

# Extralegal Agency and the Search for Safety in Northeast Brazil

## Moving beyond Carceral Logics

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### Abstract

This article – based on fieldwork conducted in Salvador, Bahia, Brazil – examines how those people most affected by carceral expansion pursue safety in an everyday marked by existential threat. Through a focus on a neglected sector of this population, namely adult women, I show how carceral encounters specifically – and informal, illegal and not-yet-(il)legal exchanges more generally – intersect with familial logics and imperatives to engender a capacity for action that I call ‘extralegal agency’. Extralegal agency is central to a practice of safety that represents an alternative to the dominant model of carceral security. An extralegal agency approach to analysing interconnected prison/urban fields, which decentres masculinized criminal organizations and resists romanticizing the rule of law, enables a disruption of dominant discourses of and about the carceral state.

**Keywords:** agency, Brazil, crime, kinship, police violence, poverty, prison, urbanism

### Introduction

Trisa, a middle-aged *morena*,<sup>1</sup> lives with her children, Diego (eighteen) and Deina (twenty-two), in a three-storey, unfinished house perched on the relatively affluent edge of Bairro das Pombas,<sup>2</sup> a poor urban neighbourhood created by a land invasion in the 1980s that has been a site of collective resistance to violent police actions aiming to remove inhabitants from the land. In the late 2000s, it became the site of a ‘Community Security Base’. The official objective of these bases – versions of Rio de Janeiro’s ‘Police Pacification Units’ – is to reduce homicides by establishing a police presence in neighbourhoods identified as the city’s most violent. Bairro das Pombas, with a population of around sixty thousand, forms part of the urban periphery – or favela zone – of the predominantly Afro-Brazilian city of Salvador, Bahia. Favela zones are made possible by extralegality – for example, by unofficial tolerance of



squatter settlements and pirated utilities (Gledhill and Hita 2009; Holston 2008; Telles and Hirata 2007). Qualities of Trisa's home indicate robust extralegal capacities of some social actors in particular, capacities developed through entanglements with police and prisons. Trisa, a (currently) retired *estelionatária* (con artist), is an *egressa* (ex-prisoner) and former prison visitor. Her home is a monument to the productive imbrication of carceral and kinship processes, though it is located approximately twelve kilometres away from the nearest prison (where she was incarcerated). This domestic stronghold, from which she arranges a safe(r) familial future, is a product of extralegal agency, a neglected dimension of Bahian low-income urban sociality.

Scholars concerned with 'territorial stigmatization' (Wacquant 2007) often counter mainstream discourses that broadly criminalize favela zones by insisting that the vast majority of residents are not involved in drug trafficking. This gambit obscures extralegal activity, which encompasses 'the illegal; the informal; and the not-yet-(il)legal, the latter involving issues not yet decided by the legal system' (Smart and Zerilli 2014: 222). Extralegality figures prominently in the lives of the carceral subjects at the centre of my research, namely impoverished and racialized Bahians whose personal histories and familial relationships have been shaped by imprisonment. This group is growing in the context of carceral expansion.<sup>3</sup> Most Brazilian/ist ethnographic studies of carceral subjects focus on masculinized organizations of self-identified criminals, with origins in the prison system, which exert territorial control over both prisons and favela zones. Jaime Amparo Alves (2015) describes the resistance practised by the marginalized and predominantly black male youth who serve as rank-and-file members of these organizations as 'criminal agency'. Yet many carceral subjects, even those who regularly break the law, do not exercise this form of agency. In local terms, they are neither 'traffickers' nor 'bandits'. This is a high-stakes distinction: criminal agents are especially vulnerable to premature death and other harms. Nonetheless, the racialized poor are already endangered by police (Smith 2016) and other violent actors (Penglase 2014). Thus, safety is an overarching preoccupation for people like Trisa, who neither uphold the law nor invest in a criminal identity. To understand how they 'live with insecurity' (Penglase 2014), it is necessary to attend to extralegality, which opens up possibilities of safety that are unavailable through legal or criminal agentive means.

Trisa's extralegal search for safety provides a window onto the relationship between carceral institutions and safety. To keep life going, carceral subjects must reduce and respond to harms perpetrated by police and prisons while contending with insecurities that the official system of public security ignores or aggravates. Carceral security, the dominant model of securitization, is premised upon the idea that safety is produced by state power. That is, state-sanctioned carceral interventions – mass criminalization, policing and imprisonment – are the 'only legitimate forms of protection from, and solutions to, harm...' (McDowell 2019: 46). Carceral security is 'control-based' in the sense that it focuses on the definition, identification and removal of threats (Jackson and Meiners 2011). Extralegal agents' visions and practices of safety are 'insurgent' (McDowell 2019) in that safety is brought

about by alternative means. Yet insurgent safety is not generated independently of control-based carceral interventions. It becomes thinkable and possible as people negotiate carceral processes, forming relationships with other carceral subjects and acquiring 'crucial information ... about the practicalities of Brazil's arbitrary and biased judicial system' (Chazkel 2009: 698). Issues of safety and care are bound up in this carceral know-how and know-who.

Extralegal agency must be understood in relation not only to carceral institutions but also to the institution of the family as it is lived and imagined by Bahia's poor. In this context, it is not possible to analyse the family without attending to the house. Extralegal agency enables the acquisition and maintenance of houses as well as the realization of outcomes conventionally accomplished in and through the house. Moreover, it is rooted in a conception of sociality that organizes local kinship relations. Bahia's urban poor form and protect families through houses and, often, an extralegal mode of agency which extends logics and practices of kinship into other domains and social relations such as (il)legal markets, prisons and relations with police.<sup>4</sup>

I now turn to the socially stratified context of extralegal normativity that situates the divergent agencies of carceral subjects as well as the pervasive social institution of the *jeitinho Brasileiro* (Brazilian way). This institution, which I approach as an analogue of extralegal agency, is rarely a concern of mainstream discourses on crime or normative critiques of the unruly of law. In the body of this article I move from a story of extralegal house acquisition, which highlights the salience of the *jeitinho* specifically and familial logics and imperatives more generally, to stories of family formation and maintenance which demonstrate how carceral encounters intersect with an ethics of respect, anchored in the house (Shapiro 2016), to constitute the life-sustaining networks through which extralegal agency is exercised. I then show how mutually constitutive processes of individuation and connection – instantiated in houses and central to the construction of kinship and gendered personhood in this milieu – manifest *vis-à-vis* a particular extralegal safety project. In the final section I return to the matter of the contrasting agencies exercised by carceral subjects. Whereas criminal agency shares an important feature with control-based carceral logics, extralegal agency ruptures the dominant model of securitization, opening the possibility of an insurgent safety. Ultimately, this article is not just about the ways in which people subjected to intense carceral control get by, but about how they envision the social order otherwise. A decentering of men and masculinized institutions throws alternative imaginaries into relief, yielding insights that suggest crime and punishment ought not to be conceptualized apart from the family and from care.

### **Extralegal normativity**

Extralegal agents pursue safety within an overarching context in which extralegal normativity prevails. Personalism continues to infuse 'the broader system of the state, allowing both unfair distribution of resources and the creation of spaces of

moral obligation' (Rebhun 1999: 51).<sup>5</sup> Personalism shapes how laws are made and enacted (Holston 2011), as well as attitudes towards the law, such that the hegemony of legal formalism is contested in Brazil. In fact, H. Livia Neves de Barbosa (1995) and Roberto Da Matta (1991) have argued that Brazil's national culture is expressed in the *jeitinho* (lit. little way): the innovative circumvention of universal rules (and other institutional and economic barriers) through an appeal to personal ties.<sup>6</sup> Whereas many societies have developed similar mechanisms for bypassing rules and getting things done, Brazilians recognize the institution in a particularly explicit, often celebratory way. Yet the sneaking national pride many take in the *jeitinho Brasileiro* often fades in critiques of the routinized gap between code and practice that characterizes policing and prisons.

While the contested hegemony of legal formalism provides privileged Brazilians with the scope to dispatch the law instrumentally, this prerogative is rarely available to the poor.<sup>7</sup> With little exception, the poor are not able to choose whether or how they will interact with the legal system. Their experiences tend to register the injuriousness of the law and its enforcement as much as normalized deviations from it. Rather than embodying the rule of law, Brazilian police and prisons exercise a power that is rarely restricted by subordination to well-defined and established laws. Indeed, the operation of these institutions is denounced as a glaring indicator of the 'unrule of law' (French 2013; Pinheiro 2000). Yet these institutions are not merely indexical signs. As historian Amy Chazkel (2009) has shown, *qua* sites of civic education, they have (re)produced an extralegal logic that permeates society. She demonstrates that Brazil's early Republican penal system served as 'a privileged meeting place between the state and society, which facilitated the exchange of useful knowledge about how one should conduct one's self before police, judges, prison guards, and other inmates, and more generally about what it meant to be poor and Brazilian' (2009: 720). Contemporary studies also establish how the entrenched extralegality of the criminal justice system shapes the citizenry. Specifically, many analyses – which tend to be 'decidedly normative and prescriptive in nature' (Denyer Willis 2015: 11) – problematize extralegality as a cause of escalating urban violence (e.g. Caldeira 2000; Holston and Caldeira 1999). In such work, violence is not approached as a chronic condition of capitalist, racist, patriarchal states but as part of a progressive process of transformation in which it will, eventually, be eliminated or benevolently monopolized by the state as sovereign.

Anthropological studies of crime and criminalization mainly intersect with discussions of extralegality around issues of vigilantism, extrajudicial police violence and organizations of criminals that have formed in response to unlawful prison conditions. At these intersections, extralegality is strongly associated with the spectre of a dangerous violence that threatens society. Fearful of violent crime, the middle classes (Scheper-Hughes 2006: 157) and even the poor (Caldeira 2000: 109; Paes-Machado and Noronha 2002) ostensibly come to support police who kill, as well as brutal punishments administered by organized criminal groups (Denyer Willis 2015). What is lost in this theorization of extralegality is the *jeitinho*.

Anthropologies of urban crime and criminalization over-emphasize street crime, specifically offences that involve violence and organized groups. As mentioned above, ethnographies of daily life in favela zones tend to divide the local social universe into two groups: those who are involved in the drug trade and those who are not. The latter then appear as (potential) victims of lawbreaking but rarely as lawbreakers. The exception to this is when they become vigilantes, seek support from violent extrajudicial protectors or engage in extralegal but widespread locally sanctioned practices such as using illicit utility hook-ups or exchanging counterfeit goods. But what about those people who smoke marijuana, shoplift, snatch gold chains from middle-class necks, purchase stolen mobile phones as birthday presents or swindle clients and tellers of banks in affluent neighbourhoods? While such activities are not wholly sanctioned by local values, the people who do such things are not readily categorized as socially threatening criminals by their peers. Nonetheless, their behaviour – as well as their ties to self-identified criminals – draws them into carceral entanglements. It is not possible to understand how people navigate these and other hazards without considering their extralegal experiences in full. This project, however, is made difficult by the meaning crime has acquired since the 1990s (Caldeira 2000).

During the military dictatorship (1964–1985), it was not uncommon for legal transgression by the poor to be romanticized and celebrated. The prototypical figure of crime discourses was the *malandro* (rogue or hustler),<sup>8</sup> who maintains an equilibrium between social order and disorder (Cândido 1970), earning an income through *malandragem* (urban scoundrelry) or ‘traditional’ forms of lower-class criminality such as illegal lotteries, small-scale marijuana sales and pickpocketing. The *malandro* typically respects select community norms, living at the margins of the law but not in total opposition to it. His success is contingent upon individual talent rather than membership within a group. Although he is a capable fighter, he avoids firearms and direct confrontations, preferring the *jeitinho* (Penglase 2007: 318; Schøllhammer 2001). During the dictatorship, this figure metonymically represented ‘a particular, national manner of being’ (Schøllhammer 2001: 39).

By the 1990s, representations of lower-class criminality had begun to morph. In the new discourse of crime, the *malandro* is supplanted by the coldly calculating and amoral drug trafficker for whom (violent) crime is an identity. Again, the figure at the centre of crime discourses is male. In short, this new mercenary and uncaring criminal figure – strongly associated with neoliberalization and a banalization of violence – seems to threaten the social order rather than represent it (Schøllhammer 2001). The eclipse of the *malandro* by the trafficker is part of a broader shift in the hegemonic national narrative away from a celebration of boundary-crossing towards a conception of (legal) transgression as a danger that must be defended against (Penglase 2007). The ideas associated with this narrative shift contribute to carceral expansion and police violence (Caldeira 2000), while making it difficult to explore the extralegality of poor people without reinforcing prejudices. Yet *malandragem* remains salient to Bahians’ experiences and self-depictions (e.g. Collins 2008b: 298), continuing to signify not simply criminality but ‘a knack for

getting around the rules' (Chazkel 2009: 718). In this sense, *malandragem* can be understood as a morally fraught permutation of the *jeitinho* 'where innovative circumvention becomes exploitative fraud' and 'one tries to get ahead to others' detriment' (Rebhun 1999: 70). The immorality and injuriousness of *malandragem* is a complex issue. In what follows, I explore the contours of *malandragem* as they appear in the life of a lower-class *jeitosa*<sup>9</sup> female hustler who turns to exploitative offences, illicit transactions and informal mechanisms of retribution in order to protect her family. This analysis provides an important corrective to analyses of crime and criminalization that assume all criminal entanglements are violent or motivated by neoliberal logics and imperatives.

### *Walking wrong and doing right*

Though Trisa is consistently *jeitosa*, she has ceased to *anda errada* (lit. walk wrong) at different moments of her life. One such moment was interrupted when her ex-husband, Pedro, experienced a carceral-medical crisis that jeopardized their children's future. While imprisoned in a neighbouring state, Pedro became seriously ill. Although he had been living with a different woman at the time of his arrest, he sought Trisa's assistance. She agreed to help him sell his belongings to cover costs associated with imprisonment. She also visited him, bringing cash and supplies. During one of these visits, she 'arranged'<sup>10</sup> for a local woman to make weekly deliveries in her absence. In chronically under-resourced and overcrowded Brazilian prisons, the state rarely provides its wards with items such as mattresses, clothing and hygiene products. Instead, the operability of prisons depends upon material and human resources furnished by carceral subjects (Darke 2018).

As Pedro's health continued to decline, he proposed that Trisa sell his house to fund an appeal for compassionate release, but Trisa could not bring herself to liquidate her children's inheritance – the legacy of a lifetime's worth of *malandragem* (or walking wrong). Instead of ceding this material manifestation of increased status and safety – which could allow her family to live well while walking right – she returned to fraud. Perhaps because her sabbatical had de-familiarized her with the scene and its relevant authorities, Trisa was soon caught in the act and was unable to avoid the violence of the law.

During an interrogation, police pressured Trisa to disclose information about a high-level associate: 'They hit me. Put a bag [over my head]. I couldn't breathe. That's what they do. A person can't take it and talks. I didn't talk ... If I'd spoken he would've killed me...'. Caught between violent male actors, both Trisa's extralegal education and her reputation as a trustworthy colleague and devoted (ex-)wife/mother were advanced through this carceral encounter. By enduring torture, and later incarceration, without snitching, Trisa embodied a carceraly inflected version of the idealized self-sacrificing mother. In Northeast Brazil, women are able to accomplish morality, foster productive relationships and deal with problems by containing their own suffering and bearing suffering on behalf of others (Mayblin 2010: 67–93).



Trisa's children also suffered through the concurrent incarceration of their parents. As adolescents, they lived independently in their (father's) house to consolidate their claim to it. Deina dropped out of school to earn an income, administer the house and care for her younger brother. When Pedro received his early release, he went directly to hospital, where Deina cared for him until his death. Today, Trisa views the house as a fruit of sacrifice and an avenue to a safe(r) familial future.

## **Carcerally inflected networks**

To live with insecurity, the urban poor must find 'little ways' to circumvent the rules and other obstacles to wellbeing. Although *jeitinhos* are not restricted to the lower classes (Barbosa 1995), they are usually a satisfying means for oppressed populations to keep life going (Rebhun 1999: 70). Kinship and friendship networks are a condition of possibility of the *jeitinho*, its dodgy variant *malandragem* and extralegal agency more broadly. Extralegal agents' networks, however, notably incorporate people who are neither kin nor friend.

Police, prison guards, lawyers, *malandros* and other non-kin encountered within the criminal processing system are often integrated into these networks as *conhecidos*<sup>11</sup> (as opposed to friends). Prison visitors, for example, frequently insist that fellow visitors, with whom they chat and cooperate, are not friends: '*ela não é minha amiga, ela é colega só!*' (she is not my friend, she is only a colleague). Despite professed social distance, relationships with carceral acquaintances can be quite useful. When Barbara was prohibited from visiting her imprisoned husband, Sandro, in the months immediately before and after their son's birth, she drew on these relationships. An amicable guard agreed to let Barbara know if Sandro was visited by other women during her absence. Meanwhile, a *colega* brought Sandro home-cooked meals prepared by Barbara. The latter arrangement required significant trust; the *colega* would have been held accountable if contraband were found in the resealable containers of food. Trusting relations between *conhecidos* are notable insofar as moral obligations to share and not cheat are generally expected to prevail inside, but not outside, friendship and kinship networks (Rebhun 1999: 72).

Extralegal agents must have a talent not only for making connections but for making connections characterized by inhibitions that 'having' respect should bring about (i.e. avoiding abuse of power or other breaches of an inclusive approach towards others) (Shapiro 2016: 317-318). Thus, an important part of improving safety is the cultivation of a form of relatedness – among loosely related people, including state actors who habitually treat the urban poor with a 'lack of respect' (Cardoso 2014) – that constrains potentially injurious conduct. This is accomplished by demonstrating respect for *conhecidos*, to elicit reciprocal treatment, and by garnering recognition as '*de família*', a positive moral evaluation used to designate respectful/respectable people who are not alone in the world but enmeshed in strong bonds of loyalty.

At the same time as caring relations between family members shore up the respect relations between *conhecidos* that afford extralegal agency, this mode of

influencing the social field constitutes and sustains kinship ties. As is the case with *jeitinhos* (Rebhun 1999: 72), friends and especially family members ought to be included as beneficiaries of one's extralegal exploits. The following narrative exemplifies how illegality nourishes kinship and carcerally inflected knowledge and networks are mobilized to protect families from the (un)rule of law.

### *Safeguarding family from the law*

From an early age, extralegal agency has been integral to Trisa's experiences of kinship. She began to shoplift when she was about twelve years old, eventually progressing to bank fraud. After meeting Pedro, Trisa moved with him to Rio de Janeiro where the couple lived a relatively extravagant lifestyle underwritten by lawbreaking. Thus, Trisa's longest marriage, which begat her two children, formed in the context of *malandragem*. Moreover, her ability to extend care to kin and contribute to household reproduction – and thus invite recognition from intimates, as well as *conhecidos*, as *de família* – is inseparable from extralegality. While in Rio, Trisa sent remittances to her mother and siblings in Salvador.

When Trisa and Pedro's marriage dissolved and she returned to Salvador, she continued to support her family by teaching sisters, Nina and Carla, '*como roubar*' (how to steal). For years, the band of sisters committed non-violent bank-based thefts. These were complex scams involving pin code thefts, bank teller collusion and an interstate counterfeiting ring. During these years, police detectives routinely approached Trisa, saying, 'You're out and about, where's my cut?' Trisa explains: 'When you *anda errada* you've got to pay if you don't want to go to prison.' Although such payments do not guarantee impunity, there is often a narrow window of opportunity in which extralegal agents can undo arrests. Trisa shared an account of one such instance.

Deina screamed and called her mother into the living room, pointing at the TV. There were Nina and Carla under arrest! Trisa fell to her knees, praying: 'Lord, help me get them back. If they don't go to prison I promise to stop this life and I'll get them to stop as well!' Trisa quickly rose and called a lawyer who went, immediately, to the police station to *faz um acordo* (make an agreement, which implies a bribe). As soon as she had dispatched the lawyer, Trisa left to sell her laptop at the Feira do Rolo, the city's market specializing in used (and stolen) goods. Both Trisa's possession of this asset and her ability to quickly liquidate it were enabled by extralegal agency. Cash in hand, Trisa's next move was to pay the lawyer whose office, like the police station specializing in burglary and robbery (where her sisters were), is conveniently located in the vicinity of this market. Nina and Carla were already at the lawyer's office when Trisa arrived. As Trisa drove them home, she told them about her deal with God and urged them to join her in her retirement from *malandragem*.

When one considers the abysmal conditions of Brazilian police lockups, it is clear that Trisa made her sisters safe(r) through extralegality. In Bahia, the practice of televising the unauthorized images of suspected criminals is a common, yet contested, 'not-yet-(il)legal' phenomenon. Although this practice injures arrestees,



and stigmatizes the racialized poor more generally, the time-sensitive information provided can also be enabling, especially when it reaches the relevant actors. As we saw with Deina and Trisa, this is typically facilitated by networks. But the value of networks exceeds this communicative function.

To save her sisters, Trisa had to be familiar with someone willing/able to broker a legally unenforceable agreement with the relevant police officers without first receiving compensation or (ever) entering into a contract with her. The success of this series of extralegal transactions depended upon Trisa's network and its members' know-how and know-who. While familiarity is a key condition of trust, in order for confidence to pertain between extralegal actors, *conhecidos* must specifically come to know one another as respectable individuals.

### **Becoming citizens and somebodies in and through the house**

For Salvador's carceral subjects, staying safe means being treated with respect by violent authorities, namely police and criminal agents. Despite activist campaigns against 'anti-Black genocide' (Smith 2016), police killings of young non-white men in Salvador remain at least as common today as they were decades ago (Paes-Machado and Noronha 2002).<sup>12</sup> Unlike those studied by Smith, the racialized people with whom I worked rarely engaged in activism to limit police violence. Instead, they pursued two strategies which both hinge upon a dialectic of individuation and connection which, as Cecilia McCallum and Vania Bustamante (2012) have observed, is instantiated by the relation between private Bahian houses and the 'configurations of houses' (Marcelin 1999) through which they emerge and are maintained. First, they become registered citizens, which is expressed by the compulsory carrying of state-issued identity cards. Second, they distinguish themselves from an undifferentiated mass of common citizens by constituting themselves as individual persons connected to, and respected in a particularistic fashion by, members of their networks, including police. This is necessary in a context in which the dominant concept of citizenship 'defines citizens as others', who 'deserve ... the law – not in the sense of law as rights but of law as disadvantage and humiliation, a sense perfectly expressed in the Brazilian maxim "for friends, everything; for enemies, the law"' (Holston 2008: 5).

Salvador's citizens are generally regarded, particularly by more powerful people, as 'nobodies'. Their dearth of social status and influential relationships relegates them to standardized, often injurious treatment (McCallum 2007). In contrast, owning- and middle-class 'somebodies' generally enjoy 'personalization', which elevates individuals above common citizens (Sanabria 2010). Nonetheless, the ambivalent promises of citizenship still appeal to those who, within the racialized class hierarchy, are most vulnerable to injury and premature death and who know that undocumented denizens are even more susceptible to police persecution than mere citizens. Thus, carceral subjects pursue safety by seeking recognition both as citizens endowed with standardized rights which, theoretically, should not be violated and as somebodies capable of circumventing rules and gleaning benefits

through particularized interactions in domains where principles of equality are formally embraced. These strategies are unified by a concern to differentiate oneself from ostensible social threats (namely criminal agents) or 'killable subjects' (Denyer Willis 2015). To grasp how this combined citizen-somebody strategy intersects with extralegality, I turn to an account of how Trisa's home is lived and understood.

### *Extralegal vs. criminal agency*

On my first visit to Trisa's home, she gave me a tour which registered the relational existence of both private houses and individuals. The existence of a private house is made possible by relations with other houses (Marcelin 1999) and, to an extent that is often overlooked, institutions such as the church, the carceral system and non-governmental organizations. The relational process of acquiring and administering a house is central to the individuation process through which people distinguish themselves from the groups within which they are embedded to participate in networks composed of fellow (respectable) somebodies.

The tour of the house begins on the ground floor, which features a large, empty space (ideal for a shop), her son's room and an office where Trisa's new computer is set up. The computer, which is essential to her fledgling photography/videography business, was purchased with funds distributed by Pastoral Carcerária (a Catholic Church prisoner's advocacy group) upon her completion of a months-long course for *egresso/as*. Trisa continues to attend Pastoral meetings of *egresso/as*, where she receives council and baskets of staple foods.

Trisa leads me back into the unused commercial space where Deina's (ex-) boyfriend had hoped to establish an automotive repair shop, before their romance faltered: 'He was her fiancé but then he told her he needed to be single for a bit...'. In a mildly disapproving tone, Trisa observes that he still calls Deina to go over to his house. Gazing around the fallow space, she continues: 'I don't know why he's doing this with her. Before he was *um policial* [a uniformed police officer] and chased after bandits. Now he does personal security for the vice-governor of Bahia. It could be that he's feeling a new sense of authority and that's why he's less loving with her...?'

Trisa recalls the anxiety she felt one afternoon when this man washed his car in front of the house. She worried that '*eles*' –self-identified criminals who control the local drug market – would recognize him as a police officer (even out of uniform). But the difficulty of incorporating a *policial* into the family does not end there. Trisa keeps a framed photograph of Deina posing with her uniformed beau in a drawer. She sniggered as she told me how she would rush to put it on display whenever he came by. Unaware of her connections to *malandros*, he might not have understood her concealment of his profession from houseguests. Trisa's savvy negotiation of this volatile situation serves as a reminder that both police and criminal agents represent peril at least as much as protection.

During the tour, we do not enter Diego's room, an emergent private house.<sup>13</sup> Trisa gestures at its closed door as we head upstairs: 'Diego's in there with his girlfriend. She moved in when she got pregnant'. Trisa has told Diego that he *must* find

work to provide for her and the baby. With the assistance of an ex-boyfriend of Deina's who manages a restaurant, Trisa has arranged a job for her son in the city's low-wage service economy. But Diego cannot begin to work before obtaining an identity card. Although the link between women and houses is particularly strong, the house also plays a significant role in the constitution of men's individuated personhood (McCallum and Bustamante 2012: 244). Diego is encouraged to perform a locally recognized and respected version of masculinity (i.e. father *de família*) by providing a house, and other crucial resources, to his child (and its mother). This house-oriented version of masculinity is conceptually linked to the status of citizen and contrasted with the form of oppositional masculinity associated with the street and self-identified criminals. But Diego cannot accomplish this version of respectable masculinity without his network.

Trisa scraped together money to cover the cost of Diego's ID. However, Diego's initial two attempts to obtain it were unsuccessful. The first time, he arrived at the office too late in the morning; there were no more numbered tickets available. On his second attempt, he arrived earlier and received a ticket. When he left the office to kill time before his appointment, he was mugged in the unfamiliar neighbourhood. Determined to see her son working, Trisa accompanied him on his third attempt. She cajoled him out of bed at 4 a.m. and they spent the whole day at the office, waiting. According to Trisa, it was worth it:

... he'll be a citizen. I was very worried – my son without his document. Imagine a *blitz* [a police checkpoint] ... What if he takes a hit from a *policia*? ... A person, a *pessoa digna* [person with dignity], that doesn't do anything wrong – if the police hit such a person they have two options: rebel or accept it as an error of the police. But Diego, with his life story, with his parents, he could rebel, become a *malandro*. He has this tendency. Once he said: '*Ahhh minha mãe, a senhora* [my mom, you (respectful term of address)] keeps nagging cause I'm smoking some *baseadinho* [marijuana], just wait until you see me on top of the hill with a pistol in my belt'. I said, 'If I see this ... you won't have a mother. You'll be a *bandido* and I'll be out of here'. Because I know that a bandit with a pistol in his belt, the police arrive and kill him. Might not kill him the first or the second time but one day ...

Trisa interprets Diego's vulnerability to criminal agency as an outcome of predictable policing practices and his life history. She has contested this fate by keeping an alternative, safer version of masculine autonomy open to him through the extralegal acquisition and maintenance of a '*casa* (house) *de família*'. In the final section, the relation between criminal and extralegal modes of agency – and their corresponding forms of safety – are analysed.

### **Criminal agency and control-based security**

The aforementioned dominant discourse on crime, which pivots on the image of the violent anti-social trafficker, has been complicated by studies of prison-based organizations of self-identified criminals that provide support and offer protection to

those who inhabit contexts saturated by state violence (namely prisons and favelas). Studies of criminal governance establish the pervasiveness of a form of securitization that is not directly organized by the state (e.g. Amparo Alves 2015; Biondi 2016; Darke 2018; Denyer Willis 2015; Lourenço and de Almeida 2013). Yet the form of safety that criminal agents claim to bring about shares important features with state-organized carceral security. In both cases, a masculinized organization mobilizes a set of discourses on the protection of those who inhabit the territory that it seeks to control through the deployment of coercive and sometimes lethal practices as well as the establishment/preservation of some kind of law (Penglase 2009). Thus, while criminal agents' activities may constitute 'a transgressive politics that challenges the carceral state', they simultaneously organize life in favela zones around a new, often brutal regime of dominance (Amparo Alves 2015: 86). Both state and criminal authorities offer control-based protection insofar as they are focused on the question of who, or what, must be made absent as a condition of safety.

In contrast, the form of safety afforded by extralegal agency is not premised upon a (would-be) sovereign's violent enforcement of putatively universal laws (Benjamin 1978), nor does it pivot around a notion of safety-as-absence wherein those identified as threats are banished or eliminated. Rather, it opens the possibility of ongoing relatedness between antagonists, privileging harm prevention and reduction over the objective of amassing capital and influence at the expense of others, especially kin, friends and *conhecidos*.<sup>14</sup> Approximately a decade before I met Trisa, her home was burglarized. Her response to this significant incursion illustrates how an insurgent form of safety, which pivots on co-presence instead of violently enforced absences, is brought about extralegally.

#### *A home burglary and an alternative vision and practice of safety*

When Trisa arrived at the police station, she recognized (and was recognized by) the men on duty – they were her *conhecidos*. The detectives offered her a deal. For two thousand *reais* they would investigate the incident. Trisa paid them half up front, agreeing to pay the remainder in exchange for their findings. As she explains, she paid because her daughter had been twelve years old at the time – a maturing young woman: 'Imagine Deina was home when they [the thieves] arrived!' When the detectives completed their investigation, they contacted Trisa:

They offered to kill everyone involved for five thousand [*reais*]. I said no, because I'd never killed anyone. I'd never killed anyone and didn't want to kill anyone. Because I knew [*conhecia*] the woman, the wife of the *infeliz* [wretch] who led the robbery. I knew his children. I said: 'No. Kill – no! ... If I know there's been a killing ... I'll go to the secretary of security [Trisa snickers]. Yeah, if you kill them, after you'll have to kill me. I have my children to raise. You have children as well. You don't need to kill. Go there; take everything of theirs – their car, everything in the house. Keep it [for yourselves]!'

Knowledge, in the sense of familiarity, is a striking theme of Trisa's narration. In Portuguese, there are two verbs that mean 'to know': *conhecer* and *saber*. *Saber* means to know in the sense of comprehension; *conhecer* means to know in the sense of being familiar or acquainted with (hence the term *conhecido*). Whereas objectivity and objectification are characteristic of the kind of knowing associated with *saber*, *conhecer* connotes intersubjectivity and understandings rooted in personal experience. Although *saber-poder* (knowledge-power) and subjectification have been extensively theorized by Foucault and those he has inspired, little attention has been paid to what might be called *conhecer-poder*, arguably a central element of extralegal agency and counter-carceral practice.

Extralegal agency both requires and engenders *conhecer-poder*. The detectives trusted that they could solicit payments from Trisa, at least in part, because of what they already knew of her. Then, through a series of transactions that conformed to mutually recognized principles of reciprocity and discretion, familiarity was enhanced. Trisa's threat to denounce the detectives to a socio-political superior, though cloaked in humour, gained credibility in light of growing familiarity. By the time it was voiced, she had demonstrated willingness to seek assistance from state officials and an ability to elicit recognition from such officials as a committed mother, perhaps even a mother *de família*. By framing the stakes of the burglary in terms of her daughter and by imploring the detectives to keep all proceeds of the retributive burglary, Trisa conveyed her prioritization of restored order and familial wellbeing over personal gain and material goods. Both at the time and in her retelling, she performed a respectable maternal identity by protecting her children and demonstrating respect for the locally vaunted institution of the family.

Trisa responded to, and reduced, harm by sparing the perpetrator and his family. She eschewed the detectives' lethal proposition, instead advocating a proportionate response conducive to ongoing propinquity between involved parties. Beyond pre-empting an escalating cycle of violence, Trisa's response deterred future harm in at least two ways. First, she communicated that she is a well-connected somebody. At the same time, by signalling her measured restraint, she distinguished herself as somebody deserving of (reciprocal) respect from the detectives and the perpetrator. Trisa's approach is notable insofar as it defies popular and scholarly expectations that Brazilians most likely to be targeted by violent authorities 'paradoxically' support control-based security in the form of police violence or brutal punishments inflicted by criminal agents (Caldeira 2000; Paes-Machado and Noronha 2002). Trisa's positive valuation of her victimizer's life is also notable for its basis in *conhecimento* rather than an abstract human rights framework.

Trisa did not only know the detectives but also the 'wretch' who violated her home, citing her familiarity with him as a reason to spare him. This rationale contrasts with the double negation of both individual and relational personhood – or rights-bearing citizenship and personalization – which the urban poor have come to expect from Brazil's public institutions (McCallum 2007). When Trisa expressed her alternative rationale, she foregrounded her and the detectives' own relational personhood, namely their status as caregiving parents. Her speech acts surfaced

the principles guiding her actions and endorsed the idea that (moral) responses to harm ought to be informed by *conhecimento* and take into account the relational personhood of all those involved. This vision of safety contradicts key premises of the dominant model of carceral security. If ‘arrest’ – like other carceral security processes – ‘is the political art of individualizing disorder’ (Feldman 1991: 109), and if ‘law-making is power making, and, to that extent, an immediate manifestation of violence’ (Benjamin 1978: 295), then an emphasis on connectivity and a disinterest in transforming power into sovereign authority through an architecture of legalities, or their simulacra (Comaroff and Comaroff 2006: 35), represents a heterodox approach to security making.

## Conclusion

While extralegal agency can involve violence, if the force one threatens or applies seems excessive or misguided (a situated assessment which tends to be informed by gendered expectations and familiarity with the target of force as a relational person), then the reputation of the extralegal agent, and thus their ability to exercise this form of agency in the future, will likely suffer. Mainstream assumptions about Brazilian women being irrational and weak (Caldeira 2000) mean that their performances of violence are particularly susceptible to negative judgement. This may help to explain the affinity between women and extralegal agency. Future work should focus on the gender of extralegal agency and assess whether it might be productively viewed as ‘women’s agency’ (Wardlow 2006) or, more specifically, a feminized form of black agency.

Evidence of insurgent safety challenges the idea that carceral security or mimetic safety-as-absence approaches are necessary preconditions of social order and well-being. Extralegal agents’ heterodox visions and practices of safety are shaped by cumulative and collective experiences living as public enemies (Smith 2016: 42) which must be improved/eliminated by a sovereign before safety can be realized. When popular and scholarly discourses divide inhabitants of favela zones into binary categories defined by involvement in drug trafficking, the ‘uninvolved’ poor are usually represented as both dependent upon an external authority for protection and as incubators of risk who must be controlled by such an authority. This discourse legitimizes control-based interventions such as mass incarceration, extrajudicial police killings, as well as ‘consequences’ meted out by organized criminals (Biondi 2016). Trisa’s extralegal pursuit of insurgent safety poses a challenge to the ideological basis of an oppressive social order organized around social beings’ supposedly unequal capacity to self-govern, make/maintain social order and safeguard the public interest. Ultimately, extralegal agency constitutes an important source of connectivity, order and safety, enabling carceral subjects to protect themselves against the possibility of rule of law.<sup>15</sup>

For research participants, the carceral sphere is perilous not only because of a lack of state support of the rule of law but because those agents and agencies charged with preserving the law use lethal violence to uphold a brutal system



of inequality. The carceral sphere constitutes a key site in which subordinated Brazilians learn they cannot depend on the penal branch of the state to prevent harm, much less to improve their life chances. Whereas Brazilian prisons are often labelled ‘schools of crime’ by scholars, politicians and journalists, following Chazkel (2009) I have emphasized how prisons – and police – function as ‘schools of civics’. As carceral subjects learn what to expect – and what is expected of them – they simultaneously become familiarized with (and familiar to) fellow extralegal agents. That is, they develop *conhecer-poder*. Life-sustaining networks – of kin, friends and *conhecidos* – are constituted as carceral processes intersect with familial logics and imperatives. The extralegal form of agency enabled by these networks corresponds with a vision and practice of safety that diverges from the dominant, control-based system of carceral security as well as its criminal alternative. In this sense, my analysis contributes to the interdisciplinary critical carceral studies literature which seeks to make visible ‘experiences that challenge the discursive control and appeal of carceral regimes’ (Brown and Schept 2017: 442).

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## Notes

1. Variously translated as ‘tan’, ‘brown’ or ‘brunette’; implies African descent.
2. This article is based on ethnographic fieldwork carried out from 2010 to 2012. I use the ethnographic present when I am able to draw directly from field notes written during this period. Names – of people as well as Trisa’s neighbourhood – have been modified to preserve anonymity. All conversations took place in Portuguese. Translations are my own.
3. Brazil now has the world’s third largest prison population. Between 2000 and 2018 its rate of incarceration increased by approximately 145 per cent (World Prison Population List 2018).
4. This line of argumentation is substantiated by Rebhun’s observation: ‘in Northeast Brazil, political relations explicitly follow a kinship model...’ (1999: 50).
5. See Collins (2008a) on the persistence of patron–client relations in neoliberal Salvador.
6. For an excellent, ethnographically grounded overview of the concept, see Rebhun (1999: 69–86).
7. This is illustrated by Keisha-Kahn Perry’s research (2013) on land grabbing by wealthy white Bahians who have the resources to back up their claims with the support of the courts. Conversely, residents of Salvador’s poor neighbourhoods, without the necessary resources, are often unable to prove their legal right to land they have inhabited for generations and, thus, are subjected to forced displacement.

8. Note that the normative *malandro* is male. The term *malandro* originated to describe a person with a *mal andar* (lit. evil walk), who walks the path of evil (Schøllhammer 2001: 39).
9. To be *jeitoso/a* is to be particularly skilful in the art of the *jeitinho*.
10. The action of *arrumando* (arranging) – whatever is needed (e.g. food, work, housing, wives, etc.) by whatever means – is a staple of the *jeitinho* (Rebhun 1999: 71).
11. Lit. acquaintances; whereas the English term acquaintance connotes a lack of intimacy (*vis-à-vis* ‘friend’), *conhecido/a* underscores familiarity (*vis-à-vis* ‘stranger’).
12. In 2010, police killed at least 187 people in Salvador and its metropolitan region, which has a population of almost four million (*O Correio* 05.01.2012). See Smith (2016) on this racialized phenomenon and its devastating effect on black mothers.
13. In Salvador’s poor neighbourhoods, a house is ‘a space where a relatively stable group of people – frequently parents and children – can sleep and keep their belongings’ even when it lacks a kitchen or bathroom (McCallum and Bustamante 2012: 237).
14. It is not within the scope of this article to assess the extent to which such enactments of safety-as-co-presence are feminized. Suffice it to say that female carceral subjects overwhelmingly experience both carceral *and* criminal security regimes as disempowering. Control-based systems require authorities to embody a credible threat of violence and tend to position women as insecure (potential) victims – passive objects to be protected and controlled. Moreover, criminal security tends to involve sexist behaviours: male criminal agents ‘reinforce gender domination’ in the process of resisting victimization by the state (Amparo Alves 2015: 84).
15. I take inspiration from J. T. Martin’s (2013) analysis of police practice in postcolonial Taiwan, where social order is maintained through ‘particularistic policing’ in a manner that legitimately upholds an established democracy against the possibility of rule of law.

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