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Securitization (Re)Turn: Analysis of the New Brazilian Migration Laws (2016-2019)

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This article explores recent Brazilian legislative developments on migration as a continuous struggle between opposing views: one emphasizing migration as a matter of national security and another considering migration a human right and the laws related to this right as instruments for the integration of migrant populations. Between these two opposing views are many intermediate positions, but it is possible to focus on them as driving forces in the legislative debate. This article demonstrates that the most recent Brazilian migration law, perceived by many as modern and based on the human rights concept, is a mere moment in this struggle. We posit that there has recently been a growing hegemony of securitarian forces in the production of policies regarding migration in Brazil.

Keywords: migration laws, Brazil, securitization, armed forces, human rights

Este artigo explora os recentes desenvolvimentos legislativos brasileiros sobre a migração como uma luta contínua entre visões opostas: uma enfatizando a migração como uma questão de segurança nacional e outra vendo a migração como um direito humano e as leis relacionadas a esse direito como instrumentos para a integração das populações migrantes. Entre essas duas visões opostas estão muitas posições intermediárias, mas é possível focar nessas visões como forças motrizes no debate legislativo. Este artigo demonstra que a mais recente lei migratória brasileira, vista por muitos como moderna e baseada no conceito de direitos humanos, é apenas um momento nessa luta. Indicamos que recentemente vem ocorrendo uma crescente hegemonia das forças securitárias na produção de políticas relativas à migração no Brasil.

Palabras clave: leis de migração, Brasil, securitização, forças armadas, direitos humanos

Introduction

In 2017, Brazil saw a new migration law passed, after a long and tortuous journey through the two houses of the National Congress. This article aims to identify the actors and perspectives that are at stake in this political scenario. The new law replaced the old migration law of the dictatorship (1964–

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1985) published in 1981. The old law had an essential security character and was built in terms of avoiding a danger that was imagined to be embodied in immigrants: a fear of the entry of leaders linked to the movements of the world left (Cavalcanti 2018). The intention behind this study is to compile an analysis of legislative processes regarding human mobility issues in Brazil, considering that behind these events lies something fundamental: thoughts about "otherness" and the place it occupies in the national political arena. Conceptualizing legislation as a set of information that allows us to access the concept of difference is absolutely valid and relevant today. It is in the process of making these laws that certain worldviews, perspectives, and conceptions crystallize into policies, constituting practical realities for people and collectives of people.

In this article, we intend to explain the production context of the new law, looking at the it in its final form, at the vetoes it encountered after its approval and also at the regulation of the law. In addition, we will advance a discussion that extends to the present moment, based on proposals for the amendment of the law and the issuing of directives that discuss directly its content.

What we intend to demonstrate is the progress of a security discourse under the influence of conservative governments in Brazil since 2016. If before that we could identify what Acosta Arcarazo and Freier (2015) called "liberal populist discourse" in various contexts in South America, we will demonstrate a shift to an openly conservative and securitarian discourse. The perception that migration is a threat to national security is a recurring fact in Latin America, as shown by Magliano and Clavijo (2011) and Araujo and Eguiguren (2009). The discourse that treats immigration as a danger to public order has been described in the most varied contexts (Huysmans 2000; Fassin 2005; Arifianto 2009; Ilgit and Klotz 2014; Menjívar 2014; Stephen 2018), resulting in restrictive policies and the social construction of migration as a security issue. As a contemporary form of racism (Ibrahim 2005), the relationship between migration and security issues has increased and strengthened in Brazilian government discourses and practices.

This work is based on an ethnography of documents (Hull 2012; Gupta 2012; Riles 2006; Stoler 2002) relating to the legislative process, taking both the propositions of the texts themselves and other documents produced in this context—documents that are the result of the Brazilian legislative process, which can be seen as a cluster of documents surrounding the procedure of legislating. These documents are public and available on the websites of the Brazilian Chamber of Deputies and the Brazilian Senate.[1] This entire set of elements was studied to produce an analysis of Brazilian migration legislation.

I consider that this set of elements is an ethnographic field in which perspectives on difference are made explicit in the text of the law and its changes and also in the legislative debates regarding its trajectory in the National Congress. Identifying patterns and conflicts around the configuration of the migration law is a way of understanding political thinking about what foreigners are, what foreigners

[1] These documents are texts of laws, bills, vetoes of the law, decrees regulating laws (Brazil 1980; 2000; 2017a, 2017b. 2017c, 2019a and 2019b) and also audios of meetings to discuss these laws in the Chamber of Deputies (Brazilian Chamber of Deputies 2016a, 2016b and 2016c).

are entitled to, and how different nationalities can be treated differently regarding the hierarchies of otherness resulting from the clashes in the Parliament.

Brazilian Scenario

The history of the formation of the Brazilian people is related to displacements forced by slavery. According to Alencastro (2018, 60), 4.8 million Africans were trafficked to Brazil from the 1500s until the end of the nineteenth century. Over time, Portuguese migration was also relevant, and from the nineteenth century onwards migration policies defended the recruitment of white immigrants as a whitening policy (which would remain perceptible until the government of Getúlio Vargas in the twentieth century). Between the end of the nineteenth century and the beginning of the twentieth alone, more than 3 million immigrants, mainly Europeans, entered Brazil (Petrone 1997, 110). The impact of notions of whitening on Brazilian immigration policies was immense, as noted by Lesser (2013) and Seyferth (1986).

Since the end of the twentieth century, Brazil is predominantly an emigration country but is also an immigration country. A succession of economic crises resulting from the economic policies of the military period generated the reality of Brazilian emigration since the end of the twentieth century (Feldman-Bianco, Sanjurjo, and Silva 2020), a process that extends to the present. There is a coexistence of both flows, with a positive balance for outflows. According to Oliveira (2018, 61), in 2018 there were 1,221,001 immigrants in Brazil, which means around 0.6% of the population in the country were foreigners. Data from the Brazilian government (Brazil 2016) indicate that there were about 3,050,000 Brazilians abroad, which points to the percentage of 1.5% of the Brazilian population living outside the country, although the data are not particularly accurate.

There is a vast bibliography on both Brazilians abroad and immigrants in Brazil. What the various surveys indicate is a predominant emigration move to the United States, European countries, Japan, and also within South America, mainly to Paraguay and Argentina (Feldman-Bianco 2001; Frigério and Ribeiro 2002; Lesser 2003; Maher and Cawley 2016; Margolis 2013; Schrooten, Salazar, and Dias 2016; Sprandel 2006). Immigration flows are, in turn, predominantly from the global south, with a strong focus on immigrants from South America, such as Bolivians, Peruvians, and Venezuelans. There are also significant flows of Haitians, in addition to Chinese and African flows, especially of Angolans, Senegalese, and Congolese (Dutra 2012; de Gusmão 2012; Handerson 2015; S. Silva 2006; C. F. D. Silva 2018; Vasconcelos 2018).

Until 2017, the legislative setting of Brazilian migration was governed by a law enacted in the time of the dictatorship (Brazil 1980), the focus of which was clearly the issue of national security, permeated by the ghost of a possible communist revolution, such as the Cuban revolution (Machado 2012). The issue of securitization has a long tradition in Brazil, and we can see this process in action already in the migratory policies of the first Vargas government (1930-–1945). The issue of migration and the control of migrants generated several restrictive policies, especially during the Second World War (Williams 2001; Geraldo 2009). Securitization runs throughout the history of the Brazilian dictatorship and its anti-immigration policies (Cavalcanti 2018) and extends to the practices of

militarized control of slums in more recent years (Savell 2016; Fahlberg and Vicino 2016). The issue of militarization of the reception of Venezuelan refugees is just the newest facet of this tradition (Machado and Vasconcelos 2018).

This scenario is common in South America, and in the Chilean case, for example, Reveco and Mullan (2014) also identify national security as a theme apparent in new legislative propositions. As stated by Acosta Arcarazo and Freier (2015, 659), migration policies in South America live a paradox of officially welcoming undocumented migrants but covertly rejecting these same migrants. Cantor, Freier, and Gauci (2015) state the same for the Latin American context. For the case of Brazilian policies, the research data by Acosta Arcarazo and Freier are based on the leftist governments of Luiz Inácio Lula da Silva and Dilma Rousseff (2003–2016), when this rhetorical paradox was evident. With the Temer government (2016–2018) and the current far-right president (2019–), this paradox is no longer visible, since the speech is already openly xenophobic (Payne and Souza Santos 2020).

Acosta Arcarazo and Freier (2015, 659) called the policy of the previous leftist governments in South America (Argentina, Brazil, and Ecuador) "populist liberalism," highlighting the paradox between embracing alterity rhetorically and applying exclusionary policies to immigrants from Africa, Asia, and the Caribbean. The change we highlight here is the production of what Goldstein (2019) calls the "right-wing order." In this new political-ideological order, migration takes on the same threatening role that we saw in the Brazilian military dictatorship: a resumption of the clearly securitarian speeches on immigration, common in South American dictatorships at the end of the last century (Domenech 2009).

The permanent tension between an idea of development (which includes immigrant populations) and security concerns is also a feature of Chilean migration policies (Reveco and Mullan 2014) organized around notions of "national security" and "health security." Domenech (2015) states that the construction of illegality and immigration based on the idea of undesirable foreigners, seen as a threat, is also a brand in contemporary Argentina, reinforcing a security perspective. Although authors such as Escobar (2015) have highlighted the issue of the immigrant vote in Latin America as an antisecuritarian perspective in the region, in Brazil, the issue of foreign voting is a taboo maintained by the new legislation: the immigrant vote is feared, as we will see below. One of the dimensions of the "securitization turn" (or return) in Brazil is the denial of the vote to immigrants.

Migration policies have had a key role in shaping an official perspective on the different populations that make up a country or may eventually be part of it in the future. Otherness hierarchies (Grosfoquel and Georas 1996) are inscribed in the text of the law and can therefore be clearly analyzed. In the Brazilian case, a historiographic study of migration laws indicates, according to Seyferth (1996), how the racism of the Brazilian elite in the late nineteenth century organized migration policies after the late end of slavery (1888). A social engineering policy was adopted in the twentieth century, with an unrestricted preference for white European immigrants and the explicit prohibition of any black migration to Brazil, as well as restrictive policies on Asian migration, where only the Japanese were considered desirable (Lesser 2013). Much of the current situation of the exclusion of Afro-Brazilian

populations can be understood when analyzing migration laws from the late nineteenth century and the first half of the twentieth (Seyferth 1996).

On the other hand, the legislation of the last Brazilian dictatorship (1964–1985) gave clear preference to Portuguese immigrants (Machado 2012; Brazil 1980), absorbing into the country many of the Portuguese who fled their country's colonial wars of the late twentieth century. If we can pinpoint the importance of racial eugenics policies in Brazil in the early twentieth century, the same could be done for other Latin American countries such as Mexico, where the same concepts of race and culture influenced many of the Mexican state' s migration policies (Walsh 2004). Even if we look at contemporary migration policies, we find the same ways of producing hierarchies, the criteria varying here and there for constituting difference and excluding certain populations from access to the right to movement. A radical example can be seen in the successive constitution of laws—in this case, citizenship laws—in Myanmar, which eventually transformed the Rohingya, once seen as a minority in the country, into a stateless population without a right to citizenship (Parashar and Alam 2019).

In the case of the new migration law in Brazil, there was provision for special rights for nationals of countries with Portuguese as an official language and also for nationals of Mercosur countries, but these sections of the law were vetoed by President Temer, with the allegation that this could influence the Brazilian electoral process. Thus, the final text of the law does not appear to produce any hierarchy among foreigners. However, the normative actions of the remodeled CNIg (National Immigration Council), as we will see below, clearly establish a current preference for Venezuelan immigrants/refugees (Brazil / CONARE 2019). At the same time, discrimination is practiced against Haitians, as their asylum applications are mostly denied.[2]

Before the New Migration Law

It can be said that the renewal of the Brazilian law had been on the agenda since the beginning of the process of redemocratization, and the Brazilian parliament has seen many bills regarding its modernization. During the Lula da Silva administration (2003–2010) some effort was made to produce new legislation which, however, did not go forward. During Rousseff's governments (2011–2016), a proposal by opposition senator Aluísio Nunes gained traction in the Senate but moved slowly. Senator Aluísio's proposal was influenced by the action of two opposing political groups: the national securitarian forces, represented mainly by the Brazilian Federal Police (responsible for the daily administrative practices of control of entry, stay, and exit of foreigners in Brazil), and civil society organizations linked to immigrant assistance, such as scientific associations, religious congregations, and many others (Machado 2016).This proposal ended up becoming the embryo of the new Brazilian migration law of 2017.

[2] In other texts, I explore the question of hierarchies of otherness among refugee populations in Brazil (Machado 2020b; 2020a).

MARLAS 4(2), 2020, DOI: 10.23870/marlas.318

The end result is a tension between an extremely securitarian perspective and a humanitarian perspective toward immigrants. Thus, the law contains both advances and setbacks in relation to the old law, even though its reception in general terms was more positive than negative in the Brazilian political landscape (Guerra 2017; Oliveira 2017; Varella et al. 2017). The law presents an introduction founded on the concept of human rights and the dignity of the human person. There was a broad understanding of migrants (ranging from cross-border travel to stateless persons). Types of visas that were already in place in Brazil, such as the humanitarian visa originally designed for the case of Haitian immigrants (Bersani and Handerson 2018), became part of the body of the new law. There was a broad concept of cross-border mobility, providing movement facilities for traditional populations living in border areas (Brazil 2017a).

A refusal to quote the word "gender" persisted throughout the text, however, due to pressure from conservative religious forces in Congress (in both houses), which tend to regard any mention of gender as an affront to "'traditional" moral values (Brazilian Chamber of Deputies 2016b). This process makes it more difficult to recognize family groupings that are not organized on the basis of heterosexual marriage. In addition, a major change occurred in terms of expulsion forms. In the old law, deportation aspects, for example, were not included, as there were other laws to deal with this issue (Brazil 1980). In the new law, however, Congress inserted all legislation on deportation, expulsion, denial of entry, and extradition into the migration law (Brazil 2017a). Looking at the general body of the law, more space is devoted to expulsion than to forms of residence in the country. This insertion was the active result of the securitarian forces in legislative policy, with representatives very clearly instructed by the interests of these forces, especially the Federal Police (Brazilian Chamber of Deputies 2016b and 2016c).[3]

A significant change has gone unnoticed by recent commentators on the new Brazilian law: it relinquishes a centralized structure with responsibility for producing policy and solutions for extemporaneous events (Brazil 2017a). In the former law (Brazil 1980, art 128), the institutional figure of the CNIg existed, centralized in the Ministry of Labor and composed of members of various ministries as well as representatives of civil society. This multiministerial institution was in charge of managing migration policies and was regularly inscribed in the letter of the law. It was responsible for defining or elaborating policies for omitted cases, that is, not foreseen by law. This structure allowed great flexibility in the daily management of the migratory phenomenon. This legal provision allowed for a gradual modernization of migration management, even with an absolutely outdated law. Devices such as the humanitarian visa,[4] the modernization of the family concept for reunification cases,[5] the extension of Mercosur mobility agreements to all border countries with Brazil,[6] and other important steps were taken by this institution. The CNIg was thus the great agent of the experience of contemporary migration in Brazil.

[3] This can be verified by the audios of the discussions of the bill in the Chamber of Deputies. Especially those of the Ordinary Deliberative session of 12/06/2016 in 2016c.
[4] Resolution 97/2012 of CNIg (National Immigration Council).
[5] Resolution 77/2011 of CNIg.
[6] Resolution 126/2017 of CNIg.

MARLAS 4(2), 2020, DOI: 10.23870/marlas.318

The new law does not preserve the CNIg, as there is no mention of it anywhere (Brazil 2017a). The new law is born without a device to produce solutions for missing cases, which is often the nature of international migrations. Although the CNIg framework for modernizing practices has almost entirely entered the new law as a legal rule, its very absence in the new law produces an immediate problem: the lack of flexibility in interpreting the law and in producing rapid responses to critical situations. This is not carelessness, but rather the result of a process of political disputes. The securitarian forces acted to remove CNIg from its role as ad hoc legislator for omitted cases, and at the end of the process, to eliminate from the law the need for the institution to exist. This means that the law is born rigid and inflexible, and only one institution is responsible for interpreting it, the Federal Police (Brazil 2017a).

In other words, the new law grants border control to the police bureaucracy that is also the only institutional accountable when the subject is the entrance of foreigners. From this perspective, the Brazilian Federal Police now have more discretionary power over migration than they did under the old law, which was explicitly opposed to migration (Sprandel 2015). In terms of a dispute between national political entities, this feature of the new law is a major strengthening of the securitarian perspectives in the production of migration policies and represents a significant political defeat of the forces that defended a new law that was more humanitarian and less securitarian.

The clash of forces with an inclination toward a securitarian standpoint did not end after the promulgation of the law, which is the most important fact. The promulgation was not an end result of that clash but only a moment in the disputes. The struggle continues, and it is possible to say that the prominence of a securitarian perspective and the centrality of the Federal Police will result in disputes continuing after the law's implementation. We will see in the next section how the clash continued in the vetoes that the law suffered shortly after its promulgation (Brazil 2017b) and later in the production of the regulation of the law (i.e., the effective way to transform the text of the law into administrative practices, Brazil 2017c). We will also look at the radicalization of the securitarian perspective.

Vetoes and Regulation

The law had not yet reached its end point at Congressional approval: before the final text came presidential appraisal and the possibility of vetoes regarding various passages of the law (Brazil 2017b). During this period, we saw great political movement, both from those most linked to the police and military structures, seeking to veto passages that they considered too permissive, as well as those linked to civil society organizations, requesting that the most positive propositions of the text not be vetoed.

The Ministry of Defense, the Office of Institutional Security (GSI),[7] and the Federal Police were the main state bodies calling for a hardening of the law, due to a view that interpreted the law as permissive and harmful to national interests, especially in the issue of border protection. Politically, these

[7] This is the bureaucratic body responsible for national security policies.

MARLAS 4(2), 2020, DOI: 10.23870/marlas.318

demands were supported by the "bullet group" in Congress, political forces linked to those institutions. Let us remember that the GSI, for example, is basically a group of military personnel, echoing the demands of the protectionist point of view of borders.

To understand the political temporality of the law process, it is useful to highlight some milestones. The law was proposed in the Brazilian Senate on 7th November 2013, and was approved with many modifications and forwarded to the Chamber of Deputies on 8th May 2015. It was debated by the Chamber of Deputies for over a year and, after being modified, was approved and sent back to the Senate on 13th December 2016. It was approved in the Senate on 18th April 2017 (Brazil 2017a), and went for presidential sanction on 5th May 2017. On 24th May 2017, President Temer sanctioned the law with some vetoes (Brazil 2017b). The law was referred to the Chamber of Deputies, which approved the vetoes on 31st August 2017. Finally, the law was regulated by Decree 9199 of 20th November 2017, when it officially went into force (Brazil 2017c). As the CNIg was no longer in the law, a decree regulating the operation of a new CNIg was issued in 2019 (Decree 9873 of 27th Jun 2019; Brazil 2019b), now as an institution regulated by decree and not by law (therefore, at a lower legal level, easier to change in the legislative order; Brazil 2019b). This decree also introduced a significant change in Decree 9199, which regulates migration law. It is a single amendment, but it is significant: it repeals Section 163, which gave the Ministry of Justice the power to decide on omitted cases. In the new order, this power returns to the new CNIg.

These temporal references also need to be analyzed in relation to political changes in the country. On 31st August 2016, President Dilma Rousseff was removed from government by an impeachment process two years after the elections. Michel Temer, the vice president, assumed office and remained in government until 31 December 2018. Thus, the passing of the law, vetoes, and regulation came under the short Temer government. Regulations for 2019 were already under the aegis of the new, far-right government, elected at the end of 2018.

President Temer's vetoes were significant (Brazil 2017b). We will briefly explain them and the perspectives informing these actions. Firstly, the very definition of migrant in the new law is amended by removing the term "cross-border migrants" from the definition of "migrants." The justification for this change is that, by defining migrants also as cross-border migrants, a door was opened for all foreigners living in border towns to be considered migrants and, therefore, bearers of rights under the law. This perspective is informed by a fear of *loss of control* of cross-border movement, which is what happens within border cities where people move daily or weekly for work, access to public services, etc. Moreover, the justification for the veto is that such a concept would extend a condition of equality to cross-border migrants comparable to native Brazilians, raising fears about the costs of such equality, especially in access to public services. However, this justification is clearly an exaggeration since nothing in the law equated the transboundary migrant to a Brazilian citizen, regulating only their movement. The real reason for the veto is, therefore, a fear of an uncontrolled flow of foreigners in the border towns, which is also a false extrapolation from the text of the law (Brazil 2017a).

The vetoes also acted on a provision of the law that allowed the production of more types of visas by simple regulation, if necessary. The justification was very clear: it was not appropriate that

MARLAS 4(2), 2020, DOI: 10.23870/marlas.318

new forms of visas be created outside the hypothesis of the text of the law. This meant that the political forces informing President Temer feared that the possibility of new forms of visa would flex the rules of entry if, for example, a government less concerned with secularization came to power. The withdrawal of the law's flexibility was a clear policy instrument for limiting the exercise to decide on migration flows: only the rule of law would apply, laws which confer centrality to police forces, as indicated above.

One of the sections of the law was intended to facilitate family reunion by extending the notion of family "to other hypotheses of kinship, emotional dependence, and sociability factors" (Brazil 2017a, Section 37 Law 13.445). This more tolerant perspective was, not surprisingly, vetoed by the securitarian view that this would be a loophole for child trafficking. As many authors point out (Ibrahim 2005; Avdan 2012; Piscitelli 2016), the issue of human trafficking has repeatedly been a way of justifying restrictive perspectives on migration laws around the world. In the Brazilian case, this veto is directly related to conservative policies influenced by the evangelical group in Congress and the government. The issue here is precisely the flexibility of the notion of family, which these political forces understand as a moral attack on the religious perspectives of family.

The vetoes accentuate the securitarian perspective: even the right to enter Brazil for citizens of countries with which Brazil has a visa waiver agreement (with forms of denial provided for in the text of the law) was vetoed on the explicit argument that provisions of the law injure the Brazilian "police power" because it impedes the discretionary denial capacity of national police forces. Here is a case where the veto changes the general meaning of the legislation itself, which seeks to regulate who enters and who leaves. The president defends in this veto a diffuse right to denial of entry by police officers, even if not duly justified.

The vetoes also affect indigenous peoples living in cross-border areas, who had secured the right of movement within their traditional territories. The justification is more or less the same: the state cannot relinquish control of its borders, even in the specific case of recognized and transboundary traditional territories. The veto text clearly states that allowing this circulation *endangers* national sovereignty. The general perspective in the vetoes is to keep the power of expulsion less regulated and therefore more suited to policies that regard migrants as a danger.

The issue of granting nationality, and therefore the right to vote, is also attacked by the presidential vetoes. The law allowed certain classes of people to apply for naturalization in the country after one year of stay, as opposed to the four years required for other categories. The law created facilities for migrants from Portuguese-speaking countries and citizens of Mercosur. These two exceptions were vetoed on the grounds that they could affect the national electoral process. Here, we have an explanation which aims to prevent or postpone migrants having access to the right to vote (that is possible only after naturalization). The notions of similarity and proximity that created better conditions for Portuguese speakers and Mercosur members were rejected in favor of maintaining an electoral college with less participation by future naturalized immigrants.

The other vetoes follow an economic line: the subsection allowing immigrants to compete for state careers has been removed from the law. Finally, a general amnesty for immigrants who entered Brazil before July 2016 was banned, again with allegations that the measure would prevent the discretionary power of the Brazilian police. Taken together, President Temer's vetoes meant a considerable reduction in the law's humanitarian aspects, indicating a continuing political dispute between the securitarian forces and proimmigrant agents in the country. This continuation is largely favorable to the securitarian forces, returning to the text something of the spirit present in the previous law of the dictatorship period.

This was only one of the steps in this ongoing struggle, however. The regulation of the law also followed the same steps as the vetoes, reinforcing the securitarian aspects to the detriment of supposed humanitarian advances in the law. Regulation of the law followed a very undemocratic process, with only one public activity promoted by CNIg in August 2017, which produced a total of sixty-eight proposals for the regulation decree (Delfim 2017). None of the proposals had any impact on the production of the regulation, which resulted in a decree with 318 sections, contrasted with 121 sections of the new law itself (Brazil 2017c). The consensus is that the regulation decree is, in many ways, contrary to the law. In addition, it postpones the regulation of the humanitarian visa to an uncertain future. There is thus a gradual loss of the humanitarian features of the law by vetoes and the regulation decree, moving back toward the perspective of national security. As a significant example, the law ensures that no one can be arrested for immigration reasons (Brazil 2017a Section 123), while the regulation decree, paradoxically, opens up the possibility of prison for migrants in undocumented situations (Brazil 2017c Section 211). The decree tends to accentuate the premeditated confusion between migration and criminal justice, broadening the general perspective of groups advocating a less humanitarian law.

It is possible to point out several dubious interpretations the regulation makes about the law it intends to regulate. In Section 147(7), an attempt to limit the mobility of immigrant workers appears. If immigrants change jobs, they need to prove everything again. This aspect takes up the spirit of the old law, which intended that the state control all of a migrant's movements, even being suspicious of the very idea of mobility. Section 163 clearly gives the Ministry of Justice the power to decide on other cases of residence permits. Section 171(13) in the decree introduces a health requirement that does not exist in the law—health certificates of migrants, without precise specifications. Section 180, on the protection of migrants, contains no mention of gender-based risks, which means that the law protects only those who do not suffer from gender persecution. Section 192 indicates that a migrant may be expelled for a common intentional crime, according to the severity of the crime, but it does not outline what and how "severity" is measured.

Section 221 is quite worrying since, in practice, it increases the number of years to apply for naturalization, which starts only from the acquisition of residence for an indefinite period. That is, only after accessing the status of permanent resident does the time period to apply for naturalization begin. Any time under the temporary residence regulation (usually ruled every two years) is not counted. The decree is clearly stricter than the law, increasing the number of years to apply for

MARLAS 4(2), 2020, DOI: 10.23870/marlas.318

naturalization. Section 234, on the other hand, is one example of the explicit advance of securitization in the regulation of law: it requires that, in order to apply for naturalization, an immigrant needs a declaration of no criminal background from the original country, making the task of naturalization very difficult.

The regulation also gives the Federal Police the power to discipline via ordinances on matters such as deportation, expulsion, and repatriation. All these dimensions are contrary to the spirit of the law, revealing that the continuation of the political clash can produce a regulation that contradicts the regulated law. Several intellectuals and immigrant advocacy institutions have publicly opposed the decree of regulation, indicating how tensions over the issue of migration have not been resolved by the law (Ricci and Silva 2018). Ramos, Ventura, and Dallari (2017), for example, highlight how regulation is a threat to the law itself. Ramos, Rios et al. also point out several issues regarding the controversial regulation of the new migration law, noting that it "poses a serious threat to the historical achievements . . . toward migrant rights" (2017, 1). All these authors indicate that the regulation aggravates the situation of migrants in Brazil, misrepresents the new law in its humanitarian principles, and allows the advance of securitarian forces in the management of migration in Brazil.

New Government

Between 2018 and 2019, a new face of the Brazilian experience with immigration developed, shaping yet another facet of what I have been calling the ongoing dispute between prosecuritization and proimmigration forces. Following the recent crisis in Venezuela, which produced thousands of displaced people (Ordóñez and Ramírez Arcos 2019; Sidney Silva et al. 2018), the Brazilian government, still under Temer's command, instituted a new policy of immigration control and management based on the transfer of responsibility to the military. In the Brazilian state of Roraima, bordering Venezuela, there is currently innovation in the reception policy, where the main idea is to organize Venezuelan reception in centers run by the Brazilian Army. This is the first time that the Brazilian state has delegated this "humanitarian" task to the armed forces, concentrating a large volume of resources for the military.

We may call these reception centers "hybrid refugee camps," according to Machado and Vasconcelos (2018), precisely because of their model of the concentration of Venezuelan immigrants/asylum seekers in specific places, under military guard and with the explicit intention of removing them from the streets of Boa Vista, the capital of Roraima State. Both as social hygiene and as a mechanism for the "internalization" of these immigrants in Brazil, the hybrid refugee camps appear as a new device in the management of migration, the most significant first effect of which was the removal of Roraima civil society from the organization of reception tasks. The Army held complete control with the support of international institutions such as UNHCR and IOM (International Organization for Migration).

With the new law operating under quite contradictory regulation, as we saw above, 2018 also brought the increasing importance of the military in immigration management, as the securitarian standpoint established itself as dominant. In 2019, a change of government brought to power a

political grouping clearly linked to the armed forces and certain xenophobic perspectives on migration. In political terms, this government is concerned with certain populations as potential threats, specifically indigenous populations, social movement militants, and immigrants (Almeida 2019).

In the period the new government has been in power, two measures stand out. The first is the issuance of Ordinance 666 by the Ministry of Justice (Brazil 2019a), which intends to regulate expulsion, repatriation, and entry impediment processes, establishing new parameters to interpret the new migration law. The issuance of this ordinance has generated considerable controversy in Brazil, because it establishes interpretive criteria to legitimize the expulsion and refusal of admission of immigrants. In addition to listing a number of justifiable reasons, all connected to a relationship with international crime, drug trafficking, human trafficking, etc., the ordinance virtually authorizes the Federal Police to refuse entry based only on suspicion and mistrust. While mentioning international criminal databases, the ordinance states that information from Brazilian or foreign intelligence agencies may constitute the basis for the decision to deny entry, expel, or repatriate. However, agents are not required to submit this information in the process, featuring a bureaucratic maze that allows the Federal Police absolute power to determine who enters, without proper accountability to society.

This measure indicates a major step forward for the securitarian perspective we are mapping, from the initial proposals for the new law on migration to now. It practically nullifies the humanitarian aspects left in the new law by granting security forces a legal provision allowing them to bypass the law itself: anyone can be denied entry by a vague notion of suspicion. The mechanism that allows this maneuver is precisely the deep relationship that Ordinance 666 establishes between migration and crime, putting under suspicion any immigrant on Brazilian soil. Thus, we have the beginning of an essentially police organization for managing migratory flows if we also consider the role of the armed forces and the new hybrid refugee camps.

The other measure of the newly elected government was the issuance of Decree 9873 of June 2019, regarding the reorganization of CNIg (Brazil 2019b). That is, the new government restructured the CNIg, which had been weakened as an advisory body within the previous government and since passage of the new migration law. To create this restructuring, the new decree annuls Section 163 of the new law's regulation decree (discussed sbove) which stated that the Ministry of Justice was responsible for producing policies and issuing ordinances on migration. This responsibility is returned to CNIg, which is reinforced by the new government, from a perspective that seems to be contradictory to the advance of securitarian perspectives. However, in analyzing the new configurations of CNIg, we see that it is just the opposite: what we have is a colonization of the new CNIg by forces related to the securitarian perspective.

The previous CNIg format was a college of nineteen people. Of these members, eight were representatives of ministries, five were representatives of workers (trade union centrals), five were representatives of employers, and one was representative of the scientific community. A majority existed, then, of civil society representatives, theoretically. The new format has fourteen participants, including six representatives of ministries, one of the Federal Police, three representatives of workers, three representatives of employers, and one representative of the scientific community. In the new

MARLAS 4(2), 2020, DOI: 10.23870/marlas.318

format, there are seven government and seven civil society members, which gives the government decision-making power (in case of a tie, the decision of the president, always a Ministry of Justice representative, prevails). Thus, the new CNIg becomes almost a new government body, with a diminished representation of civil society. In addition, the Federal Police, a major political actor in the whole process of the constitution of the new law, gains an exclusive seat in the council, indicating the influence of the securitarian perspective, now in the majority within the new CNIg.

Conclusions

The central question of the analysis in this text was the explanation of the recent Brazilian legislative process as a continuing struggle between antagonistic points of view—one emphasizing migration as a matter of national security and another that considers migration a right and the laws pertaining to this right as instruments for the integration of migrant populations. Between these two opposing camps, are many intermediate positions, but when looking at the legislative set as a whole, in an analysis of legal documents, these two positions predominate in the debate.

The main contribution here is to think that the new Brazilian migration law, enacted in 2017 and seen by many as modern and fundamentally based on human rights conceptions, is just a moment in the struggle. It is not a definitive act that marks the predominance of one perspective over another, but a process of clashes that continues to the present moment. Thus, we propose to see the law not as a closed entity in itself, but as reflective of an ebb and flow of positions that may change over time. We began by analyzing how the conflict itself is inscribed within the law, with many concessions to a securitarian perspective, although the idea of a law based on human rights has prevailed. However, as far as the law was concerned, the political influence of the securitarian forces was evident. Then, when we shifted our gaze to the process following the enactment of the law, with presidential vetoes and a very controversial regulation of the law, we saw how the struggle continued, with a predominance of a security-based point of view, increasingly emphasizing a relationship between migration and crime.

By analyzing the role of the military in managing Venezuelan flows in Brazil and the new configuration of the CNIg,in which the Federal Police itself appears as a key player, we found a growing dominance by the security forces in the migration issue. The entrance of the armed forces and the consequent removal of civil society from the processes of reception indicate a kind of securitarian ideology in the management of migratory flows, which will probably serve as a future model for similar cases. The return of CNIg as an operator of migration policies indicates the weakening of proimmigration forces, as there is no longer a concern to remove flexibility provisions from the law. The new CNIg now lies under the control of the security forces, without fear that flexibility could be used to make an immigrant's life easier. It can be understood that it is just the opposite: the use of flexibility to hinder entry and facilitate expulsion, as Ordinance 666 of 2019 also indicates. An escalation in the securitarian perspectives related to immigration has been evident since the fall of Dilma Rousseff.

The reshaping of the CNIg in this scenario can be seen as a way of instrumentalizing a government institution for a securitarian hegemony, ready to produce securitarian migration policies

from the institution that had traditionally tried to circumvent these policies in recent years. Ordinance 666 of the Ministry of Justice, where the CNIg is now located, is an example of the kind of policy that this securitarian dominance can promote, and we are likely to see new expressions of this perspective in the Brazilian legislative body in coming years. The clashes will therefore continue, but it is now undeniable that the securitarian perspective has assumed political leadership of migration policy in Brazil. This is what we call the "securitarian turn."

The advance of securitarism in a political context dominated by the far-right since 2019 has produced a situation in which proimmigration agents have little political space and even can themselves be seen from security perspectives as "internal enemies" to the state. The radicalization of a xenophobic nationalism present in the speeches of the current forces that dominate Brazilian politics leads to difficult scenarios for immigrants in general, and especially for those who come from countries considered potentially dangerous (like Cuba, or even Colombia). Discretionary policies based on these perspectives are already in place, such as the privilege given to Venezuelan immigrants, used as a way to combat the Venezuelan government (Machado 2020b).

Finally, what is the notion of alterity that we can deduce from this political clash? If originally a greater tolerance prevailed for the difference represented by foreigners in the clashes immediately linked to the production of the new migration law, gradually a view of otherness as dangerous and threatening came to predominate. The main key to thinking about the difference in the continuity of the confrontation I describe in this paper is the connection between migration and crime, showing an aversion to the immigrant figure. This aversion is pervasive in the presidential vetoes of the new law, in its regulation, and in the new migration management practices that have been established since. The present situation is therefore a return to the general spirit of perception of alterity that presided over the old status of the immigrant in the old law of the dictatorship period.

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