

SACRIFICIAL CRIMINAL POLICY: THE BRAZILIAN CASE

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Abstract

In this brief intervention intends to discuss the sacrificial dimension of contemporary capitalism, its impacts on the current criminal policy in Brazil and on human rights. Based on the thought of Franz Hinkelammert, an attempt will be made to explain the mythical-theological matrix of human sacrifice that persists in an underlying way in several contemporary social dynamics, justifying and legitimising social relations of domination, exploitation and death, that is, violation of human rights. To do so, the methodological approach adopted was that of bibliographic research. In the penal scope, the sacrificial matrix is present in the criminal drug policy, disguising through the war against the dealer/monster and his sacrifice the real meaning of this policy, which is to eliminate poor and black youth, who are in excess to the market. In this context, the rupture with the sacrificial drug criminal policy is urgent to save human lives and necessarily involves the fight aimed at the decriminalisation of conduct related to drug use and trafficking in Brazil.

Keywords

Sacrifice. Neoliberalism. Criminal Policy. Human Rights.

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In this brief intervention², I intend to discuss aspects of the sacrificial dimension of contemporary capitalism and its impacts on human rights and on the current criminal policy in Brazil.

The expression “sacrificialist criminal policy” is used by Salo de Carvalho, to designate the national criminal-political experience of the last decades, materialized in two axes: incarceration selectivity and the police lethality. This is quite an important difference, which he pointed out, between the forms of structural and institutional violence in the North and the Global South. Thus, while in the northern countries the phenomenon of mass incarceration is also found, in the Brazilian reality it is associated with police lethality:

“The Brazilian case differs substantially from the punitive policies of the global north because the phenomenon of large incarceration is closely linked to a sacrificial criminal policy that materializes daily in the excessive use of force by the police, especially the military police, constantly called upon to act on behalf of the public safety and the fight against drugs”³.

I will try to explain the mythical-theological origin of human sacrifice that is still present in several contemporary social dynamics, including criminal policy, culminating in justifying and legitimizing social relations of domination, exploitation and death, that is, human rights violations.

Based on the thought of Franz Hinkelammert⁴, it is confirmed that sacrifice is one of the persistent mythic-theological phenomena that

² I would like to thank Professor Agata, who was with us in Brazil in 2019, together with Professor Silvia Alves, at the International Seminar “Penal System, Corruption and Human Rights” held at PUC Minas, when they offered excellent contributions. I would also like to thank Professor Cláudio Brandão who made the invitation viable. It is an honour for me to compose this session with Professors Roberto Rampioni and Cristiano Cupelli.

³ CARVALHO, 2020, p. 102.

⁴ HINKELAMMERT, 1995.

accompany civilization. In addition to the legitimization of wars of territorial conquest, the dynamics of sacrifice in human life began to found the values of capitalism on itself in different historical moments.

Nowadays, the demand for human sacrifices also permeates neoliberal capitalism, operating criteria for the maintenance of a few human lives and the killing of many others. From the dissimulation of the criteria that, in fact, seek to strictly guarantee capitalist values, neoliberalism operates by sacrificing lives considered to be surpluses⁵.

The mythical-theological rationality of sacrifice powerfully sustains the violence of neoliberal capitalism, disguising its real meaning and criteria for the killing of populations⁶.

In the neoliberal context, decision-making in the face of life/death limit situations depends on sacrificial criteria guided by market sovereignty. Neoliberalism gives the market the absolute power to decide on the life and death of human beings. Those excluded by the market are those considered to be expendable infra-humans⁷.

Aggressiveness is exerted on lives considered worthless whose identification involves the production of the other as a monster. Through the production of monstrous otherness, sacrifice is operated, disguising the criteria of the “invisible hand” of the market about the (dis)value of life and the criteria of “killability”. Thus, the market kills the superfluous it had promoted⁸.

In the scope of human rights, the sacrifice penetrates through the process of its inversion, considering that the historical process of affirming human rights is political and does not always interest the hegemonic group. It is through this process of inverting human rights that the monster is

⁵ ASSMANN, HINKELAMMERT, 1989, p. 14.

⁶ HINKELAMMERT, 2021.

⁷ ASSMANN, HINKELAMMERT, 1989, p. 14, p. 3.

⁸ HINKELAMMERT, 2021, p. 84.

projected. In this way, the person who is denied his own rights is projected as a monster, an enemy, an incarnation of the evil against which he must fight and sacrifice. The projection of monsters aims to guarantee the maintenance of the hegemonic social order⁹.

Hence the importance of rebellion and the fight for human rights so that in the intertwining of life and human sacrifice, life prevails.

As neoliberalism was imposing itself as the dominant version of capitalism, it adjusted itself to the global financial sector, shaping the financial totalitarianism, a feature of contemporary power that idolizes two false Gods, the market and the punitive power, which feed back into each other. In financial capitalism, the market would not be able to impose its model of planetary exclusion without exercising the power to punish¹⁰.

Sacrifice falls, therefore, on individuals and also on entire populations in regions such as Latin America. In this region, as explained by Eugenio Raúl Zaffaroni and Ílison Dias dos Santos, financial totalitarianism has destroyed the viability of sustainable development of local economies and the extension of real citizenship. The drip genocide is the most notorious effect of the underdevelopment that the totalitarian power conditions.

Within all major transformations of capitalism, wars are always found, as they are constitutive forces of its own. However, unlike in past centuries, in neoliberalism wars are no longer motivated by territorial conquests, mainly due to the capture of sovereignties by the global market. Wars are not aimed at the political objectives of the State, but of capital itself. They integrate the States and happen inside and against the population that is the battleground¹¹.

The inseparability of capital and war aims to divide the population, thus

⁹ HINKELAMMERT, 1990, p. 161.

¹⁰ ZAFFARONI, SANTOS, 2019, p.51.

¹¹ ALLIEZ, LAZZARATO, 2016, p.27-28.

avoiding the risk of revolution¹².

For this reason, in the name of neoliberalism, a war machine was built, whose operation demands increasing sacrifices in the most diverse areas, such as health, education, housing and public security.

The identification of the intertwining between capital, war and politics impacts on the very characterization of criminal policy¹³. In neoliberal capitalism, more than a particular form of exercise, wars are also interpenetrated in criminal policy. Such intertwining can be identified in the Brazilian criminal policy of war against drugs.

Around the drug issue, an active battleground was formed in which the militarized logic continues to guide the actions of public security institutions. It is a subordinate model of criminal policy imported from the United States of America to Latin America.

The criminal drug policy is closely related to the development of capitalism in its various historical moments. This is because the production, circulation and consumption of drugs constitute a sector of a capitalist nature¹⁴.

It is observed that the criminal policy that officially seeks to combat the production and circulation of certain drugs, contradictorily, adds value and stimulates the market, making its official proposal a failure. The criminalization and consequent repression add value to the merchandise by increasing the risk of the activity and maintaining the supply always insufficient to meet demand.

In this context, the image of the drug dealer is selectively produced as a monstrous otherness, an incarnation of evil, a demonic figure against which to fight and through which sacrifice is operated in favor of the

¹² LAZZARATO, 2019.

¹³ BERGALLI, RIVERA BEIRAS, 2005, p.121.

¹⁴ MOTTA, 2015, p. 245.

market and punitive power.

For these reasons, even in the face of the inefficiency of reducing the supply and consumption of drugs, as well as the dismantling of organized crime, the insistence on the military criminal control of the matter is sustained by the mythical-theological element of the sacrifice of the trafficker/enemy that conceals its real sense of war against people, young people (men and women), poor and black, surplus from the market that are imprisoned or killed to warm it up. It denotes, therefore, the fundamentality of race in this sacrificial criminal policy. The functionality of drug policy in Brazil is to selectively identify, among the excluded sectors of society, the monster/trafficker that must be sacrificed.

A Human Rights Watch called Brazil's drug war policy as genocide, given the disproportionate number of young black people arrested and prosecuted and the violence and death this war has caused on Brazil's black and mestizo community¹⁵.

In this way, faced with such an inversion of human rights, it is necessary to recover the human rights of the concrete human being, which demands that he rebels against his transformation into a monster, an object at the service of the system. It is also necessary that there is a social fight for people's lives, that takes human rights as a criterion for intervention in the market.

In this context, the rupture with the sacrificial drug criminal policy is urgent to save human lives and necessarily involves the fight aimed at the decriminalization of behaviors related to drug use and trafficking in Brazil. Franz Hinkelammert's thought contributes, above all, to the affirmation of life as an ethical principle. This principle indicates the need to make human life and its conditions of existence a fundamental instance of all rationality, including criminal policy.

¹⁵ JACOBSON, HEARD, FAIR, 2017.

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