with threat of force or violence, as well as intentional crime recidivists. Consequently, a sentence may not be substituted even though the convict fulfills all the requirements stipulated in both of those subsections as a result of a judgment based on the insufficiency of alternative sanctions.

The wording of subsection III of Section 44 of the Penal Code is open-ended, leaving ample room for interpretation about the (in)sufficiency of a sentence and forcing the person interpreting it to start by answering the question, what should a sentence be sufficient for?38

In our material, the argument of the (in)sufficiency of alternative punishments for small-time drug trafficking was used in combination with three other factors: the purposes of punishment (retribution, deterrence and rehabilitation); abstract formulations about drug trafficking; and the amount, type and diversity of seized drugs, mentioned repeatedly above. It is worth noting many court decisions consider two or even three of those factors.

Regarding theories of punishment, we found arguments explicitly stating that substituting imprisonment by alternative punishments ‘is out of the question’ for the following reasons: ‘it would be preposterous to believe this legal concept could be applied to such major crimes’, ‘because the benefit is not sufficiently retributive in casu’, ‘absolutely incompatible with such an ominous crime, which wrecks individuals and homes day after day in a tidal wave of drug trafficking looming large against social order’; in addition, drug trafficking is known to be totally connected with other crimes, serving as a basis for criminal organizations and eroding any social value.39

The only connection between this type of reasoning and the requirements of section 44 is the use of the adverb ‘sufficiently’ to refer to the nature of alternative punishments. None of the other requirements—that the court consider the circumstances of the case at issue and the convict’s life story—was fulfilled. Our material also contains decisions stating ‘[an alternative punishment] would be insufficient to deter [crime]’40 and ‘a substitute sentence is not sufficient to rehabilitate the convict.’41

Given the central role of imprisonment in Brazil’s drug policy, the efforts to justify a custodial sentence for small-time drug trafficking was strongly based on abstract views of drug trafficking and drug traffickers. In one of the cases we studied, substitution was denied because of the motive of the crime. The alternative sanction was considered insufficient due to ‘the greed or any other equally vile reason [of those who] decided to make a living by ruining others’ lives,’ because drug trafficking is a ‘factor of severe family and social disruption,’ thus requiring a stricter retaliation.42

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37 The defendant is a first-time offender and, although he has produced no proof of lawful occupation, it has not been proven that he is involved in any illicit activity (Appellate decision quoted in HC 424.662/SP, Jud.-Rapp.: Justice Ribeiro Dantas, 5th Panel, decided on February 6, 2018).
38 For more about the argument of the sufficiency of non-custodial sanctions in drug trafficking convictions, refer to Machado et al. 2018: 628.
39 TJSP; Appeal from final judgment 0090147-68.2013.8.26.0050; Jud.-Rapp.: Justice Ruy Alberto Leme Cavalheiro; Court: 4th Chamber of Criminal Law; Barra Funda Central Criminal Courthouse—4th Criminal Court; Decision Date: 05/30/2017.
40 TJSP; Appeal from final judgment 0090147-68.2013.8.26.0050; Jud.-Rapp.: Justice Ruy Alberto Leme Cavalheiro; Court: 3rd Chamber of Criminal Law; Barra Funda Central Criminal Courthouse—19th Criminal Court; Decision Date: 05/30/2017.
41 TJSP; Appeal from final judgment 0017898-12.2015.8.26.0451; Jud.-Rapp.: Justice Cláudia Lúcia Fonseca Fanucchi; Court: 3rd Chamber of Criminal Law; Franco da Rocha Courthouse—1st Civil Court; Decision Date: 09/24/2013.
In the same context of arguments, we also found decisions based on the amount, type and/or diversity of the drugs to dismiss the imposition of alternative punishments. A TJSP decision points out substitution is impossible due to the length of the sentence and stresses any punishment other than imprisonment would be insufficient considering the ‘extremely harmful’ type of drugs (marijuana and cocaine.) In addition, the amount of the drugs (113.35 g of marijuana and 117.68 g of cocaine) shows substituting imprisonment by alternative punishments would not be sufficient to repudiate and deter the crime at issue.43

We found the same argument used by the STJ, which stated substitution ‘is insufficient since a requirement (Section 44, III, CP), namely the amount, variety and type of drugs seized, was not fulfilled.’44 In this case, the defendant had 21 g of crack, 56.1 g of cocaine and 95.2 g of marijuana. On the other hand, substitution was also denied to a person arrested with 31 kg of marijuana and 500 g of cocaine.45

5. The Prohibition Against Double Jeopardy (Ne Bis In Idem)

Considering the amount/type/variety of seized drugs repeatedly during the sentencing process is not permitted by Brazilian law and is under debate in courts.

In 2014, the STF, in a decision binding on all other courts, upheld its precedent and ruled the amount, diversity and type of drugs may only be used in one of the three phases of the sentencing process.46 Otherwise, those factors would have a negative effect on two or three phases, which amounts to double jeopardy.47 Nonetheless, lower courts still adopt that practice, thus giving it a seal of approval. An STJ decision dated 2018 allows using the amount and type of drug to increase the sentence term in the first phase of the sentencing process, as well as to dismiss the reduction factor set forth in Section 33, Paragraph 4, of the Anti-Drug Act in the third phase ‘when the actor’s regular involvement in illicit drug trading is established.’ It should be noted the possibility of substituting imprisonment by an alternative punishment depends on the application of the above-mentioned reduction factor.48 A distinguishing factor between that decision and the STF precedent is related to the habitual nature of the involvement in drug trafficking although the supreme court stressed on that occasion that ‘the circumstances of the type and amount of the seized drugs should be considered only in one of the phases of the sentencing process.’49

This STF precedent was mentioned in 17 of the STJ appellate decisions we studied.50 Nevertheless, only 5 were considered to violate the prohibition against double jeopardy, even though the amount, variety and/or type of drugs were used both to calculate the nominal sentence and to adjust the reduction factor or even to dismiss the application of paragraph 4 of section 33 of the Anti-Drug Act in the other 12 cases. Even though the failure to follow an STF precedent is iconic of a situation in which imprisonment is the state’s main response to drug trafficking, the opposing opinion—observing the prohibition against double jeopardy—still persists both in the TJSP51 and in the STJ.52

6. Closing Remarks

The research underlying this paper reveals how courts construct their reasoning to favor the imposition of imprisonment and makes it clear that prison overcrowding in Brazil is mainly due to court practices and the sentencing process. What is even worse is that criminal justice reaches only minor drug dealers—who
are easily replaced—thus proving unable to check the drug market, which has shown no signs of weakening since the advent of the new Anti-Drug Act in 2006.

The wording of the Anti-Drug Act obviously does not help. The use of negatives—‘is not involved in criminal activity’ and ‘is not a member of a criminal organization’—in a context in which the principle of the presumption of innocence is mostly ignored favors the interpretive trend discussed here. The prohibition against substituting imprisonment by alternative punishments also requires lower courts to accept and incorporate into their decisions the STF’s declaration of unconstitutionality.

Despite that legal framework, the constitutional principle of the individualization of the sentence could prompt judges to interpret the rules in keeping with each specific case, however poor the evidence produced may have been. Incidentally, the Brazilian judicial rules state courts themselves are supposed to assess the quality of any evidence produced, which we observed in none of the cases we examined.

As seen throughout this paper, the arguments used to prevent sentence reduction and dismiss the substitution of imprisonment by alternative punishments tend to be based on judges’ very abstract views on drug trafficking. Even judges’ reverence for the legal text concerning sentencing seems to be varied, as shown by the discussion about considering the type, amount and variety of seized drugs repeatedly in the sentencing process.

The fact that there are many flaws during investigations and the production of evidence—limited to police officers’ testimonies and the report about the seized substances (Jesus 2018)—helps explain this situation, but justifies neither violating the double jeopardy rule, nor lower courts’ ignoring the STF’s position. Those internal conflicts in the judiciary have become particularly apparent as well. As this paper has shown, STF decisions have introduced major changes in the Anti-Drug Act. This qualifies, but does not settle, the discussions and conflicting opinions of judges from lower courts. The STF’s current position about the possibility of executing the sentence before a final decision helps us see Brazil’s Supreme Court’s position is not entirely consistent as regards constitutional guarantees.

Those findings help understand the limits of the efforts to change the criminal justice system by revising the law and the STF’s precedents. Additionally, they show a need to broaden the focus of research about court reasoning as far as sentencing is concerned to include lower court sentences as well. The systematic production of knowledge about sentencing and the legal justification for keeping thousands of people in prison is a crucial step to the development of political and legal strategies that help change this situation. Above all, it allows a public debate about how court decisions produce and maintain prison overcrowding in Brazil.

Competing Interests
The authors have no competing interests to declare.

References


POLICY COMMENTARY

#FavelaLivesMatter: Youth from Urban Peripheries, Political Engagement and Alternatives to the War on Drugs

Movimentos/CESeC
anaclara.telles@hotmail.com

This article aims to share the experience of Movimentos (Movements), a collective of young activists from Brazilian favelas and peripheral neighborhoods whose goal is to discuss alternatives to the current drug policy from the peripheral youth’s standpoint. The population’s role in the formulation, application, and enforcement of public safety and drug policies is rudimentary, and the opportunities available to youngsters who live in Brazilian favelas and the outskirts are even smaller. The purpose of Movimentos is to have youngsters from the outskirts take center stage in the debate over public safety and drug policies, because they are the war on drugs greatest victims. The collective follows a hybrid organizational model that combines collective, horizontal governance with the institutional support of an academic research center. Not only does it seek to broaden youngsters’ agency around public safety and drug policies, but it also devises and experiments with methodologies to enable their active participation.

Keywords: Favelas; youth; public safety; Latin America

Introduction

In Brazil, the war on drugs policy is mainly put into practice in the peripheral areas of large urban centers. It is nothing new that, throughout history, part of Brazilian society has seen favelas as precarious, meager, deprived spaces where chaos and violence need to be controlled and repressed (Valladares 2005). In past decades, the image of the drug dealer, directly associated with that of stigmatized outskirts, came to represent the country’s number-one enemy in the social imagination, emphasizing the repressive nature of the public policies enforced in these spaces (Leite 2012).

In Brazil, the State sees the favelas through a rifle sight. When it comes to drug policy, the local governments’ main strategy has been war and confrontation (Rodrigues 2012). The tactics to fight the illegal drug market are widely known: regular police raids at the favelas and unrestricted use of heavy weaponry with the declared objective of dismantling criminal organizations and apprehending illegal substances. Thrown at the front line, these territories’ dwellers are exposed to day-to-day violence stemmed from ‘anti-drug’ operations and disputes over territory for the control of the illegal market. In this context, the utmost basic rights are systematically violated and hundreds of lives (most of which are black youngsters’) are lost.

Movimentos was created to discuss alternatives to the current war on drugs policy from the standpoint of those who are mostly affected by them: youngsters who live in favelas and peripheral areas. Showcasing a hybrid institutional model, the collective was devised by young activists, communicators, and artists from different favelas within Rio de Janeiro’s metropolitan area and relies on the support and Open Society Foundations. The initiative seeks to contribute to the renovation of the field’s narratives and to promote the debate among social groups that, despite being directly impacted by the war on drugs, are rarely invited to join the conversation.

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1 We opted for keeping the term in Portuguese to localize the phenomenon within the Brazilian context, as well as to recognize its ability to identify and signify the concept globally and thus take it beyond this specific experience. In English, the term that better translates it is ‘slum.’
The objective of this article is to outline the context behind Movimentos’ creation and share the collective’s experience in fostering new perspectives on public safety and drug policies from a peripheral standpoint. We address the principles that guide the collective’s search for more just, effective policies to fight racism and the inequalities that drive the war on drugs. Finally, we share some of the group’s methodologies and tools in the hopes that they can be used to foster thinking around other ways of political participation within the scope of public safety and drug policies that are different from those devised by the government and the civil society.

War on Drugs, War on Favelas

In past years, the debate about drug policies in Brazil has gone through important (albeit modest) changes. In January 2015, the Brazilian Health Regulatory Agency (Anvisa) withdrew marijuana’s active ingredient, cannabidiol, from the list of prohibited substances, which was paramount to authorizing the import of cannabis-based medications. In August of the same year, the Brazilian Supreme Court initiated discussions about the decriminalization of drug possession for personal use. Significant breakthroughs have been accomplished since then, particularly concerning medicinal marijuana, such as the grant of habeas corpus for 13 families to cultivate cannabis oil for therapeutic purposes and the permission to register, with Anvisa, the first cannabis-based medication. More recently, the Oswaldo Cruz Foundation (Fiocruz) announced a research plan to cultivate cannabis for medicinal purposes.

However, when it comes to the war on drugs and its impact on the poor population in the outskirts, setbacks were observed. The most recent data published by the Brazilian Yearbook of Public Safety shows that Brazil reached 60,000 deaths in 2016 (Fórum Brasileiro de Segurança Pública 2017). The country has the largest absolute number of homicides in the world, and the highest rate of violent deaths are observed in among those around 21 years of age (Cerqueira et al. 2017). Between 2005 and 2015, the homicide rate for youngsters between the ages of 15–29 increased 17%. In the same period, 318,000 youngsters were murdered in the country (Cerqueira et al. 2017). Although it is not possible to estimate how many of these deaths are connected to the war on drugs, we know that a great part of it was caused by the violence perpetrated by the militarized battle against drug trafficking.

However, not all youth is impacted the same way—nowadays, black youngsters are more likely to be killed than non-black ones. For every 100 people who are murdered in Brazil, 71 are black (Cerqueira et al. 2017). Data shows that, instead of improving, the situation has been aggravated; in the past decade, the homicide rate among the black population increased 18%, whereas it decreased 12% among other races and ethnic groups (Cerqueira et al. 2017). The price of the war on drugs is primarily paid by black, male youngsters.

With regards to incarceration rates, the scenario of violence and inequality remains equally grave. Brazil has the third biggest prison population in the world—drug trafficking is the country’s main cause of incarceration. Since the new drug laws (Act 11,343) came into force in 2006, the number of individuals arrested on traffic charges increased 339%. As it happens with homicides, black people are more severely impacted than the rest of the population. While black people represent a little over 53% of the Brazilian population, 64% of prisoners are black (Departamento Penitenciário Nacional 2017).

War on Drugs, War on Favelas

Where does the war on drugs take place? Drugs circulate across the entire cities, but the violent impact of the fight against them is only felt at favelas and peripheral neighborhoods. Recent data published by the Public Defender’s Office of Rio de Janeiro show that most in flagrante arrests for drug trafficking happen in the metropolitan area’s outskirts (Haber 2018). At Complexo da Maré, a conglomerate of favelas in the north side of Rio de Janeiro, the police carried out 41 operations in 2017, an average of one operation every nine days (Redes da Maré 2017). Still in 2017, armed confrontation killed 42 people and injured other 57 in the same area. Health centers were shut down for 45 days; classes were called off at local schools for 35 days. This was not an exception to the rule—quite the opposite: the area of Complexo do Alemão (also city’s North side) showed similar data, according to the organization Coletivo Papo Reto. Not surprisingly, the hashtag #VidaNasFavelasImportam (#LivesfromtheFavelasMatter) grew very popular in social media in recent years, aiming to expose the violations brought about by the militarization of day-to-day life in the outskirts in the name of ‘fighting drugs.’

All of this shows that the war on drugs has a selective, disproportional impact on different societal groups. In spite of drugs being illegal for everyone, the choice is arresting and killing black youngsters and favela’s

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1 See the article on G1 website, ‘Com Lei de Drogas, presos por tráfico passam de 31 mil para 138 mil no país,’ published on June 24, 2015. Available at https://g1.globo.com/1J4iz7s [Last accessed 10 October 2018].

2 Refer to the Collective’s institutional website, https://100ko.wordpress.com.
dwellers in the cities’ outskirts. The root of this problem lies within the way we devise drug policies—whose aim is to address substance abuse by suppressing drug trade at the retail level and violently targeting the poor, black, peripheral population. Even though the policies directly impact the lives in favelas and peripheral neighborhoods, they are devised, planned, executed, and supervised by anyone other than the citizens who are directly affected by them.

It is paramount to further the debate about the consequences of war on drugs in these spaces, but even more important to open space for those who are most impacted by the war on drugs to lead the debate and the changes in drug policies. For this reason, the goal of Movimentos is to ensure the protagonism of the favela’s dwellers in the debate about public safety and drug policy. In order to reach that goal, the group devised two strategies: (1) to promote the debate about drug policy within favelas and the peripheral neighborhoods; and (2) to occupy the spaces where these policies are discussed and devised. Both strategies aim to give the stage to the subjects who are most impacted by these policies, creating spaces where they can think, discuss, and come up with alternatives to current approaches.

From #LivesfromtheFavelasMatter to #UsforUs
Movimentos was founded in May 2016, when CESeC gathered 10 youngsters from favelas in Rio de Janeiro, São Paulo, and Salvador at a three-day workshop about drug policies in Rio de Janeiro. Since then, the group gathers regularly to build tools and reflect upon drug policies from the perspective of favelas and the peripheral areas. In its first two years, the collective attended debates, seminars, and TV and radio shows; taught classes and workshops about the topic in public and private schools, community prep courses and social projects; promoted educational and cultural events with other collectives and groups at favelas; carried out qualitative research with 30 leaders from favelas in Rio de Janeiro to learn their opinions on the matter; and carried out a summit with youngsters from favelas and peripheral neighborhoods of the entire country to devise a national agenda focused on drug policies. In addition, the group also created a booklet called ‘Movimentos: Drogas, juventude e favela,’ an easy-to-read compilation of important information regarding drug policies whose aim is to introduce the debate inside and outside the favelas.

Movimentos’ first two years of existence made clear that, once the leaders in the debate change, so do the priorities. One of the first lessons learned was that speaking about drug policies with the favelas and from their standpoint means addressing wider, more complex themes, including the difficulty faced by drug addicts to have access to good public services; the absence of public policies for the youth in peripheral neighborhoods; the challenges in communicating the need for change in drug policies when media is controlled by very few (yet overly influential) outlets; and the need to rethink the police’s role in the Brazilian society and their actions in favelas and the outskirts.

Furthermore, we also understand that it is not possible to discuss drug policy without discussing the pivotal role of racism, criminalization of poverty, and inequality, as they go side by side with the war on drugs in Brazil, at the same time driving it and reinforcing it. Even though social movements have always been paramount to the development of Brazilian anti-prohibitionist initiatives, a growing number of projects focused on drug policy’s relationship with race and gender have been brought to life. Movimentos’ creation and consolidation processes happened at a time when collectives and organizations increased their participation in the drug policy debate from an intersectional standpoint, built upon the notion that the discussion over multiple inequalities is critical to the development of new policies.

Lastly, Movimentos believes that, if changes in drug policy are to positively impact the lives of those who live in the outskirts and at the favelas, they must go beyond the discussion about decriminalization and regulation. It is paramount to think of alternative models to ensure the inclusion and participation of historically marginalized groups directly impacted by the war on drugs; to improve services and public policies in peripheral areas; to give opportunity and perspective to youngsters at favelas and peripheral neighborhoods; and to repair material, physical, and psychological damage caused by decades of failed policies. For the changes in drug policies to have actual impact at favelas and the peripheral neighborhoods, there must be conscious, assertive efforts to build models focused on addressing inequality directly—international experiences have pointed in this direction, such as the ones observed in the state of California in the USA. As Movimentos’ members, we believe that favelas and peripheral neighborhoods must take center stage and become protagonists in the debate.

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4 Prep courses are educational courses whose aim is to prepare students for university entrance tests, called Vestibular. Students attend this course after they finish High School to ensure better possibilities to pass the test.
New Protagonists, New Approaches

Movimentos’ creation process also made clear that shifting the drug policy debate towards the youth in the outskirts is only possible with the deployment of new participation strategies. Pressing matters, such as structural racism and sexism, police violence, lack of basic rights, and income and opportunity inequality often shape the way youth in peripheral areas and favelas circulate and access the city in which they live. As a third-sector initiative supported by private funding—and thus free from governmental bureaucracy—Movimentos was able to experiment with different approaches to mitigate these outcomes and strengthen active, collaborative participation from all its members.

The project’s first innovation was its hybrid nature, combining collective political construction with institutional support. Collectively managed by young activists from favelas within a university research center, Movimentos brought together two types of governance, something seemingly impossible to be done. The challenge was ensuring a horizontal, collaborative approach to developments and decisions within the third sector, originally structured as a traditional organization. Everyday practices showed the way to overcome it: While CESeC provided the group with financial resources, contacts, overall guidance, and a physical space, it also gave Movimentos freedom to manage their own governance channels, decide their own strategies, and allocate available resources at their discretion.

As the leader in charge of these processes, the collective was able to develop new methodologies to foster its members’ full participation, the most important of them being ensuring minimal financial conditions for them to attend the activities. That was accomplished by transferring funds to cover members’ expenses for meals and transportation, as well as a compensation for their time while working on the group’s behalf. This was paramount to building trust between the group and the institution and represented a great disruption in the ways the relationships are built between the third sector and activists from favelas and peripheral areas—traditionally seen as the third sector’s beneficiaries, rather than partners, they are rarely compensated for their time and the resources spent on their day-to-day militancy.

In addition, from the onset, Movimentos’ work was guided by the will to value different talents within the group instead of trying to fit them into old patterns of activism. The group is currently formed by actors, journalists, poets, MCs, audiovisual producers, designers, teachers, composers, harm reduction specialists, educators, and internationalists who are willing to build alternative narratives about drug policies based on their own professional, human abilities. The valorization of distinct talents within the group allowed for the development of communication, mobilization, and awareness-raising tools focused on public safety and drug policy that go beyond the traditional models created by governmental agencies and even the third sector. Most importantly, we use arts and culture to expand this debate to favelas and peripheral neighborhoods, where it rarely takes place. We believe that raising awareness is critical to discussing complex matters such as the day-to-day impact of the war on drugs and the lives of youngsters in peripheral areas.

Conclusion

Movimentos believes that the favelas are at the center of things, not at the margins. Many solutions are created there, and they keep the cities lively and operational. Amidst inequality, racism, and violence, survival in favelas and peripheral neighborhoods is only possible due to their population’s innovative, creative, intelligent minds. Every day new tools are created and new solutions are devised to make up for the constant violence perpetrated by the State and the complete lack of public policies. For this reason, favelas must be at the center of the debate regarding improvements and change. If we want to see drug policies that disrupt historical social relations built on racism, inequality, and violence, we must give room for the favelas and peripheral areas to lead the discussion.

The peripheral youth is engaged, connected, well informed, and everywhere in the city. Investing in young leaders from favelas and peripheral neighborhoods is our best strategy to develop alternatives to current drug policies that can actually have a positive impact over those who suffer the most with the war on drugs. The objective of this article was precisely to show that the youth in favelas and peripheral areas is organized and ready to take center stage at this debate. It is a pleasure to see that Movimentos is only one among many other initiatives promoted by youngsters in Brazilian favelas and outskirts with the aim to foster actual change.

Competing Interests

The author has no competing interests to declare.
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POLICY COMMENTARY

Crime, Power, and Authoritarian Capitalism:
A Dystopian Realism Experiment

Luiz Eduardo Soares
Federal University of Rio de Janeiro, BR
luizeduardosoares09@gmail.com

The article contrasts the richness of academic production on illegal markets in Brazil to the obscurantist context of contemporary Brazilian politics. The text takes up the main topics of the Special Issue and faces a challenging question: considering the knowledge produced by the articles as a whole and the situation opened by the victory of the far-right in Brazil, what can we expect in the near future? Certainly, continuity, if not increase, of mass incarceration with class, racial and territorial bias, as well as strengthening of the most retrograde policies in criminal justice, with official legitimation of police lethality in peripheries and favelas, now consecrated as a State policy. On the one hand the modern edge of capitalism, the most insidiously averse to rights, exclusive and inseparable from crime; on the other, social barbarism.

Keywords: Public Security; Brazil; Politics; Rights; Democracy

The papers in this Special Issue of JIED describe key aspects of contemporary Brazilian society. They focus on several of its constitutive dimensions, which are far from restricted to public policy or criminal matters, unlike what a hasty analysis might suggest. It is worth noting some of the aspects and dimensions discussed:

(1) Speedy mass incarceration, driven by a combination of factors, including the Anti-Drug Act and its draconian application by courts, biased by class, racial, and territorial prejudice. The study focuses on the state of São Paulo; however, it provides a view of a wider reality as shown, for example, by research conducted recently by the Public Defender’s Office of the state of Rio de Janeiro, as well as data from higher courts—the STJ (Superior Tribunal de Justiça, or Brazilian Superior Court of Justice) and the STF (Supremo Tribunal Federal, or Brazilian Federal Supreme Court).

(2) The unreasonable repercussions of the ‘war on drugs,’ either on security policy management in view of the impressive waste of human and material resources, or on the practical field. Once again, surveys conducted in the state of Rio de Janeiro confirm the paper has a wider relevance although it focuses on the state of São Paulo.

(3) The veritable genocide of poor black youth in favelas and the outskirts of large cities, encouraged by the state’s law enforcement agencies with the flimsy excuse of fighting drugs. Local action groups have been created in recent years to promote a critical understanding of this situation in

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1 I examine this issue from a complementary perspective, by considering the Anti-Drug Act and the police model in its mechanical workings, so to speak, in a paper I presented at the Seminário Internacional: Emancipação, inclusão e exclusão. Desafios do Passado e do Presente (International Seminar: Emancipation, Inclusion and Exclusion. Past and Present Challenges), held at the University of São Paulo on October 28–30, 2013, and coordinated by Professors Lilia Schwarz and Maria Helena PT. Machado, as part of the Conferência USP Humanidades 2013 (2013 USP Humanities Conference) program. That first version of that paper was published in a book organized by Schwarz and Machado (2018). An updated version will be published in my book Desmilitarizar (Demilitarize) (Boitempo, in press).

2 I am referring here to the paper entitled ‘Incarcerating at Any Cost: Drug Trafficking and Imprisonment in Brazilian Court Reasoning,’ by Maíra Rocha Machado, Mariana Celano Souza Amaral, Matheus de Barros, and Ana Clara Klink de Melo, in this dossier.

3 I am referring here to the paper entitled ‘Low Impact, Wrong Direction: Why São Paulo State Drug Policy is Inefficient and Ineffective,’ by Leonardo de Carvalho Silva and Bruno Langeani, in this dossier.
the areas directly affected by it and of the role of prohibitionism in this context. The reflective
statement about those initiatives reverses the spatial and political polarization because the periphery becomes the city center and potential victims assume the central role. Although focusing on Rio de Janeiro, the text is more widely relevant as well.

(4) The adoption by groups robbing banks in different parts of Brazil of the PCC’s organizational features, which cannot be dissociated from that organization’s corporate culture—less rigid, vertical, and hierarchical, and more flexible, malleable, and horizontal. This shows the PCC is becoming influential due to not only the expansion of its economic and fire power, but also the Prägnanz, functionality, and adaptability of its values and relationship standards.

(5) The coordinated action between the ‘productive’ chain of motor vehicle thefts—comprised by vehicle resale or disassembly, informal insurance, the dynamics of drug trafficking and the formal insurance market—and their lobbies and legislative initiatives, which call for regulation benefiting this constellation of factors, whose flows cross the porous, ambiguous border separating legal and illegal.

(6) The points of contact between state initiatives and criminal interests, the latter of which subject, blackmail, and exploit locals benefiting from housing policies in the state of Rio de Janeiro, mainly in the western part of the state capital and in the Baixada Fluminense region. Buildings and building management are appropriated directly or indirectly by militiamen, criminals belonging to organizations formed by ‘law enforcement officers,’ current and former police officers. Once again, there is a fine line between law and crime, ‘order’ and ‘disorder,’ state action and its mirror image.

(7) Overlaps, points of contact, elimination of boundaries and interconnections between legal and illegal, formal and informal, are also day-to-day, socially naturalized phenomena of everyday life in the cities of Rio and São Paulo. In this case, the object of analysis is the different local specificities of drug trafficking. In Rio de Janeiro, the three factions trafficking illegal substances are similarly organized despite the open rivalry among them and with the police, large segments of which work jointly with the ‘crime.’ The dynamics in São Paulo differ from those in Rio de Janeiro in terms of organizational structures, identities, the overall sense of belonging, the relationship with the arms market, negotiations and agreements with segments of law enforcement, and coordinated action with different types of criminal activities, just as there are fewer conflicts. All those differences are reflected in the crime situation in the state of São Paulo, in which there are fewer murders and more offenses against property.

(8) Strengthened partly by a more dynamic transnational drug market, in which Brazil served as a section of a route, a bridge to other countries, before becoming a major consumer market, the economy of illicit substances eventually started financing arms trafficking in São Paulo and

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4 This is a reference to the paper ‘#FavelaLivesMatter: Youth from Urban Peripheries, Political Engagement and Alternatives to the War on Drugs,’ by Ana Clara Telles, Luna Arouca, Raull Santiago, and Thaynara Santos.
5 This tragedy has a history and political roots (cf. Soares 2000, 2006).
6 I refer here to the paper entitled ‘Pioneers: The PCC and Specialization in the Market of Major Robberies,’ by Jania Perla Diógenes de Aquino, in this dossier.
7 The references here are two different but complementary studies, both in this dossier: ‘Illicit Markets in Brazil: An Ethnographic Perspective,’ by Gabriel de Santis Feltran, and ‘Creating Illicit Markets: an Ethnography of the Insurance Market in Brazil,’ by Deborah Fromm.
8 My reference is the paper entitled ‘Urban Public Works, Drug Trafficking and Militias: What are the Consequences of the Interactions Between Social Work and Illicit Markets?’ by Marcella Araujo, in this dossier.
9 In addition to the bibliographical references quoted in the paper, there is a detailed account of real situations, in a fictional style (so its publication poses no major risks for the author), in Soares et al. (2010).
10 I am referring to the paper entitled ‘Movement and Death: Illicit Drug Markets in the Cities of São Paulo and Rio de Janeiro,’ by Daniel Veloso Hirata and Carolina Christoph Grillo, in this dossier.
11 I have written a summary of the history of this organizational model and the dynamics of its replication, conflicts, and coordinated action with the police, based on topography and social geography (cf. Soares et al. 2005), which can still be useful. I also propose in that book an interpretation of the development of identities by drawing an analogy with the totemic model, studied in ethnology. Regarding the experience of belonging, in the context of extreme antagonism experienced by young people engaged in drug trade activities in Rio de Janeiro and in other areas in which armed conflicts are common, I suggest referring to my paper ‘Juventude e violência no Brasil contemporâneo’ (Youth and Violence in Contemporary Brazil), the original version of which was published in Novaes and Vannuchi (2004). A new version will be published in Desmilitarizar (Desmilitarizada) (Soares, L.E. Boitempo: in press).
12 In addition to the bibliography quoted in the respective text, I also recommend the book about drug trafficking in the Rocinha favela by Misha Glenny (2016).
throughout the country. That bridge leads mainly to Europe and more and more often to Africa, which had a medium, intermediate position in the global geopolitics of drugs like Brazil, but is increasingly becoming the end consumer market, without prejudice to its previous role, which is still fulfilled. Connections with African drug traffickers, immigrants or not, in networks comprising different—particularly religious—organizations are progressively relevant and need thorough research, not least to prevent sweeping unfounded, stigmatizing accusations, which only strengthen and aggravate racism and other forms of prejudice.

(9) Modernizing inclusive economic and tax policy initiatives, studied mainly in São Paulo, designed to encourage the 'enterprisation' of informal trading to increase tax revenue, formalize employment, and align enterprises with the logic of trading capital, eventually lead to more exclusion and inequality, as well as an increase in real estate prices in urban areas, thus serving the interests of big business. Boundaries are crossed here as well. By attracting to the formal economy, the state expels to the informal economy; by expanding the urban space governed by lawful order, public policies increase the areas not reached by that order, with its benefits, as well as losses and their perverse effects. The very definitions of formal and informal become less and less clear, and even more so as changes in labor laws affect ordinary people's lives more widely and significantly.

This impressive array of descriptions and interpretations that thematize different objects is centered on an epistemological and empirical-analytical axis—discussed by Gabriel Feltran in the conclusion of his paper—that pervades all the texts in this dossier implicitly or explicitly and, therefore, orders them. Given its importance, I must quote an extensive excerpt from it:

How can we determine where an illegal market begins if it is certain that empirically a 15-year-old boy can earn 300 reais [$80] by selling cocaine and immediately buy a pair of Nikes in cash at the mall near his home? His 'dirty' money from the drug trade becomes 'clean' money in the formal economy, with consumption taxes paid, in minutes. Likewise, but on another scale, a coffee container (with hundreds of kilograms of cocaine as overweight) can be shipped from the Port of Santos to Europe and bring in foreign exchange unofficially—paid in cash—to buy, for 4 million reais [$1,059,520], a farm on the Bolivian border and a brand-new Toyota SW4, among other items. There are countless means to launder money, all of which are already well-known, in both domestic and international transactions, including: bitcoins, fake invoices issued by hotels, gas stations or car dealerships, as well as very expensive jewelry and works of art, or even soccer players and investments from multinational churches. 'Dirty' money becomes 'clean' money. Therefore, there is no point at which an illegal market ends and a legal market begins, in analytical terms, when money is considered a mediating object to study. Both markets are connected directly through consumption or indirectly through other markets (money laundering, but also auctions and insurance, all legally organized.) Monetary economy connects legal and illegal markets. 

That is empirical-analytical dimension of that guiding axis. The epistemological dimension is implied in the epigraph: 'even the empirical in its perfected state might no more replace philosophy as an interpretation, a coloring, and an individually selective emphasis of what is real' (Georg Simmel – Philosophy of Money). Given the inexistence of self-evident experiences, devoid of hermeneutic appropriation and disconnected from an analytical sample, it is warranted to examine the phenomena from a specific perspective that, like any bias, refracts objectivity and implies choices whose axiological foundation is boldly asserted, even

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13 My reference here is the paper ‘Development of the Brazilian Drug Market Toward Africa: Myths, Evidences and Questions,’ by Corentin Cohen, in this dossier.

14 A chapter of Meu Casaco de General (My General’s Coat) (Soares 2000) explores the stigmatization of Angolan immigrants in Rio de Janeiro in 1999, victimized by widespread accusations clearly inspired by racism. Those falsely accused suffered tragic consequences, and the Ambassador of Angola was called back to his country. The crisis worsened quickly and only came to an end after intense political mobilization.

15 According to the paper entitled ‘Problem and Power: Informal Commerce Between Repression and Enterprisation,’ by Felipe Rangel, in this dossier.

16 It is worth consulting the paper by Roberto Saviano (2015) about the global economy of cocaine and its inseparability from the legal economy, in which the same empirical-analytical perspective is applied to, and supported by, countless examples of great importance.
when not clearly shown. Values intrinsically carry policies and vice versa; therefore, the ethical and political commitment of the intellectual project embodied in this dossier is a key element of its nature, identity, and quality. Just as legal and illegal pervade each other, so that they ultimately become parts of a continuum, the final substantive distinction between which tends to be blurry and the ‘real’ is left adrift, floating between political and legal games, the different modes of expression—constative/descriptive, performative, analytical, interpretive, judgmental and normative—and their rules also overlap on the discursive level in this joint project. There is no naiveté here; therefore, there is no pride in indifference, typical of positivism, either. We seek to avoid confusion between, for example, the descriptive-analytical and the normative modes because confusion is hybridity unaware of itself and consequently reflects theoretical immaturity; however, we make a distinction between the cognitive and the discursive registers to ensure clarity and thoroughness, and not to pursue institutional silencing and hierarchizing strategies, typical of low-level ‘politics.’

A challenging question has yet to be answered in these brief supplementary notes to the dossier: Considering the knowledge produced by these papers and the situation resulting from the victory of the far-right in Brazil, with an ultra-neoliberal economic agenda, what can we expect for the near future? There will certainly be a continuity of, if not an increase in, mass incarceration based on class, color, and territorial prejudice. After all, there are clear signs future federal administrations and legislatures will thwart any attempt to loosen the Anti-Drug Act. On the other hand, the new situation only strengthens the most conservative and punishment-minded segments of the judiciary and of the public prosecutor's office. We should also expect an increase in excessive police violence in favelas and on the outskirts of large cities because the new president bragged in his campaign that he would change the rules of police engagement and have affirmative defense approved, which in practice means attempting to legitimize extrajudicial killing, which tends to become even more frequent than it already is. Everything indicates the horror and bloodshed already victimizing poor and black young people, although denied by the government, will be established as a state policy.

The new rulers’ words, gestures, and track records suggest the problem of criminal factions will be tackled by increasing repression in prisons and curtailing convicts’ meager rights; that is, the Sentence Execution Act will be even less respected, if not amended to reflect more closely the inhumane situation of the prison system rather than the current legislation. The combination of prison tension with a rise in ‘legalized’ police killings in cities, which tends to increase disorder in the geopolitical distribution of territories among criminal factions and in the criminal division of labor, will probably fuel and expand the spiral of violence. It should not be forgotten that denying suspects the opportunity to surrender forces them to resort to weapons and fight to the death, as well as murder police officers on or off duty in anticipation of conflicts, as shown by the Rio de Janeiro experience. Bloodshed is increased by vendettas, and life in low-income communities becomes hell, even more unbearable than everyday life under local armed authorities often is.

Other significant factors showing an increase in different forms of violence are, on the one hand, the tacit authorization, implied from the winning political discourse, to misogynistic, homophobic, LGBT-phobic, and racial assaults and, on the other hand, the permission for the police to act with brutality and even kill. It is widely known that police officers, when given freedom to kill without having to suffer any consequences of such an extreme act, feel they have the power to decide whether or not to do it. As a result, they are often encouraged to sell the decision not to kill for amounts limited only by the blackmailed person’s ability to raise money and buy his or her life. No other corrupt currency has such great inflationary potential; therefore, nothing boosts corruption as much as officially sanctioned lethal police brutality. The context created by the combination of all those circumstances is obviously conducive to the formation of militias and strengthens those in operation. As a result, both the oppression and militarization of low-income communities are current trends.

Militias are armed vigilante groups comprised mainly of current and former police officers that impose levies illegally and benefit parasitically from all local business activities, including land use and property occupancy. As they grow and strengthen, institutions are deteriorated, which, in turn, fosters corruption and connections between the police and criminal factions. All those problems already exist, and it is already impossible to distinguish between legal and illegal from so many points of view and in so many aspects of social, political, and economic life. In fact, that interconnection will be strengthened, mainly in a context marked by the major changes introduced in labor laws, which will hinder those wishing to transition from

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17 From this point on, I will be referring tacitly to each of the nine items listed in the introduction.
18 So did the governors elected in the states of Rio de Janeiro and São Paulo in 2018.
the informal to the formal economy to obtain their rights, as well as encourage the move in the opposite
direction, thus blurring the distinctions that supposedly characterize the legal sphere. In parallel, social
exclusion resulting from the selective formalization of business activities through ‘enterprisation’ will tend
to increase because the balance of power leans toward the elite and ‘the big boys.’ It is reasonable to expect
the connections between illicit activities and the profits of the most influential companies to be strength-
ened indirectly because lobbies, including that of insurance companies, are usually favored or even legalized
by ultra-liberal governments.

The weapons and ammunition market is already booming, and the new administration has promised not
to prevent ‘good citizens’ from buying guns. As is widely known, ‘more guns equals more deaths,’ so that is
another factor leading to the dystopian situation I unfortunately feel compelled to describe for the sake of
intellectual honesty.

In this environment marked by regression and obscurantism, loss of social rights, increased violations of
individual rights, environmental degradation, and neglect of national sovereignty are all to be expected.
In addition, it will be impossible to resume the debate about the police structure and the institutional
law enforcement framework (the most promising reference for which was PEC [Proposta de Emenda à
Constituição, or Constitutional Amendment Bill] 51, proposed by Senator Lindbergh Farias in 2013), unless
regressive reforms strengthening the militarization of law enforcement and a corporatist insulation of the
police are proposed.

Punitiveness and judicial activism, which have served the coup d’etat mentality at least since President
Dilma Rousseff was impeached in 2016 and secondarily excluded former President Lula da Silva from the
election in 2018, have increasingly admitted their ideological face. In fact, they may become even more
extreme in the coming years by tapping into all their pragmatic potential to politicize both courts and the
public prosecutor’s office, a rightist segment of which has already organized itself into as a political-ideolog-
ical faction and issued a ‘pro-society’ manifesto endorsing the new rulers’ ultra-conservative anti-globalist
discourse. The next step may be the judicial persecution of environmental NGOs, human rights advocacy
organizations, and social movements by focusing on economic aspects and blocking access to international
funding, as in Hungary and Turkey, for example. The criminalization of leaders and activists can provide a
vein of democratic’ legitimacy for political repression, thus suggesting to international public opinion that
institutions are working normally and only fulfilling their duty to enforce the law. Public demonstrations
against the court-approved ‘democratic’ elimination of democracy may pave the way for the declaration of
a state of defense or siege, thus normalizing the state of exception and establishing a dictatorship by using
the means provided by the ‘democratic rule of law.’

That would be a tragic situation, but it would fulfill the historical role of showing the skeptics from
post-dictatorship generations that the state of emergency now informally in place, which governs police
operations in vulnerable areas, can become even more intense and arbitrary if it is institutionally established.
Therefore, we have a great deal to lose if we despise democracy because of its limitations and contradictions.
It is always a good time to learn that, from the perspective of the grassroots’ interests, it is a serious mistake
to throw out the baby with the bathwater.

Last but not least, it is worth noting some connections between two issues. The first is the development
of authoritarian capitalism in Brazil. It was based on the conservative modernization model, which involves,
albeit marginally, the subsumption of labor under capital formally through political (and political-repressive)
interventions and the immobilization of the working class (two classic examples of which are the monopoly
of land and slavery), which, in turn, preserve traditional economic and social systems by combining them une-
venly with more dynamic modern processes of capitalist economy, under the hegemony of financial capital.

The second is non-strictly capitalist forms of labor or labor relations and of appropriation of surplus,
although externally connected with the capital dynamics such as: (a) those connections forged within drug
trafficking, in Rio de Janeiro’s favelas and peripheries, characterized by a hierarchically organized division of
labor in which actors, some of whom are children, establish links with one another of subordination at times
of a proto-military nature, governed by specific rules and values; or (b) those established between militias
and residents, who pay the fee set by the local armed group. The militia model depends on each group’s

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19 In *Capital* (Marx 1971), there are only a few passages in which Marx thematizes the concepts of formal and actual subsumption
of labor to capital. In Volume One, they appear in Sections Five, ‘The Production of Absolute and Relative Surplus-Value,’ and Seven,
‘The Process of Accumulation of Capital,’ specifically in the chapter ‘The So-Called Primitive Accumulation,’ and in Volume Two,
on pages 216 and 236. There is no reference in Volume Three. Friedrich Engels refers to those concepts in the foreword to Volume
One, on page 40.
strength and territorial domination, as well as the consent of law enforcement agencies, whereas the drug trafficking model relies on loyalty based on the virtuality of force, police complicity (though different from that in the case of militias), and a tacit consent obtained by coercing local communities.

Drug trafficking in Rio de Janeiro proves economically irrational day by day because most of its expenses are useless from the point of view of business. In contrast, drug trafficking in São Paulo, modern and rational, is integrated into the economy through economic means, reflecting an actual subsumption of labor to capital marked by an adaptive flexibility, formal heterogeneity, and preferably horizontal contracts. To thrive in the retail drug trade (and even more so to grow in the wholesale market), drug traffickers would not need to impose themselves through territorial domination, form a group trained for gun fights, invest in weapons, and waste so many lives and energy to defend their territory against the police or rival factions. They would be able to lead longer, safer lives with less anguish and violence, as well as have better chances to enjoy their profits, by adopting an organizational model similar to those structured in São Paulo and in the core capitalist countries. In turn, society would have tremendous benefits.

In the state of Rio de Janeiro, three factors lead to the maintenance of the traditional drug trafficking model: (1) its history, which, coupled with the local social geography (i.e., the existence of enclaves of poverty within affluent consumers’ neighborhoods), gave rise to the organizations we know today, with their totemic identities, ‘geopolitical’ ties, histories, values, consolidated practices, and naturalized operational dynamics; (2) prohibitionism, that is, the Anti-Drug Act, which paved the way for the drug trade and the ‘illegal’ drug market; and (3) the role of law enforcement agencies and the criminal justice system, which cause this situation to consolidate in two different and occasionally interconnected directions: corrupt groups parasitize the drug trade, benefiting from a portion of the profits brought by the illegal activity and/or (in this case, not only corrupt segments) preventing the mobility of the actors of the drug trade, including their move from the illegal sphere. The previous statement sounds like a paradox because common sense suggests the justice system and the police would force traffickers out of the drug trade or even prevent them from joining it, but that is not the case. They bar traffickers from leaving the drug trade and encourage people to join it, as I myself have witnessed. They prevent criminals from leaving the drug trade by restricting their opportunities to surrender, turning reckoning into an imminent risk of a witness elimination,’ converting imprisonment sentences into death sentences or simply refusing to allow them to leave the job when it is particularly profitable to the associated police groups. The hatred of institutions that arises from the humiliation and brutality the state imposes on a daily basis on communities, especially on black men and women, encourages people to join the drug trade in response to the everyday esculacho (degrading treatment). Institutions pave this way primarily by limiting the alternatives and reducing the appeal of a promise of belonging, recognition, and self-appreciation. However, that way is trodden by a small minority.

Therefore, it should be noted the costliest drug trade model, unaware of its own inefficiency, is replicated due to endogenous and exogenous factors, the most important of which are political vectors, such as legislation and the state’s action. I have developed a hypothesis that I do not consider invalid, however simplistic and schematic it may seem, and whose scope may be useful in a more comprehensive and ambitious manner: drug trafficking in São Paulo has modernized itself just as the capitalist model of Brazil’s main state, whereas drug trafficking in Rio is marooned in its own past and has become entangled in typically authoritarian and regressive plots, as is Brazil’s modernization. It is becoming increasingly clear that the capitalist system cannot easily coexist with democracy. Indeed, neoliberal capitalism has even proven refractory to it. Nevertheless, mass killings

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20 I have written about drug traffickers struggling to abandon the drug trade, but their efforts were undermined by both the police and the criminal justice system, which thwart them and condemn them to remain in the drug trade, holding them in some sort of ‘captivity.’ Refer to Meu Casaco de General (Soares 2000), Cabeça de Porco (Pig Head) (Soares 2005) and Rio de Janeiro: Histórias de vida e morte (Rio de Janeiro: Stories of Life and Death) (Soares 2015).

21 I wrote about this in the second part of the book Elite da Tropa (Squad Elite) (Soares et al. 2005), entitled ‘A cidade beija a lona’ (The City Hits the Canvas), adapted to the stage years later under the title O Confronto (The Confrontation) by L.E. Soares, Domingos de Oliveira, and Márcia Zanelatto.

22 Bruno Paes Manso and Camila Dias provide very interesting information in their work quoted above (Paes Manso and Nunes Dias 2018). Drug traffickers from São Paulo have actually tried to persuade their peers from Rio de Janeiro to change their organizational and operational models. However, it is evident that those efforts have been in vain. I describe in my book (Soares 2012) the visit from representatives of a Colombian cartel to Rio de Janeiro to assess the drug market and business opportunities. They enjoyed themselves immensely in the defunct nightclub Help, networked, examined the situation, and gave up after a few days, dismissing Rio de Janeiro as totally unfeasible.
are neither necessary nor appropriate to contemporary capitalist development, even though neoliberals do not shy away from flirting with dictatorship or even allying themselves with barbarism, whenever convenient, to ensure profits and privileges. São Paulo and its economic and political order prompted the organization, modernization, and rationalization of crime, although that was not the only key factor in this process. The São Paulo capitalism provides Brazil with a model for organization, in terms of crime as well, with a lower homicide rate, despite a persistent increase in offenses against property, which, as we have seen, is not always inconsistent with the capital gain chains.

In contrast, Rio de Janeiro offers, in addition to the horrid spectacle of its never-ending excruciating decline, the image of a violent, authoritarian country in which capital is accumulated by immobilizing labor and blocking access to funding for emancipation. Drug trafficking, hemmed in by the circle of the state’s irrationality, provides a brief picture of an economy in which the informal sector reflects virtuous entrepreneurship less than the twofold result of the exploitation of labor (including child labor) and the exclusion from citizenship. However, that picture would be incomplete without the militias. The other half is comprised by the direct intervention of the plain-clothes state, that is, the privatized state, which expropriates and demeans communities and plays the archaic role of its double (the actual state): discretionary, despotic taxation.

No Manichean picture can describe complex realities. Therefore, it is important to point out that Rio de Janeiro and São Paulo serve here as ideal types distant from their respective experiences, necessarily combined and uneven. São Paulo’s law enforcement agencies are just as violent as Rio de Janeiro’s, but they exercise brutality differently, more often in killings than in direct conflicts. No other state incarcerates as much as São Paulo. A fall in homicides and capitalist modernization are no road to paradise. They bring in their wake trails, traces, and horizons of barbarism. However, it is crucial to note the distinctions. Brazil is Rio de Janeiro, São Paulo, and much more. São Paulo is not the future of Rio de Janeiro—if Rio de Janeiro is able to overcome its atavistic backwardness, which is not impossible, not least because it has vibrant, creative social sectors. Moreover, both states are more than just their respective crime universes, apart from anything else because those universes have been interconnected with all others for a long time. The lesson to be drawn from this reflection is simple: a neoliberal punitive agenda will likely radicalize degraded and degrading processes, marked by ‘irrationality,’ insofar as it reinforces inequalities and reifies the most regressive aspects of the criminal justice system. In addition, it will make the modern end of capitalism more insidiously averse to rights, exclusive and inseparable, on the one hand, from crime and, on the other hand, from social barbarism. It is sometimes impossible to know under what category barbarism actually falls. That question will surely remain unanswered. The good news is that forecasts fail. In any case, the best recipe to keep the horizon of expectations open is to think long-term and find reasons in history to believe that a radically democratic path of development is possible.

Competing Interests
The author has no competing interests to declare.

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