

Rule of Law, Security and Police Performance in Brazil

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ABSTRACT:

During this last academic year, I had the unique opportunity to spend 6 months in São Paulo for a Bilateral Exchange and my stay in Brazil remains without any doubt one of the greatest thing I did in life, something which I feel jealous and proud about.

São Paulo is an huge city with a very special vibe, full of people coming from all over the world, alternating dense group of buildings to very poor and degraded suburbs. It is a sort of a Brazilian version of New York, with an incredible economic and financial potential but with many gaps to be filled. The first issue I had to deal with, even before arriving in Brazil, was security and how to start behaving to lead a safe life while staying in this different reality from the one I've always lived in. Literally every person I knew was suggesting me to pay always attention while walking on the streets in Brazil, because the risk of being robbed or assaulted was still a major issue for tourists coming in the country.

As soon as I had arrived in São Paulo I was always afraid of taking out from my pocket my *lphone*, not using it for more than some seconds just to check messages on the display. After some days I realized that all that fear was simply a prejudice which was partly created and fueled from our European beliefs about Brazil and that big and developed city like São Paulo are safe just like any other city in this world.

To be honest I actually saw quite the opposite: rich and wealthy bourgeoisie in is nowadays the biggest slice inhabitants in São Paulo and, mindful of what was Brazil 20-30 years ago, they have increased their obsession with security, both home and while doing some daily actions like driving their cars. Every single building in the main neighborhoods of São Paulo is equipped with electrical wires and a concierge so everyone needs to present him/herself (including residents) to the doorman in order to get inside the condominium.

Said that, I think every foreigner needs to reconsider safeness and security in the most developed cities of Brazil, because they do not differ so much in this field from our European ones.

A whole different story is when we start discussing about the slums in the greater areas of big cities like São Paulo or Rio de Janeiro where the situation is still very difficult and hard to deal with. and we will pay attention also to that side of Brazilian society.

What really intrigued me during my whole stay, though, was the relation between Brazilians and police forces.

This is certainly an hot topic due to the love/hate (mostly hate I have to admit) between civilians and police officers. Usually whenever we see police driving around our towns we feel safer and more secure, like someone is watching over our actions preventing crimes.

Contrariwise, while in Brazil, I often felt a sensation of hostility (not always but quite frequently) when approaching to some policemen in the streets. I was once involved in a case where I needed to call police from my house in order to silence a very loud group of people partying until dawn in front of my building. What happened was that a whole police unit of 6 people presented themselves at my door with severe faces asking me my passport and other documents proving that I was not an outlaw living in their country, and addressing me very personal questions.

The only fact that I was not Brazilian made them worry more about the genuineness of my statements than about the group of Brazilian people disturbing the whole neighborhood.

Starting from this very light example I wanted to understand:

Why anything like that occurs quite often?

But most of all:

Why do I see also Brazilians being afraid and suspicious about police in their own home cities whereas they should feel safer thanks to their work?

I felt the need of investigating more about this issue on multiple levels, starting from the people I used to meet during my daily routine (taxi-drivers, shopkeepers, local friends) up to prominent academic figures such as university teachers and experts of international security. Before getting to this point, though, I would like to give a theoretical framework to my thesis, starting from the concept of Rule of Law and their dimensions and sub-dimensions and then passing to the analysis of democracy in Brazil starting from the end of the military dictatorship up to our days, with some special attention to the topic of individual security within Brazilian country.

While almost every country of the Third World embarked on a transition to democracy following the third wave of democratization of the 1980's, the formation, and then the establishment of democracy in Brazil is a peculiar, if not unique, case-study.

Brazil is certainly an huge country (almost to be considered a continent) with a vast amount of natural resources, which is without any doubt a key element that could allow Brazil to be a leading power, not only within the Latin American framework but also internationally, being the third world's democracy in terms of quantity of direct electors.

Despite that, the process towards democracy have been spasmodic and interspersed with violent political revolutions and a following military repression during from 1964 to 1985.

Even today, we can say that consolidation of democratic rule is still far from settled in the country.

According to The *WJP Rule of Law index* looks at 48 rule of law indicators organized around 9 conceptual dimensions.

This accurate index shows that the country poorly performs especially in these 2 dimensions:

- Order and security: 69th out of 97 countries
- Criminal Justice: 52nd out of 97 countries

These data show us exactly why Brazil is still far from being considered a well-performing model of democracy in the world

So, in which sense rule of law should be implemented so that Brazil could eventually achieve a better world position and becoming a new modern example of functioning democracy?

Brazil needs a plan of social reforms investing more about serious needs and plagues of the population, including inequal Brazilian judiciary work and widespread illiteracy in certain areas of the country.

Since security is possibly one of the worst *Pet Hate* of Brazil, I proceed analyzing the concepts of Human Security, including personal security and civil rights.

During 2002 around 38.000 people were killed by firearms, highest recorded rate of any country in the world including countries at war. Urban violence is still one of the worst phenomenon characterizing Brazil nowadays, just like in the past.

Official health data shows that the risk of gun-related deaths in Brazil is 2.6 times higher than in the rest of the world, and the great majority of these deaths (90%) are homicides.

Prison conditions, disproportionate reactions of violence from police, domestic violence and abuses against women and LGBT people are few of the terrible and several phenomena still embarrassing international community and Brazil itself.

I then focus on the work of Brazilian Police, giving some examples of frequent misconduct about their performance and how this is perceived publicly.

Most citizens regardless of gender, ethnicity, age or income or power still feel threatened and insecure about the future and, first of all, about their own safety.

Police violence has continued, throughout the years, to challenge the consolidation of the Rule of Law in Brazil. The difference between Brazil and other countries laid in the fact that feelings of fear and insecurity grew amidst the return to democracy.

Scholars are still debating about the causes of this paradox: socially rooted authoritarianism or legacies from the authoritarian regime (*authoritarian rubble*) within law enforcement agencies?

The problem of submitting the state military police forces to civilian control is what still today is considered the major obstacle to the successful implementation of public security policy in the country.

Police is nowadays facing a dual crisis. While lacking of legitimacy to the public from an external point of view, police suffers internal problems such as weak management, low wages, absence of modern training methods and firm performance criteria.

The strict dependence of police from local governors and influencing law-makers in order to enforce their decisions like a para-military organized structure can only worsen the whole situation.

Why Brazilian citizens continue to mistrust the police even after the transition to democratic governance?

Public trust in police forces is an essential prerequisite when it comes to consider the quality of a democratic state.

During my whole stay in Brazil this simple, yet delicate, question always made me wonder, as an European, why people in need of any help should not trust a police officer in the streets more than a regular civilian.

When considering that Brazil has one of the worst problems with police violence in the world, one cannot avoid to deal also with a more specific and delicate issue such as the racial implications behind many police operations. Most discrimination in Brazil is subtle and includes slights, aggressions and numerous other informal practices, while consciously egregious and overt racism directed at particular individuals, especially in the form of racial insults, is more commonly recognized as racist.

In societies like the United States, sociologists have also discovered how racism persists to reproduce racial inequalities, despite the end of race-based

laws and the decline of explicit or egregious racism. There is plenty of statistical evidence showing that Brazil's racial inequality is due partly to ongoing discrimination, despite the historical absence of race-based laws or its apparently milder form of racism.

An interesting peculiar case-study of police enforcement in the country is the one given by the synergetic work done by two special police forces that, even if theoretically belonging to military sector, seems to be considered fully independent from it. This two units are respectively the BOPE (Batalhão de Operações Policiais Especiais) and the UPP (*Unidade de Policia Pacificadora*) and they were ideated to work exclusively in the complex framework of the Favelas in Rio de Janeiro.

The history of urban violence in Rio de Janeiro is pretty long and difficult, cutting across political, institutional, economic and social categories, and involving both military and civil police against major criminal organizations engaged in arms and drug trafficking.

The inequality between rich and poor classes within the city is the result os Brazil's rapid urbanization in the latter half of the 20th century.

Police repression has been one of the main component of this clash since military dictatorship and then also during the more recent transition to democracy.

The intervention in Rio's favelas has always been oriented towards a brutal form of repression including coercive military invasion and short lived internal policing initiatives.

From 2008, though, the process of securitization of these slums seems to be changed thanks to the new approach ideated by the State governor Sergio Cabral and the Mayor Eduardo Paes to this Rio's very characterizing plague. This type of Pacification intervention brought a significant drop in Rio's overall homicide rate along with police killings and robberies leading to killings.

Despite this big shift in the data,

does this Pacification process actually securitize present and future development of the slums, along with having an effective impact in violence indicators in Rio?

The classic four stages of Pacification performs the following order:

1) Tactical Intervention (*RESCUE* and *CLEAR*)

BOPE and BPChoque dismantle armed groups and drug traffickers shifting territorial control from drug gangs and militias to the state.

2) Stabilization (*SHAPE*) Military Police and BOPE reduce levels of violence before giving way to a permanent UPP presence.

3) UPP Implementation (*CONSOLIDATE* and *HOLD*)

UPP and UPP Social facilitate service provision and urban integration by promoting citizenship and development programs.

4) Monitoring and Evaluation (*BUILD*)

ISP evaluates multi-sectoral Pacification policy mix to inform decision-making and advance program goals and development

The **BOPE** (Batalhão de Operações Policiais Especiais) is an elite battalion of the Brazilian police, especially located in Rio de Janeiro and dedicated to deal with the most rooted and heavy problems of Brazilian criminal society. This battalion has a fame to have repulsion for military corruption, thanks to the grueling physical and mental preparation and selection to enter, as well as the small number of actual members.

It is especially funded by the government also to avoid to *come into contact* with the rest of the police Brazilian forces, often considered more easy to be corrupted.

The BOPE plays a very significant role when it comes to re-establishing the legitimacy of the State in the favelas.

Their campaigns have also a symbolic connotation which has not to be ignored or be underestimated.

Their strategical role, though, is the most important one.

As a pillar for International security, deterrence is the key process to avoid the worst to happen.

With all the informations available on the mission of this elite squad, and their frequent displays where they often threaten the residents and responds to provocations with extreme violence, BOPE itself sends a clear message to the criminal communities.

Once the BOPE's work is completed, the UPP is established in the favela.

The **UPP** is institutionally tied to the military police, but with the clear intent of being philosophically distinct from it.

The UPP program had **three main goals**:

- 1) taking back state control over communities with a strong influence of armed conflict
- 2) give back peace and public safety to the local population
- 3) contribute to the destruction of the common idea of *urban wars*, a concept which has always been present in Rio de Janeiro.

Did the BOPE and UPP Intervention improve the crime data and overall situation of favelas?

A 2012 study in partnership with the *Institute of Public Security* shows also that about 100.000 less bullets were fired since the beginning of the Pacification program in the police departments serving the current pacified communities.

Overall, the conjoint work of both BOPE and UPP lead in few years to very positive results according to many surveys and statistics. Due to the pacification, in fact, armed criminals had migrated from parts now characterized by a large police presence, to less patrolled spots like Niterói,

situated next to the Guanabara Bay. On the basis of the analysis of crime data, while gang leaders higher in the hierarchy could somehow re-establish in other favela communities where UPP is not present, it is unlikely to see low level traffickers finding an easy way in relocating themselves into other geographic areas across the city.

Even though the most dangerous subjects are now definitely out of their habitat, strong familiar connections are still radicated in their native favelas, keeping new illegal projects alive thanks to the symbiotic relationships and meetings aimed to coordinate new internal members as well as external ones coming from other unpacified favelas.

Also the frequent cases of corrupt police are another plague for the true effectiveness of such an ambitious project like this is.

In order to prevent also this peculiar trend, from 2012 the government tried to respond with the creation of a Pacifying Police Coordinating team (CPP) that will be working within and around UPPs, in a concerted effort to rebuild their credibility and curtail corruption.

All this shows that UPP implementation is certainly a brilliant idea the total number of crimes have consistently dropped in few years after its creation.

To all intents and purposes, the UPP is an administrative, operational, dogmatic and philosophical shift which could forever mark the improvement of a big portion of the city, being the key of the slums development and social cohesion.

What must be understood, though, is that this machine still needs to be perfected in many ways enabling this implementation to finally produce some very consistent outcomes.

This means that not only violence and corruption coming from drug traffickers and arm dealers should be abolished but also the one caused by UPPs.

As well as it happens with the BOPE's misconduct, also the UPPs behaviour should be rigidly checked and monitored so that local dwellers will have no reasons left to support illegality, instilling confidence to collaborate with police officers in order to build a better future for the next generations through reforms and transformations.

Passing to a Security related to Civil Society, it can be said that there are three types of security that have been developed according to the very evolution of society and paradigms started during the military dictatorship. The concept of **national security**, established during the period of military rule (1964-1985), had as main objective the defense of the State while maintaining the political and social status quo.

At this stage of centralization, the state was the only priority.

The prospect of national security was based on the unquestioned supremacy of logic of national interest, defined by the ruling elite, justifying the use of force for the preservation of the order.

In the context of the paradigm, Public Security is a duty of the State and a right and responsibility of all, but in the Article 144 there are only mentioned the police institutions of the Union and the states, without including the role of other government agencies in preventing violence or the community.

With the Federal Constitution of 1988, a differentiation between **national security** and **public security** was made, with the former referring to the facing external threats to national sovereignty and defense of the territory, and the latter related to the violence manifestation in the domestic sphere.

The responsibility for Public Security, in this conception, becomes priority of the States, being the legal responsible for the management of civil and military police . This arrangement has given autonomy to the States in conducting security policies, but at the same time, this made even trickier to implement minimum guidelines for a national security policy, which could put in harm both prevention and control of violence and crime, since the manifestation of these phenomena does not respect state borders.

Currently there has been many debates about a third security paradigm, the **citizen security** which first appeared in mid-1990 and was implemented in Colombia in 1995. This new paradigm is based on the application of sectoral policies at local levels and calls for action both in the control of the spectrum as in the sphere of prevention.

The Citizen Security has as its primary objective the identification of generating problems of violence and delinquency, and the second time the implementation of planned actions aimed at solving the problems identified , the process involves public institutions and civil society as well as other areas, as education, health, leisure, sports, culture , citizenship, etc.

This new paradigm has been timidly introduced in studies and public policies in the area of security, but many challenges involve the practical application of this paradigm.

In citizen security perspective, the focus is on the citizen and, in that sense, violence is perceived as a factor threatening the full enjoyment of their citizenship. Currently, the paradigm of public security is a predominant concern about Brazilian security, but the paradigm of citizen security it is slowly evolving as well, realizing that security is an extremely complex institution involving not only state agencies, but the community as a whole.

When thinking about issues of public security in Brazil, the focus on the innovative experience of UPP, that we previously treated more in-depht, is the main case study on which many scholars and researchers focus all their study on.

In reality, Brazil can offer much more than just the positive (but limited to Rio de Janeiro) UPPs implementation.

The UPP experience should not be considered the only example of “Brazilian model” for citizen security nor it should be the the strategy studied by other regional countries when looking for a *one-fits-all* measure on how to combat crime and violence.

The use of crime observatories and statistics gathering has particularly increased since the introduction of the yearly *Anuário* in 2007 by the Brazilian Forum on Public Security, which turned out to be an extraordinary tool for systematic reporting of criminal data.

Besides that, there is no single solution which could solve all problems related to crime and violence in one move.

Every city, state or region of Brazil has different priorities and major issues to care about in order to diminish the internal inequality characterizing many parts of Brazilian territory.

Since the country suffers from a big inequality in education, development, funds and investments, every area requires tailored measures and implementations.

The best solution to this situation would be leaving a great freedom to local governments to operate in this sense, immediately responding to the most compelling issues needing a quick solution.