

THE LAWS OF IMAGE-NATION: BRAZILIAN RACIAL TROPES AND THE SHADOWS OF THE SLAVE QUARTERS

Abstract. The commemorative edition of the 80th anniversary of *Casa Grande & Senzala*, the founding book of Brazilian modern sociology written by Gilberto Freyre and published in 2013, shows on its cover a glamorous ‘Casa Grande’ (Big House, the Lord’s house), lit like an architectural landmark, ready to serve as the set for a film or a TV soap opera. What happened to the ‘Senzala’ (the Slave Quarters) that appeared on the covers of the dozens of previous editions? This paper investigates, following some changes in Brazilian Visual Culture in the twentieth century, how such an astonishing disappearance could take place. The paper examines the image of the slave quarters as part of a racial trope: a foundational and colonial trope, one that is capable of institutionalizing subjects and producing a subaltern mode of subjectivity. It also explores connections between critical legal studies and visual and cultural studies to question how and why knowledge produced over the status, nature and function of images contributes to institute – and institutionalize subjectivity. In order to explain this disappearance we propose a *legal-iconological* experiment. We will enunciate, and attempt to enact, the *Statute of Image-nation*: the laws of the image that constitute subjectivity in Brazilian racial tropes. In doing so, we might be able to point out the ways in which law and image function together in institutionalizing subjectivity – and subjection.

Keywords. Brazilian visual culture; Casa Grande & Senzala; colonialism and slavery; law and image; race and subjectivity.

INTRODUCTION

The grounds on which *law* and *image* share the same foundation are the moving sands of the Sinai desert. Perhaps the first law was not against incest, as Freud suggests (Freud 2001), perhaps it was a regulation on image making – a rule on the ways you are permitted to (pro)create an image of yourself. In this sense we could understand the regulation on adultery as a derivation of this very rule, one that follows the same pattern: a law against the illegitimate reproduction of the image of one's self. Since we are looking at the relationship between *law and image*, we may be able to clarify our problem through the metaphor of a long-term love relationship that was troubled (Vismann 2008) from the very beginning.

When they first saw each other law and image were told not to meet again, as their union could be the cause of *idolatry*. They had to hide their relationship, so initially they kept meeting formally and openly in rituals performed in Roman temples and in the ornamentation of palaces; but also fiercely and secretly, in emblems, insignias, statues and portraits. Then they were forcedly separated throughout the Middle Ages and fell into adultery, developing other relationships – first with art and then also with science. And finally, when Modernity set them free and blessed (or tolerated) their union, they decided to divorce and started pretending to ignore each other, in a process that had something to do with Secularization. As a result of this union, we have their offspring: traumatized subjects of modernity.¹ This trauma, to which the metaphor alludes, is probably the direct result of the profound tension that exists between image and text in Western civilization (Lissofsky 2014, p. 307).

¹ This metaphor is neither original nor new: it can be found in at least two of the major monotheistic religions. Idolatry was perhaps first understood as adultery in the Old Testament, as it depicts the relationship between God and His people – See: Hosea 2:2-23. We can also find a similar Christian metaphor of the Church as bride of Christ in the New Testament. See: Ephesians 5:22-33.

This paper is not about a metaphor, however, but a trope: one that is foundational and colonial, one capable of institutionalizing subjects and producing a subaltern mode of subjectivity (Mirzoeff 2011, pp. 483–484). But more than that, we consider here a special kind of narrative one that is illustrated, capable of being modernized, and yet maintaining its initial trends. The trope, however, is about the foundation of a state or, perhaps, a nation-state. And a state (or a commonwealth), we are told by the first modern jurists, is born out of sovereignty (Bodin 1967). This paper is, then, about the coupling of law and image in building subjectivity and legal subjectivity using visual and textual strategies (Boyle 1991). This will be explored by observing the persistence and changes of a pictorial racial trope in the building of modern Brazil. Building a nation, as we will see, is not only a matter of institutionalizing sovereignty through the legal recognition of nation states, it is also a matter of (re)production of subjects; it is also about bridging and establishing distances through representational and technical devices capable of capturing academic, legal and aesthetic meaning.

This does not mean that images that participated in this trope have instituted their own domain from which the text was excluded, and vice versa. The text has never failed to use images to expand its own power of persuasion, suggestion and subjection. Images in turn have always known how to exploit association with texts and stories to enhance their chances of repetition and reproduction. The most common outcome of these links is the visual trope, whereby an image justifies its existence.

Our first claim, here, is that there is a foundational duality hidden in the modern formalized equality of law that establishes the legal subject, the subject of law, and that the reason for this is the origin of the relationship implied in the concept. If there is a subject, then there must be a sovereign – its other; arguably because of how we

understand knowledge and theorize around how the mind produces knowledge and consciousness: as such, subject stands as the opposite of object (Mitchell 1987, p. 16). In the first meaning (already present in Descartes, as Etienne Balibar points out), there is an ‘idea that causality and sovereignty can be converted into one another’ (Balibar 1991, p. 35). According to Balibar, in Descartes the freedom of man, or of man’s will, is already a reminder of his subjection to God – as it is ‘the image of another freedom, of another power’. The author continues that this would be a contradiction of terms as ‘freedom can in fact only be thought as the freedom of the subject, of the subjected being’ (Balibar 1991, p. 36). But, as he points out, this double meaning of the subject could also be seen in the double philological origin of the word.

The word ‘subject’ in Latin and in some romance languages is usually traced back to the distinction between *subjectum* and *subditus* (Balibar 1991, p. 36). To the first, which relates to an object, is implied a notion of action; s/he is the author of the action in a given sentence. To the second is implied a relation of passivity: the subject of someone else’s action – the sovereign. So, considering this *double meaning* of ‘the subject’, we want to look at this complex definition and propose a visual way out of it – put another way, a visual way into the very heart of the concept. The modern subject of law is born out of this double foundation. This duality has the capacity of being revealed through its visual doubles of subjection. To test this hypothesis, we will look at pictorial doubles of sovereignty through a case which sees the disappearance of an image; an image so attached to a text that nobody really noticed its sudden vanishing.

The 80th anniversary of the first edition of the classic treatise by Gilberto Freyre, *Casa Grande & Senzala* (literally ‘The Big House and the Slave Quarters’, but published in English as ‘The Masters and the Slaves’), was celebrated in December 2013. The book’s symbolic place in Brazilian culture is powerfully synthesized by an

illustration published in the newspaper *Diário de Pernambuco*, from Gilberto Freyre's home state, where he lived practically all his life (Torres 2013). We can see three arms raised, belonging respectively to individuals who are white, indigenous, and black, holding up what is both a book and the Brazilian national flag. According to social theories that were hegemonic in Brazil in the 1920s, the people's weakness and the country's economic weakness were consequences of the racial mix. However, Freyre had learned from Franz Boas in Chicago to separate genetic inheritance from environmental factors; to separate nature from culture.²

Freyre's book is no doubt the most influential sociological essay and the most perennial interpretation of Brazilian culture. Freyre's main proposition was that the *Casa Grande* (the Big House) and the *Senzala* (slave quarters) were a fundamental duality, founding not only Brazilian private social life, but also the political culture of the country (Freyre 1986). These two neighbouring buildings were simultaneously antagonist and complementary – as too were the masters and slaves that inhabited them.

As expected, a commemorative edition of the book was published. The photograph on its cover was beautiful but also intriguing (Fig. 1). It shows a glamorous *casa grande*, lit like an architectural landmark, ready to serve as the set for a film or TV show. But the *senzala* that appeared on the covers of dozens of previous editions was absent. Why did the editors of the commemorative edition feel comfortable in decoupling the complementary nature of the two structures that Freyre meant to emphasize by using an ampersand (which was quite rare in Brazil)? Who or what could have authorized them to do so?

² Brazilian social theories were profoundly shaken by Gilberto Freyre's contribution. For a few examples of the range and influence of his theory see: Burke, and Pallares-Burke. 2008; Cleary, 1999; Eakin, 2017. See also: Oliveira 2014, pp. 1093–1112.

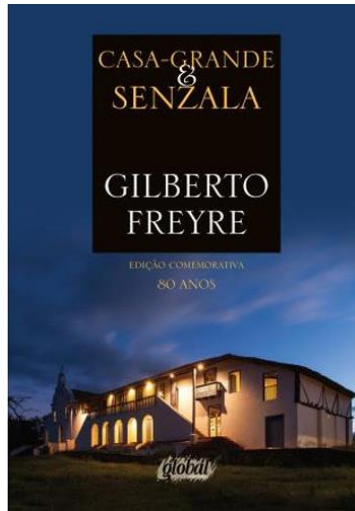


Fig. 1. Cover to 'Casa Grande & Senzala' commemorative edition. Editora Global, 2013.

In order to answer these questions we propose a *legal-iconological* experiment. We will draft, and attempt to enact, the *Statute of Image-nation*: the laws of the image that constitute subjectivity in the Brazilian racial tropes. This is, of course, a thought experiment, a ‘mind game’ (Mitchell 1996). It is an exercise of creative thinking and legal fiction (Bottomley and Moore 2012). We are thus engaging ourselves in an iconographic investigation of the visual tropes of race in Brazilian photography, paying special attention to the representations and reproductions of the duality, the double portraits. We focus on the slave-master duality and, simultaneously (mocking the duplicity of law and image), by following Brazilian civil law in the way laws are enacted and performed. First, an ‘article’ enunciates the law; it is followed by ‘paragraphs’ (§) that explain it, taming its meaning. These are laws about laws; and about image. As in constitutional law, they might enact the very constitution of the subject. The pictures analyzed herein will come into question (or into being) to overthrow the stability of these conjunctions, displacing law through time and space.

The consequences of such an approach to the tension that results from the foundational duality we are analyzing here is of utmost importance for an investigation

of the kind we propose. In this tension rests not only the risks and problems, but also the heart of an iconological method – such as the one (never fully) developed by Aby Warburg (Lissovsky 2014, p. 307). Following Warburg, we are wholly convinced that it is necessary to read images, and not only to contemplate pictures (Lissovsky 2014, p. 310). If our hypothesis is correct, we might be able to observe the ways in which law and image function (or couple) together in institutionalizing subjectivity – and subjection.

Before continuing, we must make a final comment on method. As this paper concerns both law and image, we need to admit the circularity between the laws we are enacting, as a mind-game, and the method proposed – this should be fully explained further in Article 1. As in any scientific attempt of legal theory, the method is only a *perspective* here – a paradigm (Agamben 2009a). After all, legal theory is not always about theory: it is, more often than not, about the result of practical reasoning and generalisations created by the daily necessity of solving cases in courts. Legal theory's main concern is not explanation: it is a field of knowledge where methodological issues and normative propositions are much more relevant than theoretical concerns, problems and questions (Luhmann 2005, p. 62). As such we take the route of a practical experiment with both the law, and the pictures.

In our experiment, expressed in Articles 1 to 5, the pictures will function as *precedent* to the law. Courts regularly base their decisions using analogies between present cases and past decisions; this route will be taken whenever available. However, our aim here is to interrogate the pictures, to 'make them talk'; we know they know something. To do that, more than one figure of speech will be needed. The laws enacted here will enable us to use interrogation techniques based on a movement to overcome a metonymic knowledge of desire in time and space (Art. 2 and 3); a search for doubles,

allegories and disappearances (Art. 4); and the return of doubles in personification – or embodiment (Art 5). Like in most statutes, or acts of any parliament, there is no balanced content between text and images, laws and pictures – some are longer than others for reasons we may still need to establish. There is also another figure of speech that will come into being in this act of legislation: we are, of course, working our way through legal theory and iconology with an extensive use of irony.

ARTICLE 1. LAW AND IMAGE HAVE NO STABLE MEANING.

§1 The relation between law and image is a problematic one because none of the terms – neither the law nor the image – can be captured by a neutral definition that is historically stable; politically consensual; and without economic and social consequences.

§2 Law and image are doubles of each other that now stand for the foundational double of subjectivity in Western Civilization.

The classic philosophical question of legal theory – *what is the law?* – has been asked for at least two thousand years of scholarly debate (Ellul 1969, p. 6). Defining *what the law is* has always been a matter of power and knowledge – as one *legal-theoretical* choice or another would determine decisions and change the result of cases. More recently, since the 1970s, contemporary legal theory and Critical Legal Studies have faced the challenge of defining and understanding the law and the legal system by raising different questions: *how does law work? What do judges do? What are the results of legal reasoning? Is law like literature?* But here we will leave the details and consequences of most of these different theoretical approaches aside to focus only on those propositions most useful to understanding the broader links between aesthetics and authority.

Pierre Legendre's theoretical efforts on establishing the relation between law and the foundation of the subject, is one of the first perspectives that deals with the role of images and its consequences for legal theory and the understanding we have of law. Legendre outlines his theoretical approach as an investigation of the anthropological construction of reason. For him, the foundation of reason is only achieved through a 'cultural elaboration of images' (Legendre 1994, p. 945). The way he outlines the modern problem of representation seems to be key for understanding his position. Representation could be understood as a 'place to which the image addresses itself' (Legendre et al. 1997, p. 11). The image could be 'taken as a message'; one that is capable of bearing a 'demand'³ that could capture the subject. He chooses to address representation, then, as a relation between image, language and the world, by using the metaphor of the mirror. Aesthetics perform a 'specular ordering of the world' that presides over the 'life of civilizations' (Legendre 2008, p. 12). This specular performativity is what makes it possible for human beings to become subjects, to make sense of and inhabit the world – a feature we could consider as a *condition of possibility* for any kind of human activity, such as science, technology or industry. In his words:

If I look at myself at the mirror, my left becomes my right and vice-versa; similarly, the typographer acts as a mirror and the printing press functions as the implement of a 'reflection'. Reading the printed page is reading an image montage, as if the text came in my place, or rather in the place of the other that I am in the mirror. (Legendre 2008, p. 12)

In this *Mirror Logic*, the subject to be represented in the sovereign must be created, brought to existence, in the very act of representation. That is the link between representation and fiction in Legendre's theory. For him, the process of making sense

³ This proposition is quite similar to the *mind games* proposed by W.J.T. Mitchell, that we could use to outstretch the relation between law and image (Mitchell 1996).

and entering the world is, at the same time, a process when someone ceases to be a biological animal – or object – and becomes ‘something fictional’: a subject. (Legendre et al. 1997, pp. 3-4) Aesthetic normativity would have a universal element that works as a ‘condition for taking on the world’ (Legendre 2008, p. 13).

Another work on law and image is that developed by Costas Douzinas who proposes an investigation of ‘the constitution of the subject (...) around the regulation of the relationship between beings, images and language’, to open up what he calls a ‘strategic intervention in the field of vision’ (Douzinas 2008, p. 18). Douzinas proposes that a *phenomenology of the image* might be able to explain the complex relations between the foundations of the legal subject; the modern notion of representation; and the aesthetical implications of law. For him, the constitution of the modern subject of law is only achieved by an articulation of images in what he calls a *regime*: ‘Law’s force depends on the inscription on the soul of a regime of images’ (Douzinas 2007, p. 41).⁴

In his account of the matter, there are three ‘central functions of the image’. The first relates to the image in a general sense, as ‘the object of vision’; secondly, the image also works organizing ‘mental representations’; and finally, the image, when conceived as ‘the work of art’, can be understood as the ‘foundation and essence of visual representations, such as icons, pictures, photographs, artworks’ (Douzinas 2011, p. 247). These three functions of the image correspond, in his theory, to three anthropological tasks, that would reveal the ambiguous relationship, and the ‘intimate links’ that ‘exist between power, law and images’ (Douzinas 2007, p. 49). One of these tasks relates to the way the self distinguishes itself from the other, and how the image is

⁴ In articulating the notion of a ‘regime of images’, Douzinas also chooses a concept that is broader than Rancière’s ‘aesthetic regimes’, which is limited to art historical narratives, as he himself notes here.

responsible for the ‘internalisation of absolute otherness and the domestication of death’ (Douzinas 2007, p. 49), that leads to the creation of the subject.

This is the most basic interrelationship between law and image, when ‘modern law’s intervention in the field of visibility takes the form of a regulation of the relationship between object, image and text’ (Douzinas 2000, p. 827), forming the modern subject of law. Therefore the image – as the object that is seen (function) – relates to the foundation of the subject (task), in Douzinas’s propositions:

the image of a thing brings this thing into being for a subject. The image poses the thing for a subject. (...) in doing so, both the thing and the subject are called to life, the image turns anything into something for someone. (Douzinas 2011, p. 248)

He proposes then a phenomenology of the image as a necessary step to create a comprehensive understanding of what could be called *legal iconology*:

The law loves and fears images, it both prohibits them and organises its own operation in a highly spectacular and visual manner (...) The law arranges, distributes and polices its own image through icons of authority and sovereignty, tradition and fidelity, rationality and legality. (Douzinas 2000, p. 815)

Now, on the other side of the relationship between law and image, the debate on the nature of the *image* has followed a similar path to that of the law: the question ‘*what is an image?*’ has also been a matter of some urgency in history. As both Douzinas and Mitchell have separately and in different times argued, in eighth- and ninth-century Byzantium, for example, the answer to this question would have immediately identified you as a partisan in the struggle between emperor and patriarch (Douzinas 2007, p. 23). Alternatively, in mid-seventeenth-century England, the answer could similarly define on which side of the Civil War between Catholics and Protestants you fall. Images could be understood, in those cases, almost as ‘social movements “in disguise”’ (Mitchell 1984, p. 503).

However, before we can zoom into the relation between law and image again, it

seems fair to put images on the same ground as that in which we questioned law and ask in how many possible ways can the meaning of the word *image* be understood today. The work of Mitchell is arguably most helpful here. He conducted a comprehensive review of the way the word *image* is used in a number of ‘institutionalized discourses’, considering ‘literary criticism, art history, theology, and philosophy’. Then he proposes what we might understand as a *genealogy of the image*, composed of the following branches of images: graphic (pictures, statues, designs); optical (mirrors, projections); perceptual (sense data, ‘species’, appearances); mental (dreams, memories, ideas, fantasmata); and verbal (metaphors, descriptions, writing) (Mitchell 1984, pp. 503-505). These image types are each relevant to one or more disciplines of scientific knowledge.

Mitchell tries to produce an overview of the image capable of investigating ‘the boundary lines we draw between different kinds of images’ (Mitchell 1984, p. 507). Through the schematic division of how the image would function in each disciplinary field in his work, we see how ‘perceptual’ images seem to play a more relevant role than others in his theory, in terms of how many fields of knowledge they influence – or in which they are studied. Moreover, one cannot ignore the fact that he locates the notion of ‘image as such’ as a ‘parent concept’, almost as a *missing link* or *transitional fossil*, a phenomenon ‘whose appropriate institutional discourse is philosophy and theology’ – and we wonder if not also law and legal theory. Mitchell argues that there is a tendency of seeing the images in one side of the schema – the graphic and optic ones – as the ‘proper’ images, those that can be represented and seen ‘displayed in an objective, publicly shareable space’; and contrast them with what seem to be ‘illegitimate notions’, the images in the mind and images in language (Mitchell 1984, pp. 505-507). However, Mitchell only uses these distinctions as a tool in his genealogy of images:

images ‘proper’ are not stable, static, or permanent in any metaphysical sense (...), they are not perceived in the same way by viewers any more than are dream images; and they are not exclusively visual in any important way but involve multisensory apprehension and interpretation. Real, proper images have more in common with their bastard children than they might like to admit. (Mitchell 1984, p. 507)

For him, the debate on how we understand images is also about a western conception of a ‘theory of the mind’, and about how we take ‘sensory experience as the basis for all knowledge’. Consciousness, he argues, is itself ‘understood as an activity of pictorial production, reproduction, and representation’. So, even if the world ‘may not depend upon consciousness (...), images of the world clearly do’. The way we develop a conception of what mental and physical images are is then related to what he calls a ‘matrix of analogies’ that connects theories of representation to theories of mind. It has to do with what is scientifically possible, with the very notion of ‘paradigm’ (Mitchell 1984, pp. 509-511). And, perhaps, *paradigm* is precisely the notion that makes possible subjectivity and its doublings.

To understand the consequences of this relationship, this coupling between law and image, we need a new historical method, perhaps a *paradigmatic method* for history, as that proposed by Giorgio Agamben. The way in which it is understood cannot be metonymic (subject to time and space); nor inductive (from the facts); nor from universal laws (Lisovsky 2014, p. 318). The paradigm should be understood not as an attribute or a part of a phenomenon but, going back to Plato, as a relation between the sensible and the intelligible:

The paradigmatic relation does not merely occur between sensible objects or between these objects and a general rule; it occurs instead between a singularity (which thus becomes a paradigm) and its exposition (its intelligibility). (Agamben 2009b, p. 23)

In this regard, platonic ideas are not exactly what we thought them to be, that is, not what Aristotle told us they were: ‘The idea is not another being that is presupposed

by the sensible or coincides with it: it is the sensible considered as a paradigm – that is, in the medium of its intelligibility’ (Agamben 2009b, p. 26). Largely this is the same route taken by Walter Benjamin in his introductory questions, in *The Origin of German Tragic Drama*, where he suggests that ideas and things relate to each other like constellations relate to stars (Benjamin and Osborne 2003).

The risk of circularity in the humanities and social sciences is then actually the hermeneutic circle, the paradigmatic circle in which the singularity of a thing does not come before its intelligibility (Lissofsky 2014, p. 318). In the paradigm, the intelligibility does not precede the phenomenon, but stands at its side; that should be a more contemporary and gender-balanced way of developing a relationship such as the one in which are law and image. This should be made clearer, as we move forward to the visible aspect of the relationship we are analyzing – as in Articles 2 and 3.

ARTICLE 2. THE UNCONSCIOUS AND INVISIBLE LAW THAT INSTITUTES THE LEGAL SUBJECT MUST BE MADE VISIBLE IN PICTURES OF SUBJECTION.

§1 - Living under the law of images is living along their (pictorial) survival, despite the changes in their immediate rhetorical roles.

§2 - When a trope survives, it does not mean that its meaning remains the same over time.

§3 - Picturing power relations in sex, race and technology is a way to make visible the difference between subjects and masters, as well as regulating the (re)production and image-making of subjected subjects.

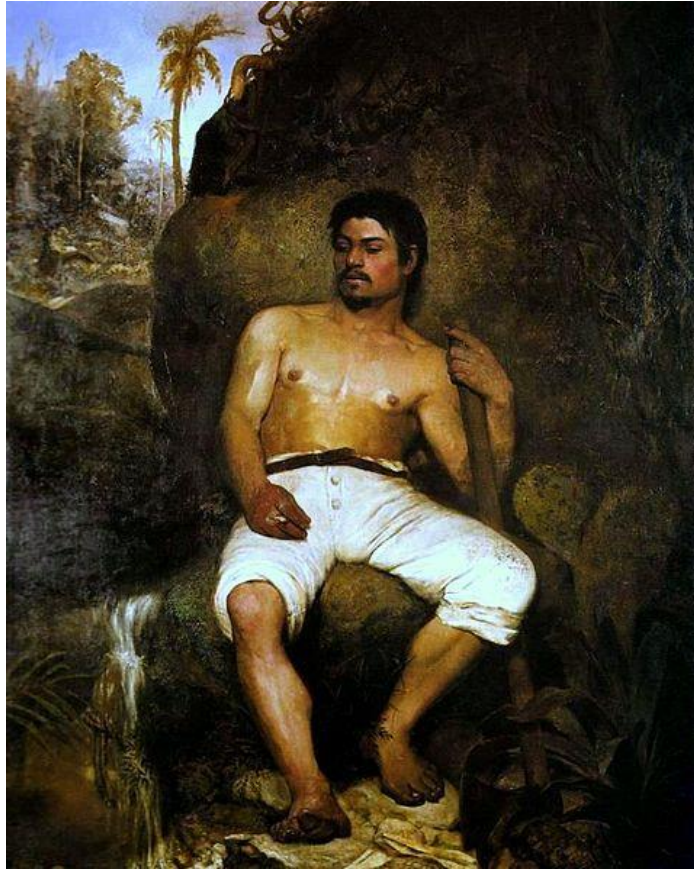


Fig. 2. J.F. Almeida Junior (1850-1899). O derrubador brasileiro, 1879. Museu Nacional de Belas Artes, Rio de Janeiro.

From the mid-1800s a consensus began to form that the Brazilian people were forged by the mixture of races, and their destiny was achieved with the hegemony of the whites, particularly the Portuguese, whose rights (including sexual rights) resulted from their triumph over the natives during the conquest. We do not have room here to explore all this corpus, but it is important to mention that the romantic painter Almeida Júnior painted the most vivid expression of this tropicalized white trailblazer and deflowerer: *O Derrubador Brasileiro* [The Brazilian Trailblazer] (1879), a huge oil painting in which the life-sized hero leans back on a rock gripping a stout axe. But the work's unavoidable *punctum* (on which the viewer's gaze unavoidably converges) is the size of the axeman's sex organ bulging under his white trousers. Thus, added to the social and civilizing advantages of the first century after the Conquest were the 'priapic

considerations' that favour the conquerors, in the words of Paulo Prado in *Retrato do Brasil* [Portrait of Brazil], from 1924, revisited by Freyre (Prado 1931).

The most common photographic expression of these priapic prerogatives was the portrait of the Great White Man surrounded by little 'people of colour', such as those where a white officer from the Brazilian Army is flanked by two children playing soldier in a troop camp during the Paraguay War. (Fig. 3) The dual contrast in colour and size, even during the Republican Period, was a frequent way of highlighting the distinction of an important white man. We can see the photographic expression later, for example, in a photograph by José Medeiros (1921-1990), one of the most important Brazilian photojournalists of the 1950s: President Juscelino Kubitschek is surrounded by little coloured schoolboys during a visit to a small village in the Amazon.⁵

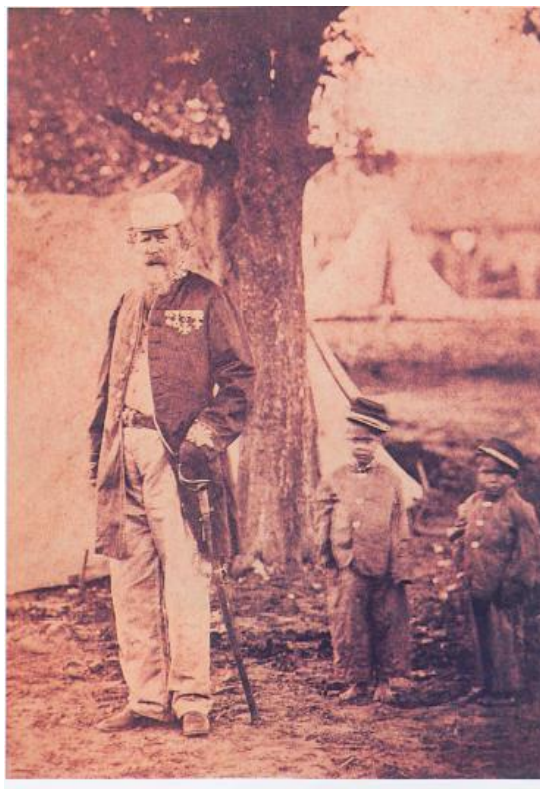


Fig 3. Brazilian troop camp in Paraguay War (1865-1870). Author unknown.

⁵ President Juscelino Kubitschek. Amazonas, 1956. Photo by José Medeiros. See: <https://i.pinimg.com/736x/34/3d/41/343d419d6eb8dc5b0479c658d588e4c5--ems.jpg>

In addition to height, one of the most characteristic signs of the distance between the races is the relationship to technology. Disparities in familiarity with technical devices entered the arsenal of photographic anecdotes very early, still in the nineteenth century. It was always the same joke. In 1864, *A Semana Ilustrada* published a cartoon where the indigenous flee from the photographer's studio scared by the camera. Less than two years later, the very same Rio de Janeiro magazine repeated the joke. This time it was a black woman who was instructed to 'look' into the glass, but instead leaped up and 'plunged' into the lens (Fig. 4). The photographers not only look alike in the two cartoons, but their demeanour is also the same. Why does the photographer always turn his back when he shoots the picture? Why does he not fix his gaze on these sitters as he would normally do with his other customers? The answer lies in the unconscious dimension of these pictures.

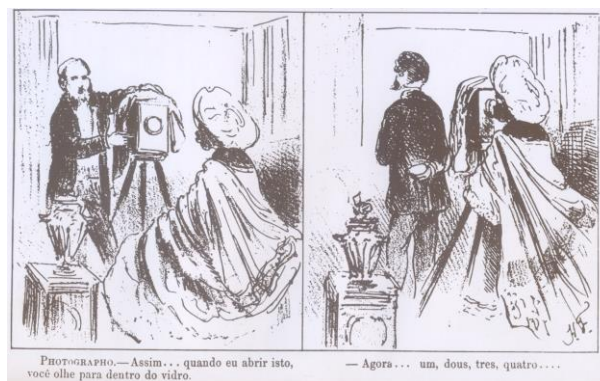


Fig. 4. Cartoon by Henrique Fleuiss (1824-1882). Semana Ilustrada, Jan. 28, 1866. Biblioteca Nacional.

The art of bourgeois portraiture was based on the reciprocity of the gaze between the photographer and the sitter. As Walter Benjamin observed, this correspondence was due to the fact both felt on an equal footing vis-à-vis the technique serving them (Benjamin 2005). This reciprocity would not occur with the indigenous or the black woman. Thus, for this cartoon's joke to work, the photographer had to turn his

back on the sitters (Fig. 4). And he could not fail to turn his back because, without the equivalence between the photographer, sitter, and technique (the basis for the bourgeois portrait), the picture could not be created. No matter how much progress was made in the twentieth century, and even to this day, we have never managed to free ourselves of this joke. Brazilian indigenous people are the repeated butt of this joke's endless re-enactments. There is a similar narrative about airplanes, for example: it sometimes begins with airplanes being attacked with bows and arrows,⁶ includes close contact between the indigenous and the actual physical structure,⁷ and finally may end up with indigenous pilots.⁸

The racial trope acquires new formats as Brazil moves from Empire to Republic, and towards a new idea of Progress. In her book, Luciana Martins, discusses a photograph of an indigenous typist at the indigenous protection service in Rio de Janeiro. Martins references a painting in the photographed scene's background, depicting an allegory of the shipwreck in which the Romantic poet, Gonçalves Dias, died in 1864. This juxtaposition is obviously not fortuitous:

While woman and machine in the foreground enact the spirit of a modern civilizing mission, the picture in the background inverts the canonical trope of the vanishing primitive, so common in Brazil's Indianist literature and fine arts ..., in which the Indian perishes at the seashore. Here it is the poet, not the Indian, who perishes. (Martins 2013)

This painting's presence in the indigenous affairs agency evokes Romantic Indianism as the poet's shipwreck serves here to exalt the supremacy of a realist and

⁶ 'The Invisible Tribe'. Acre, 2008. Photo: Gleison Miranda (FUNAI). http://assets.survivalinternational.org/pictures/670/braz-unc-gm-10_screen.jpg

⁷ Yualapiti Indian. Roncador-Xingu Expedition, 1949. Photo: José Medeiros <https://s-media-cache-ak0.pinimg.com/736x/d0/13/82/d01382872215a153f1f518e0333ea5c3.jpg>

⁸ Marcos Terena. Indian leader and professional pilot, 1983.

pragmatic Republican state (and, of course, of the technical image over the idealist painting). Contemporaneously to this photograph's creation, however, the Brazilian Futurist poet, Menotti del Picchia, was proclaiming the death of the 'lyrical tuberculous woman' and declared in the Modern Art Week in 1922 in São Paulo: 'We want an active, beautiful, and practical woman, active at home and on the street, dancing a tango and typing a current account.' We will never know what document this indigenous woman was typing but less than half a century later, the kind of civilized assimilation that this photograph enacts was no longer considered adequate, despite the trope of the 'savage face-to-face with technology' remaining more effective than ever. However, now it is no longer necessary to compare 'civilized' and 'savage' Indians. In recent decades it is through contact and the grasp of technology (video cameras, laptops, cell phones) that the Indian becomes even more Indian.

When we look at the photograph of a coffee plantation (Fig. 5) drying platform in 1865 in Rio de Janeiro, we immediately notice the contrast between the white boy and the black children.⁹ They differ not only in clothing, but also in access to the tools of work or play. While the slaves work on the coffee with heavy tools, only the white child has a toy: a tricycle hobbyhorse. In fact, the toy's presence appears to be the photograph's *raison d'être*. Next to the white boy is his black nanny, who may have been his wet nurse. She is pregnant again. Near her another slave woman carries her child on her back. Although the coffee harvest is scanty, there will be plenty of milk for the offspring of the white mistress at the back of the scene. But beyond these more obvious signs, what else can this photograph tell us? For instance, how civilized or civilizing is the tricycle?

⁹ Terreiro de café da Fazenda do Quititi. Rio de Janeiro, 1865. Fotografia de George Leuzinger.



Fig. 5. George Leuzinger (1813-1892). *Fazenda de Quititi [Quititi farm], Rio de Janeiro, c. 1865.*

Readers of Gilberto Freyre could not avoid imagining that, thanks to the tricycle, the black children may have been dispensed with from the role of hobbyhorse for the ‘little master’.¹⁰ This is a scene that Freyre sees as founding Brazilian political culture, inseparable from the plantation owner’s despotism slowly acquired through the sadistic (and sometimes sadomasochistic) treatment of the slaves. The scene is present in the most famous of the book’s previous covers. It could be suggested that the tricycle also plays a civilizing role for the white child or, conversely, that the photograph framed the black children and the tricycle depicting them both as available and interchangeable.

Living under the law of images is living through their survival, despite the changes in their immediate rhetorical roles. When a trope survives, it does not suggest that its meaning remains the same over time. In fact, the trope’s main characteristic is its survival despite inversion of its meaning. Aby Warburg discusses this in his investigation into what he called pathos formulas. Warburg’s *Pathosformeln* are

¹⁰ For such a picture of slavery in Brazil, see, for example: <http://www.ahistoria.com.br/wp-content/uploads/brincadeiras-na-escravidao.jpg>

paradigmatic because they are ‘hybrids of archetype and phenomenon, first-timeness (*ptimal’oltito*) and repetition. Every photograph is the original; every image constitutes the *arche* and is, in this sense, “archaic” (Agamben 2009b, p. 29).

The pathos formulas were inspired in Classical Antiquity and were included in the Renaissance to give form and passion to movement, providing testimonies of ‘moods’ and ‘feelings’ transformed into images. By looking at these images future generations will be able to identify permanent traces of the deepest emotions of human existence (Ginzburg 2009, p. 45). Following these steps, it becomes possible to establish a definitive link between emotional traces and iconographic formulas (Agamben 2010, p. 90). To develop them, Warburg utilized a probably unprecedented variety of archive documents. The Renaissance, Pagan Antiquity, gestures, all those things to which Warburg dedicated his life, were only a means by which to face an even more ambitious problem: the function of figurative creation in the life of civilization (Lissofsky 2014, p. 315).

According to Gertrud Bing, Warburg’s assistant, the pathos formulas should be understood as visible expressions of psychic states that have become fossilized in the images (Michaud and Didi-Huberman 2007, p. 16). That is why Didi-Huberman advances the idea of reading Warburg closely with Freud, in a way that would make intelligible the metaphysical foundation of his ‘psycho-history’, with all its anachronisms, its returns, resurgences, and forgetfulness. Warburg’s method operates in a new model of temporality – one that seems to be close to Freud, developed at the same time – a complex model that was denominated ‘survival’ (*Nachleben*). This model has many affinities in psychoanalysis with the time of the unconscious, the return of the repressed and the form of the *a posteriori* (Didi-Huberman 2008, p. 13).

ARTICLE 3. THE FORMALITY OF THE LAW IS UNABLE TO OVERCOME THE REALITY OF INEQUALITY EXPRESSED IN PICTURES.

§1 - *The elements of a photograph may change in time, but the racial trope remains represented in the force that keeps the distance between subject and master.*

§2 - *In the building of a nation, the subjected subject may remain associated with the exotic, the folkloric, the sensual and the traditional.*

§3 - *Affirmative action may interrupt the racial trope by suppression of duality, but the search for a pure culture or pure racial subject, unchangeable in time and space, can always backfire.*

The transition from slaveholding Empire to a Republic did not overcome the social abyss that maintains the majority of black Brazilians among the poorest strata of the population. Unsurprisingly, this distance has repeatedly taken the folkloric form of tradition. Thus, in a tourist book on the state of Bahia, first published in 1955, one of Salvador's most luxurious residential addresses (the most modern building in the city at the time), is framed with a *baiana* (woman of Bahia) in typical Afro-Brazilian dress in the foreground, selling sweets and pastries on her street-vending tray.¹¹ Another picture of the same building, in the same book, now viewed through the ruins of an arch in an ancient colonial fountain, leaves no doubt as to the first photograph's intended meaning: the social difference is diluted in a manifestation of the past that is no longer slavocratic, but traditional, folkloric and touristic.¹² In both photographs the modernist building, the scene's true protagonist, appears in the background. This composition's repetition by different photographers is not merely the symptom of a modernity that is more aspirational than real: in this sense, modernity remains as distant from the Brazilian

¹¹ *Baiana* selling Munguzá and the *Oceania* building. Photo by Eric Hess. (*Isto é Bahia!* 1963)

¹² *Mãe D'Água* Fountain and *Oceania* building. Photo by Sacha Harnish. (*Isto é Bahia!* 1963)

reality of time as the social distance that separates the building's residents from the *baiana* across the street. Maybe there is a second clue here as to how photographs picture the law: elements can be changed (slave boys and tricycles; ruined fountains and Afro-Brazilian vendors); they are interchangeable to the extent that the distances between them remain in force.

In a snapshot from a 1946 reception at an upmarket home on the outskirts of Rio de Janeiro, a typical *baiana* serves a guest (a modern socialite) and smiles at us (Fig. 6). Meanwhile, the guest fumbles with a fork to spear a *quitute* [delicacy] originally meant to be eaten with the hands. The socialite's clumsy *finesse* deconstructs the scene's chic folkloric transformation by inscribing the social distance separating the two women in the gesture with the fork.



Fig. 6. Kurt Klagsbrunn (1918-2005). High society garden party. Rio de Janeiro, 1946.

In recent decades, with the rise in affirmative action policies in Brazil (including enrolment quotas in public universities, and other initiatives to promote the black population's rights), photographic tropes based on racial contrast have tended to diminish. Meanwhile, expectations have increased that photography might essentially reveal a more or less latent and fundamental black identity, immune to folkloric (and

especially carnivalesque) staging. In a book published in 2006 with support from the Special Secretariat for Policies to Promote Racial Equality (a Brazilian federal government agency), photographer André Cypriano visited several of Brazil's *quilombola* communities (Cypriano and Anjos 2006). These are Afro-Brazilian communities normally living in rural areas of Brazil, consisting of populations descended from *quilombos* – groups of escaped slaves – or consisting of free and emancipated blacks that joined together in farming villages in which collective life was based to varying degrees on an African cultural and religious matrix. In 2006, there were an estimated 2,842 *quilombola* communities scattered across Brazil. Among other demands, they sought to guarantee the people's legal ownership rights to the land.

Both the exhibition and the book are punctuated by grand portraits whose subtitles reveal the desire to make them speak even louder than these records of material culture and collective life.¹³ We thus read beneath some of these pictures that 'in the African traditions', it is 'the oldest women' that 'accumulate the wisdom and the knowledge'; or that the 'silence' and the 'forceful expression of the *quilombola* people have much to say to Brazilian society'; 'they are marks of identity'; 'the mirror of a precious Brazilian realm'. In these faces the subtitles glimpse 'the remote past of the African diaspora', the 'ancestral expression of the *quilombola* people', and the 'legacies of the past'. The extreme close-ups of the *quilombola* people appear to pursue one of the characteristics that Walter Benjamin attributed to the 'aura' of an historical object: as we look closer and closer, the aura returns our gaze from further and further away (Benjamin and Jennings 2003, p. 256).

In fact, this is not a new strategy in photography. It was first clearly seen in the books of Nazi-German photographer, Erna Lendvai-Dirksen, engaged since the early

¹³ See <http://www.andrecypriano.com/#mi=2&pt=1&pi=10000&s=2&p=5&a=0&at=0>.

1930s in a project called *Das Deutsche Volksgesicht* ('The German people's face', sometimes translated in English as 'The true face of Germany'). Following the Nazi principle of *Blut und Boden* (Blood and Soil), her book visits small villages in Tirol (Lendvai-Dircksen 1941) or Lower Saxony (Lendvai-Dircksen 1943), inspired by Hölderlin or Goethe verses. One cannot see cars, airplanes, guns or even radios, despite there being a war outside; only pipes, ploughs and cows suspended in a timeless environment.

There is a third law here: in photography, the price of purity is mythical confinement. In 1951 the photojournalist, José Medeiros, working for the most popular Brazilian illustrated magazine of the time, *O Cruzeiro*, photographed for the first time the initiation rite of a *iaô*, a novice in the Afro-Brazilian *Candomblé* religion in Bahia (Medeiros 2009). One of the stories boasted the sensationalist title: 'The Wives of the Bloodthirsty Gods'. We see the heads of girls (in a trance) being shaven, while their bodies are painted and finally covered with blood and feathers from dead chickens. At the time the scandal surpassed the pictures' ethnographic value. But nobody noticed the absurdity of a veritable cultural and temporal paradox, namely, the presence of a Coca-Cola calendar on the wall.¹⁴ In André Cypriano's recent *quilombola* photographs the calendar would not have remained visible. His close-ups serve as a kind of certificate of imaginary isolation for these communities, essential for sustaining their claims vis-à-vis urban public opinion in Brazil.

These pictorial and technical experiments with time and space in photographs are particularly interesting in considering how they shape subjectivity. It has been argued that the modern subject is born out of *optics*: the decentring of the world

¹⁴ This picture, with the calendar visible in the background, is available here: <http://observatoriodiversidade.org.br/site/wp-content/uploads/2014/03/candomble.jpg>

coincides with the emergence of a perspective centred in the eye (Baudry and Williams 1974, p. 40). The distinction between object and subject has remained, though, as an epistemological issue that is assumed to be a different process from that in which a subject is separated from a sovereign. Only more recently legal theory has finally admitted that both processes coincide in their effects: *‘In both, it is the exclusion of the most important aspects from the constructed “subjectivity” that gives the system its privileged status’* (Boyle 1991, p. 514, our emphasis). In attempting technically to create subjectivity these photographs surprise us in revealing – like a *paparazzo* – an illegitimate relation(ship): the coupling of law and image, hidden in *space*, secretly shaping subjectivity and, at the same *time*, producing a doubled foundation for sovereignty.

As we know, sovereignty can be defined precisely by a relation between time and space. This is not only true in terms of the classical definitions of the concept, such as we find in Jean Bodin, as an ‘absolute’ and ‘perpetual’ power (Bodin 1967, p. 25). It is the central issue, too, in twentieth-century debates, as also found in Carl Schmitt’s definition of the term as a spatial relation, questioning whether the sovereign is inside or outside the legal system (Schmitt 1985). However, it is characteristic of this second kind of scholarship that has now become a ‘new orthodoxy’ (Bottomley and Moore 2012, p. 164) to abandon time and base itself mainly in spatial issues. Although these issues remain central to framing the notion of sovereignty in the twenty-first century, we believe most of these approaches still lack a *visual* understanding of the notion.¹⁵ Framing, after all, is not only related to spatial restraint. It is also about fleshing out the picture, the motif of the frame. A visual approach to sovereignty could be the result of

¹⁵ De Matos, unpublished. To see interesting and opposing views on the topic, see: Feldman 2010, pp. 136–164; see also: Guardiola-Rivera 2010, pp. 130–145.

overcoming a spatial notion of sovereignty, through the use of ‘creative thinking’ (Bottomley and Moore 2012). Aby Warburg’s work in iconology is probably the key to unlocking the deadlock of time and space in sovereignty.

For Warburg, as in Foucault, it is the overcoming of the idea of linearity in the historical process that will result in a spatial approach to history and culture. Agamben suggests that the panoptic is the main *spatialising* procedure in Foucault. The panoptic, taken as ‘the diagram of a mechanism of power reduced to its ideal form’, works similarly to the way in which Warburg connects images around the *pathos formulas*. The panoptic functions like a paradigm, ‘it is a singular object that, standing equally for all others of the same class, defines the intelligibility of the group of which it is a part and which, at the same time, it constitutes’ (Agamben 2009b, p. 17). Following steps that would lead to a new understanding of history, such as those proposed by the *École des Annales* and led by historians such as Marc Bloch (*The Royal Touch*), Ernst Kantorowicz (*The King’s Two Bodies*) and Lucien Febvre (*The Problem of Unbelief in the Sixteenth Century*), Foucault would attempt to free historiography from its metonymic contexts (place, epoch) restoring the primacy of metaphorical contexts, where the image would play a decisive role (Agamben 2009b, pp. 17-18).

This movement, a spatial movement of *dis-place-ment*, produces a similar effect to that proposed by Warburg – as Ginzburg would read in his work during the 1960s – opening up a new understanding: the singularities of the image could not be reduced to one of the sides of the dichotomy ‘universal/particular’. A paradigmatic reading of the image would defy the very separation between rule and exception:

The rule (if it is still possible to speak of rules here) is not a generality preexisting the singular cases and applicable to them, nor is it something resulting from the exhaustive enumeration of specific cases. Instead, it is the exhibition alone of the paradigmatic case that constitutes a rule, which as such cannot be applied or stated. (Agamben 2009b, p. 21)

The movement, the *animation* that Warburg sets in motion, here, is not only a displacement from one place to another but also a leap, a montage, a repetition and a difference, perceptible in the confluence between body and memory. The things that are perceptible are, at the same time, archaeological (fossils, remains) and contemporary (gestures, experiences). When facing images, we usually stand before a question: that of how to embody the survival and, at the same time, creating a ‘living’ reciprocity between the act of knowing and the object of knowledge (Michaud and Didi-Huberman 2007, p. 18).

But time may want to take its revenge on space here. Some authors might try to explain the consequences of this approach, inspired by Warburg, by taking it even closer to the notion of unconscious, as in Freud (Lissofsky 2014, p. 309). Even though this is possible, we have to make it clear that it would result in a total methodological failure, if this would lead one to look at artworks as a way to analyze, psychoanalytically, the authors. What we read in Warburg is, perhaps, the contrary: the author is only the bearer of a mark, like a person infected by a virus that carries a symptom. The patient is, actually, a civilization. For him, the personality of an artist would never be the key to the profound meaning of an image. We would find it in the symbols that function as a mediation, enabling us to overcome the opposition between history, as the study of a conscious expression; and anthropology, as the study of an unconscious condition (Agamben and Heller-Roazen 1999, p. 99).

ARTICLE 4. UNDER THE LAW OF IMAGES, EVERY DISAPPEARANCE LEAVES A TRACE

§1 - The deeper you go in a photograph, the closer to the surface you are.

§2 - What looks like a disappearance is something sliding away (the significant,

usually).

The counterpart of these pictures discussed under Articles 2 and 3 is one of the most recurrent racial tropes in Brazil since the beginning of the 1970s, particularly with the increasing use of colour by documentary and artistic photographers, highlighting the surface of non-white skin (black skin, indigenous body painting, tattoos, scars). The skins acquire expressive photographic value: for example, the surface for inscription of culture and beauty; the stunning photographs by Maureen Bisiliat in the Xingu National Park;¹⁶ a plastic substance on which to paint the colours in the urban setting of Amazonian cities, in the pictures by photographer Luiz Braga from the State of Pará (at the mouth of the Amazon);¹⁷ as sediment for a history of pain and pleasure, sharing scars with brothel walls in Bahia and miserable boxing gyms in Rio de Janeiro, as in the series by Miguel Rio Branco.¹⁸

How far do contemporary works like those of Cypriano, Bisiliat, Braga, and Rio Branco take us from the photographic tropes of race that marked the late nineteenth century and the first five or six decades of the twentieth? How far are we from the figures of duality represented by Freyre's *Casa Grande & Senzala*? Were these recent changes in the pictorial representation of the Brazilian black population the best answer to the interrogations on the book's cover?

The answer to these questions might be found in analyzing a catalogue from a 1982 exhibition in João Pessoa, capital of Paraíba state, sponsored by the municipal and

¹⁶ See, for example: <http://espacohumus.com/wp-content/uploads/2014/08/Maureen-Bisilliat-XinguTerra-2-1973-1977.jpg>

¹⁷ For Luiz Braga's photography on Belém, see: <http://luizbraga.com.br/site/index.php/cor/?lang=en>

¹⁸ See: <http://mediastore.magnumphotos.com/CoreXDoc/MAG/Media/Home2/8/f/e/0/PAR111614.jpg>
And also, see: <http://www.artnet.com/WebServices/images/113122671lgvBFCfDrCWXJHQFAD/miguel-rio-branco-leninha-dancing-with-red-curtain.jpg>

state governments and supported by the Federal University of Paraíba. The exhibition was called *Engenhos e Senzalas* [Sugar Plantations and Slave Quarters] (Bronzeado 1982). It is a fictionalized historical play with staged photographs, as in a photo novella, inspired by Freyre. The sociologist himself, then 82 years of age, wrote a preface, praising the photographer's contribution (a professor of advertising photography at the university) for having produced an artistic interpretation of one of Brazil's private histories. His 'romantic imagination, beautifully enlivened by the most beautiful of realisms' had masterfully undressed 'the equivalents of slaveholding mistresses and their slave-girls' and portrayed them 'in various positions, completely and non-pornographically naked'. Thanks to the photographer's imagination, according to Freyre, Brazilians could see their 'grandmothers, great-grandmothers, and great-great-grandmothers ... in the pure beauty of their natural forms, which they had only seen before in family albums, dressed in Victorian Sunday dress' (Bronzeado 1982).

It is worthwhile to study some of this work. The *casa grande*, for example, is very similar to that on the book's cover, peopled by elegant young people gathering in the afternoon for coffee on the veranda. At suppertime, the priapic plantation owner can hardly wait for the meal to end before stripping his wife. Meanwhile the eldest son, future lord of the land, frolics with his favourite slave girl in the bedroom. The next day, the mistress of the *casa grande* is bathed by her slave girls because she has a rendezvous with her lover while her husband is supposedly in town. The latter, in turn, uses the pretext of overseeing slaves to meet with his black lover. In the *senzala*, conceived as a harem, the slave women are already undressed, and he is free to romp with the favourite object of his lust.¹⁹

¹⁹ This picture is available in Revista Zum 7, at: <https://revistazum.com.br/revista-zum-7/para-onde-foi-a-senzala/>

Suddenly, we start to get an understanding about what happened. The *senzalas* did not disappear; they were occupied by the fantasies of the *Casa Grande*. The agrarian economy succumbed to the economy of desire. Nothing was more natural than for the slave quarters to disappear from the book's cover as well. Yet such a powerful *syntagma* – *Casa Grande & Senzala* – could not fade so easily. Having acquired a new connotation, it is now found in previously unimaginable circumstances. In the colonial town of Arraial d'Ajuda on the coast of Bahia, for example, there is an inn called 'Casa Grande & Senzala'. Would anyone stay there? Definitely, but only in the big house. In a publicity photo of the hotel, the bed and chairs remind us of a luxurious plantation manor. But where did the slave quarters go? A small engraving on the wall of the room both alludes to and misplaces the reference to slavery, since it depicts a scene of servitude in Ancient Egypt.²⁰

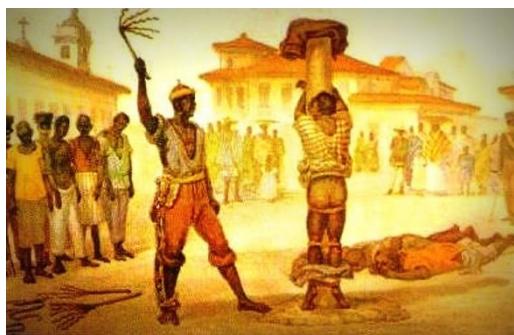
As the guests all belong to the *casa grande*, what is left of the *senzala*? The answer is in the naming of restaurants. The historical city of Paraty has a Senzala Barbecue, inaugurated in 2012, while a simple internet search locates multiple establishments around the country, which invite us to taste the exquisite flavours of the *senzala*. While on one tourist website's comments page a shocked guest wrote: 'How could they? It's as if they were inviting us to eat at a restaurant called "Auschwitz"!'. This outrage was a rare exception. The meaning had already shifted, and few appeared offended by the invitation to dine at the 'Slave Quarters'.

The new configuration of these terms is expressed most dramatically however in Gilberto Freyre's home town Recife. Across the street from the sociologist's imposing former home, now a museum in his honour, a 'motel' called 'Senzala' opened for

²⁰ Hotel-Pousada 'Casa Grande e Senzala', in Arraial da Ajuda, Bahia. See: www.casagrandesenzala.com.br

business.²¹ The inaugural slogan even played on the irony: ‘Visit the big house, then have fun at the slave quarters’. Freyre’s heirs managed to have the billboard removed, but the motel stayed and became a huge hit. Another billboard announcing the motel’s S&M bondage rooms reads ‘Come here for a whipping’, clearly alluding to slave’s punishment.

Though it has not been possible to locate any photos of the inside of this motel, we did managed to find some of another, also called *Senzala*, located in Porto Alegre in Brazil’s southernmost state, where there were never any sugar plantations which resulted in the complementary relationship enjoyed by the *casa grande* and *senzala* as described by Freyre. The motel’s website shows no vestiges of miscegenation, being a rendezvous for local white couples. Curiously enough, the direct references to torturing of slaves are yet more explicit (Fig. 7). In the ‘Pillory Suite’ the stakes where the slaves were tied now hold the promise of intense pleasure.²² The imaginary conversion of the Slave Quarters into a place of both culinary and erotic pleasure not only fades and wards off the images of slavery in Brazil, but especially manifests the current desire – sexual, but not only so – to belong to the Casa Grande.



²¹ ‘Motels’ in Brazil are usually of a different kind than those in the U.S, where the word implies a basic, low-cost, often roadside hotel. In Brazil it refers to an establishment that offers rooms for sexual encounters, hired by the hour, including sometimes round beds, jacuzzis and mirrors. See: Choat 2013. See also: Romero 2015.

²² See: <http://www.motel-senzala.com.br/index>.

Fig. 7. 'Pillory' by Jean-Baptiste Debret (1768-1848). Rio de Janeiro, 1827.

ARTICLE 5. WHAT IS REPRESSED (BY THE LAW) ALWAYS RETURNS (IN PICTURES).

§1 - Sometimes, it returns as a surprising apparition; like a double that emerges from the shadows.

§2 - Every nation demands every-body, and every picture demands a(to) (em)body.

Images, figurative creations, pictures as 'artworks', are a testimony of history, of a destination, because their trajectories leave traces in individual and collective memory that Warburg suggests are 'indestructible': they are like 'phobic impressions' that memory carries within itself, latent, but with all its vitality (Warburg 2009, p. 125). As Freud taught us, what is repressed always returns, sometimes as a surprising apparition: like the young black man emerging from a large terra cotta vase in 1922 – *The Independence Centennial Exposition*, a documentary by Silvino Santos filmed at the Expo in Rio de Janeiro to celebrate the centennial of Brazil's independence (Araújo and Santos 1922). Luciana Martins suggests that this sequence, rather pointless in a film that intends to document Brazil's modernity, is a conscious allusion 'to the invisibility of the black population in the spectacle of the modern city' (Martins 2013). We cannot be sure of the filmmaker's conscious intentions, but there is no doubt that the scene simulates the black man's sudden appearance as a phantom traversing the membrane of the present. Such appearances occur countless times in Brazilian iconography, especially cinema, as in the birth of *Macunaíma* in the eponymous 1968 film by Joaquim Pedro de Andrade (Andrade 1969).

Yet the black body's sudden appearance and deformation that can be seen in Brazilian medical journals from the 1930s and 1940s (Gesteira da Silva and Fonseca

2013) are not the only tropes by which the phantom of the slave returns in photography. It is evoked most frequently as a shadow. In a photograph by Walter Firmo, entitled ‘State of Siege’, taken in 1977 during the military dictatorship, the police are racing along the streets of a poor outlying neighbourhood in Rio de Janeiro in front of shadows from the local residents, mostly children and teenagers.²³ Are they all black? Distinctive signs of class and race – such as the dirt road – would lead those accustomed to reading Brazilian imagery to say yes.²⁴ They belong to a segment of the population that remained in the shadows, not only because of their social condition, but because they are rarely protagonists in the country’s history.

Perhaps there is no more emblematic image of the shadowy nature of political disempowerment for Brazil’s black population than this other photograph by Evandro Teixeira, taken during the student demonstrations against the military dictatorship in Rio de Janeiro in 1968. Indifferent to the students, and ignored by a soldier with a rifle and bayonet, a worker in one of the city’s public gardens is resting after lunch.²⁵

But sometimes what has been repressed resurfaces violently, and the shadow of slavery comes to light, causing outrage and consternation. Such commotion is more or less fleeting, but its images last in the collective memory. Such was the case of the photograph that won the 1983 Esso Award – the most important prize in Brazilian

²³ Walter Firmo. ‘State of Siege’, 1977. Available at: https://revistazum.com.br/wp-content/uploads/2015/02/Aula_metalinguagem-94-de-141.jpg

²⁴ For a more detailed argument on the accuracy of this perception, see: Nascimento and Nascimento 2001, pp. 105–156.

²⁵ Evandro Teixeira. *Students’ Movement*. Rio de Janeiro, 1968. Available at: <https://revistazum.com.br/revista-zum-7/para-onde-foi-a-senzala/>

photojournalism.²⁶ Luiz Morier was covering a police raid in a Rio de Janeiro slum. There were so many arrests that day the police ran out of handcuffs. One officer found a piece of rope, and the detainees were led away bound together with the rope tied around their necks. Morier entitled the photo 'All Blacks'. This image immediately associates these police with the nineteenth-century 'capitães-do-mato' (paddy rollers) who hunted down fugitive slaves giving it a significance that explains the award. This dormant, latent image came to life not only through the photographer's lens, but also (and to the same extent) in the gesture of the police that enacted it, and in the memory of the newspaper's readers. Initially, the outrage apparently results from the police brutality, but what shocks us is how natural the action appears, that is, how the images of a submerged memory return 'naturally' to the present. We believe the outrage stems less from the disrespect for the prisoners than the fact the police re-enacted a repressed memory.

In February 2014, a similar image invaded the Brazilian media. A teenage boy suspected of petty theft was captured and beaten by a group of vigilante residents in a middle-class neighbourhood of Rio de Janeiro. They later left him shackled to a post with a bicycle lock around his neck. The nudity and the irons shackling him to the post in a public byway recalled the corporal punishment suffered by fugitive and disobedient slaves. This picture, like the previous one, already existed long before it was taken.²⁷

How can we explain these apparitions, these *doubled* resurgences? From which feelings or point of view, consciously or unconsciously, are they preserved in the memory file? And, are there any laws by which they are repressed and forced to

²⁶ Luiz Morier. All Blacks, 1983. Eso Award 'Best Picture of the Year'. Available at: <http://www.abi.org.br/todos-negros/>

²⁷ Rio de Janeiro, February 2014. Photo by Ivone Bezerra de Melo. See: <http://g1.globo.com/rio-de-janeiro/noticia/2014/02/adolescente-e-espantado-e-presos-no-poste-no-flamengo-no-rio.html>

reappear again? (Warburg 2009, p. 313) One possible answer to these questions is that advanced by Didi-Huberman, who calls our attention to the fact that what is at stake in the ‘survival’ is, after all, a model for the ‘historical unconscious’: the possibility of a *history-symptom*, and of a *history-montage*. Another possible answer, according to Warburg, could be found in taking forward the task of developing a ‘psychological story through images’ – a task originally set by the Illuminist ‘science of culture’. This could be understood as an attempt to bring these forces into the light, to exorcize, and to ‘un-demonize’ this heritage (Michaud and Didi-Huberman 2007, p. 312).

CONCLUSION

Since the 1990s, a new global era of image migration took place. Digital media and technology permitted an exponential expansion of resources and editing techniques, processing and distribution of images. These changes in turn open up the possibility of appropriation; hybridization; and transformation of any image produced today and, alongside them, any image produced in the past. We are taken, then, by a strange vertigo, a feeling that anything that was once made in image and likeness is now at our disposal:

This mountain of images that accumulates infinitely under our feet, and that does not stop growing, asks us questions not only about the deeper strata grounded on tradition, but also about the imperceptible dust of millions of photographs that are being taken by mobile phones, right now. Technological resources have made possible to any child and to the intuition of the most naïve artist, and in an unknown scale and speed, the chance of liberating dreams that images have kept asleep in their wombs for generations. (Lissofsky 2012, p. 22)

But looking back at our opening metaphor, we are tempted to ask: how could the law possibly react, or try to respond to this infinite possibility of multiplication of images? As we know, sometimes after the breakdown of a relationship, one does not

want to be left in a less successful position than one's former partner. Like the image, the law also tries to proliferate indefinitely: cases, statutes, procedures and precedent have all multiplied to an unprecedented extent. But still the law wants to be formal (Fish 1993). By denying its unconscious feelings, and attempting to break these historical bounds to the image, it lacks in imagination.

Regardless of its role in shaping subjectivity, the law wants to rule alone, and to raise its progeny – the legal subject – as a rational and abstract being: an individual built in the logic of modern institutions and with no regard for class, ethnic or gender differences – almost as a persona, a fictional character, or someone using a mask (Douzinas 2000, p. 813). This is, perhaps, the most important characteristic shared by modern law and modern politics in their disturbed relation with images: *disembodiment* – politics and law, as designed in the Enlightenment, were supposed to be abstract, not personal, not bodied (Mitchell 1996, p. 77). Reason, norm and (now) principle, were supposed to overcome the need for faith, title and blood – or body. The bourgeois world was supposed to deliver a modern subject that was neutral, rational and logical. It was necessary, then, to subject the subject, to trap it into analogies, metonym, metaphors and allegories; to bound it into the timeless tropes of race and chain it into the unsurpassed distances of class. Only this complete process it seems, opens up the possibility of creating this abstract being, forgetful of its own image, but capable of becoming a modern subject of law.

A series of new questions might arise from the propositions we have developed into our fictional *Statute of Image-nation*, concerning our experiment on how *law* and *image* relate. But before we give in to this multiplicity of images and laws capable of reproducing themselves in new technological devices, we need to zoom in again on our disappeared image of the *senzala*. Why was this image banished from the cover of the

book? How can it still be present and absent at the same time? Would it be possible to argue that this image – even now that we cannot see it – could be capable of instituting or founding law and the legal subject? Could it be a representation of another inverted double of the sovereign that cannot exist in and inside modern law?

What a strange fate for the Slave Quarters. Its image appears to have dissolved over time but was actually devoured by the fantasies of the big house. It was transformed into this imaginary place where we can realize all our desires, the place of our big house illusions. After the restaurants and motels, we would not be surprised if someone decides to create a *senzala* shopping centre, a place of hedonistic and intangible consumption. The most tragic Law pictured by the semantic displacement of the *senzala* is this: the more the big house living inside us gives free rein to the imaginary omnipotence of its desires (which will inevitably never be fully satisfied), the more real and violent will be the return of the images of suffering that we buried in the past. Images such as phantoms of the slave quarters, that now inhabit the shadows, but which will always return to haunt us dramatically and painfully, in forms such as a naked boy chained to a post. That's the ultimate law of images: *every picture demands a body*. And this picture might get its way as we turn from the rule of law to the role of images and back, from the rule of images to the role of law.

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