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CRIME AS THE LIMIT OF CULTURE¹

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Abstract. In this article culture is understood as the ensemble of systems of classification, assessment, and interaction that establishes a basic community of values in a given social field. We will argue that this is made possible through the institution of fundamental prohibitions understood as mythical points of closure that set the last frontiers of that community by designating what crime is. Exploring these theses, we will see that criminal transgression may be thought of as the actualization of a rigorous otherness. This otherness, however, is nothing but the culture itself in its extreme vectors, its contradictions, and residues. From there we will differentiate three types of crimes: paroxysmal, archaic, and impossible. And we will conclude that the criminal question it is not a ‘social problem’ among others. Rather, it is a fundamental crossroad where the very constitution of any culture is at stake. It is the question of the beginning and end of the societal order and its subjects.

Keywords. Culture - Prohibition - Crime - Paroxysm - Archaism - Impossible

Would it be possible to study Brazilian society via the drug lords that populate its prisons? What do these most famous of favela-dwellers tell us about that South American economic and cultural power? And what are the corpses of more than seven hundred women found in the desert outside the city of Juarez? What does their senselessness mean? What language do they speak to describe the state that tepidly investigates them, to account for the gender and class relations in contemporary Mexico? Or in what strange forms do the recurrent school shootings figure the American Dream?

The legal logic and classical political economy that inform our common sense have long wanted to view crime as a radically individual act –perhaps the most individual of all. That is why questions like these have no place there. Whoever breaks the law, those discourses assert, does so from the solitude of their mental faculties or the solipsism of their emotions. One becomes a criminal because it is convenient in some sense; or because one has yielded (knowingly) to impulses that are elementally one’s

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own; or for both reasons at once. Whatever transgression cannot be understood according to this double-grid of personal responsibility and calculated interest will be considered irrational or sick. In any case, the criminal act always appears as an individual possession, and society as the antonym of crime.

The sociological concept of anomie, on the one hand, and the bio-psychological notion of instinct, on the other, do not seem any better equipped to address our initial questions. Discourses articulated around them call into question the utilitarian postulate of the free will of the subject of the action (social or anti-social) and tend to see every offender as abnormal – i.e., someone who is, to a greater or lesser extent, proximate to a-sociality and senselessness. But precisely for this reason, these arguments maintain the classic dichotomy of the classical paradigm that they contradict. They do so by outlining two types of explanation, which are not mutually exclusive. For those who speak of anomie, the criminal is an individual moved to violate rules because of a poor socialization. For those who see crime as an instinctual act, the criminal would be subject to intra-individual forces that, being outside the social realm, would lead him or her to transgress its laws.

All these propositions were challenged by various theoretical strategies that sought to relate crime to culture, and to recover criminal transgressors from the de-socialization perpetrated by psychiatry, criminal anthropology, and the sociology of early Durkheim (1984). Those strategies point to a dismantling of the treatment of crime as the property of a self-produced monad or as an anomic action that always implies the “absence of rules”². They help us to realise that to kill or to steal one need not be a monster or sick, as the popular imagination as well as psychological and sociological positivism like to think. They also help us to realise that transgressors, far from living completely detached from any social environment, are usually socialized in sub-cultural configurations with plenty of rules and values.

Such an undertaking seems, in principle, theoretically (and politically) correct, and this essay intends to participate in it. However, effort will be made to both expand on and make specific this approach. We will argue that that crime and criminals (sub-cultural or not), always pertain in fact and law to the society that rejects them, but also we will try to account for their specificity.

² See, for example, Sutherland (1937, 1978), Cloward and Ohlin (1960) and Becker (1963), Katz (1988) and Young (1999).

To advance the understanding of both topics, I would like to argue, it is necessary to comprehend 1) social space as a field of multiple actions and interactions moved by multiple desires and beliefs, b) culture as the ensemble of systems of classification, assessment and interaction that establish a basic community of dominant desires and beliefs (i.e. values) in a given social space, and c) fundamental prohibitions as the system of classification, assessment and interaction that set the last frontiers of that community by designating what crime is. Criminal transgression, for its part, may depend on a large number of varied motivations and we will try to give an account of some of them. But we cannot lose sight of the fact that the only thing that they all have in common is to be actions forbidden by fundamental prohibitions. That is why a general definition can only be negative. Then, in addition, we have to comprehend d) crime as a realization of desires and beliefs excluded (by sign or degree) from both the representational and affective economy of the symbolic order that fundamental prohibitions have built.

These theses may allow for a divergence from the habitual styles of understanding the criminal question at least in three major points: they have to permit a radical critique of crime as the property of an auto-produced criminal, they have to let us understand crime as a social phenomenon, but, at the same time, they have to prevent us from losing its specificity (i.e. what kind of social phenomenon is crime?). Applying this model we can understand why it is experienced as a radical alterity by the (dominant) culture it shocks, and, at the same time, we can discover its structural relation to this culture.

From here I will argue that what is socially experienced as the radical otherness of crime sometimes consists of the exacerbation of the very values that dominate the culture in rule; sometimes of (sub)cultural configurations that defy this cultural hegemony by opposition; and, in some (rare) cases of excluded residues that re-emerge in a way that challenges the possibility of being named by the available discourses. I propose to call the first ones "paroxysmal" crimes; the next ones "archaic", and the last ones "pure" or "impossible".

Hence, as is evident from the start, the questions formulated in the first lines will not be answered in this text. These responses must be expanded on in the context of detailed and specific research. It is no less true, however, that they can only be derived from an adequate conceptual framework. What follows attempts to contribute to the

elaboration of said framework, outlining the theoretical space in which enquiries like these can take hold in a significant way.

Culture, fundamental prohibitions and crime

The concept of culture is far from unambiguous, and there are many contradictory perspectives available for a cultural analysis. Our starting point is the understanding of the human body as a multiplicity of drives and of the social field as a space of multiple and heterogeneous actions and relationships. Both multiplicities must be articulated by systems of intelligibility and exchange in order for social groups and individuals to occur. This implies understanding both multiplicities as basically made up of beliefs and desires and recognizing them as the material, or better put the energy, that all culture must take hold of in order to function and reproduce itself. According to this (post-structuralist) perspective, culture may be defined as a socio-symbolic order. That is, as an ensemble, more or less coherent, of classificatory and evaluative frameworks which, based on transcendent interdictions and supported by ritual practices, seeks to structure a heterogeneous social and subjective field, granting it certain identitary consistency and organizing it both symbolically and affectively.

A culture is then, firstly, a logical system of forms – to speak as Barthes (1994) does. Systems like morality, rights, religion, science, ideology –but also art, advertising, cooking and clothing –, form patterns of communication and organization that provide models of classification, interpretation and interaction. Models that are able to establish a community of prevailing meanings and institutionalized practices in a heterogeneous social field. In this way, they ‘make society’.

If this is true, cultural systems are characterized neither by their usefulness (Malinowski); nor by their motivational role in social action (Parson). They are better understood as structuring what reality is, in the Lacanian sense. The fundamental role of any socio-symbolic order would then be to transform a diverse and unsettled social field into a relatively organized group, naming the things of the world and establishing the corresponding positions of the subject within its structure (Lacan, 2001: 67-72). If we accept this, we must also accept that culture does not belong to an order of superstructures (in the vein of traditional Marxism), but that it is itself an infrastructure: it is the cognitive and evaluative grammar that allows for the appearance of objects and the reproduction and communication of subjects. Consequently, the study of a culture is,

primarily, the study of the logical structure of a determined social group, and of the identities and the exchanges that this logical structure permits.

Having reached this point, it is necessary to avert the danger of the (structuralist) aporia consistent with understanding culture as a closed system of subsystems that, furthermore, is fully articulated –the taxonomy of taxonomies that once Levi-Strauss (1962), and later Barthes (1994), suggested exposing as the general program of social sciences and humanities. Proposing the human body to be desiring in the psychoanalytical sense, and the social field to be a multitude of actions, relationships and practices that are ultimately impossible to totalize in a closed system, in the post-structuralist sense, we are warned against this risk. The double multiplicity of the social and the corporal means that efforts are made to articulate the symbolic orders that we call cultures in order to make them into unified and relatively coherent totalities, but without ever achieving it (and nevertheless without giving up this resolve).³ Because of this, these structuring frameworks are never totally coherent, never exempt from contradictions and always a matter of dispute and change. However, they are capable of officiating as the cognitive and axiological matrix that makes possible the regular and regulated communication between the members of the social group that they produce.

That being said, it is necessary to add another set of theoretical propositions that are equally monumental. Propositions that place the criminal question at the very centre of every culture. Namely: all socio-symbolic order is defined and held up by interdictions that mark its ultimate boundaries. These prohibitions mythically draw out the final perimeter of the group which is in this way determined, separating it from a radical exterior which is left designated as chaos, savagery or barbarism. Building up these final limits, they imaginarily sutures the discontinuous outlines of the social fabric and gives it back the vision of an intelligible and consistent totality. What makes them fundamental or primary is not the quality of the relationships, actions, beliefs and desires they condemn, but the structuring position they occupy. Their function,

³ All these statements, as well as the core argument of this section, are based on the Lacanian social theory developed in Laclau and Mouffe (1985) and in Laclau (1990, 1996). It is also based on the contribution realized by Žižek (1989) in this field, specifically in his development of a (Lacanian) theory of the subject in many ways complementary with Laclau's and Mouffe's propositions. For a detailed articulation of the major points of both topics –the Lacanian social theory and the Lacanian theory of the subject–see Stavrakakis (1999). For the place of Lacan's works in contemporary social theory see Elliott (2003)

completely extraordinary, lies in designating the final (or first) borders of culture. That is to say, of the social symbolized.

With these presuppositions in mind, the mythical closing points that produce a culture as an imagined totality may be called fundamental prohibitions. That is, we can so name the *master signifiers* who seems to transform a given social field into a coherent totality, and who to a certain degree make it function in this way whenever they are able to hegemonize it, producing the appropriate subjectivations. Furthermore, let us seek to be consistent with a post-foundationalist perspective by avoiding referring the primary character of such interdictions to their historical invariability or anthropological universality, as is usual in Freudian (and Lacanian) psychoanalysis. It is possible to say, instead, that what can be called fundamental is all prohibition that successfully indicates the most rejected, and its counterpart, the most valuable or sacred, for a historically determined social group. Put another way, any prohibition –any classification and evaluation system– that is able to establish the constitutive boundary of an “us” can be called fundamental. In this sense, the prohibition of alcohol, of witchcraft or of theft would be just as capable of making society as the prohibition of assassination and incest, and where they succeed they will have the value of a primary interdiction.

Emerging from the struggles of the social field, the success of these interdictions depends on their capacity to be mythically formulated, ritually sanctioned and collectively reaffirmed. They show the proscriptive side of the symbolic order that they articulate by pointing out and condemning what crime is. But in doing so, they imply as the opposite of this definition what is affirmed to be most precious⁴. They delineate the values that they sustain (e.g. individual life, private property) in the form of negative categorical imperatives (do not kill, do not steal). These imperatives of exclusion have more to do with passion and imagination than reason, and find both in this “synthetic” language and in its penal ritualization, the most powerful supports of their efficacy⁵. Thus, its definitions appear to be universal and necessary even while having precise

⁴ Both Tarde (1972) and Durkheim (1984) agree on this, despite their differences on other matters.

⁵ I propose to define as penal any ritual that seeks to reaffirm a system of classification and the affective economy that corresponds to it, through the mythological recoding and through the spectacular staging of transgressions and punishments. Given the lack of space to develop this (philo-Durkheimian) definition in the context of this article, I will allow myself to refer to other works in which it has been attempted.

socio-historical origins, and even when they are always liable to the most diverse interpretations and disputes of power.

These prohibitions indicate the limits, which they wish to be inviolable, between a socio-symbolic order and what they claim to be its non complementary exterior. But this social group would then need a notion that could be ascribed to the return of what do not comprehend, and which nonetheless inevitably appears in its interior. The name crime can be reserved for such returns.

An important consequence of this is that there are no actions (or omissions) that can be criminal in themselves. These prohibitions vary in each time and place, meaning that those behaviours that are classified as criminal vary in each case – and that the gravity attributed to each one is also variable. This is because in every culture, in every historical moment, the actions considered most criminal are those that most contradict the prevailing creed, much as the action that is most in agreement with it is the most celebrated⁶. Said in yet another way, whatever is designated as criminal –whatever is fundamentally prohibited– is always relative to the system of beliefs and desires that dominate a culture in a particular time and place. This means, among other things, that crime, like every evil, depends on the interdiction that condemns it.

However, viewed from within the order that produces them, the fundamental prohibitions are in no way relative. Nor can they be characterized as merely subjective: rather, they are modes of production of societal subjectivity and objectivity. And this is because they are as much a condition for the possibility of collective identities as – to once again refer to Lacan (2001:66) – the “subjective pivot” of the socio-symbolic order that they produce. For this reason violating them cannot be without consequences for those subject to their law. Embedding themselves in those subjects, these prohibitions organize in them a cognitive grid and an emotional economy. They establish rules that do not accept neutrality in the face of their transgression, indicating what should never happen under any circumstance, and which actualization is criminal. They engrave their commands, so to put it, in the individual bodies, profoundly configuring their valuations, perceptions and affections. From here stem the disgust, indignation, fear and/or horror, that the transgression of such mandates produce in them⁷.

⁶ Both Tarde (1972, 1895) and Durkheim (1984, 1895) agree on this, rejecting the possibility of the ‘natural’ contents (i.e. universal and innate) of morals and crimes.

⁷ For an analysis of this psycho-social dynamic see Tonkonoff (2013)

Crime and Criminals

All discourse on the criminal question must determine, implicitly or explicitly, an image of criminals as a basis on which to formulate itself. At least since the end of 19th century, the philosophical free will assumptions that sustained modern penal codes have been challenged by different discourses that claimed for themselves the title of scientific. Specifically, two discursive matrices have developed, penetrating the penal administration as well as everyday thinking. Their substance can be reduced –without sacrificing too much– to a view of crime as the action of infra-individual and solipsistic forces, always external to society and culture, or as the antisocial act of poorly socialized individuals. Between them, the first major intellectual division of labor among the sociological, anthropological, psychological and medico-legal disciplines emerged. All these disciplines strove to unravel the mystery of the criminal act without resorting the principle of the self-determined and transparent subject. Their lowest common denominator, which made (and makes) these discourses complementary to one another, is their refusal to advance what Lacan (1966:128) called "the humanization of the criminal" –even when crime was accepted as a social phenomenon, which has not always been the case.

These propositions, still current, were challenged by various theoretical and political strategies that sought to de-essentialize the transgressor, to save him or her from the dehumanization (or, rather, the de-socialization) perpetrated by psychiatry, criminal anthropology, and the sociology of the early Durkheim. One of these strategies postulates that the transgressor, far from being an abnormal biological or psychological type, in the manner of a monster or a fool, is a professional type, just like a lawyer, police officer, or carpenter. That is, one who practices an occupation with a certain regularity and is subject to a set of not only technical but moral rules. Rather than unleashing an uncontrolled, autistic impulse, to commit a crime is to act in accordance with a world of substantive and instrumental meanings which one must necessarily learn from others. This socialization occurs in the exactly same way as any other, but it takes place within a (sub)culture. A criminal transgressor would then be a standard, but differentially socialized, individual.⁸

⁸ This position, which has its origin in Gabriel Tarde's works (1972), is masterfully articulated in the Differential Association Theory by Edwin Sutherland (1978). Close to this point of view are the subcultural studies of crime.

This perspective goes against the mythical assumptions that convert the transgressor into the one solely responsible for the radical exteriority that he or she introduces. Through the mediation of culture, it also questions both the “egocentric” claims on which classical legal logic relies and the supposedly universal link between mental abnormality and criminal action alleged by psychological and sociological positivism. Therein lies most of its value. Its strength is in suggesting that one need not possess a particularly aggressive or sick temperament to violate criminal law; in indicating that violence and madness are distributed across various trades and professions (legal and illegal); in remembering that every offender is someone who performs, in addition to crime, the same types of daily activities as anyone else. This perspective shows, in short, that it is convenient to place the criminal within the rest of the normal subjective configurations to discover that crime can be committed normally.

One may agree with this perspective, both politically and theoretically. However, it runs the risk of losing the specificity of its object, of diluting it into the lowest common denominator that crimes and criminals undoubtedly share with the society and time to which they belong. It is certain that, to steal or to kill, it is not necessary that one have an abnormal personality. It is also true that every transgressor, far from living completely detached from the world of established meaning, pertains in fact and law to the culture that rejects her or him. But once this is accepted, the key questions would be: What characterizes the criminal act? How does it refer specifically to the order it violates? And what is the specificity of the transgressor, if any at all?

To begin to answer these questions, we have attempted to sketch an analytical difference between socio-symbolic order and the social field that prevent us from seeing a culture and its subjects as if they were non conflictive, homogeneous and complete entities. This understanding allows for a divergence from the habitual styles of interrogation regarding crime and its actors. It permits a radical critique of crime as the property of an auto-produced criminal, while outlining a theoretical model that prevents us from losing the specificity of the prohibited action in the same movement that ‘socializes’ its actors –showing their fundamental dependence on the socio-cultural field that stigmatizes them. This is a model that understands prohibitions as insurmountable limits, constitutive of all identity, while bluntly postulating that each socio-symbolic order, each culture, has its corresponding criminals and crimes.

At this point I would like to introduce another thesis to complete the former ones, and to advance one step further in the exploration of the relationship between

culture and what it has excluded in order to establish itself. It is possible to isolate three forms of criminal transgression related to the heterogeneity of the social field, the necessity of its organization by transcendent prohibitions that give to this field form and size, and to the inevitable production of conflictive residues that all of this involves. The first form of criminal transgression could be called "paroxysmal" and the second, "archaic."

The paroxysmal crime is that which, for each culture, is their main values overacted: something like an avant-garde action, only not counter-cultural but hyper-cultural. In these crimes the hegemonic cultural logic is condensed and overflows. These prohibited actions are the exasperation of the principles of egotism, pleasure, honour or justice that dominate an established societal order with full force: i.e. to do (literally) with competition, or any other non-systemic manifestation of the war of all against all, of an eye for an eye, or of who *kills by the sword, dies by the sword*. Archaic crime, on the other hand, tends to follow the same rhythm and measure as its signifying universe, except that this universe is out of step with a greater one that contains it antagonistically. Its actors live in a world of untimely valuations, codes and conducts, which confront them with the dominant culture. In contemporary societies, this is the world of mafias, cartels, gangs, and any other clandestine association that resist state expropriation of violence and the legal regulation of the economy.

Now, as we have opted to understand the individual body as one of multiple beliefs and desires, the social as a complex and conflictive field, and culture as produced by founding exclusions; we have to assume that symbolic order cannot take place without the production of un-symbolizable remnants which recurrently undermine its frontiers⁹. When forbidden actions cannot be named by any available discourse, we can talk about "pure" or "impossible" crimes. If a virulent emergence of positive meanings occurs in both paroxysmal and archaic crimes, the otherness that takes place here lacks unity and escapes all categories: it is an impassable frontier of any subject of knowledge. We will see.

Paroxysmal Crime

⁹ These un-symbolizable remnants correspond to Lacan's category of the Real. See Lacan (1994). For a treatment of the Real as limit of the signification see Žižek (1989)

Lombroso, along with much of the nineteenth century, imagined that all crime was a sign of atavism. He saw in each transgressor of criminal law a primitive body and soul, animalistic for its ferocity, its physical and mental defects, and barbaric for its violence, slang, and tattoos. This mythical image, to be discussed in the next section, helps us locate the paroxysmal crime and its actors at the opposite pole: not as a step backward in civilization, but as a strange, deformed vanguard of civilization itself; not an illogical but an ultra-logical act, criminal for rigorously enacting its epoch, for drawing all the consequences of the common sense in force. These acts are criminal for entailing an audacious deduction, a strict conclusion, extracted from the premises that constitute the *zeitgeist* of the societal ensemble to which its actors undoubtedly belong – over-belongs, we might say. And it will be this excess of belonging that will produce his or her expulsion.

This is not to say merely that what precipitates in these crimes is the opposite of a blind instinct, nor merely that the criminals' violence refers to specific and discernible meanings; it is also to say that these meanings are precisely those that sustain and give consistency to the symbolic universe these crimes dislocate. In them certain lines of force, decidedly significant in the dominant cultural constellation, have reached an inflection point, a particular tension. They are acts in which the hegemonic desires and beliefs are combined in specific, and superlative, proportions. Its actors actualize, without distance, existing guidelines, which, being exacerbated, followed to the end, become unloosed or inverted. These criminals constitute points of imputation where prevailing principles explode – or implode – because of the severity of its application. They are individuals or groups who leave themselves violently by way of the final consequences of these principles. The examples are many: rapists, batterers, murderers of women in misogynistic societies; immigrant-hunters in xenophobic societies; homicidal appropriations (or defenses) of personal belongings where possessive individualism prevails.

Far from the misanthropes imagined by traditional psychology and sociology, and far, too, from the heroic rebels of anarchist romanticism, paroxysmal criminals suffer something like a violent, monstrous conformity, or a deformity by excess of conformism. In them one can find all of the elements of Baudrillard's hyper-modernity: saturation, redundancy, hypertrophy, a triggered effect that no longer knows its cause. Their crimes are nothing but their epoch's potential to the nth degree: more consumptive than the consumer society; more narcissistic than the culture of narcissism;

more violent than the society of exclusion; and sometimes more spectacular than the society of the spectacle.

For example, the engineer who, shopping in a shoe store, hears his car alarm. In the parking lot he sees two men entering a car, and notices that the car-stereo is missing from his. Accompanied by his wife, he immediately pursues the two strangers for twenty blocks. He reaches them, catches them, gets out of his car with a gun, stands in front of the suspected thieves –who, shocked, do not move– and shoots each one in the head.

Ecstasy or vertigo: those are the key experiences of such paroxysm. And that goes for both the criminal and his spectators. Ecstasy: immobile speed, in the language of Baudrillard (1983). Vertigo: the experience of emptiness and bewilderment.

This criminal is not the Dostoevsky's poor, humiliated, offended criminal, who aimed to achieve justice by uncivil means; nor is it Freud's delinquent – criminal in virtue of an intolerable superego. The poor and neurotic are, after all, pushed by the restlessness of the negative. Here, it is a question, rather, of the anonymous and spectral individual converted into a point of incandescence, an uncontrolled nucleation, through which a world without an outside goes out of itself.

Thus these crimes appear as random and violent forms of acceleration of the social field, and their paroxysm lies, ultimately, in that they do not represent the negativity of a transgression but the overflow of a positivity. They appear as the concentration of diffuse tensions without an antagonism in which to become embodied and against which to burst. One merely feels that "there is a murder in the air," as Henry Miller (1962: 308) wrote. Who will actualize it, and who will be the victim, is almost a matter of chance.

Note, incidentally, that the logic or hyper-logic in question is one of pollution and collapse, rather than confrontation and revolution. Revolution: a social class, the bourgeoisie, violently affirms itself by creating its opposite (the proletariat); this, in turn, will result in a violent negation of the negation that it itself is, in that synthesis (negation-conservation) that is future society. The paroxysmal criminal, on the contrary, only asserts, copies, repeats, re-affirms the values of the existing society, but in doing so pollutes and de-classifies the differences that order and reproduce it. Past a certain threshold, the expansion of such types of crime allows us to speculate – in an odd millenarian way – as to what multiple implosive micro-catastrophes would end the very world they magnify.

Archaic Crime

But where the icy waters of Capitalism seem to have disenchanting the world; where all professions – even the once-venerable – have been stripped of their halo; and where postmodern dissolution makes it impossible to sustain any value or experience, there are individuals and groups who are proud of their strong morality, their lordly occupation, and their passionate way of life; individuals and groups who have had the experience of deadly adventures, rapacious exploits, and the lordly moralities.

Prison culture illustrates this well. The criminal who lives there is part of a gift-community articulated according to a clear code and a caste-like system. The strategic identities of this world are basically two: the strong and weak. Serfdom, servitude, personal services are key terms for describing the social relationships that prevail between the two. It is always, and everywhere, a case of two classes meaningfully identified and denominated: *the brotherhood* and *the monsters* in Mexico; *kapos* and *parsley-ones* in Argentina; *heads* and *remote-controlled* in Brazil. The weak must provide labor services, money, and objects to the upper caste members who, in turn, provide protection and identity to those who would otherwise be no one.

In the relationship between the strong, that is, those equal in prestige, usually a latent hostility permeates, covered over by tacit or manifest ceremonies. They tend to respect spaces of respective control and influence, as they do not want to start a war of positions. Sometimes there is a boss of bosses, a king, one who is seen as a *primus inter pares* by the strong, and as a fabulous beast by the rest of the world.

Along with personal loyalty, there are other central elements in this archaic value structure: the execration of work, the exaltation of predatory activity and violent deeds, the cult of leisure and chance, of courage and honor, and the contempt for submission and the submissive. But the prison is, in this sense, only the prototypical expression of a broader constellation where the same moral and analogous systems of stratification reigns: gangs, mafias, cartels, etc. This is a structure that tends to exist wherever criminalized practices give rise to more or less stable organizations.

Clearly we are not faced with the atavistic, Lombrosian criminal – the bestial outburst of lawless violence, the primitive of the Victorian anthropological imagination. These criminals are less savages of civilization than lords of the bourgeois city. And what is perhaps the keystone of the “anterior” morality that adorns them is the putting into action, spontaneously and illegitimately, of the main prerogative of absolute

sovereignty: to make die and to let live, according to Foucault's (1978) formula. Its cipher is the evocation of a power based on the non-alienation of the right to violence – the Hobbesian *ius contra omnes*– and the exalted acceptance of the deadly risk that the recovery of this right implies. Such are the distinctive features shared by the warrior aristocracies and criminals – by underworld and kings, as Bataille (1986) has it.

Killing, plundering and waging war were, for millennia, noble deeds. Work, trade, and saving money were, during that same period, low and undignified tasks. To live ostentatiously on the labor of others, and to do it by violent exploitation, was the predatory custom of the feudal warrior that modern statehood, bureaucracy, and legality expelled from the center of the social scene. However, some of these elements survive stably, or are reactivated suddenly, in the superior residues that are the aristocracies – especially in the contempt for work that they profess and in the overt wastefulness they exercise. In the underworld, that inferior and damned excrescence, the survival of those evaluative patterns and their related practices is even more complete: in them takes place, moreover, the feat of violence and the right to death.

Exemplary of all kinds of archaisms is the so-called organized crime of Rio de Janeiro. A culture linked to illegal drug trafficking, the formation of gangs, the pretentious display of firearms, the war of gangs with each other and with police. Its social structure seems composed, in general, of four levels: the trafficker, the soldier, the “airplane,” and the “vapor.” (Zaluar: 1994). Doubtless we can view these organizations as illegal businesses: drug-trafficking is a lucrative commercial activity. However, we should not forget that it is business-like in a special way. There is a “non-economic” logic present in the drug economy and culture of trafficking. Even when there is strict monetary exchange within the structure of dealer-soldier-airplane-vapor, these transactions cannot be freed from the level of personal relationship; that is to say, they cannot be transformed into abstract relationships. It is not possible to sign a legal contract with a vendor to open a “boca de fumo” (smoke joint). Rather, among all elements of the organization, a creditor-debtor-type nexus is established, but one based on an initial situation appealing to loyalty and personal commitment. Whoever, after a ritual-like process, comes to control a “boca de fumo,” possesses illegal goods, and the guarantee (deposit) they have given was their life. They have received a certain amount of drugs through the generosity of the trafficker who elected them out of many possible candidates. But with this they have not only delivered on consignment a tradable good into the illegal market, but also, in the same act, awarded the intense and prestigious life

of the outlaw. With this gift –whose counterpart is a mortal threat– the relationship has been "bewitched." Whoever receives drugs in this way owes not only a certain value in return but, above all and fundamentally, their personal loyalty and, if necessary, their life. The trafficker has become their owner.

There they are, then: the gangs, the cartels, the mafias, organizing their experience around a master morality and a gift economy. They live in dominion, loyalty, plunder and adventure; neglect all industry and routine; contest the protestant ethic and the spirit of Capitalism. They are territorial lords, established and prestigious; spurious doubles of those *princely* lumpenproletarian who, at the top of society, flaunt wealth without having had to work or negotiate for it; strangers, morally, to the great bourgeoisie of business, to the bureaucratic middle class, to workers of any kind; alien to their esteem for utility and calculation, to their voluntary servitude. And they have a certain joy in meeting – and producing – death and chance.

When this "inferior" and "anterior" world transcends its own borders, when the names of its grand criminals are repeated by rumors, conversations, and mass media discourses, the void of quotidian contemporary societies is electrified fleetingly. And, fleetingly, those great criminals reign over the social imagination. When the boss Fernandinho Beiramar sent his gangs to the richest neighborhoods of Rio de Janeiro, he pronounced, not without satisfaction, a phrase that could be famous: "We are going to play terror." He was, at that moment, the most famous and feared – that is, the most fascinating – favelado in Brazil.

Pure or Impossible Crime

There is another type of crime that concerns us: not extreme manifestations of an era or untimely reenactments of the past, but the emergence of the atemporal – or a-historical – that is, moreover, anti-societal. If paroxysmal and archaic crimes are the enactments of social logics, this impossible crime is also an excessive manifestation, but of what these socio-logics produce as nonsense. Taking place as the limit-act of an individual or group, this criminal event cannot be fully recovered by any form of representation.

Societal discourses on the criminal question always seek to define, implicitly or explicitly, a range of possible explanations for criminal actions and criminal transgressors in order to determinate themselves. This is of vital importance, especially in anthropocentric cultures, such as our own, where violence requires human – and

preferably individual – responsibility. In this respect, Foucault (1999) has described the mire in which the modern penal system found itself in its very beginnings. Given the anthropology that underlay its framework, that of a *homo economicus* subject to contractual reason, all of the crimes that could not be reconstructed according to the logic of utility appeared fruitless, disturbing, or monstrous, so as to present an increasingly inverse relationship between the violence exercised and the benefit obtained. Paradigmatic in this sense was the case of Henriette Cornier, the young servant who slit the throat of her neighbor's daughter and, when asked for her motives, said, "It was an idea."

Horrors like this one lacked motivation in light of the classical legal framework because their enormity did not report profits (material or otherwise) to their executors, who, moreover, could not be classified as demented by the current medical catalog. Those were, therefore, "motiveless crimes", that is, forbidden acts that were strictly unintelligible by the system that sought to understand, in order to judge and punish, its subjects.

These crimes involve, as Bataille (1985: 129) would have it, a "non-logical difference" with the law, morality, and current knowledge: they are unspeakable, violent residues that defy all imaginable meaning. And that is its definition, if one may say so. It is a completely intractable and incomprehensible act, the *locus* of a jump from the possible to the impossible, from the point of view of the available discourses. It appears to be senseless violence without social or individual utility, in the face of which no one would have anything to say: neither the spectators nor the criminal him or herself.

Perhaps it can be said that Pierre Rivière was the purest criminal for Foucault – or, at least, that *Moi, Pierre Rivière ...* was Foucault's most Bataillean book. It consists of a dossier composed of the memoirs in which this 20-year-old French peasant tries to explain why he killed his mother, sister, and brother. To Rivière's text Foucault and his colleagues added legal and medical reports of the case, which they prohibited themselves from attempting to elucidate: "We decided not to interpret it and not to subject it to any psychiatric or psychoanalytic commentary" (Foucault, 1975: xiii). What meaning, then, does the publication of Rivière's text and the expert and legal glosses have? Why not analyze or interpret it in search of its secrets? The silence Foucault produced with this publication was the act in whose hollow all legal, medical-psychiatric, and criminological knowledge remained exposed, as they had been assembled to conjure the crime they could not understand.

Lawyers, judges, medics, psychiatrists: everyone spoke about this case. Everyone spoke – says Foucault, smiling – and yet nobody said anything. In this way he showed the failure of this societal enterprise of recovering nonsense, of "enclosing the outside." But that silence also revealed his own fascination with the criminal, his act, and his text: "we fell under the spell of the parricide with the reddish-brown eyes." (Foucault: 1975, xiii)

There, then, is a young man and his impossible crime, stuck in the middle of a discursive network that circumscribes them but cannot touch them. And there, also, is his closest, and perhaps most faithful, counterpart: the silent horror and ecstasy of Foucault.

There are those who will not tolerate this seizure of thought and language in the face of sublime transgressions. Carlo Ginzburg (1980), among others, accused Foucault of being the champion of a "black populism." Maybe he is right. Bataille also wanted to open himself to that sacred silence and horror of the purest crime. But his wager was the attempt to not be silent before them. More than ten years before *Moi, Pierre Rivière ...*, Bataille (1965) wrote an important text concerning Gilles de Rais, the fifteenth-century French nobleman who killed children "for pleasure". Here Bataille repeats the impossible operation that characterizes much of his work. Driven by an ethic of limits, he wants to account for the unconditioned exteriority that the monster de Rais figures, but without positivizing it; that is: without emptying it, retrieving it, through language. And yet, he wants to do this without ceasing to write. He tries, then, to resist the edge of silence, to open language toward the crime, without ceding, or without ceding completely, to its auratic and annihilating attraction.

Be that as it may, the point is that, through the figure of the pure criminal, both Bataille and Foucault demonstrate the fundamental ambiguity of the crime itself. It happens that the crime (like all social reality that society excludes in order to create itself) is always, and at different levels, capable of being recaptured by meaning. It is recaptured, in the first place, by the existing power structure, which – especially through the criminal justice system –almost always succeeds in functionalizing it, in putting its negativity at work for the benefit of order. And this happens in a thousand ways, perhaps summarized as follows: Crime causes or justifies the existence of a multiplicity of devices, policies, and knowledge that traverse and control the social body. This is what Foucault (1979) demonstrates masterfully in *Discipline and Punish*. And that, perhaps, is why the existence of Pierre Rivière gives him joy.

The crime is recaptured, secondly, by the persistence in its actors of a self that seeks to exploit or profit from the abyss that the crime opens within them. There are not many pure criminals. Even when all crime implies an element of loss, disorder, nonsense, and the putting-into-process of its subjects, criminals are usually motivated by a bare will toward appropriation, toward possessing themselves and others. Like everybody else, criminals try to avoid the movement of destruction unleashed by their transgression, and to retrieve with one hand what they gave with the other. It is true that they puts their and others' lives at stake, but they command respect, fear, objects and pleasures in return. Thus, they usually evade and contradict an alien power in order to constitute their own. If it differs radically from the established ways of life, if it does not fully accept their hierarchies, their standards and their legitimacies, it is usually to establish new (or old) economies, morals, hierarchies, and subjections.

Perhaps it can be said, ultimately, that pure crimes and their subjects are as much heuristic operators as ethical principles of interpretation. The event (real or imagined) of these crimes creates a vacuum that allows one to observe, naked, the structure of discourses desperate for foundations and control, while exposing their inanity and endless will to power. This applies as much to morality as to scientific knowledge (psychology, psychiatry, medicine, law, criminology, and even psychoanalysis). Foucault made of this criticism his specialty. These crimes also reveal the bottomlessness to which a culture and its subject are opened when they can no longer pretend to be peaceful and unified: the exploration of this moment characterizes the Bataillean art. They are crimes that reveal, moreover, the irreducible ambivalence of transgressions: both their familiarity with revolt and their complicity with domination. They constitute, finally, an excessive principle to which an ethics can refer – an ethics that prefers martyrs to despots, suicidal criminals to corporate gangsters.

By way of Conclusion

Rather than treating crime as the property of a solipsistic monad or as the product of a disorganized space that, in the end, is seen as non-social, it is possible to explore another point of view. Here, crime is radically dependent on the prohibitions that condemn it, and its actors are, at the moment of the prohibited action, prisoners of a rigorous otherness. This otherness, however, would not be that of a destructive natural impulse or of a normative vacuum, but an otherness configured by the culture itself – the culture in extreme vectors, its contradictions, and residues.

This implies understanding culture as a more or less coherent system of representations and values that structure the social and subjective field in both a cognitive and emotional sense. Furthermore, it implies that the individual body is made up of phantoms and drives, and that in a given social field there are multiple collective currents of beliefs and desires as well as many sub-cultures that can differ as well as contradict each other. In third place, it implies that we can talk about society only when a symbolic order achieves hegemony giving consistency to this social multiplicity, and building the image of it as an articulated whole. Then, for societies to exist, beliefs and desires of individuals and groups should be structured by networks of meaning able to captivate, configure and hierarchize them. That is to say, able to produce the multiplicity of the social field as symbolic order and the tumult of the body as subject.

Now, according to this series of postulates, the production of fundamental prohibitions and the designation of its transgressions as crimes is the major mean to achieve this state of things. This is what Lacan (1966: 130) dramatically stated writing that ‘with Law and Crime begins man’.

From all this we may conclude that the criminal question does not constitute a ‘social problem’ among others, an area of social reality that could be relegated to act as the exclusive object of a specialised sub-discipline. Rather it entails a fundamental crossroad where is at stake the very constitution of any culture. The criminal question is nothing less than the question of the beginning and end of the societal order, in the sense that to talk of prohibition, transgression and penal punishment is to talk of the limits of society and its individuals. That is to say, it is to talk of the production and reproduction of a symbolic framework capable of allowing a conflictive multiplicity to think of itself, and in a certain way, function, as a totality. And this is because there is no totality without rules that determine it, and there are no rules that do not define the outward with which it establishes some type of oppositional and, therefore, interdependent relationship.

If the above is correct, we have outlined a paradigm whose key lies in the exploration of the intimate articulation of the fundamental prohibitions and its transgressions, culture and its otherness. A model which suggests we comprehend any criminal transgression as a powerful heuristic tool, as a major means to understanding the societies in which it takes place. This paradigm leads us to no longer see crime and

criminals as causes *per se*, but to start to ask ourselves how that which a society expels can be its truth and its blind spot.

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