
THE PACIFYING POLICE UNITS IN RIO DE JANEIRO: A BYPASS OF WHAT?

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INTRODUCTION

In their book, Prado and Trebilcock analyze the Pacifying Police Units (UPPs) as a case of *intentional bypass* (2018, 63-76). On the one hand, the bypass hypothesis addresses the hurdles of reforming the public security system and the police's chronic problems of corruption, institutional racism, and violence; on the other, it brings the design of a "new model," with a different rationale and a separate institutional structure. According to the authors, the creation of a new police unit (the UPPs) – independent from the regular police force, with special training and new recruits – indicates an institutional design that makes the UPPs a case of bypass.

There is a good reason to examine the UPPs as an important case study of Brazilian public security, as I emphasize in section 1. Nevertheless, a decade after its launch, UPPs are now present in 38 communities (Betim 2018), and the hurdles and inconsistencies related to the implementation of the UPPs provide a good opportunity to discuss some risks and limitations of this reform strategy. In this short piece, I will expose the limits of this bypass and question its ability to deal with informal rules and norms. More specifically, in section 2, I ask if the bypass can change internal organizational norms. To do so, I expand Prado and Trebilcock's critiques of the UPP's implementation. The theoretical questions that this criticism raises to Prado and Trebilcock is how and whether formal independence in governance structures can also translate into independence regarding informal rules and norms. In section 3, I add another layer to this question by asking how institutional interdependence can contribute to the resilience of informal rules and norms. The judiciary still plays a role in guaranteeing impunity in police abuse cases, and this poses difficulties for any police reform strategy. Finally, in section 4, I evaluate the role civil society may play in challenging these informal rules and norms. I briefly discuss the Amarildo case, the torture and killing of a man within the territory of an UPP, and explore the role of civil society's reaction in institutional change.

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1. IS RIO DE JANEIRO STILL BEAUTIFUL?

Rio's beauty seems unquestionable in the 1969 song "Aquele abraço" composed by Gilberto Gil in his first years of forced exile during Brazil's military regime. In the song, he mentions Rio's famous people, neighborhoods, soccer teams, and "samba schools," celebrating the city's beauty. The song covers it all: from Ipanema, an upper-class neighborhood, to the poor neighborhoods and their cultural elements – the girl from the favela as well as samba; all have their place in the lyrics. This beautiful version of the city recognizes the favelas as an important sociocultural place, with their own value and potential. However, this image quickly vanishes as we consider the official narratives that prevail in Rio de Janeiro's public security policies. These policies reinforce the duality between the "asphalt" (rich neighborhoods) and the "hills" (favelas) and legitimize the brutality of public security forces in poor neighborhoods. Rio de Janeiro's favelas – the sociocultural engine of the city and where the majority of its population lives – have also been sites of the most tragic episodes of deadly violence perpetrated by official forces, even after Brazil's transition to democracy. Fifty years after Gil's song was written, the city's beauty still contrasts with the resilience of the militaristic discourse.

Described as a "divided city" or a "city at war" (Leite 2012), in Rio de Janeiro the war narrative is not only used to account for the expansion of drug trafficking in the *favelas* and the control exerted by drug gangs over these communities, but also – and especially – to refer to the extensive use of violence and confrontational strategies used by police forces to deal with these gangs. The different patterns of police violence used in favelas compared to middle- or upper-class neighborhoods is well documented and has been persistently pointed out by research (CJG 2003; Ferraz 2005). There have been uncountable police raids in which the police suddenly invade the favela territories to engage drug gangs, with shootings, crossfires, and countless civilian deaths. The "war on drugs" discourse demonizes the favelas and encourages the opposition between "law-abiding citizens" and *favelados* by equating the latter to criminals. Such discourses have played an important role in the legitimation of police violence in these poor neighborhoods (Ferraz 2008).

The Pacifying Police Units (UPPs), created in 2008 as a pilot project and institutionalized in 2011, was a public policy that announced a shift in the pattern of militarized use of force – and the ideology that sustained it – against favela residents. In the official decree that institutionalized the project (n. 42.787/2011), the Rio de Janeiro government expressly admits that it does not wish to continue with the "traditional police model" and proposes "a new model of public security in Rio de Janeiro," one that is based on "pacification." The project involved the recovering of state control over territories previously dominated by drug gangs, the reduction of gun violence, and the State permanent presence in the favelas through police patrolling in the communities. This police reform attempt was designed to be

combined with the provision of infrastructure, public services, and social policies (the UPP Social) –, which usually do not reach the favelas.

In a city that has lived for a long time under a massive warmongering discourse regarding crime and public security, the UPP has an intrinsic value for bringing a different approach to the public discourse: instead of emphasizing the “war on drugs” or the “war on crime,” it proposed – at least officially – an opposite approach: proximity and community policing. This ideological shift is laudable and should not be overlooked, especially when the opposite discourse won the majority in the state and federal government 2018 elections.

Nevertheless, the UPP still embodies a number of discursive practices that characterize traditional policing (Prado and Trebilcock 2018, 71-72). More specifically, as I point out in the next section, the warlike ethos and the militarization of daily life in the favelas still persists, which challenges the assumption that the UPP represents significant change in Rio’s police.

2. THE RESILIENCE OF THE MILITARY DISCOURSE

The alleged goal of the UPP project was to replace police truculence, disrespect, and warlike approach with dialogue with the population (Musumeci 2015). But the project’s implementation did not achieve satisfactory results, being described as a “resounding and colossal failure”². There are several analyses that address the causes of this failure. Some include issues related to implementation, lack of funding, fiscal and economic crises, lack of social policies, and the project’s inability to circumvent path dependence (Silva 2015; Rodrigues 2014; Efeiche 2016). Other analyses question the project’s ambition of changing a pattern of police violence (Franco 2014; Fichinho 2012). In different ways, all the analyses point to the limits of the UPPs as a strategy to bypass two crucial problems in Rio de Janeiro’s police: its military ethos and racial profiling.

The UPP moved away from a strategy of daily incursions into the favelas. Such a strategy was characterized by tactical troops entering the community by surprise, leading to shootings between police and drug traffickers, followed by the police’s immediate departure, usually leaving behind many civilian victims. Instead the UPP’s new model was based on permanent occupation of the favelas’ territories, which in fact has happened. This led to fewer gun conflicts and a decrease in the death toll (at least at first), but not necessarily to better policing.

Community policing means decentralization, formalized spaces of dialogue with citizens, and the prioritization of community safety instead of *fighting* criminality. These features, however, were hardly present in the UPP experiences.³

² This expression was used by a former general commander of the Rio de Janeiro Military Police, quoted in one of the reports of the experience, cf. Musumeci 2017.

³ I make general statements about the UPPs, overlooking the fact that each of the 38 projects had their particularities. The traits I mention in this analysis, however, express general trends, manifesting themselves in different ways in each location.

Several reports show the persistence of “old tensions” between police and communities: excessive stop and frisk practices (Cano 2012), intimidating approaches, and abuses. Although small groups of police officers (called “articuladores comunitários”) indeed tried new practices (such as mediations, open meetings with the population, and sports training with young people), for the majority of UPPs officials, “proximity would mean just the permanent and ostensive presence of armed forces inside the communities, with very little – if any – dialogue with the local population” (Musumeci 2015, 19).

The UPPs were also very centralized, as they maintained the hierarchical structure of the military police and had very few formal channels of communication with the community (Musumeci 2017). According to commentators, it was a “top-down and outside-inside” project, created without community consultation or participation about the next steps (Cano 2012).

The image of a more democratic police quickly faded when it became clear that significant power was centralized in each unit’s commander. The police commander (a military chief) would personally decide on all community daily life issues: what services could enter the favelas, which parties were allowed (e.g., funk parties were often prohibited), the volume of sound that could be played, if people could gather or not in the streets and until what time, and the service hours of bars and shops. On some occasions the UPP commander issued a list of prohibited songs (normally funk songs, since this is an important socio-cultural expression from young black people). The UPP commander gained direct control over the life of the population (Cano 2012) and issued authoritarian rules without any established proceeding or pattern and without a dialogue with the community (Cano 2012). Moreover, such decisions were not subjected to any control. Community life was thus dependent on the commander’s profile and the style of authority he exerted, which had a direct impact on a UPP’s success.

Some commentators interpret this process as an arbitrary displacement of the criminal leader’s power by the arbitrary power of the police chief (Rodrigues, Siqueira and Lissovsky 2012), bringing attention to the militarization of daily life in the favelas that came along with the UPPs (Franco 2014; Rocha, Carvalho and Davies 2018). Some of these analysts raised attention to the risks of combining corrupt practices (which did not disappear with the UPPs) and a high degree of control by the chief of police in the day-to-day issues of the population (Rodrigues, Siqueira and Lissovsky 2012). Informality and experimentalism are positive features since they allow for constant adaptation and incremental improvements, but they also have downsides. In certain environments, informal experiences can be easily co-opted by illegitimate and authoritarian forces.

A key aspect to consider when examining the UPPs is the persistence of the police’s traditional ethos based on intimidation, confrontation, arbitrary power and racial selectivity. UPP police officers never managed to differentiate from the traditional police. Proximity to the population and communitarian policing were

never assimilated or institutionalized. For the majority of the officials in the UPPs, policing meant conventional patrolling, with police officers often ostensibly showing their rifles (Musumeci 2017).

According to the literature on UPPs, training programs are insufficient to create a new policing paradigm (Efeiche 2016).⁴ The official language of the project mentioned training with an emphasis on human rights and communitarian policing, while in practice training programs showed the persistence of a military and hierarchical ethos (Franco 2014). Even the new recruitments and the training program extensions from the initial 2 weeks to a 300-hour course were not enough to change the “warrior model” for police officers who joined the UPPs (Ramos 2016; Efeiche 2016).

The UPPs problems became worse after 2013. In 2013, the idea of police proximity to the community was practically abandoned, and the Tactical Groups of Proximity Police⁵ were introduced. These groups had proximity only in their name and returned fully and openly to traditional practices. These operational units transited freely within the favela streets, with heavily armed police officers using traditional strategies: hunting for drugs, weapons, and small dealers; searching houses (without warrants) and stopping and frisking “suspicious” persons – the usual targets were young black men between 15-35 wearing caps and carrying backpacks. Officers would repress protests in the communities, and even start shootings, something that gradually became usual, indicating that in many UPP communities drug trafficking gangs continued operating. The new Tactical Groups emulated the style of the famous elite squads (BOPE), deliberately keeping its distance from the population, with which they interacted through intimidation and abuse of force and authority (Musumeci 2015; Esperança 2014). At that time, the UPPs engagement with social services – the “UPP Social” – had also faded, and police killings increased (with higher mortality rates than in regions without UPPs). The killing of Amarildo Dias de Souza inside the Rocinha UPP area, mentioned by Prado and Trebilcock and discussed below, exposed the UPPs’ failure (2018).

As described by Prado and Trebilcock, after the UPPs’ institutionalization in 2011, the UPP quickly rose in the Military Police hierarchy, which supposedly increased its level of independence from regular police units. Initially the UPPs responded to a chief of a regular police unit, which changed in 2011 when the UPPs were placed under the Military Police commander’s authority, as an independent unit. However, these changes in the UPPs’ bureaucratic independence did not lead to an independence from the traditional mindset and practices of the police.

As stated by one of the most important specialists on the issue, the UPPs “are a very clear change in the broad scenario of public security policy and state

⁴ Franco (2014) mentions that the physical and psychological training of UPP officers was so brutal and subhuman that it was once denounced by the State Public Prosecutor Office to the Military Justice Controller.

⁵ “Grupamentos Táticos de Polícia de Proximidade” – GTPPs.

intervention". But changes were lacking regarding other issues. "It's the same police. Same corporation, same structure. The UPPs have changed within their limits, but it is not an intellectual and moral reform of the police, it is far from a police demilitarization process" (Sayuri 2013). The fact that the UPPs failed to create a bypass to the military police hierarchy has certainly contributed to the persistence of the same militarized ethos.

The persistent pattern of the military police, based on intimidation, confrontation, authority abuse, and selectivity, shows that although the UPPs were a window of opportunity for change, they were not able to bypass the real problem with police forces in Rio (and in Brazil) – truculence, racial selectivity, and militarization.

3. THE LIMITS OF POLICE REFORMS: INFORMAL RULES GUARANTEEING IMPUNITY FOR ABUSES

In this section, I add another element to be considered in the discussion of the UPP as a bypass strategy. How is it possible to reform police forces without tackling a major problem in Brazil: institutional racism and abuse impunity, which are ratified by the judicial system? I point to the importance of considering the lack of accountability for abuses in order to deal with the problem of police brutality in Brazil.

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There is a pervasive common sense shared by Brazilian organizations linked to public security – and reinforced by the majority of society: that abuses of power and uses of violence by the police are allowed against "criminals," (Bueno 2014) young blacks living in favelas or peripheral neighborhoods are thus labeled criminals (Flauzina 2019). This combination of institutional racism and abuse of power governs the Brazilian public security forces and is reinforced by the authorities in charge of overseeing police activity.

We can say that police brutality impunity is secured by a set of informal norms shared by police forces and enforced by formal organizations that permit the abusive use of force by the police against the poor and black population. The authorization to practice abusive stop and frisks, verbal aggressions, torture, and killings is not only part of the military and truculent institutional ethos (and training), but is also reinforced by formal criminal justice system institutions that guarantee that police agents who use violence against "criminals" will not be punished. Thus, police brutality is not only a case of behavior regularity, considered common sense or a cultural norm shared by institutions, but it also works as an informal institution.

According to Helmke and Levitsky's (2004) concept, informal institutions are socially shared rules, usually unwritten, that are created, communicated, and enforced by non-official and official channels. In the case of impunity for police forces, we have – following the adaptation of Daniel Brinks (2003; 2006) – a permissive rule: officials are not obliged to use violence, but they are allowed to

(and in certain ways, encouraged) by the official institutions responsible for supervising them. Impunity – i.e. the enforcement of the informal rule that allows for violence and abuses of authority – is produced by a complex interaction of formal institutions: internal administrative agencies in charge of applying disciplinary sanctions and the agencies of the criminal justice system in charge of criminal prosecution. The most common sequence of that mechanism is: the characterization of the victim as a “criminal;” the adulteration of the crime scene by the police, tampering with evidence to pretend the victim had a gun and that the police officers acted in self-defense; poor investigations by the civil police; the dismissal of the case by the public prosecutor on grounds of self-defense; and the acceptance of that dismissal by the judge (Misse 2011; Lemgruber, Musumeci and Cano 2003). The few criminal cases pursued tend to result in acquittals by the jury or Appeal Courts. In parallel, no administrative disciplinary sanction occurs.⁶

In the face of such a stable institution, which thoroughly governs the entire field of public security policies, new initiatives and small-scale reforms at a formal level tend to be easily captured and realigned to the rule. The presence of this informal institution thus adds a layer of complexity to any strategy to reform police organizations.

Prado and Trebilcock are not naïve about the importance of dealing with informal institutions. They expressly acknowledge that “formal institutions – where most reform efforts are focused – are influenced by a set of social, cultural and historical facts (...) that present a unique set of challenges to reformers” (Prado and Trebilcock 2018, 9). However, placing informal rules in the realm of culture and focusing on formal organizations makes it harder to address them in reform strategies. What if informal institutions are the ones that need to be bypassed?

Since the Brazilian transition from military rule to democracy, several initiatives and reforms have tried to deal with the impunity of police abuse in Brazil. For example, the 1996 “Bicudo Act” (n. 2190/96) moved the jurisdiction over crimes committed by the military police against civilians from military to civil courts⁷.

⁶ The Carandiru Massacre is an illustrative case of the justice system’s lack of disciplinary sanctioning and resistance to convict police officers. In this case, which involved the homicide of 111 inmates in the Carandiru prison in the State of Sao Paulo, the officers responsible for the massacre scaled up the hierarchy of the corporation; one of them even assumed the general command of the military police of the State; and after 23 years, no criminal conviction has been reached (cf. Machado and Machado 2015).

⁷ In 2017, Law 13,491/2017 revoked a portion of the “Bicudo Act”, determining that crimes committed by military personnel from the army, navy, and air force against civilians would be tried by military tribunals. However, state military police officers, discussed in this paper, would still be tried in civilian courts. Nevertheless, the new law became relevant to the case at hand when the army started to be deployed more frequently to perform police activities in Rio de Janeiro. This initiative was implemented in the recent past through the so-called “law and order maintenance missions”, in which the army was called upon to assist the state military police forces in occupying Rio’s favelas and during the 2014 Olympics. Since January 2018, the State of Rio de Janeiro has been under “military intervention” (an exceptional provision in the Brazilian Constitution), and the state polices (civil and military) are subject to the command of a military officer. Under these conditions, the new law may gain a broader scope, being applicable to all crimes committed

Another example is the possibility of ‘federalizing’ state cases, which was instituted by Constitutional Amendment 45/2004 (Brazil 1988). This mechanism allows for moving human rights-related criminal cases from state courts to federal courts, which are supposed to be more neutral. These initiatives were not able to change the pattern of police brutality impunity: the federalization, which has to be requested by the General Prosecutor’s Office, has occurred in very few cases, and, in addition, civilian courts did not prove to be more efficient (or more impartial) in punishing police officers. The problems persist.

Police brutality is a longstanding problem in Brazil, and my claim is that the various police reform measures – institutional design, training, salaries, external control, etc. (Beato and Ribeiro 2016; Costa 2008) – are necessary but not sufficient to make police forces comply with minimum rule of law standards. Informal institutions that produce impunity for police abuse should not be displaced from the center of our analysis and consequently should also have a greater role in theorizing the concept of bypass.

The UPP experience remained at the formal level. Prado and Trebilcock’s analysis focused on the formal organization, i.e. how a new police unit could bypass regular police units. However, an important dysfunctional aspect of the institution to be bypassed is informal: the authorization given to the police to violate the rights of the poor black population, labeled *a priori* as criminals. The permanence of this informal rule, reinforced by other formal institutions, such as the judiciary, adds a layer of complexity to the debate on police reform. It suggests that, when one accounts for informal rules, reforming or bypassing organizations can be akin to Sisifo’s work.

4. FINAL NOTES ON THE AMARILDO CASE: “THE POLICE THAT CRACKS DOWN ON THE AVENUE IS THE SAME THAT KILLS IN THE FAVELA”⁸

In June 2013, Amarildo, a black bricklayer assistant that lived in the UPP Rocinha area, was taken by UPP officials and disappeared. It was soon discovered that he was tortured to death by UPP agents seeking information about drug trafficking leaders. Mentioned briefly in Prado and Trebilcock’s book, the episode is also discussed in the article on which the UPP case study is based, by Denyer Willis and Prado (2014). In both pieces, the authors acknowledge that the episode shows police behavior that was typical of the old police, but claim that the case is distinct in two dimensions: “the UPP citizens were active in voicing their dissent, and the state, via the UPP, showed itself to be responsive and decisive” (Denyer Willis and Prado 2014, 238). However, it is not clear if either of these statements can be supported, especially now that we can look at the episode in retrospect.

^during the “military intervention”, which would be tried by a military tribunal.

⁸ “A polícia que reprime na avenida é a mesma que mata na favela” (slogan created in 2013 by the social movement *Rede de Comunidades e Movimentos contra a Violência*). Cf. G1 2013.

This episode coincided with the outbreak of a wave of protests that became known as the “June Journeys” – a sustained series of public demonstrations that reached its peak in a protest that happened simultaneously in 130 cities and took 1.25 million people to the streets. The protest called out a multitude of issues – it started as a reaction to an increase on public transportation tariffs but soon became a means to express a wide array of objections, for example, about health, education, anti-corruption, World Cup public expenditures, etc. Such expansion was explained by different factors in the political context, but there is a consensus that police repression against protesters and journalists in the first days of protests ignited the mobilization. The Amarildo episode happened a few days after scenes of sheer police violence against middle-class white activists and journalists went viral and landed on the front pages of major newspapers. The victims of the police in the protests were not the usual “suspects” which lead to popular pressure to address the problem of police violence at a level never seen before.

The disappearance of Amarildo in the same week of the protests made it a different case, as the traditional problem of police brutality against the poor black population intersected with the largest wave of protests since democracy was restored. There were sustained manifestations in the public sphere to press authorities to start a criminal investigation and move it forward. On the streets – especially in Rio and Sao Paulo – one could see people with posters that read: *Where is Amarildo?* In Rio, artists and left-wing party leaders started a campaign to raise funds for Amarildo’s family. With the slogan “we are all Amarildos,” cultural events started to take place: charity dinners, auctions, and music concerts with internationally famous artists like Caetano Veloso and Marisa Monte. The public campaign *Where’s Amarildo?* continued even in the aftermath of the protests and soon went nationwide. Human rights organizations and lawyers increased the visibility of the campaign and followed the case closely. Through social media, the case spread nationally and internationally – the slogan by then became: *The world wants to know where is Amarildo.*

The case indeed broke the informal rule pattern: the prosecutor started a criminal case against 25 police officers with charges of torture, disappearance of a dead body, and homicide. As a result, 13 officers were convicted by a jury, and the appellate court confirmed the conviction of eight of them, in contrast to the courts’ traditional impunity record. Thus, the Amarildo case is a good example of how informal rules are not self-reinforcing mechanisms to which we are subjected by destiny. It also shows that social forces mobilized in certain political moments can destabilize even the most dominant rule in the game. However, the episode appears to have been enabled by occurring at a critical juncture, a situation that would be unlikely to reoccur.

In the aftermath of the protest waves, a bill to reform the police was proposed, but lacked support (Constitutional Amendment Proposal n. 51/2013). Other important cases – like the Carandiru Massacre (a killing of 111 incarcerated persons

by the police, 26 years ago) or the Crimes of May (more than 500 people murdered by the police in only one week, 13 years ago) (Mehl 2011) still struggle to advance within the criminal justice system. Along with four thousand murders per year – mostly unpunished – these episodes show the resilience of the informal rule of impunity.

5. CONCLUSION

While most countries in Latin America face a context of (un)rule of law (O'Donnell 1998) or subverted rule of law (Vieira 2007), addressing informal rules is even more important in the conversation about reforms. It means that if there is a consensus that “institutions matter” and “governance matters” it is crucial to consider the complex interaction between the state and informal institutions that shape the mechanisms that sustain inequality – and most importantly, racial inequality.

When discussing the limitations of bypasses, Prado and Trebilcock point out that “bypasses may be simply mitigating a symptom of a larger and more structural problem” (2008, 21). The UPP case might be an important example of this cautionary note that the authors make.

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