

## VERTICAL CITIZENSHIP AS AN OBSTACLE FOR PREVENTIVE POLICIES IN THE COVID-19 CRISIS: THE UNFORTUNATE ENCOUNTER BETWEEN PUBLIC SAFETY AND PUBLIC HEALTH POLICIES IN BRAZIL (\*)

Marcelo da Silveira Campos (\*\*\*) and Roberto Kant de Lima (\*\*\*\*)

Since the early 1980s, ethnographic research has demonstrated that Brazilian public security policies are based on unequal legal treatment between different segments of the population. This unequal attribution of rights in the Brazilian polity dates back to the Brazilian independence, where a distinction between nobles and commoners was adopted while slaves had the same legal status as that of domesticated animals (“semoventes”). The idea of universal civil rights, typical of the bourgeois revolutions, was not accepted in the Brazilian legal field (Kant de Lima 1995 and 2019). And while slaves were not subject to civil law, they were subject to criminal law and could be criminally punished: the demographics of inmates at the Court Correction House (CCRJ, created in 1850) and the criminalization of capoeira<sup>[1]</sup> and sambistas<sup>[2]</sup> are some examples of this repressive public safety policy in Brazil and its priority focus on Black people.

Naturalization of this legal inequality through the 19th century gave rise to a civic sensibility that is unable to distinguish between rights and privileges (Cardoso de Oliveira, 2018). This is reflected, in particular, in Brazil’s criminal procedure laws, which assign unequal procedural treatment to those accused of similar crimes (DaMatta 1979). Instead of being driven by the goal of protecting due process rights of all citizens, this area of law is much closer to an instrument of control, by the State, over specific segments of society – thereby reproducing the legal ethos of Portuguese colonial domination (Schwartz, 1979; De Seta, 2015). Examples can be found in drug policy, where race and class determine who is a “user” and who is a “dealer” and in “special prison” provisions, where those with a College degree have legal rights to better prison conditions if they are arrested during the legal procedure, independent of the crime they are being accused.

Unlike the fields of public safety and criminal justice, public health in Brazil is constituted upon the premise of universal treatment, as established in the 1988 Constitution. By law, the Brazilian Ministry of Health must handle health policy so as to provide health care coverage based on the principles of universality, comprehensiveness, autonomy, and equity, and

with popular participation (Brazil 1988). Yet in the COVID-19 crisis, the Brazilian public health response followed a pathway that was not distinct from that of public safety.

| Statistics for incarceration <sup>[3]</sup> | Violent deaths <sup>[4]</sup>                               | COVID-19 deaths <sup>[5]</sup> |
|---|---|--------------------------------|
| 759.518<br>(Prison population total)        | 47.796<br>(Intentional violent deaths total)                | 407.639<br>(Total deaths)      |
| 357<br>(per 100,000)                        | 22,7<br>(per 100,000)                                       | 194<br>(per 100,000)           |
| 30%<br>Pre-trial detainees                  | 74,4% Blacks<br>25,3% White<br>0,3% Asian<br>0,1% Indigenou | 7.021<br>per 100,000           |

Box 1. Outcomes from public safety policy and COVID-19 response in Brazil

In sync with global trends, Brazilian scientists and experts proposed a preventive approach with measures that included social isolation, handwashing, and avoidance in the use of closed spaces lacking good ventilation. These measures were already difficult for most Brazilians to follow due to their precarious conditions of housing, work, sanitation, education and health. Yet – instead of making these measures more accessible to all and fearing that they might jeopardize economic activities – the federal government demanded that they be ignored while pushing medical doctors and COVID-19 patients to adopt a “treatment” lacking proof of efficacy. In all these cases, the government claimed it was seeking to protect individual freedoms (of the people to “work,” of doctors and patients to “choose” their preferred treatment)<sup>[6]</sup>.

This alleged concern with individual freedoms does not take into account that measures to prevent COVID-19 are based exactly on the need to limit individual freedom in a situation of public calamity, where the collective well-being must be upheld. Nor does it consider that, in Brazilian society, “freedom” is not universally extended to all citizens.



Freedom of movement, for example, is fully enjoyed only by certain sectors of the middle and upper classes – the others, especially in the urban favelas, often remain confined to their neighborhoods and limited in their movement to the whims and interests of militiamen and urban drug traffickers. The exercise of freedom of movement is therefore hierarchically structured, remaining, in practice, a privilege of a few. Paradoxically, access to unlimited freedom of movement becomes a factor of distinction, which transforms difference into superiority.

The president's approach also included a discursive rejection of the purchase of vaccines produced by a consortium between China and the Butantã Institute in the state of São Paulo, as well as systematic opposition to mandatory vaccination for the entire population, when available – which was discursively based on the same concern with “individual freedom.” Once again, the universality of prevention loses ground for an alleged “individual choice” in a society where “choice” is unequally distributed.

In sum, the Brazilian response to COVID-19 shows that public health policies were colonized by the same sin of public safety. In both areas, hierarchies prevailed over any aspirations of universality and attempts to adopt policies that could prevent conflicts and deaths horizontally – i.e., across the boundaries of race, class, and socioeconomic status – were compromised by a persistently vertical form of citizenship (Campos 2020). In both areas, the results are tragic, as demonstrated by incarceration and homicide rates as well as by the striking number of COVID-19 deaths registered in the country (Box 1). And, in both areas, the main victims are the most disadvantaged: those who, due to their racial, gender, and class markers, are more subject to repression, by the criminal justice system, or to contamination by the new Coronavirus (Box 1; see also Misse and Domingues 2010).

## Notes

(\*\*) Ph.D. in Sociology (University of Sao Paulo). Associate Professor, Federal University of Grande Dourados; Researcher 2, Brazilian National Research Council (CNPq); Visiting Professor at the University of Sao Paulo's Medical School; Researcher at National Institute of Science and Technology – Institute for the Comparative Studies of Conflicts (<http://www.ineac.uff.br/>). Email: [celo.campos@gmail.com](mailto:celo.campos@gmail.com)

(\*\*\*) Ph.D. in Anthropology (Harvard University), Full Professor, Graduate Programs in Anthropology and in Justice and Security, Fluminense Federal University; 1-A Researcher, Brazilian National Research Council (CNPq); Rio de Janeiro State Scientist, Rio de Janeiro Research Support Agency (FAPERJ); Coordinator, National Institute of Science and Technology – Institute for the Comparative Studies of Conflicts (<http://www.ineac.uff.br/>). Email: [rkantbr@gmail.com](mailto:rkantbr@gmail.com)

[1] A mix of dance and martial arts created by slaves.

[2] Musicians and composers of samba, a musical genre developed in Brazil among Black people and the urban poor.

[3] Infopen - National Penitentiary Information Survey - Brazil 2020. Data for the year 2019.

[4] Brazilian Yearbook of Public Security, Brazilian Forum of Public Security, 2020. Data for the year 2019.

[5] Coronavirus Panel, Ministry of Health. Deaths in Brazil officially counted until 05/03/2020.

[6] As a result of this, successive Brazilian health ministers were replaced, or they resigned: by April 2020, four individuals had occupied this position, the third one being a Military General who agreed to support, or to not oppose, the president's prescription of unproven treatments.

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