The concept of genocide and its relation on the extermination of black poor people in Brazil

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Abstract

This essay analyses how the neo-liberal approach to security has become a new policy to control spaces of insecurity in poor urban areas and populations in Latin American countries, especially in Brazil. The construction of a discourse about the "war on terror" and/or "war on drugs" is underpinned by global fear. Such politics must be viewed as a hegemonic domination pattern that strengthens the boundaries between whites/blacks, us/them, north/south, east/west, locals/immigrants. At the same time, such practices of social control by fear lead to a legitimation of human rights violations through the repressive apparatus of national governments as a solution for increasing criminality, provoked by urban armed conflicts and drug trafficking and other related issues. To illustrate this macro-analysis, this paper discusses the concepts of "state of exception" (Agamben, 2005), "bare life" (Agamben, 1998) and "biopolitics" (Foucault, 2002) to understand how the concept of genocide can be embedded into the racial question based on the extermination of poor black people in urban areas of Brazil.

Introduction

This essay aims at understanding how, why and under which circumstances human rights are violated during the implementation of the neoliberal security policies in democratic states. In order to illustrate this macro-analysis, the case of Brazil will be discussed by analyzing how the concepts of "state of exception" (Agamben, 1998), "bare life" (Agamben, 2005) and "biopolitics" (Foucault, 2002) can be interpreted and applied within the context of human rights violations in Brazil. It is intend to show how the constitutive elements of genocide can be observed and applied in the Brazilian context, where armed conflicts between military police and militias are recurrent, targeting the young black poor population. The following questions will work as a guideline for the essay: Can the crime of genocide be applied to homicides based on racial issues in Brazil?

To understand the security policy framework, we will consider the following axis: 1) the close relationship between neoliberal security policies and the paradox of effectiveness of human rights in the liberal democracy, founded in the dialogue of Agamben's texts and Foucault's insights; 2) how the concepts of these authors can be applied to Brazil in terms of the rising of homicide rate against poor black people and the elements that constitute genocide in the legal and socio-politics perspective.

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For this purpose, the working hypothesis is that the global tendency towards liberal security policies is underpinned by the economic market of a culture of fear which in turn exercises "biopolitics" (Foucault, 2002) and establishes the permanent "state of exception" (Agamben, 2005) in democratic states. In other words, behind the humanitarian reasons for the security policies, the market of securitization feeds the industry of fear, armament race, and surveillance and technological control, producing more social violence, racial hatred, and social fear as a way to control human life. Thus, the discourses of "war" and "security" are related to the construction of an "enemy", in order to deny the human condition.

The discourse and practices that violate these rights are legitimized by the implementation of repressive and neoliberal security policies viewed as a reflex of the global tendency toward the politics of fear. As a result, armed conflicts among military police, factions and militias have been a recurring theme, specifically targeting the extermination of poor black population as a solution for the issue of violence and criminality in Brazil.

Understanding the paradox of human rigths by "state of exception", "bare life" and "biopolitcs"

Agambem (2005) argues that there is a "legal civil war" in which fundamental human rights, such as life and freedom, are suspended, using the discourse of violence and fear as power techniques in which the main function is to control and differentiate the subject through the induction of legitimized social practices. One of these factors is justified by Agamben (2005) to explain the "kenomatic state" as the "gap of right" in which the distance between "public law" and "political fact" is fixed and through which human rights can be suspended precisely because the limits of what is a legal or politically-motivated decision are not clearly defined.

In this way, the nature of the right reveals the vagueness to which it was created and what it must defend: the value of human life. The paradox of the law shows that the value of human life can be both protected and undermined depending on whether political facts, rules, life and rights are out of balance (or not). The former occurs when the executive power centralizes the whole reasoned decision in a state of emergency thus, appropriating the system of checks and balances in democracy. Although Agamben (2005) does not specifically mention the reason why this undetermined situation can operate, Foucault (1979) contributes to this point when he analyses the genealogy of power. Agamben (2005) seeks to tie the concept of power to sovereignty and the meaning of the "state of exception" by relating it to "the paradox of sovereignty", which consists on the non-balance between constituting power and constituted power, and therefore in the elimination or suspension of the human rights system in order to justify and violate the proper system that it generated.

Whereas Agamben (2005) emphasizes the juridical order as an expression of power and accuses Foucault (1979) of not going deeper into this issue, Foucault (1979) does take up the concept of widespread power. It functions as a capillary network of micro-powers which is not restricted only to the legal system or sovereign power; moreover, it is exerted in all matters of life through social relations. In this sense, Foucault (2002) points out that the formal aspects of the rules prescribe the rights and duties of the citizens, while delimiting the power and its substance that by law it should produce and reproduce by "effects of truth."

Foucault (2002) explains that the change to modernity also shifted toward the manifestation of power, and in turn "biopolitics" substituted "sovereign power." The author uses "biopolitcs" to refer to a new technological power that, unlike disciplinary power and sovereign power, is neither restricted to controlling the man-body in an individualizing way, nor the appropriation of the property and labor of the individuals. It expands to mankind, with the order to control all the processes in men's lives, including the statistics and tools to measure and identify it, from an individual's birth to their death. While sovereign power aims at "taking life or letting live" the biopolitcs is to "make live and let die" (Foucault, 2002). This practice of power aims to control the population and nations through biological characteristics, and hence this technique allows for the appearance of racism as a mechanism of state power. The discourse which legitimizes racism, and thus, the principle of equality and human dignity is based on human security. People have to die to protect and save others, that is to say, "biopolitics" works as the "politics of life and death" (Dillon, 2008).

Agamben (2005) also merges his thinking with Foucault's when he refers to the "biopolitical" to explain the sovereign power which controls and chooses an individual's life or death. He grounded his thinking on Greek philosophy, denoting the "bare life" to show the transforming of life as viewed as the personal, familiar and intimate space, or "zoe," which had previously belonged to the sphere of domestic, private, household issues, or "oikos." The modernity of life is related to the public sphere, citizenship and political field, or "polis", whereas the means of life refer to "oikos." Thus, the process of politicization of life refers to the mix of both private and public spheres and the respective role of individuals, and "bare life" is restricted via the loss of the intimate space given the decisions of sovereign power.

Agamben also highlights that, during the "state of exception", the sovereign power shall be entitled to decide on the right to life, that is to say, which life will be considered the "life lived" and the "bare life", i.e., the life that can be killed. Furthermore, the author (2005) mentions that although "bare life" means a life that can be killed, it is not worthy of being sacrificed. This idea enacts the total loss of human condition via the trivialization of violence and evil. "The sovereignty is the sphere in which it is permitted to kill without committing homicide and without celebrating a sacrifice, and sacred life – that is, a life that may be killed but not sacrificed – is the one that has been captured in this sphere" (Agamben, 2005, p.35).

Agamben's critics justify the contradiction between "biopolitics" and "bare life", by stating that "biopolitics" only refers to the process of administration and control of population, which does not include the politicization of life. However, Dillon's thinking seems right when he understands that Foucault's approach highlights the close relationship between power, race and security, and liberal political economy toward the "politics of life and death", as "racism justifies the death function in the economy of biopower by appealing to the principle that the death of others makes one biologically stronger insofar as one is a member of a race or population, insofar as one is an element in a unitary living plurality." (Dillon, 2008:186)

In this context, fear, racism and religion became important sources of power through official, economic, and strategic policies, such as policies of restricting immigration, antiterrorism, exterminations against black poor people, rules on Muslin refugees' immigration, which restrict civil rights of society. The imaginary of the enemy is widely

spreading in different forms of social control, through "biopolitics", including the control within social relations by the society itself, as explained in the next section.

Human Rights for whom? Understanding the social practice of genocide in Brazil

The absence of a Welfare State in the context of Latin America has blocked the structures and institutions that are capable of providing the fulfillment of social rights, in order to keep public order and social peace (Peralva, 2000; Carvalho, 2005; Arguello, 2000; Azevedo, 2004). This framework is highly problematic in the field of social rights, since it increases the exclusion of the poor and the social inequality that results in the "urban criminality phenomenon" (Pinheiro, 1997). Moreover, the democratic transition process in Latin America was tied to the legacy of the military regime and urban criminality (Bedoya, 2003; Salamanca, 2006; Adorno, 1988).

These factors contributed to the formation of cultural organizations and authoritarian states' institutional practices in which the sentence "order under the law" becomes the general rule in formally democratic states (Carvalho, 2005; Arguello, 2000; Azevedo, 2004). The historical legacy of the military dictatorship has created a symbiotic relationship between the laws produced by the State, the community itself and the leadership of criminal factions (urban militias, paramilitary groups, drug trafficking networks and organizations, guerrillas), with a culture based on a "violent sociability" (Machado, 2010). As a consequence, the police used the (both illegal and legal) practice employed to pursue and eradicate the "enemy" in name of the order and law. This scenario leads to a true war as provoked by armed conflicts, although it has not been formally recognized, as a civil war. In short, there is a militarization of public security, which feeds the global fear. In Brazil the enemy is represented by the poor black population.

The discourses of war and security consist of speeches and languages related to the construction of an "enemy", caused by institutionalized racism in Brazil. The social construction of the category of criminal is solidified to the point that violence associated to racism is naturalized by social practices and institutionalized by the state, which becomes cause and consequence of the feeling of social insecurity. This process is reconfigured through the discourse between "we" and "they", strengthening the boundaries of center/city and periphery/slum, and who deserves to live against who does not (Agamben, 2010). On the other hand, there is a trivialization of the violence that is cause and consequence of increased insecurity and social fear when these stigmatized groups respond with violence. It has built therefore a collective imagination shaped by symbols, myths, stories, fantasies, emotions that shape the feelings of fear and social insecurity, nourishing and strengthening this process of social stigmatization.

Global fear works as a mechanism of power that increases the weapon industries' profit. Its main goal is to feed itself through binary discourses in the context of war on/of terrorism. Alessandro Giorgi (2005) claims that in a post-Cold War context, the public enemies represented by the communists had to be reinterpreted, such as the mark of September 11. Thus, the expansion of the arms industry, nuclear power plants and weapon materials have been sustained by a rhetoric of war directed to the issue of internal security, specifically in the "war against crime", encouraging force and militarization of security policies and private security companies in democratic states (Percy, 2006; Kinsey, 2006).

The acts against human rights are justified by institutionalized discourses of "war against crime" or "drug traffic combat", that legitimize the acts of persecution against black poor people, who are chosen as the primary target by military police in either armed conflicts or not. Hence the increase in summary executions, illegal repression and human rights violations in prisons and beyond. At the same time, these practices are "(…)formed by a system of interlinked intelligence services, state security forces, paramilitary units and police extension which created 'societies of fear' at the national level, intensified in combat zones and theaters of counter-insurgency against guerrilla forces and other insurgences" (Kruijt, 2011: 93).

Thus, Garland (2008) and Wacquant (1999) bring to light the fact that "Penal Welfarism", in the era of globalization and culture of control, has enabled technology investments to be increasingly focused on the control, monitoring and strengthening the penalty area, serving as lucrative sources of investment. The authors have pointed out that the premises of those prisons would become a private business, housing large proportions of the population deprived from social rights. They also act as a stigmatizing breeding institution of the popular classes, legitimizing violent and discriminatory practices, helping to strengthen social inequality.

According to data collected by the Brazilian Forum of Public Security (2015), security costs increased in 2014 as compared to 2013, around 16.5%, reaching the total cost of R$ 71 billion. Such costs represent 1.3% of Brazil's PIB, which is nearly the equivalent cost of public security in Europe (1.29% PIB). Although these data do not indicate precisely what kind of investments are made in Brazil, it is clear that the rise in criminality in Brazil shows that those investments are not effective. The number of homicides by the police rose 37% in 2014, coming to a total of around 60,000 deaths a year. This astonishing number is higher than the number of deaths in civil wars. As mentioned by Abramovay (2015: 20) "Nowhere in the world, more human beings have killed other human beings than in Brazil during the year of 2014. Almost 60,000 were murdered in our country".

Against this background, one can question why the high rate homicides based on racial issues should be interpreted as genocide crime. The international community defines it as the "intention to destroy, in whole or in part, a national, ethnic, racial or religious group(...) as [among other acts] kill members of the group", and this definition has been accepted by the Brazilian legal system by the Law 2.889/56. Genocide is considered a heinous crime, being unacceptable any bail or forgiveness. Although it is possible to see its defining legal elements in Brazilian social practices, many cases are referred to as massacres or slaughters, such as "Massacre of Carandiru", "Slaughter at FEBEM", "Slaughter at General Vigário", "Slaughter Campion", and "Massacre of the homeless" to portray, respectively, the cases of homicides in prisons, nursing homes for children in slums, and even on the streets.

In this way, race should be considered an integrator and relational component gaining contour and specificities from the relationships between individuals, how they perceive each other and how they distinguish themselves by creating hierarchical positions and mutually classifying each other. These elements constitute a reproduction of the social imaginary of legitimizing and banalizing violence to reproduce social inequality. Security becomes then the new political way to control the territory, people and communities in the frame of capitalism, including the policies of extermination against black poor people working as a social cleaning. In this way, it is necessary to enlarge

the concepts of war and security, by amplifying the concept of genocide, in order to comprehend other realities and social changes.

This mechanism of social and race exclusion came to underpin the repressive security apparatus of the state, namely the "Police State" by Wacquant (1999) and it has been seen as the main solution to face issues of criminality and violence. Indeed, it has surpassed the limits between legal and illegal police force actions with the support of criminal justice. Currently, the militarization of public security is having great influence on the neoliberal model based on the policies of "Zero Tolerance" and "Law and Order Movement", "Iron Fist and Anti-Gang Law". These policies have originated in the 1980s in the US and aimed at containing small incivilities in order to prevent felonies. There has been intensive incarcerating and repressive policing to fight against the conduct of offenders, such as street gangs, vagrancy, begging, prostitution, and drug dealing, among others (Arguello, 2000; Souza, 2008). This time, the methods, techniques and trends that fed the American prison industry could also be witnessed in Latin American prisons, especially in Brazil (Santos, 2011; Wacquant, 1999). However such policies "soon proved to be inefficient: not only did crime and homicide rates remained high, but security forces were unable to impose control over certain urban areas" (Rivera, 2011).

In other words, the gap between public law and politics allows for wrongs to be committed daily against the "bare life" of individuals. In this context, a survey by the University of Rio de Janeiro (2011) revealed that the impunity enjoyed by police forces in terms of criminal acts also involves the criminal justice system, especially the judiciary and the public prosecutor. In this last case, the General Prosecutor asks for the police investigation to be closed, based on insufficient proof or lack of culpability. In addition, the report shows that in 92% of the deaths suffered by poor black people justified by "resistance to authority", not even the preliminary enquiries were carried out. "Resistance to authority" is provided by article 292 of the criminal procedure code and became an institutionalized everyday practice, during the policing approach to poor black people in the slums. In this situation, "state of exception" (Agamben, 2005) is based on the rule of law and takes on a broader interpretation in which arbitrary and discretionary practices are applied in armed conflicts. In this case the "resistance to authority" acts as "legitimate defense" in order to justify the homicides (Misse, 2011; Carvalho, 2005; Azevedo, 2004).

Thus, the penal justice works as a tool to justify the reproduction of social stigmatization by punishing the outsider through social control and coercion rather than guaranteeing social order. Patronage, repression and patriarchic practices have been manifested in the social and institutional structures in order to legitimize the racial issue as naturalized. When black poor people are not killed, the prisons work as an instrument to segregate and continue to delimit the boundaries between city and slums. In this sense, power, Law and truth, form a triad that is connected and related to the structure of institutional, regulatory, and administrative organs that produce other apparatus of power. In this regard, the production of the truth in the justice system enacts the role of domination when it uses its structure of inquiry, persecution, arrest, and process to reproduce the power and separate who has the power from who does not, which in turn must be subjected in order for this structural power to be maintained.

According to the survey "Lives Lost and Racism in Brazil" produced by IPEA (Cerqueira, Moura, 2014) a discrepancy was revealed between victims of homicide

among black and non-black men in Brazil. The research concluded that institutionalized racism cannot be rejected, in addition to socioeconomic differences between the two population groups. "The blacks are doubly discriminated against in Brazil, for their socio-economic situation and their skin color. Such combined discrimination may explain the higher prevalence of black people homicide in face of the rest of the population" (Cerqueira, Moura, 2014). The Map of Violence in Brazil (Ministry of Justice, 2014) shows that during the period between 1981 and 2010, 608,462 children and young people (1-19 years old) died, 43.3% of which were victims of homicides. Poor black young men (15-29 years old), who belong to suburbs, add up to more than half of the shocking rising number of homicides in Brazil: 52,198 deaths in 2011.

According to data from the Ministry of Health, 52.63 % of the victims were young, 71.44% black, and 93.03% male. Indeed, the number of homicides in Brazil is higher. The IPEA (Institute of Applied Economic Research, 2011) survey to measure the rate of "hidden homicides" in Brazil, during the period from 1996 to 2010, revealed that in 9.2% of the cases the deaths were not registered as homicide but instead as having a "undetermined cause", referred to a total 174,223 victims. The most serious problem of the non-revealed rate is related to the component of racism (IPEA, 2011).

Therefore, there is a "legal civil war" (Agamben 2010a) in which fundamental human rights such as life and freedom are suspended, by using the discourse of violence and fear as power techniques whose main function is to control and differentiate the subject, through the induction of legitimized social practices. This means that the legitimacy of the "state of exception" on democracy denies the legal status of the individual as citizen, as a person not integrated in the system (miserable and excluded). Thus, the loss of their own human condition legitimizes enforcement practices, such as genocide and extermination. The perception about the "other" operates in a symbolic level, and delimitates the boundaries between white people and black people, thus supporting the myth of "racial democracy" in Brazil.

Conclusion

Agamben's and Foucault's contributions show that the legitimacy of the "state of exception" on liberal democracy is configured as a general rule through "biopolitcs". In this manner, the legal status of the individual as citizen can be denied, hence leading to the deconstruction of an individual not integrated in the neoliberal system (poor, immigrants, slums, and excluded) based on their own human condition, from which enforcement practices such as massacres, torture and violence, and social hate are legitimized.

Undoubtedly, there is a racial and class issue related with homicides in Brazil, but it has been uncovered throughout the centuries, since the colonial period. At the same time, these racist practices became naturalized in the Brazilian culture, including social organizations and institutions that should transform this situation. On the contrary, they have permitted the reproduction of segregation spaces through the way of racial cleaning by social stratification where black poor people do not have the same rights as the middle class, and as consequence, the stigmatization in this social class rises the boundaries between poor and rich, "we/they", center/city and periphery/slum, which also increases the spiral of violence.

The "biopolitcs" controls the cycle of life of individuals who are conditioned to "bare life" through policies of race extermination against poor black people, which works as social cleansing. Finally, security should be examined under the "biopolitcs" lenses in which law, power, race, economic, social, and environmental factors influence the decision-making of relevant actors, including how much emphasis on security itself has become a means to legitimize repressive, authoritarian and colonizing practices behind human security.

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