

## GEOMETRIES OF FASCISMS: A CROSSED HISTORY BETWEEN FASCISM, NAZISM AND THE *ESTADO NOVO*

## GEOMETRÍAS DE LOS FASCISMOS: UNA HISTORIA CRUZADA ENTRE EL FASCISMO, EL NAZISMO Y EL *ESTADO NOVO*

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**Resumen:** Un inmenso número de denuncias espontáneas, voluntarias y no remuneradas abarrotaban los tribunales de las dictaduras, a menudo viejas disputas cotidianas que daban lugar a denuncias fantásticas, que se convirtieron, a su vez, en el motivo de las investigaciones, arrestos y torturas en los órganos de represión, transformando la denuncia como un elemento desagregado del fascismo y las dictaduras. Este artículo analiza las condiciones de vida, trayectorias y mecanismos de resistencia de los “asociales” en la Italia fascista, la Alemania nazi y el Estado Novo en Brasil. Utilizamos una metodología que combina Historia Cruzada y Microhistoria, con el objetivo de destacar el “Resistenz” como una forma común y cotidiana de actuar contra la presión frente al “Widerstand”.

**Palabras clave:** Fascismos, Asocial, Nazismo, *Estado Novo*, Represión

**Abstract:** An immense number of spontaneous, voluntary, and unpaid denunciations filled the courts of the dictatorships, often stemming from old daily disputes that gave rise to fanciful accusations, which in turn became the grounds for investigations, arrests, and torture in the organs of repression, thus transforming denunciation as a disintegrating element of fascism and dictatorships. This article examines the living conditions, trajectories, and mechanisms of resistance of the “asocial” individuals in fascist Italy, Nazi Germany, and the Estado Novo in Brazil. We employ a methodology that combines Crossed History and Microhistory, with the aim of highlighting “Resistenz” as a common and everyday form of action against pressure, in contrast to “Widerstand”.

**Keywords:** Fascisms, Asocial, Nazism, *Estado Novo*, Repression

## INTRODUCTION

Even before the beginning of the Second World War in Italy and Germany, thousands of people were subjected to intense police persecution, culminating in imprisonment and mass murders. A great wave of arrests took place in Italy between 1922 and (after the decree of the “Fascistissime”, very fascist, laws) 1927. In Germany, then the Third Reich, from 1933, thousands of people were taken to the first concentration camps, the sadly famous *Konzentrations-lager* near Berlin and Munich. The first prisoners were anti-fascist politicians and activists, such as communists, socialists and liberals. In Italy, the republicans, communists, and anarchists were the initial targets of the fascist regime.

For Brazil, the Second World War effectively began in 1942 with the torpedoing of Brazilian merchant ships by German and Italian submarines in the Atlantic – in all, it was the action of 21 German and two Italian submarines responsible for the sinking of 36 Brazilian merchant ships - with 1,691 shipwrecked people and 1,074 deaths - which was the main reason that led to Brazil’s declaration of war against Germany and Italy, on 22 August 1942<sup>1</sup>. As a result of the “State of War”, Brazil sent a contingent of 25,834 men - the Brazilian Expeditionary Force/FEB (Força Expedicionária Brasileira) - to the battle in Italy. This resulted in losses of 450 soldiers, 13 officers and 8 pilots.

However, in Brazil, from where the European experiments are closely observed, the Revolution of 1930, the Civil War of 1932, and then the Communist Revolution of 1935 and the Integralist coup d’état of 1938, had already led the Getúlio Vargas government to set up large prison camps in Rio de Janeiro and on the Atlantic Island of Fernando de Noronha. Thus, waves of prisoners started arriving in prison camps in 1930, with the overthrow of the Old Republic, and then with the repression against the Constitutionalist Revolution of São Paulo in 1932, and the concentration camps finally became institutionalized with the installation of the dictatorship of the Estado Novo in 1937<sup>2</sup>.

<sup>1</sup> Poder Naval Br, *Perdas navais brasileiras na Segunda Guerra Mundial*, In: <https://www.naval.com.br/blog/2018/05/20/perdas-navais-brasileiras-na-segunda-guerra-mundial/> [Consulted on January 20, 2023].

<sup>2</sup> Teixeira Da Silva, Francisco C., “Os Tribunais da Ditadura: o estabelecimento da legislação de segurança

During Mussolini’s Fascism, the Third Reich and the Brazilian Estado Novo, from 1922 to 1945, a second wave of prisons took place. This time, the prisons, almost invisible, underground, and often with strong popular support, targeted a differentiated population, resistant to the regime’s impositions, often *malgré lui même*. They were people considered “unadaptable” to the new social order, those who hurt the sociability norms considered “normal” and persons resistant to the advance of the Fordist capitalist forms over the traditional world of work<sup>3</sup>.

These people, soon to be called “asocial”, will be the central targets of the fascist and authoritarian repression in these three dictatorial regimes and are the focus of this research work. Although we know this, the profound repression of the so-called subaltern groups in the dictatorial regimes has rarely merited, in history, anything more than a few lines or a footnote. History books - as well as films, plays, war literature - rarely focused on the analysis of the repression of such social groups. Anti-heroes par excellence, they did not deserve - with very rare exceptions that we will point out below - the attention and systematic work of the historian. In most cases, the historiographical research is focused on the repression of communist militancy, victims of the first hour, or anti-fascists in general. They are eclipsed, of course, by the gigantic extermination action of the Jews, although they are victims of the same systematic planning of extermination.

Hence our interest in this Other History - a History from below - and, also, the need to listen to the voices that were silenced, first in their time, and then in the Great History. Two articles, by Eric Hobsbawm and Gayatri Spivak, play a central role in the construction and search for the recovery of the lost, or simply, forgotten actors in the history of fascist repression. This is the core of this paper: an application of the notion of “subaltern groups” to the forgotten actors of the history of fascisms and dictatorships in the present time.

nacional no Estado Novo”, In Martinho, Francisco C. P., *O Corporativismo em Português*, Rio de Janeiro, Civilização Brasileira, 2007, pp. 273-303.

<sup>3</sup> Hobsbawm, Eric, “A Outra História – algumas reflexões”, in Krantz, Frederick, *A Outra História*, Rio de Janeiro, Zahar, 1990, pp. 18-33 (edição original da Basil Blackwell, Oxford, 1985) and check Spivak, Gayatri C., *Pode o Subalterno falar?* Belo Horizonte, Editora da UFMG, 2021 (Original edition of 2010).

Subaltern groups mold and remold themselves, face to face with oppression. Thus, in addition to the recession of victims of fascisms and dictatorships, we plunge into an effort to access the mental and social universe of the victims who discover themselves to be sometimes resistant, sometimes targets of terror without even having a broad understanding of the process that engulfs them. This is the case, for example, of the homosexuals in Catania, when they discovered with great astonishment between 1938 and 1939 that they were a risk to the fascist state. Their traditional ways, based on a long duration treatment of homoerotic rules, are denied by an authority outside the community, representing the State, and that seeks to normalize something that was considered commonplace and did not deserve any other social censure, much less exposure and imprisonment. The same feeling of strangeness involves the young people who wanted to listen to jazz and wear striped pants, made enemies of the National Socialist State.

The documentation about these groups was not originally produced to give voice to the oppressed and subjugated, but rather to prove the guilt of the victims themselves. Thus, it was necessary to argue the documentation from its formulation as a medical-legal-political document - this explains the weight we give to the formation of a language of repression - produced by a totalitarian will, marked by the eagerness to classify and describe everything they consider as foreign - *Fremde*, strange, *briganti*, "vagrant", abnormal - to the whole community of blood and race. In this sense, we use here, largely, the proposals of documentary exploration, including the use of semiology, as proposed by Carlo Ginzburg for the treatment of documents of repression, especially in the case of trials of subaltern individuals<sup>4</sup>. Such warnings, reinforced by the presence of semiology, will be reaffirmed by the proposals of textual analysis that go beyond the traditional discourse analysis - we want to unravel the discourse that builds the document that will be the confirmation of the guilt of the deponent/victim/stranger - as Umberto Eco tells us<sup>5</sup>.

<sup>4</sup> Ginzburg, Carlo, *História Noturna* [especialmente "Introdução"], São Paulo, Companhia das Letras, 2012, p. 44.

<sup>5</sup> Eco, Umberto, "Piranello ridens", In Eco, Umberto, *Sobre Espelhos e outros ensaios*, Rio de Janeiro, 1989, pp. 250-259.

Our goal, through an explicit methodology of the Crossed History and Microhistory, again as Carlo Ginzburg proposes, is to bring to light the living conditions, trajectories, and mechanisms of resistance - perhaps much more *Resistenz*, as a general, common, everyday way of acting in the face of oppression, rather than *Widerstand*, the organized and often armed effort in the face of despotism, to recover the debate in German historiography on forms of resistance that took place between 1922 and 1945<sup>6</sup>.

Therefore, in order to better understand this immense group of diverse elements that only present a single face in the presence of repressive terror, we employ the tools of Microhistory, History on Different Scales, Present History - from which we appropriate the mechanisms of constructing links, connections, between the past and the present in a continuous dialogue of synchrony with diachrony, in the form of a "leap in time" to highlight the continuities and ruptures between the fascisms of the past and the fascisms of today, the so-called "Resurgence" - and Crossed History, as a means to construct the comparative narrative of dictatorial regimes in Italy, Germany, and Brazil during the 1920s-1940s and the strategies employed by their victims.

## 1. THE THEORETICAL CATEGORIES

Under the label of "assozielle" or "asocial" in Italian, and "asocial" or "antisocial" in English, several thousand people - typically those labeled as "vagrants" or of "vagrant condition" - were condemned to forced labor, humiliation, torture, and murder during the Third Reich, in fascist Italy between 1922 and 1943, and in the 'Estado Novo' in Brazil between 1937 and 1945. This occurred either through sentences issued by exception tribunals or through mistreatment and torture that preceded any trial in prisons. It is important to note some differences: although our methodology is similar to that proposed by Christopher Browning - his microhistory and prosopography of the members of the Police Battalion 101 in action in Polish territory - we are not dealing with the same actors or subjects of history. Browning focused on 'ordinary men' who were driven to

<sup>6</sup> Werner, Michael e Zimmermann, Bénédicte, "Penser l'histoire croisée : entre empirie et réflexivité", *Annales. Histoire, Sciences Sociales*, 2003/1 (58e année), pp. 7-36; Espada Lima, Henrique, "A Micro-história italiana: escalas, indícios e singularidades", *Revista Brasileira de História de Educação*, 1/16 (2006), pp. 235-241.

extreme actions, such as the extermination of Jews, for seemingly trivial reasons. Even those who refused, and there were some who were hesitant to follow Nazi orders, provided substantial justifications for their actions<sup>7</sup>.

Our universe of actors, anti-heroes, turns much more toward that set of individuals that Hans Mayer called “the marginalized”. They are elements that are in society and yet refuse aspects of ordinary societal life, or sometimes refuse the very logic and set of rules that are dominant in society. Only this refusal gives them the status of a group or category of individuals<sup>8</sup>. To these, Antonio Gramsci calls them subaltern classes/groups for the most part composed of people from the proletariat, the urban and rural sub-proletariat, a proletarianized fraction of the peasantry and of small urban producers, to which are added some fractions of functionaries, especially in the countryside, and of “small intellectuals”. They form a constantly disintegrating and molding group that only possesses unity in the face of exploitation and the common oppressor, be it the State, the large landowner, or the capitalist. Here we expand this concept, as Gramsci himself had already done, to include what he then called the “Sexual Question” and the subaltern classes - including, then, all those who did not accept, did not participate, in the dominant patriarchal and misogynist culture, being understood as the cement that binds the dominant historical bloc together<sup>9</sup>. Going further, we can look for the “translation”, or rather, the “paratranslation” of the “Sexual Question”, in Gramsci’s “Prison Notebooks”, in the form resignified with our contemporary “Gender Studies”.

The word “asoziale”, which can be translated as ‘asocial’ or “antisocial” in English, originally came from a combination of the Greek prefix “a” - meaning “not” or “anti” - and the Latin term “socii”, resulting in the term “asoziale”. This term was incorporated into current German during the 17th Century, most likely via the Encyclopedia and French rationalist thinkers, during the time of the Enlightenment debates. This term was used

by jurists such as Pufendorf (1632-1694) and Grotius (1583-1645). In most cases, its use was synonymous with the older German term “Gesellig”, which is the root of the modern German term “Gesellschaft”. Gesellig referred to a “Hausgenosse” or simply a “Freund” (friend), “Kamerad” (comrade), “Teil” (part), or “Gemeinschaft” (society), indicating an archaic meaning of modern German. Its use followed the adoption of the term “socii” or “socialis”, which was an adjective that was typically used before acts, behaviors, or situations, and which came to mean those oriented towards coexistence, connected to the community, and serving it, expressing a natural and reasonable morality that would characterize human coexistence. The collocation of the negative prefix “a”, from Greek, signals the elimination of its positive content, coming to refer to those who harm society, refuse social ties, or do not fit into the community, especially in the language of common law<sup>10</sup>.

This term became common in German utopian socialist circles and was eventually incorporated into the political debate about the repression of criminality and the persons considered as typical *Außenseiter* - in Hans Mayer’s expression - during the Weimar Republic (1919-1933) a stranger, a foreigner, in relation to the great majority<sup>11</sup>. In Fascist Italy, this term was immediately used to refer to those who refused to accept the new Fordist forms of work, the absentees, those called *briganti* and the whole peasant universe, especially in the *Mezzogiorno*, that reacted to the imposition of rules aimed at strengthening the project of Fascist autarchy<sup>12</sup>. The new fascist order turns to the incorporation and normalization of such *briganti* and to eliminate the so-called *brigantaggio*, said to be, by nature, adventurer, outlaw, canaglia, delinquent, farabutto, filibustiere, lestofante, mascalzone, pescecane, and their activities are always described as coming from the Kingdom of Sicily and that they should be the targets of a policy of *estirpare il brigantaggio*<sup>13</sup>.

<sup>10</sup> Ibid.

<sup>11</sup> Search for the word “Asoziale” in *Der deutsche Wortschatz von 1600 bis heute*, available in: <https://www.dwds.de/wb/asozial> [Consulted in December 12, 2022].

<sup>12</sup> About fordist regulation of work, check out Benjamin Coriat’s work.

<sup>13</sup> Treccani Vocabulary available in <https://www.treccani.it/vocabolario/brigantaggio/> [consulted in November 1<sup>st</sup>, 2023]. In fact, the negativization of the word “brigante” as “bandito” is late, possibly medie-

<sup>7</sup> Browning, Christopher, *Ordinary Men. Reserve Battalion 101 and the Final Solution in Poland*, New York, Harper Perennial, 1992.

<sup>8</sup> Mayer, Hans, *Die Außenseiter*, Frankfurt, Suhrkamp, 1975.

<sup>9</sup> See: Passos, Rodrigo Duarte Fernandes dos e Santana, Diana Patrícia Ferreira de, “Notas sobre a questão sexual nos cadernos carcerários de gramsci”, *Movimentação*, 4/7 (2017), pp. 75-88.

In Brazil, the terms “vadio”(vagrant) and “vadiagem” (vagrancy), as opposed to the concept of “trabalhador” (worker), became a general way to name all those who reacted to the impositions of the Fordist regulated work and still dared to react in the name of a better and more bucolic “old” time. Their origin derives directly from Latin: those given to “vagare” (to wander aimlessly) and “bundus” (prone to), hence the locution *vagare + bundus*, originating *vagabundo*, *vadio* and *vadiagem* in Portuguese<sup>14</sup>.

As of 1941, vagrancy was considered a misdemeanor under Article 59 of the Decree Law nº 3688 of 1941. The law then classified as vagrancy

“[...] the act of someone habitually indulging in idleness, not being an invalid for work, without having an income that assures them sufficient means of subsistence or providing for their subsistence through illicit occupation”<sup>15</sup>.

However, since the first Penal Code, still in the slaveholding Empire, - the Penal Code of 1831 -, there were punishments against individuals who “wandered” in the streets without a certain job<sup>16</sup>. Article 295 of the same code established penalties of forced labor and warning to those accused of vagrancy, which would be consolidated, with greater severity, in the Republican Penal Code of 1890 - soon after the abolition of slavery in 1888 - with the consolidation of the legal figure of the vagrant.

In the case of Germany, already under the Third Reich, the most reliable data on the mass death of criminals, unadopted and asocial at the hands of the state, provided by German documentation, point to a minimum of 70,000 recognized victims, to which should be added as “unadapt-

val, a product of the linguistic twist of “brigante”, in the Celtic language, naming the inhabitants of Britânia, considered “tall”, “lofty”, “strong”. Search for the word “fortes” in: Devoto, Giacomo, *Dizionario Etimologico - Avviamento Alla Italian Etimologia*, Florence, Le Monnier, 1965.

<sup>14</sup> Buarque De Holanda Ferreira, Aurelio, *Novo Dicionário da Língua Portuguesa*, Rio de Janeiro, Nova Fronteira, 1986.

<sup>15</sup> Linhares, Maria Yedda e Teixeira Da Silva, Francisco Carlos, *Terra Prometida: Uma história da Questão Agrária no Brasil*, Rio de Janeiro, Campus, 1999.

<sup>16</sup> Paulino, Silvia Campos e Oliveira, Rosane, “Vadiagem e novas formas de controle da população negra pós-abolição”, *Direito Em Movimento*, 18/1 (2019), pp. 94-110.

table” and a security risk for the state, 1,900 Jehovah’s Witnesses, 250,000 Sinti and Roma (gypsies) and an undetermined number of homosexuals.

In the Concentration Camps/KZ and the Extermination Camps of the Third Reich, such individuals were identified with triangles sewn on their prisoner uniforms: the Green Triangle for common law criminals; the Purple Triangle for Jehovah’s Witnesses; the Brown Triangle for “Sinti and Roma”; the Black Triangle for “asocial” and the Pink Triangle for homosexuals<sup>17</sup>.

However, the practice of categorizing individuals for extermination purposes was often complicated or overlapping. For instance, Sinti, asocials, and homosexuals were sometimes mistaken for each other. Additionally, common criminals and homosexuals were classified twice because homosexuality was also considered a crime under the German Criminal Code. Degenerates, addicts, and alcoholics were also often confused with criminals, homosexuals, and gypsies. In Brazil, during the Old Republic (1889-1930), black and brown people who practiced Umbanda or Candomblé were often arrested as degenerates or libidinous, and the use of alcohol (*cachaça*) in their ecstatic rituals could lead to imprisonment or psychiatric internment for alcoholism. In Fascist Italy, individuals who were considered types of asocial were also subjected to internment, known as “il confine”. This included avowed Freemasons, Republicans, and anti-fascists, who were paradoxically labelled as “apolitical”, along with all political opponents of Fascism. The Ustica prison camp in Sicily received a large number of homosexuals and civilians accused of anti-fascist activities, despite being apolitical. Ustica housed approximately 2,065 inmates between June 1940 and June 1943, in horrendous living conditions, with inadequate medical care, and deplorable food and hygiene conditions. It was

<sup>17</sup> In the Third Reich the “Sinti and Roma”, following a medieval tradition, were considered an inferior people and capable of defiling the purity of the “Aryan race”, in addition to thieves, lazy people and practitioners of superstitions. They were placed in the same category of “asocials” and their imprisonment and extermination were determined. See: Fings, Karola and Opfermann, Ulrich, *Zigeunerverfolgung im Rheinland und in Westfalen 1933–1945. Geschichte, Aufarbeitung und Erinnerung*, Paderborn, Brill Schöningh, 2012, pp. 337–359.

in Ustica that the philosopher Antonio Gramsci was imprisoned by Mussolini's fascism<sup>18</sup>.

263 fascist sites of confinement were set up in Italy altogether, mostly in the south of the country and on isolated and precarious islands. About 12,330 people were interned as "antifascists", of whom 177 died of mistreatment during confinement. Such data are, however, approximate. Many of the internment camps - such as Lampedusa, Pantalleria, and Favignana in Sicily - have not preserved their documentation. Other prisoners, such as Antonio Gramsci himself - who died in 1937 at the age of 46 after passing through the camps in Ustica and Turi - were released to die outside the confines of the camps and thereby exonerating the fascist government<sup>19</sup>.

In Brazil, we do not have reliable data on the number of prisoners in the camps on Ilha Grande and Dois Rios, in Rio de Janeiro, and Fernando de Noronha during the years of the "Estado Novo". In truth, these camps, especially Ilha Grande, were converted into places of political internment as early as 1930, at the time of the Revolution, and were modernized to receive prisoners from the Constitutionalist Revolution of 1932. However, it was from 1935, with the uprising of the Aliança Libertadora Nacional, and with the Coup of the Estado Novo, in 1937, that Ilha Grande/ Dois Rios, Clevelandia and Fernando de Noronha were characterized as prisons for oppositionists<sup>20</sup>. Along with the communists, li-

berals and anti-fascists, common prisoners were arrested at Ilha Grande and Clevelandia, which caused serious discomfort among the political prisoners, who considered their unfortunate fellow prisoners as "degenerates" and inferior. The prison population formed especially by homosexuals and the so-called vagabundos (vagabonds) deserved a strong feeling of disgust and social contempt from political activists opposed to the Estado Novo. The imprisonment and forced coexistence was one more way to humiliate the political prisoners, likening them to perverts and degenerates - a tradition already portrayed by the writer Adolfo Caminha in 1895.

We see, then, that the term vagabundo (vagabond), responsible for the imprisonment and mistreatment of thousands of individuals in the post-abolitionist period, was present in laws and penal codes, in the thinking of legislators and in so-called "scientific texts" as a form of regulation of the labor issue<sup>21</sup>. During the Estado Novo, it served widely as a form of social control, generating the dyad "worker versus vagabond" and transforming the "Work Card", recently created by the regime, into a social passport. At the same time, vagrancy could be used as moral pressure against opponents of the Estado Novo<sup>22</sup>.

Alberto Burgio, an Italian anthropologist and scholar of fascism, tells us about a new language, more normative than informative, that circulated in large physical spaces and was a discursive support of the forms of repression in the 1920s and 1930s. It was a sum of Darwinian (and therefore evolutionist) and Malthusian-based scientific intentions mixed strongly with racism<sup>23</sup>. This language was characterized by its classificatory, normative, taxonomic, and evolutionist nature - a direct inheritance from the scientism of psychiatry, specifically Krafft-Ebing and his classificatory schemes. An immense number of cases, ranging from concepts of race to its opposite, the disease of degeneracy, with the middle term being the idea of evolution, revealed a nomenclature of behaviours considered diseased. Diagnosis was produced based on criteria such as race, family, education, social condition, or cultural environ-

<sup>18</sup> See D'Alessandro, Lorenzo Pompeo, *Giustizia fascista. Storia del Tribunale Speciale (1926-1943)*, in *Studi e ricerche*, Il Mulino, 2020.

<sup>19</sup> "Al confino a Ustica, testimonianze antifasciste", *Giornale di Sicilia*, October 18th, 2019. Available in: <https://gds.it/speciali/viaggi/2019/10/18/al-confino-a-ustica-testimonianze-antifasciste-0b0612ba-8c1c-4e0a-a597-0809645d0037/2/> [Consulted in January 21, 2023].

<sup>20</sup> In 1940, the Lazareto was once again reformed and modified to become a prison - Cândido Mendes Penal Colony, which received common prisoners who were in the Colony of Dois Rios, so that the latter housed the political prisoners of the 2nd World War World. These transfers were due to the fact that Fernando de Noronha Island, where the political prisoners were being held, was given to the US Government for use as an Aero Naval base. Parallel to the reform of the Lazareto and Dois Rios, in 1940, the construction of the road that connects Abraão to Dois Rios began. The construction was done with the labor of ordinary prisoners. See: Grande, Ilha, "Presídios", n.d., available in: <https://www.ilhagrande.com.br/ilha-grande/historia/presidios/> [consulted in January 08, 2023].

<sup>21</sup> See Caminha, Adolfo, *O Bom Crioulo*, Rio de Janeiro, Biblioteca Carioca, 1984.

<sup>22</sup> Santos, Myriam Sepúlveda, "O encontro da militância com a vadiagem nas prisões da Ilha Grande", *Topoi. Revista de História*, 18/35 (2017), p. 2.

<sup>23</sup> Burgio, Alberto, *Nel Nome Della Razza: Il Razzismo Nella Storia D'Italia 1870-1945*, Bologna, Il Mulino, 1999.

ment by those who possessed this classificatory general scheme. With a strong pessimistic bias, not all human types were considered capable of evolving to a higher situation. Some races had lost their ability to compete with European races, such as Black and Australasian people. Rather than “improving” the inferior race (through the so-called *Verbesserung* process), hybridism produced diseased and weak individuals.

In order for a race to fully assert itself in history, it seeks to dominate and evolve, which is rooted in the Darwinian common ground of imperial-colonialism. This requires the race to be protected, stimulated, and even purified. Although there may be differences in context and instinctive factors, such as family, heredity, race, education, or alcoholism, this medico-legal knowledge - which began with doctors forming opinions about prisoners - creates the gears and organizes bureaucratic instances, especially the police, to provide internments, cures, and terrible medical experiments, and even physical purification of diseased individuals. This was evident in the cases of participants of Afro-Brazilian cults in Rio de Janeiro and Recife, and the weak and sick in the Aktion Tiergarten/4 (AT4) in Germany after 1933. These actions stem from a “common language” that believes race can and should evolve through the victory of the stronger and healthier race, which cannot be guaranteed without a permanent effort. This effort involves the hygienist and sanitary intervention of the State against unfit individuals<sup>24</sup>. This was the official policy of segregation in America between 1870 and 1965 of the purges of Jews, degenerates, and all those considered as *Minderwertigemenschen* - people without (racial) value in the Third Reich, as well as of the *africani* and *briganti* in fascist Italy. Even after the Second World War, such a system of segregation continued in South Africa<sup>25</sup> with Apartheid, in Switzerland with respect to Sinti and Roma children<sup>26</sup>, in Australia with respect to the aboriginal population<sup>27</sup>, and in Canada with

<sup>24</sup> See: Black, Edwin, *A Guerra contra os Fracos*, Rio de Janeiro, Girafa, 2010.

<sup>25</sup> Terreblanche, Sampie, *History of Inequality in South Africa, 1652–2002*, South Africa, University of Natal Press, 2003.

<sup>26</sup> Mattli, Angela, Jud, Rahel, *Les Roms nomades en Suisse*, Ostermundigen, Société pour les peuples menacés, 2018. Available in: [https://www.gfbv.ch/wp-content/uploads/fahrenderoma\\_franz\\_low.pdf](https://www.gfbv.ch/wp-content/uploads/fahrenderoma_franz_low.pdf), [Consulted on January 21, 2023].

<sup>27</sup> See: Anderson, Warwick, *The Cultivation of Whiteness: Science, health and racial destiny in Australia*,

respect to the native peoples<sup>28</sup>. In the 1950s up to the 1970s in Brazil, the opening of agricultural fronts with huge roads, hydroelectric power plants and energy towers hard hit the forest dwellers, practically causing the genocide of the Cinta-Largas, the Avá-Canoeiro, the Krenakarore and threatening the Uaimiri-atroari in the Amazonia and the Pantanal<sup>29</sup>.

## 2. THE COLLECTIVE TRAUMAS

The set of such events (with their coldness between the years 1900 and 1945) opens an important field of studies on collective traumas and their historical consequences. Such a theme, starting with the truth commissions, has mobilized historians - especially in South Africa, Canada, and Australia - to discuss the best, most rigorous approaches to the history of collective traumas. Much, if not all, of these acts has been based on the international language produced by doctors, jurists, and even anthropologists, about the inferior nature of native peoples compared to the white populations advancing on all the open frontiers of the world.

In the interval between “race-evolution≠miscegenation-degenerescence[crime]”, which is the standard of medical, legal, and police diagnoses, various accidents occur due to the degree of positive and negative, modern, and archaic constituents present in the process of evolution. This is where pathological events such as laziness, idleness, alcoholism, dementia, and, finally, sexual perversions like masturbation, pederasty, bestiality, sadism, masochism, and the whole catalogue elaborated by the German psychiatrist Krafft-Ebing (1840-1902) and his successors appear.

New York, Basic Books, 2003.

<sup>28</sup> “Le Canada sous le choc après la découverte de 751 tombes près d’un pensionnat pour autochtones”, *France24*, June 24th, 2021. Available in: <https://www.france24.com/fr/am%C3%A9riques/20210624-le-canada-sous-le-choc-apr%C3%A8s-la-d%C3%A9couverte-de-751-tombes-pr%C3%A8s-d-un-pensionnat-pour-autochtones> [Consulted in January 21<sup>st</sup>, 2023]; National Centre for Truth and Reconciliation, “Truth and Reconciliation Commission Reports”, n.d., available in: <https://nctr.ca/records/reports/#highlighted-reports> [Consulted in January 21, 2023].

<sup>29</sup> “Interview to Elena Guimarães”, interviewed by João Victor Santos and Ricardo Machado, in “Máquina de exterminar indígenas”, *IHU Online*, 478 (2015). Available in: <https://www.ihuonline.unisinos.br/artigo/6267-elena-guimaraes> [Consulted in January 21, 2023].

The classificatory “scheme” forged by the new racist psychiatry would find its correspondence in legal discourse and then its practical transformation into a system of colored triangles that would express, in confinement, the criminal nature of everyone. Thus, under Nazism, the shapes of Black Triangles, and other geometries and colors - brown, pink, green triangles - would be fixed on the inmates’ uniforms imposing the immediate visualization of racial/sexual defect or degenerescence that would lead to identifiable and unique characteristics of each shape and color. Often the segregation discourse, even if not yet codified, was used as a guideline - permission and treatment recommendation - of the separated groups to hate the “convenient other”<sup>30</sup>. They were, in this way, useful subjects, the objective enemy, who mobilized the masses as the reason for various types of collective unhappiness and, for this very reason, their segregation, internment, and, within limits, genocide, were authorized.

Unlike the famous Paragraph §175 of the German Criminal Code (StGB) or the Project of the Italian Penal Code of 1928 (to which we are largely indebted for the wide reception it had in Brazilian legal science) and the Appiani Commission, there was no direct mention of homosexuality or its criminalization in Brazil. This was due, on one hand, to the tradition around the non-existence of a homosexual offense in the Brazilian Penal Code (and thus the typification in the Disciplinary Regulations of the Army was impaired) and, on the other hand, a strong prejudice to accept, even, the possibility of the occurrence of the offense among Brazilians, especially the military. At this point, the absence of typification in Brazil is correlated to the Italian Penal Code, called the “Rocco Code”, of 1930, and the refusal of the virile Italians to accept the existence of a “homosexual offense”. Let us note, however, that in the article “Das transgressões” (Transgressions), for example, in the R.D.E. (Disciplinary Regulations of the Army), there is ample opportunity to punish crimes against honour, as long as the disre-

<sup>30</sup> “Bolsonaro acusado de crimes contra humanidade é destaque na imprensa estrangeira”, *BBC Brasil*, October 20th, 2021. Available in: <https://www.bbc.com/portuguese/brasil-58989965> [Consulted in January 21, 2023]. About the “Posener Rede”, the “Posnaina Discourse”, when Heinrich Himmler reveals and justifies the Holocaust See: Smith, Bradle, Peterson, Agnes, *Heinrich Himmler. Geheimreden 1933–1945*, Frankfurt am Main, Propyläen Verlag, 1974.

gard for “moral and social precepts” considered “normal” and those considered unworthy for the Brazilian military is evident.<sup>31</sup>

This did not mean that the Civil Police did not act in a brutal manner in the repression of “acts considered offensive to customs and good morals”, particularly what was called “sodomy” or “pederasty”<sup>32</sup>, especially in Rio de Janeiro - then the Federal District - where there was a known gay culture or scene. Male clothing, rules of “morality”, and a simple appearance were imposed harshly, with frequent arrests and beatings. Thus, when the internment camp of Dois Rios, euphemistically called “Colônia Correccional” (Correctional Colony), in the interior of Rio de Janeiro, was put into operation, as well as the common jail at Rua da Relação - Police Headquarters in the capital, headed then by the notorious pro-Nazi politician Felinto Müller, homosexuals were kept imprisoned in common cells - which represented recurrent ill-treatments - or, then, with political prisoners, which generated great uneasiness in communist prisoners, liberals and democrats forced to coexist with “pederasts and vagabonds”. They considered such coexistence as another punishment imposed by the repression of the Estado Novo<sup>33</sup>.

In prisons and camps, gays were forced, as we have pointed out, to do the cleaning and cooking, accentuating the understanding of gender inversion and its exclusive male/female dyad<sup>34</sup>. In prisons, homosexuals were called “my little she-goat” - in a clear reference to the agrarian background, ancient, and marked by bestiality in many agrarian regions of the country-, serving sexually to the other inmates and they are even used as barter among prisoners<sup>35</sup>. In the medi-

<sup>31</sup> Belin, Matheus, “História da homossexualidade no Brasil: abusos, perseguições, repressões e o avanço do movimento LGBT+”, *Repositório Universitário da Ânima. RUNA* (2020). Available in: <https://repositorio.animaeducacao.com.br/bitstream/ANIMA/16212/1/Matheus%20de%20Olivera%20TCC.pdf>, [Consulted in January 21, 2023].

<sup>32</sup> Teixeira Da Silva, Francisco Carlos, “Em Nome da Honra: Pederastia e Camaradagem Masculina no Estado Novo”, *Contemporâneos. Revista de Artes e Humanidades*, 16 (2017).

<sup>33</sup> Nasser, David, *Falta alguém em Nuremberg*, Rio de Janeiro, lozon Editor, 1947, p. 153 ff.

<sup>34</sup> Pinna, Ana Cristina, “Masculinidade, feminilidade e contemporâneos”, *Cadernos de Psicanálise. Psicanálise e Contemporaneidade*, 28/31 (2012), pp. 1-456.

<sup>35</sup> Rogers, Paulo, *Os afectos mal-ditos. O indizível das sexualidades camponesas* (dissertation), Brasília, Uni-



cal, legal, and political language, a common way to refer to homosexuals and transsexuals was exactly the term inverted. In police records, for this time, the definition and description of the crime of inversion are vague and difficult to analyze in that time. Since there is no explicit crime, arrests are made under accusations of vagrancy, rioting, or an attack on morals and good manners, which covers an immense range of actions. Only within the Armed Forces, there was an intense debate among military jurists about the characterization and the possibility of punishment for a homosexual offense, hence the use of a much more direct documentation, such as sodomite or pederast<sup>36</sup>. However, the charge is quickly mischaracterized to libidinousness, sex practices in the workplace.

In Germany, the concerns of the NSDAP party, fascist leadership and, in general, authoritarian institutions were quite intense since the Weimar Republic. Against the medical trends of the time, Dr. Magnus Hirschfeld (1868-1935) aimed to develop activities of assistance, guidance, and prevention of repression against young homosexuals and transsexuals through the creation of the "Scientific-Humanitarian Committee"/*Wissenschaftlich-Humanitären Komitee* in Berlin in 1897. The aim was to prevent prostitution and the proliferation of venereal diseases and to seek protection from police violence, including the repeal of the Paragraph 175 of the Penal Code.

Names of the German Socialist Left such as Eduard Bernstein, Karl Kautsky and August Bebel; great names of German Literature such as Thomas Mann, Hermann Hesse, Rainer Maria Rilke and Stefan Zweig; also scientists such as Albert Einstein and the psychiatrist and researcher "of perversions" himself, Dr. Richard von Kraft-Ebing and artists such as Käthe Kollwitz and Max Brod were united in favour of Dr. Hirschfeld's cause - nothing similar could be registered in Italy and Brazil during the same period. The atmosphere of freedom, at least in the bars and nightclubs - as well as in the city parks - reinforced the idea of Berlin's vanguard, not only in culture and science, but also in the behavioral field and, in fact, the city's profile appears in the literature of the time<sup>37</sup>. An important novel about the fight in the trenches during the Great War, called "Alf", by

the writer Bruno Vogel (1898-1987), published in 1929, made public a homoerotic relationship between two soldiers and their existential questions in the face of an industrial and anonymous society that is available for mass murder - harshly condemned in the work - and recalcitrant - still capable of criminalizing desire in the face of male love. Vogel, a friend of Hirschfeld, founded the organization *Gemeinschaft Wir* (We, the Community) in Leipzig in 1922. Later, after he had broken with his family that was scandalized by his public exposure as a homosexual, Bruno Vogel moved to Berlin and created a new discussion and advocacy group for members of the *Schwule Szene* - the so-called *Queer Scene*. He and Kurt Hiller<sup>38</sup> organized the Revolutionary Pacifist Group, which is politically sympathetic to the left wing of the SPD/Social Democratic Party. Bruno Vogel emigrated to South Africa in 1939, where he had become an anti-Apartheid activist, thus escaping the Nazi terror<sup>39</sup>. The most popular novel about the homosexual condition in Brazil during the Old Republic was "Bom Crioulo", by Adolfo Caminha, published in 1895. Its approach is clearly medical-scientific, focused on a cold analysis of the criminal underworld and of the marginalized people - freed blacks, capoeiras, sailors, uprooted emigrants, and prostitutes of Rio de Janeiro. The white, well-educated people, in positions as officers in the Imperial Navy, "looked on" with a mixture of mockery and benevolent understanding of the "normality" of homosexual behaviour in the subaltern classes, especially among black and brown people. Thus, among whites, homosexuality would be strongly condemned, or even non-existent, being understood as a behavioural standard among groups considered degenerate. In Italy, there was a popular culture considered as guarded tolerance, in a way very close to the dominant macho culture, where the scandal and reproach fell on the passive pole of the homosexual relationship, with the active individual being compared to cocks or bulls. Young gondoliers in Venice, firemen in Vicenza - the famous "Firemen's Scandal" - soldiers and sailors used to "pay favours" to older gentlemen, including foreign ones. Only the poet and militant Aldo Mieli (1879-1950) took an openly activist stance and defence of the *finoc-*

versidade de Brasília, 2006, p. 162 ff.

<sup>36</sup> Picker, Henry, *Hitlers Tischgespräche*, Munich, DTV, 1968, p. 51.

<sup>37</sup> Hepp, Corona, *Avantgarde*, Munich, DTV, 1992.

<sup>38</sup> Marhoefer, Laurie, *Sex and the Weimar Republic: German Homosexual Emancipation and the Rise of the Nazis*, Toronto, University Press, 2010.

<sup>39</sup> Wolfert, Raimund, *Nirgendwo daheim. Das bewegte Leben des Bruno Vogel*, Leipzig, Leipziger Universitätsverlag, 2012.

*chio* persecuted by the police, disagreeing with the comrades of the Italian Socialist Party. Mieli directed the Journal of Sexual Studies between 1921 and 1928, the only publication on sexual education in Italy at the time. With the seizure of power, after the March on Rome, Mieli was declared a leftist and a passive homosexual - *culattoni* - and suffered brutal persecution<sup>40</sup>. Although there was no criminalization, as imposed by Paragraph 175, male and female homosexuality was sometimes treated, in both Italy and Brazil, as inexistent in the face of Latin *virlità* and the asexual character of women, sometimes as a product of degenerescence derived from the inferior races, in other words, black people and people of mixed race. Hence the surprise of the homosexual hunting carried out in Catania in the 1930s.

Weimar and its capital were then the city El Dorado – name from a famous bar frequented by gays, transvestites and transsexuals on Motzstrasse called exactly Eldorado. The city had blocks of gay bars, especially on Nollendorfplatz and Alexanderplatz, known meeting places in the so-called “Pissoir” or in the dark alleys of the huge Tiergarten park. However, soon after the Nazis seized power, severe persecution began, including the destruction of the institute created by Hirschfeld and a fire in his library.

From 1933 on, in Germany, the persecutions intensified against the so-called “asocial”, who became permanent targets of the Nazi repression. Adolf Hitler himself dealt with this subject several times. On 7 June 1942, in the so-called “Wolf’s Lair”, with very serious developments of the war taking place on the Russian Front, the Führer attacked again the so-called “emigrants, internal criminals, and [those] who became ‘security risks’”. Hitler declared himself outraged by the increasing cases of treason - *Landesverrat* - occurring on the battle fronts: “[...] the immense number of cases of treason, especially in military matters”<sup>41</sup>, which he considered a legacy of the obligations of the 1919 Treaty of Versailles, and “[...] a legacy of the Military Commission of 1927”, with its anti-war and pacifist measures. According to the dictator, there was a situation of dementia and favouritisms of the “foreign

espionage apparatus established in Berlin”<sup>42</sup>. The Reich leader even used the offensive term *Gesocks* of the German jargon – that is equivalent to garbage or shit - to refer to conscientious objectors, Jehovah’s Witnesses, wanderers, vagrants, Sinti, and Roma, and the unemployed, all considered equally undesirable elements to the *Volksgemeinschaft*<sup>43</sup>. More than 65,000 German citizens left the Reich after the *Machtergreifung* - the Nazi seizure of power in 1933. It was important, still according to Hitler, to prevent the return of such “elements” - a concern similar to that of Mussolini’s regime and most especially with those who had taken part in the Spanish Civil War, who were considered especially dangerous because of their beliefs and dedication, as well as their military experience. Thus, thousands of antisocial elements were kept away from the Reich, which would otherwise have created great difficulty in capturing or transferring such antisocial individuals to the KZ/Konzentrationslager (Concentration Camp)<sup>44</sup>. Hitler then stated that breaking the necks of such scum is the task of Reinhard Heydrich and the *Reichssicherheitsdienst*.

In the Reich Security Main Office (RSHA- Reichssicherheitshauptamt), such elements would receive *Behandlung*- the proper treatment<sup>45</sup>. Reinhard Heydrich (1904-1942) and Reich Minister of Justice Franz Gürtner (1881-1941) were the main Nazi leaders dedicated to the repression of the so-called antisocial, unpatriotic, and parasitic elements<sup>46</sup>. They both played a decisive role in overcoming and ignoring the still valid legal norms, inherited from the Weimar Republic, which guaranteed less brutal trial conditions and thus to implement National Socialist Justice, including the internment of such elements<sup>47</sup>. Hitler himself advised, in the debate, that the *SS-Kommando* should remove the accused from the courtroom, where the trials took place, and shoot them in a summary execution. This is contrary to the action of some judges who did not fit the new national socialist Germany<sup>48</sup>. It was, in the repressive logic of the RSHA, a *Gesinnungsdelikte* - a criminal offense - and therefore not deserving of any sen-

<sup>40</sup> D’Orto, Giovanni, *Tutta un’altra storia. L’omosessualità dall’antichità al secondo dopoguerra*, Milan, Il Saggiatore, 2015.

<sup>41</sup> *Ibid.*, p. 176.

<sup>42</sup> *Ibid.*, p. 177.

<sup>43</sup> *Ibid.*, p. 177.

<sup>44</sup> *Ibid.*, p. 177.

<sup>45</sup> *Ibid.*, p. 178.

<sup>46</sup> *Ibid.*, p. 178.

<sup>47</sup> Friedrich, Jörg, *Freispruch für die Nazi-Justiz*, Berlin, Ullstein Verlag, 1999.

<sup>48</sup> *Ibid.*, p. 178.

se of benevolence or legal guarantee based on the criterion of the first-time defendant or mere crime of conscience or political opinion<sup>49</sup>. It was up to the notorious *Reichssicherheitshauptamt*, in its Office IV - *Amt IV* - a crime prevention office - *Vorbeugende Verbrechensbekämpfung* - to organize the repression of the so-called asocial, preventing them from causing damage to the war effort<sup>50</sup>.

Hitler directed his rage against those accused of *Kriegsdienstverweigerung*, that is, against the conscientious objectors “[...] who should starve to death”, Hitler said. While some, the real Germans, fight on the battle fronts, others eat and keep themselves safe, even when imprisoned, without major risks, the dictator stated. Thus, Jehovah’s Witnesses - who’s cruel execution was commemorated as a good example by Hitler himself - groups of Adventists and some staunchly pacifist Baptists became targets of Nazi hatred, together with the scum and trash who rebelled against the intensive labour Fordist rules under the Third Reich<sup>51</sup>.

The executions, especially of members of the religious organization *Bibelforscher*, that is, Jehovah’s Witnesses, should be made public so that the other “criminals” were aware of the risks they ran in refusing obedience to the Reich<sup>52</sup>. In another speech, still in the “Wolf’s Lair”, this time on 2 August 1942, Hitler declared himself in favour of the immediate exclusion of the asocial, vagrants, and traitors to the German *Volks-gemeinschaft*. They should all “[...] *liquidiert sofort warden*”/be immediately liquidated - the dictator advised<sup>53</sup>. He once again considered such parts of the population, referred to as *Taugenichts* – “...worthless”, a burden to the nation. Lenient or benevolent judicial measures lead such scum, - Hitler claimed – to steal, sabotage, and plead conscientious objection by virtue of the penalty imposed that was lighter and safer than fighting on the Russian Front. Why should the penalty imposed on such elements - considered parasites and useless who would live at the expense of the *Volks-gemeinschaft* - be no other than firing squad? wondered the Führer<sup>54</sup>.

<sup>49</sup> Ibid., p. 177.

<sup>50</sup> Richrath, Hauptsturmführer, *Vorbeugende Verbrechensbekämpfung*, Berlin, Reichssicherheitshauptamt, 1943.

<sup>51</sup> Ibid., p. 179.

<sup>52</sup> Ibid., p. 171.

<sup>53</sup> Ibid., *Justiz und Verbrecher im Kriege*, p. 179.

<sup>54</sup> Ibid., p. 54.

The Führer himself made a series of reflections, typical of the fascist way of thinking about justice, believing that the asocial, even if accused of small crimes, would always be a danger to society; “[...] after 10 years in prison”, Hitler said, in any case, these individuals will be lost to society. The only possible solution to the question of the “asocial” would be forced labour for life in a KZ or simply the death penalty<sup>55</sup>.

Hitler delivered a blunt criticism of the Jurists and judges who continued to refuse to accept the transformations that National Socialism had imposed on Germans, and especially on legal procedures. Many refused to change the laws or apply them rigorously. Thus, the criminals, who would understand the law well, would seek subtle ways to escape the hand of justice during long sessions in the courts. Even though the *Verordnung gegen Volksschanlingen* - the legislation to repress persons who threaten the community - had been in force since 5 September 1939, the judges continued to judge according to the Weimarian tradition<sup>56</sup>.

In a mocking tone, The Führer turned against what he had called the enlightened bourgeoisie who would mercifully look upon the *Transport* - that is, the inhumane convoys transporting the Jews in large freight trains sent to the KZ in the East - a simple Nazi euphemism for Deportation. And he vigorously defended the nature of the *NS-Staat*, the National Socialist State, as a *brachialer Staat* - an organization based on violence - making use of an old German word for the violence exercised by the Nazi state<sup>57</sup>. Only Heydrich and his protector, Heinrich Himmler, would have fully understood this pure violence character of the Nazi state and the need to organize the KZ and the immediate executions of such useless types right after the Reichstag Fire in 1933<sup>58</sup>.

The exterminationist character of the Third Reich’s policies has emerged from such considerations with great clarity. The analysis of Hitler’s dialogues, written down by Dr. Henry Picker, are fundamental to a repositioning of theses such as those of Ian Kershaw and others on the notion of working for Hitler - or something like an accumulative, growing, autonomous radicalization increasingly deepened by Nazi institutions, in short, a sophisticated understanding of (neo)

<sup>55</sup> Ibid., p. 55.

<sup>56</sup> Ibid., p. 55.

<sup>57</sup> Ibid., p. 145.

<sup>58</sup> Ibid., p. 128.

functionalist theses in explaining the Nazi state<sup>59</sup>. If, in fact, we do not find any decrees or other orders signed by Hitler himself to shoot or exterminate the undesirable elements, we can see that his guidelines for living together in the *Volksgemeinschaft* (the community of the people made up of clean-blooded and proven Aryans) are drastic, constant, and indisputable. We have in these texts - some of which are the direct result of conversations with senior Reich leaders - the clear encouragement to disregard the laws, or a brutal twisting of them, the explicit expression of the suspension of legal guarantees and the recommendation of internment in forced labour camps, summary execution by a fire-squad or the extermination through starvation and strenuous labour of the so-called asocial. Thus, the idea of a lazy dictator - lazy Chef - far removed from the day-to-day business of the Reich and only concerned with Foreign Policy matters and the progress of the war does not seem accurate when we examine such a vast document. Even the question of the direct order of the extermination of the Jews seems quite clear when Hitler sarcastically referred to the coyness of an “educated bourgeoisie” in the face of the obvious violence of the *Transport* - that is, the brutality of the removal of Jews from their homes and their transportation in freight or cattle trains to the concentration camps. At a meeting, also in the *Wolfsschanze* - the “Wolf’s Den” - on the afternoon of 15 May 1942 - thus, right after the Wannsee Conference, on 20 January 1942 - Hitler had insisted on the theme of *Die deutsche Bevölkerung und Juden-Transport* when he reaffirmed the legend of the Stab in the Back - *Dolchstoß* - to conclude about the “complete stupidity” of the German elites and the absence of any pious manifestation about German migration and the destruction of German blood<sup>60</sup>. On the evening of 11 April 1942, Hitler, in a conversation - or monologue - had talked about *Stalin und die individuelle Freiheit*, when he explained his plans for the *Ostkolonisation* of the territories of the then Soviet Union and the elimination of the local population to make room for the German colonies that were to be created there. It was a developed plan of enslavement and extermination of the Slavic population who should only survive long enough to work in the new Aryan farms. For Hitler, the struggle against

the USSR was a matter of survival - *Daseinskampf* - definitively between Slavs and Germans, just as it began with Charlemagne in the High Middle Ages. The enslaved Slavic people were to “serve the needs of the Reich”, whether in agriculture, mining, or arms production, considering that, for the Reich, the Eastern territories should play the role that India played at that time for Great Britain. Their inhabitants deserved no better treatment than that given to the black people and Indians in the various European colonies<sup>61</sup>.

For the consolidation of the Nazi state, the action of the communists - in a version never confirmed by historical research - would have been the cause, in fact the excuse, to produce a series of decrees that escalated the political and social persecutions<sup>62</sup>. Even elements considered to be without political orientation, such as the Italian “apolitici” under Fascism, were to be sent to the concentration camps. The persecution of homosexuals then had begun in a systematic way after the events of the “Night of the Long Knives” - 29/30 July 1934 - when the SA members and Ernst Röhm - then in open dissidence with Hitler - were arrested and executed by the SS, SD, and Heinrich Himmler’s Gestapo. One of Hitler’s accusations against Ernst Rohm was that he lived “in debauchery” and thus offended the moral sensibilities of the German people. Debauchery was immediately understood by the newspapers and public opinion as the notorious homosexuality of the *Oberführer* of the SA. Thus, by rigor and brutal logic of the Nazi state, all homosexuals in the Third Reich became enemies of the German people, deserving internment in a KZ with the infamous Pink Triangle pinned to their uniform. Bars, *Kinos* - small movie theaters with a “dark room” in the back -, public toilets, the Berlin *pissoir*, the large parks, such as the Tiergarten in Berlin, came to be watched and became the targets of Nazi police raids.

## CONCLUSION

All three regimes studied here - the Third Reich, Fascist Italy, and the Estado Novo - were preceded by liberal, representative regimes based on

<sup>61</sup> Ibid., pp. 101-103.

<sup>62</sup> For further information about the Decree of the Reichstag Fire, check out: “Verordnung des Reichspräsidenten zum Schutz von Volk und Staat [„Reichstagsbrandverordnung“]”, February 28th, 1933, available in: [https://www.1000dokumente.de/index.html?c=dokument\\_de&dokument=0101\\_rbv&l=de](https://www.1000dokumente.de/index.html?c=dokument_de&dokument=0101_rbv&l=de) [Consulted in December 12, 2022].

<sup>59</sup> Kershaw, Ian, *Hitler*, São Paulo, Companhia das Letras, 2010, p. 44 ff.

<sup>60</sup> Picker, Henry, *Hitlers Tischgespräche*, op. cit., p. 145 ff.

the alternation of power via elections. We have no doubt that of the models put under observation, the Weimar Republic, between 1919 and at least until 1930, was by far the most open, progressive, and inclusive regime among those under focus here. In “imperial” Italy, between 1861 and 1922, the parliamentary regime was fragile, complex, oligarchic, and very unrepresentative, with noticeable exclusion of the *contadini* of the rural areas, most especially of the *Mezzogiorno*, while the so-called “Old Republic” in Brazil between 1889 and 1930 was an oligarchic, plantationist and exclusionary regime, with permanent systems of electoral adulteration – “vote corrals”, elections “à bico de pena” (The form of election where the vote was open, not secret, and where political bosses controlled the voters.) - that guaranteed dominance, not without outbursts of rebellion, of the so-called “colonels”, farmers and bachelors. Throughout its existence it was challenged by violent social wars - Canudos, 1893, Contestado, 1916 - and by innumerable military uprisings, such as the tenentist revolts - modernizing and authoritarian young military men influenced by the Young Turk movement<sup>63</sup>. However, the legal-constitutional base was the same among the three regimes: Roman Law rebuilt from the *Code Napoléon*, the political party system, the right to vote, individual guarantees including the Habeas Corpus institute, principles expressed in written constitutions.

Such a system imposed a cumbersome, and sometimes inefficient, judicial system, with classist enlistment, increasingly drawn from the enlightened bourgeoisie, very attached to State positions and its closed system of enlistment for the top positions in the judicial courts. The set of such systems recognized, however, the basic legal principles that guarantees citizenship: the principle that there is no punishment without law, the exercise of adversarial proceedings, the free recourse to Habeas Corpus, the materiality of the evidence of the crime, the presumption of innocence, due criminal procedure, the burden of proof and, fundamentally, the principle of the natural judge<sup>64</sup>, that is, no one shall be sentenced except by a competent authority, re-

presenting the basic guarantee of a pre-existing, exempt, technical judging body and the due publicity of the acts, with competence established in the Constitution itself and in the laws of judicial organization of each state.

The broad debate on crime, criminology, and human rights, which had in Italy one of the most important places, was a common and known debate in universities and parliaments of these three countries in 1918, at the end of the Great War. However, largely as a result of the horrors of war and of new pessimistic and irrational philosophies, very strong criticism of the technical advances, the generalization of rationalization/standardization/fordization of work, and even the evolutionary and progressive philosophies emerged - as it does today<sup>65</sup>. It was in this increasingly pessimistic, reactionary climate with the cult of the irrational that modern anti-liberal and anti-socialist doctrines, including fascism, emerged<sup>66</sup>.

In view of the contestation of the order, the authoritarian governments that emerged in the first half of the 20th Century did not hesitate to infringe the basic principles of law that served as the framework of the liberal-representative state. Perhaps the most important step towards the liquidation of the Rule of Law was the creation - in Italy, Germany, and Brazil - of “special courts”. The idea of bringing opponents, and all those who represented, for such regimes, a threat to the State, before a court of exception became widespread and broke with the first principle of the legal order and democratic principles: that which affirms the rule of the Natural Judge, neutral, impartial and capable of guaranteeing the other principles, especially the right to equality of arms, which means the equality of opportunities to be guaranteed to both parties in a lawsuit. Gradually, these special courts revoked, in practice, the guaranteeing principles, especially *Nulla poena sine lege* and the publicity of judgments and the burden of proof, paving the way for the most complete tyranny.

<sup>63</sup> Teixeira Da Silva, Francisco Carlos, “Jovens Turcos e os Militares brasileiros”, in Teixeira Da Silva, Francisco Carlos et al., *Dicionário de História Militar do Brasil, 1822-2022*, Rio de Janeiro/Recife, 2022.

<sup>64</sup> Ignacio, Julia, “O que é garantismo penal?”, April 9th, 2021, available in: <https://www.politize.com.br/garantismo-penal/> [Consulted in January 21, 2023].

<sup>65</sup> Gramsci, Antonio, “Fordismo e Americanismo”, in Gramsci, Antonio, *Os Intelectuais e a Organização da Cultura*, Rio de Janeiro, 1981.

<sup>66</sup> Gramsci, Antonio, “A marcha fascista sobre Roma”, November 7th, 1922, available in: <https://lavrpalavra.com/2021/06/28/artigo-inedito-de-gramsci-a-marcha-fascistas-sobre-roma/> [Consulted in December 30, 2022].

Fascist Italy created in 1926, already at the core of the so-called Fascistissime (very fascist) laws, the *Tribunale Speciale per la Difesa dello Stato*, which would centralize the judgment of all accusations of anti-fascism and would function between 1926 and 1943<sup>67</sup>. The Third Reich established the so-called *Volksgerichtshof* - perversely called the People's Court, or *VGH*, right after the Reichstag Fire on 27 February 1934, and which would operate in the repression of the opposition to Nazism until 1945<sup>68</sup>. Meanwhile, the Vargas Government sanctioned a (first) National Security Law in 1935, which clearly affronted the democratic Constitution of 1934<sup>69</sup>, and after the communist uprising of 1935, created the *National Security Tribunal*, (TSN – Tribunal de Segurança Nacional), which would operate in the persecution of opponents of the Estado Novo until 1945.

On the grounds of a threat to the Reich's security - or to the public order and social peace as in Italy and Brazil - the Reich government decided to create special courts for crimes considered against the National Socialist regime or the community of Aryan blood. The defendant's rights of defence were severely restricted, and the defence was even denied access to the defendant. The opening of the main hearing was no longer contingent on prior evidentiary processes and due process of law. Interrogation protocols were no longer maintained at main hearings, and most defendants suffered beatings or long torture sessions to confess to real or imaginary crimes. The *Volksgerichtshof's* decisions could not be appealed, the court of first instance was the

court of appeal itself. However, the judges had to be career judges, which irritated the Führer tremendously, and belong to a higher court in whose district the court of exception functioned. But this did not always happen, especially with the creation of *Sondergerichte* - special courts - in the provinces. In the case of the National Security Tribunal/TSN in Brazil, the composition included career judges, but also judges called up from the Armed Forces, without necessarily having a legal career. The defence was to be heard within 15 minutes, even if the case involved several defendants. The Court did not consider the possibility of appeal or Habeas Corpus and declared itself to be a court of appeal and review of its own judgments, which opened a serious disagreement with the Federal Supreme Court and the Military Superior Court, which began to accept appeals, even though they did not have custody of the accused nor of the records.

The choice of a defence attorney required the approval of the court, and they were subjected to very harsh working conditions. The "failures" of the *Volksgerichtshof*, and of the TSN, after harsh criticism by the prosecution - endorsed by the "Führer" in the case of the VGH, as we have already seen - were remedied through the *Gesetz zur Änderung von Vorschriften des Strafrechts und des Strafverfahrens* (Law amending the provisions of criminal law and criminal procedure). The *Tribunale Speciale* was, from the beginning, entirely militarized, with its judges chosen from among the officers of the three forces, and it also refused any appeal. All three tribunals had their activities guided by political police, such as the *Sicherheitsdienst* and the Gestapo in Germany, the OVRA and the Fascist Militia in Italy, and the Special Police and the DEOPS in the case of Brazil. However, in all three cases, many processes - the majority in the case of Brazil - showed a cruel and inscrutable face of society itself since they originated from anonymous and voluntary denunciations.

A network of whistleblowers and spies covered most of the social institutions: universities, hospitals, factories, offices, and even commercial establishments - where critical comments about the cost of living or the misconduct of the war were sometimes heard - and was extended over such countries. In Brazil, even corner bars and small bars were places of denunciation. Considering extensive police documentation, the image of totalitarian regimes where the state violently cracks down on civil society

<sup>67</sup> See: Ministero della difesa, *Tribunale speciale per la difesa dello stato 1927*, Roma, Ufficio Storico SME, 1980. Available in: <https://issuu.com/rivista.militare1/docs/tribunale-per-la-difesa-dello-stato>.

<sup>68</sup> Österreichische Nationalbibliothek, *Deutsches reichsgesetzbuch Teil I 1867-1945*, 1936, available in <https://alex.onb.ac.at/cgi-content/alex?aid=dra&datum=1936&page=459>; law amending provisions of criminal law and criminal procedure (*Gesetz zur Änderung von Vorschriften des Strafrechts und des Strafverfahrens*) of April 24th, 1934.

<sup>69</sup> Chamber of Deputies. Brazilian Law 38, of April 4, 1935. It was subsequently reinforced by Law No. 136, of December 14 of the same year, by Decree-Law 431, of May 18, 1938, and by Decree-Law 4,766, of October 1, 1942, which defined military crimes and crimes against the security of the State. Câmara dos Deputados, "lei nº 38, de 4 de abril de 1935", n.d., available in: <https://www2.camara.leg.br/legin/fed/lei/1930-1939/lei-38-4-abril-1935-397878-norma-pl.html>

should be reviewed. A huge number of spontaneous, voluntary, and unpaid denunciations filled the courts of the dictatorships - Many times, old daily quarrels originated fanciful accusations, which were transformed, in turn, into motive for inquiries, arrests, and torture in the organs of repression. Denunciation ended up being the most disintegrating element of fascisms and dictatorships. Its coexistence forged the patina of fear typical of authoritarian regimes, as shown in the three cases studied here.

In the case of the National Security Tribunal alone, 21,000 people were brought to trial, while the Tribunale Speciale in Italy, between 1926 and 1943, judged 5,620 “anti-fascists,” and the Volksgerichtshof judged 18,000 people between 1934 and 1945. The immense number of Brazilians brought before the exceptional court is fundamentally due to the fact that the tribunal considered itself capable of judging crimes against the war economy and, above all, the astonishing number of spontaneous denunciations that reached the court<sup>70</sup>.

All the judges of the Tribunale Speciale and the Volksgerichtshof were later listed as war criminals by the Allies and brought to trial. In Brazil, however, the 1945 coup d'état, which ended the Estado Novo regime, did not seek out those responsible for the tremendous suffering imposed on people, with members of the National Security Tribunal being incorporated into the official judiciary of the state and members of the feared Special Police being integrated into the formal ranks of the Civil Police of Rio de Janeiro, where they would form the first Death Squads in a full-fledged democratic state (between 1946 and 1964). Some of the most notorious members of the repression apparatus, such as lawyer Himalaya Virgolino in Brazil and “Pretore” Molina in Catania, underwent a “conversion” to democracy in the name of the Cold War and the fight against communism, enjoying long public careers in Brazil and Italy.

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<sup>70</sup> See: De Luna, Giovanni, “Tribunale speciale per la difesa dello stato”, in De Grazia, Victoria, Luzzatto, Sergio, *Dizionario del fascismo*, Turin, 2003, p. 73; D'alessandro, Leonardo Pompeo, *Giustizia fascista. Storia del Tribunale speciale (1926-1943)*, Bologna, Il Mulino, 2020; Koch, Hannsjoachim, *Volksgerichtshof. Politische Justiz im 3. Reich*, Munich, Universität, 1988.

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