



**Social Reforms in Brazil:
Criticism of the Institutionalization of BolsaFamília Program**

Carolina AlvesVestena¹

Abstract:

In this article I discuss preliminary outcomes of an ongoing research that focuses on the process of institutionalization of the BolsaFamília program (BFP), a Brazilian conditional cash transfer policy launched in 2003. Since then this policy has achieved considerable results in regard to the decrease of poverty and fight against hunger. Nevertheless its potential to change social structures of inequality in the country is still under discussion. Considering the program in the Latin American context, the aim of this paper is to bring together a set of studies conducted in the field of Law and Development that analyses the role of legal regulation within BFP and critical inputs from the Latin American social thought in order to offer an alternative research agenda about the role of law in social reforms.

Keywords:

Legal form, Latin American social thought, Social reforms, BolsaFamília.

1. INTRODUCTION

In this article I discuss preliminary outcomes of an ongoing research that focuses on the process of institutionalization of the BolsaFamília program (BFP), a Brazilian social policy with broad impact. The BFP was launched in 2003, during the first government of Luiz Inácio Lula da Silva, and since then has reached almost all its goals concerning population coverage and fight against poverty and hunger². As a conditional cash transfer program (CCT), its short-term goal is to fight against current poverty; but it also sets targets for reducing intergenerational and future inequalities. In order to do so the program has mechanisms to supervise deficits in the policies within health and educational systems. The program is managed by Municipalities and a federal institutional structure centered on the Ministry of Social Development and Fight against Hunger (MDS), created in 2004. Furthermore, BFP also contains a decentralized management index (Índice de Gestão Descentralizada - IGD) whereby municipalities

¹ PhD Candidate at the Law Graduate Program of State University of Rio de Janeiro. Visiting Scholar at Kassel Universität, Germany. I would like to thank for their suggestions the referees of Sortuz Journal and Editor Lucero Ibarra Rojas for her comments.

² By the UN Millennium Goals Report, Brazil is one of the countries that managed to get out of the hunger map, for example. See: (ONU 2014).

have their performance assessed and monitored with regard to the quality of registrations and the provision of related services. The benefit payments are made with federal funds through a magnetic card delivered directly to beneficiary families, preferably to women. Municipalities receive quotas for registration and are responsible for the so-called “realist registration” - i.e. free of fraud. The main BFP conditionalities are: children and adolescents from six to fifteen years of age must go to school with attendance of at least 75%; keep children out of child labor; conduct prenatal examinations and other activities of medical care for pregnant women; participation in educational activities offered by health staff about breastfeeding and promoting healthy eating; vaccinations of children under seven years old; take children below seven years old to health facilities for nutritional counseling and other health actions³.

Here I focus specially on the research that analyses the role of law in the mentioned contemporary Brazilian social reform. In this sense, the aim of this paper is to conduct a theoretical analysis that considers Latin American social thought and a materialistic approach on the legal form. Then I lead into some patterns for a research agenda about the regulatory elements in the BFP. One question can systematize the goal of this article: how one can analyze law and its role in shaping and institutionalizing social reforms?

The paper will be presented as a set of theoretical reflections for a research agenda on the topic: "inputs" to the research question from the Latin American context; the role of law within the reforms in peripheral capitalism; theory of Law and Development and new “projects of progress”; and the Latin American social thought and the critique of dualistic reason.

2. "INPUTS" TO THE RESEARCH PROBLEM FROM THE LATIN AMERICAN CONTEXT

Since the beginning of the 2000s, Latin America has garnered attention in the international context with the predominance of progressive governments, which could be exemplified by the election of the first indigenous president in Bolivia and the election of other left-wing leaders in the region. For sure this context is not simple, and carries lot of ambiguities. The expansion of recognition rights, especially the inclusion of indigenous communitarian perspective in national constitutions, as in the case of multi-ethnic constitutions, and also the improvement of social indexes⁴, are signals of political and social transformations taking place in Latin America. Nevertheless, the political promises of economic redistribution, land reform, sustainable economy and guaranteed social rights are still far from being considered a part of the reality for the large majority of the population; even though broad-based conditional social policies fighting poverty have advanced in the region.

In this context, this paper presents a set of theoretical reflections in order to develop a research agenda that aims to provide a framework of analysis on the recent social reforms in Brazil, especially the BFP. The BFP, which celebrates 12 years of its implementation

³ More information about BFP can be found in the website of the Brazilian MDS: <http://www.mds.gov.br/bolsafamilia>.

⁴ Regarding the systematized data in the CEPAL report of 2014 (Panorama Social da América Latina), Brazil is one of the countries with the highest decrease of GINI Index and poverty rate within population. (CEPAL 2015).

in 2015, carries a sophisticated legal structure, which establishes goals and conditionalities for the decentralized activities of Public Administration agents. On the one hand it is an instrument for innovation in matters of income redistribution and ensuring livelihood for a portion of the population. On the other hand, its long-term effects still need to be better understood, especially with regard to its economic impact (investment allocation), potential empowerment of beneficiaries, and finally, with regard to the legal mechanisms intertwined in the political dynamics of its operation. This article intends to advance on this last aspect.

3. THE ROLE OF LAW WITHIN THE REFORMS IN PERIPHERAL CAPITALISM

Reformative actions are an important strategy of the state and for the state. They primarily represent the institutional managing model in capitalism, since they are handled cyclically in order to provide conditions for economic progress and social equality. The characteristics of these actions may be different, as a function of the elected government's ideology, the political and economic scenarios, and the scope of the agenda of human rights and social justice.

Discussions on reform were born from social struggles, led by workers. Nevertheless, over time, reforms have been linked to the possibilities for transformation within the capitalist system itself. Traditionally, the term "reform" lies within critical theory that sets the idea of reform against that of radical social transformation and revolution (Luxemburg 2007; Settembrini 1983). In this debate, on the one side was the revolutionary movement, which was economically, politically and culturally antithetical to capitalism, regardless of the means necessary to be so. On the other side was the reform movement, whose purpose was to improve and enhance the existing order, as the foundations of this order were considered absolute and necessary for the development of mankind (Settembrini 1983). With the global changes introduced in the postwar period, and due to criticisms of the totalitarianism of the Stalinist regime, the reform/revolution dichotomy gave way to the issue of the gears of the state and democracy. The different approaches to this subject included the debate about the "crisis of the state" in the 70s, which raised discussions on hegemony and material determination of the state due to the conflict of their fractions of class⁵ (Poulantzas 1969, 2001). This approach was extremely important for discussing the role of ideology and law in capitalism, showing how these assume a unifying meaning of an intrinsic order of the social body, which no longer had a transcendent authority over all subjects, as stated by Buckel and Fischer-Lescano (2009). Hence, the forms of state action depend on control mechanisms of hegemony, which support the maintenance of political authority and its legitimacy (Buckel and Fischer-Lescano 2009). Although the reform action is aimed at transforming some aspects of social reality, its intervention limits do not exceed the possibilities of political emancipation of the project of modernity linked to capitalism.

Some issues are still open to debate: (i) which concept of modernity is implicit in a certain worldview that shapes the direction of reforms implemented in the center and periphery? (ii) How scales of political power and moral authority determinate the impacts of

⁵ Poulantzas defines classes and state as not homogeneous parts of the capitalist social formation. For the author, both are interwoven by conflicts and different interests that emerged from their position in the relations of production (Poulantzas 1969, p. 83-98).

"modernity" in different global regions? (iii) What are the mechanisms of political, scientific and legal legitimacy that act to justify a certain worldview hegemony, which focuses on the dictates of progress, evolution and development as forged according to the "center of capitalism" standards?

To understand how institutional architectures that guide social reforms in the periphery have been forged, it is necessary to keep in mind that these architectures themselves internalize certain models of understanding the world. Often, but not always, such models are imposed through the international standards of investment funds or agencies like the IMF or the World Bank. An internal discourse of justification and also of political, academic and legal legitimacy is internalized in the periphery, which means the translation of global capitalism rules for progress to the dynamics of local organizations and institutions. The periphery takes certain development standards, which originate from a different historical and social formation, as a target to be achieved through appropriate legal techniques. Such techniques are promoted through reform models.

The problem is not the "importation of models". The main question, rather, revolves around the expectations created, and the always unachievable results within peripheral policies. These expectations are unattainable not because the agents lack ability, but because unattainable moral and technical structures determine the evaluation success or failure. There is no "way out" from a cycle of reforms and frustrations; this only reinforces the diagnosis of crisis and the need for further reforms, as Gonçalves (2010) points out. Meanwhile, a set of legal models overlap to provide institutional basis for the reforming processes.

In the first part of the research, the analysis of reforms was connected to references of Latin American social thought, dependency theory and postcolonial studies. These matrices have brought fundamental conceptual acquisitions for the understanding of society and politics in the periphery vis-à-vis the dynamics of global capitalism. They are also central to the critique of epistemological colonization. Latin American social thought, especially dependency theory, also produced interpretations of the state, capitalism and reforms. These theories have sought to observe the overall dynamics of the economy and social relations, explaining center-dependent development from the underdevelopment of the periphery (Dos Santos 2010). This movement led to the reinterpretation of the concepts of center and periphery, based on unequal yet interwoven positions for the widespread reproduction of capitalism in the world system. It introduced the foundations for the development of the world-systems theory refined by Wallerstein in the 70s, which added complexity to the criticism of capitalism by globalizing the social division of labor as the basis of social inequality in the world system (Wallerstein 2000; Robinson 2011). Therefore, it opened up space for a review of the political and epistemological hegemony of the global north, incorporating Southern epistemologies as alternative interpretations of the constitution of individuals and civil society about the meaning of modernity in different locations and, consequently, about the political and economic processes of capitalism. The notion of "neocolonialism" started to be used in social sciences as an explanatory key for the reconstruction of scientific interpretations embedded in a post-colonial view (Chakrabaty 2000; Costa 2006; Gonçalves 2012). The set of theories regarding the "global south", therefore, presents the possibility of new interpretative dialogues on macro-thought⁶.

⁶ Under the post-colonial studies different approaches can be systematized, like the writings of Said (2003), Spivak (1988), Bhabha (1994), Chakrabarty (2000) that have a different perspective compared to the Latin

Nevertheless regarding an overview of the main Brazilian sociology of law interpretations on the meaning of legal reforms, the solutions proposed reinforce the idea that the best path to development is through reforms; in other words, the formulation of institutional solutions that guide the social body through similar patterns forged by the cultural and economic reality of the center of capitalism⁷. In the same direction contemporary theories of Law and Development (L&D) and their policy proposals bring an interesting approach to the debate about social reforms in Brazil. For this reason I look more closely over the discourses of L&D. This choice is justified for two reasons: first, the relevance of L&D for the description and analysis of reform policies in Brazil; second, they deal directly with the role of law within such phenomena, as for example the research conducted about BolsaFamília. Therefore I briefly present the main lines of the L&D interpretation on understanding social reforms and legal models in Brazil.

4. THEORY OF LAW AND DEVELOPMENT AND NEW “PROJECTS OF PROGRESS”

Traditionally the field of L&D involves interdisciplinary analyses of economics and law. The field's central concern is to understand what would be the most efficient institutional mechanisms for accelerating development⁸. To do so, legal institutions should be "safe" and "stable", which would enable action with predictability, which is essential to the allocation of risks in economic activities in the market. Based on this fundamental nucleus, a theoretical field was built. Its principal concern is the economic and legal discourses that promote actions for the development of "undeveloped" spaces. For this paper, I selected an L&D approach that addresses the issue of development from a neo-institutional perspective, exactly because it points out the factors of the development process, produces observations on the role of the state and builds an instrument of analysis on the role of law in this context (Trubeck 2012). Therefore my proposal is to understand how this new theory of L&D formulates its diagnostic and normative projects, and which elements legitimize its development and reform concepts. I intend to demonstrate that even looking to open itself to the BRICs⁹ concrete experience, the field of L&D still remains attached to certain standards that come from its original formation as academic field¹⁰.

According to Schapiro and Trubeck, nowadays there are new debates on L&D that overshadow those of the 1960's. The first L&D works were characterized "by the developed countries' point of view and the attempt for normative transplants almost always frustrated" (Schapiro and Trubek 2012, p. 19). Currently, new initiatives seek to evaluate the contributions of peripheral countries to this debate by showing the specific

American “decoloniales” as Mignolo (1995, 2001, 2010), Quijano (1952, 2000), Lander (2005) and Dussel (1995, 2000).

⁷ About the Brazilian debate on sociology of law, see for example: Campilongo (2000, 2002); Faria (1995, 2002); Gonçalves (2011); Neves (2000, 2003); Santos (1974, 1980, 1988, 2005, 2007); Wolkmer (1994).

⁸ About the L&D debate on *New Developmentalism* and Latin America, see: Trubeck and Santos (2006); Bresser-Pereira (2000, 2009); Coutinho (2010).

⁹ The term BRICS resumes the initials of five emerging countries Brazil, Russia, India, China and South Africa, which have been analyzed as a potential new actor in the world economy order. Nowadays the potential of a sustainable growing of these countries is even more in discussion though. See more: Nölke et al. (2015).

¹⁰ About the discussion on the “origins” of the development discourse, see: Ziai (2010).

adaptations that they made to the models imported/imposed by international agencies. Two assumptions justify this new agenda. One is the diagnosis of "failure" of the reforms in developing countries. The other is a new global economic configuration that inserts these emerging-market countries [the so-called BRICS] in evidence in global dynamics. Its recent, unexpectedly successful and less conventional institutional arrangements represent a starting point for a new set of investigations and questions (Schapiro and Trubeck 2012, p. 28-29). The question proposed by the authors can summarize this approach: "What went right that made the right formula, even when incorrectly[applied], turn out right?" (Shapiro and Trubeck 2012, p. 29).

The proposed question is interesting as long as it assumes that the standard prescription for development would not necessarily follow the direction expected by international policymakers. Furthermore, it opens space for a more realistic interpretation of current global dynamics, in which the distinctions between center and periphery do not imply the same static and binary positions as shown by the first patterns of development. However, the "specter of failure" continues to set the evaluation standards for social policies and legal reforms in the periphery, which explicitly reinforces the political geography of developed places and those still "developing". In order to better understanding the argument I briefly present the perspectives of L&D.

For Shapiro and Trubeck (2012, p. 30) it would be possible to systematize the L&D prospects in three phases: (a) triangulation between development theory, the state as protagonist sector and public law as way of governance; (b) association with the Washington Consensus, privatization and strengthening of the private sector, and (c) the contemporary model, which contain a meta-definition of development and an arrangement between state and market.

The first L&D phase was linked with the problem of late-developing countries (including Brazil, Chile, Mexico, Thailand, South Korea and Taiwan) that had the same problem of economic backwardness, low industrial productivity and agrarian specialization. This position provoked a vicious circle: agricultural productivity led to a lower income level, implying less savings and investment, reflecting on maintaining depreciated productivity rates: "Their non-industrialization generated just conditions for their non-industrialization" (Shapiro and Trubeck 2012, p. 29). Between 1950 and the 1980s, this vicious circle raised questions about development notions and new interpretations emerged aiming to shape economic plans and industrial policies. The state in this period was responsible for developmental projects (Shapiro and Trubeck 2012, p. 32).

The second phase came in the 1990s, when the influence of the Washington Consensus meant privatization and strengthening of market institutions. The diagnosis was that the failures of the government would have opened space for the emergence of market and private transactions. Economic problems began to be attributed to excessive state intervention and the lack of incentive for the formation of competitive markets (Shapiro and Trubeck 2012, p. 35).

This was the traditional L&D discourse. It proposed an agenda aimed at ensuring the rule of law in developing countries, which would bring "normative stability and political neutralization," leading to the production of a new regulatory proposal for institutional architecture (Shapiro and Trubeck 2012, p. 38). The central elements that compose this scenario were privatizations based on extensive legal regulation. The law in this period had the main objective of strengthening private economic agents through property

protection, and undertaking initiatives beyond the control of state activism, which linked government accountability to the goals of economic deregulation (Shapiro and Trubeck 2012, p. 35).

In this period, there was a strong presence of the World Bank, which proposed "institutional renewal" agreements and promoted judicial reforms around the world¹¹. Thus it created a policy of "universal right institutions" that were the basis of the development formula, i.e., the implementation of "pre-molded projects" that were considered suitable for any model of society (*one size fits all* reforms) (Shapiro and Trubeck 2012, p. 40). This policy had apparently less effective results than those intended. The reasons would have been that some reforms were not able to fight against local interest groups and some local gears did not adjust to the expectations.

The current context appears less open to the idea of models, because the frustrations with the rigid models of previous years brought such certainties into question. According to the authors, law and development programs today are less geared to the points of arrival, and more focused on departure points: "a dynamic view of mutual implication between the legal systems and the development of social and economic environments" (Shapiro and Trubeck 2012, p. 42). Authors such as Amartya Sen (2000) (development as freedom), Dani Rodrik and Ricardo Hausmann (2002) (development as discovery) are theoretical marks of these development models focused on learning, experience and discovery. These authors deny the economic dirigisme, replacing it with a "mutual collaboration between State and community or between State and market" (Shapiro and Trubeck 2012, p. 44).

Considering this diagnosis, however, it is possible to notice that the central evaluation premise for the development process is the same: a failure of the reform is attributed to a problem in its implementation or any local characteristic that prevented (or paradoxically potentiated) success. The diagnosis of failure maintains the belief in institutional architecture; in other words, if it is possible to plan better institutional models, perhaps success and progress will come with the next reform. Even when "development experts" open themselves frankly to local experience, they end up reproducing the analytical framework of the vicious circle of reforms. These reforms, in turn, endlessly reproduce aims toward an ideal development pattern that might be ideal also for the nations in the center of global capitalism themselves. In sum, the field of L&D had three stages: one liberal, highly critical of state intervention; a second that follows the dynamics of economic liberalization with implementation of the rule of law; and the current phase, in which pragmatic decisions and innovative arrangements set the tone of democratic experimentation processes toward new development steps.

Analyzed from this perspective, Brazil, from the 2000s, started a *new developmentalism* movement that combines three elements: (a) political democracy; (b) state action, without nationalization of the economy and (c) induction of growth with social inclusion measures (Shapiro and Trubeck 2012, p. 47). Social policies such as BFP start to be seen as examples of this new institutional architecture that brings notions of minimum state together with typical elements of universal states of social welfare.

¹¹ About the Brazilian debate on the Judicial Reforms, see: Candeas (2009); Manzo (2011); Ministério da Justiça (2010); Fragale (2006).

Some L&D analyses of BFP follow this direction. According to the research agenda on BFP established by Coutinho (2012), two lines of analysis can be summarized: one, more generally, common to the L&D theoretical field, which observes the characteristics of the program as a public policy of conditional social reform; and another, more specific, concerns the role of legal regulations within the program. Legal regulations within BFP fulfill an important role by acting on the following aspects: (i) definition of objectives to be pursued by public policies; (ii) establishment of an institutional framework, from which the program is structured in its public-public and public-private relations; (iii) vocalization of social groups ensuring means for deliberation about policy implementation; and (iv) the definition of articulation and coordination tools that instrumentalize the policy in order to achieve its goals (Coutinho 2012, p. 58).

The BFP is undoubtedly a mark of Brazilian social policies. Unlike the Brazilian history of patronage and discontinued, unsystematic social policies, the BFP has completely innovative features and broad impact, including mechanisms for decentralized management, the encouragement for better administrative performance of cities and integrative social policy. Historically the subaltern classes were blamed in Brazil, as if their mere existence was the main obstacle to development. By the end of the dictatorship (1964-1985), social policies were summarized into clientelistic, fragmented initiatives, which were stifled by dictatorial control or just abandoned because of lack of investment priority. From the legal point of view it was possible to see that privileges were governed according to class interests. At the end of the dictatorship this model showed signs of exhaustion. Since 1988 struggles for effectiveness of rights have been amplified.

The BFP, expanded under Lula's administration, aimed to eradicate poverty and contains intergenerational targets to reduce future inequalities by monitoring the benefits integrated in the program (Coutinho 2012, p. 90). Laws, ordinances, decrees and operational regulations are handled for its administration. According to Coutinho it would be possible to analyze the law within this policy, not as a mere model for administrative technique, but also as a discursive agent, whose duties would be the matization, vocalization and legitimating of demands for human rights. The distributive element is explained by the character of resource and wealth allocation, that law determines vis-à-vis social groups (Coutinho 2012, p. 100). The vocalization of demands means a duty to justify decisions taken in program management (Coutinho 2012, p. 105-106). Finally, there is an element of legitimacy, which would bring the democratizing role of social reforms, as these should contain mechanisms for receiving plural social external interferences (Coutinho 2012, p. 106).

In summary, the BFP presents a new vision of Brazilian social policies, which brings a planned arrangement towards development. This research phase on social policies and the institutional characteristics of the BFP in Brazil indicates that even with the flexibilisation of traditional development models, such interpretations continue to share certain expectations on the regulatory potential of the institutional architectures of reforms to justify or foster economic development policies; moreover, the common analytical frameworks that are used reproduce the development models of the center. The law itself assumes a mainly technical and instrumental character to conduct social policies. Even if one considers the expansion of social participation inside these policies, L&D interpretations are much more connected to the dynamics of policy innovation and political accountability. Thus in the following section I indicate a theoretical path for analysis of the role of law within social reforms from the dialogue between Latin American social thought and the critique of dualistic reason.

5. LATIN AMERICAN SOCIAL THOUGHT AND THE CRITIQUE OF DUALISTIC REASON

In order to construct an alternative analysis framework, I summarize some contributions of authors from Latin American social thought and dependency theory. Mariátegui (1971) and Stavenhagen (1969, 2006) draw insights from the history of incorporation and resistance of indigenous communities in two Latin American locations to demonstrate how the legal form serves as infrastructure, providing the basis for the consolidation of the capitalist production model. This finding unveils the possibility of making criticisms of law, as it ultimately confirms that the legal form is forged from inequality. Put differently, the law that formally makes people equal is born to ensure that those considered culturally unequal are maintained in a position of permanent material inequality once they are incorporated into the labor market. The material sense of maintaining inequalities, as assumed by the legal form, can be combined with a cultural binding; that is, indigenous, primitive, archaic, peripheral people are assigned characteristics that lower their position in the colonial economy. Hence, if there is extreme poverty, inequality, and a deficit of rights, it is because these societies have not matured and developed enough to overcome these obstacles¹². The logic of inequality is reflected in the individualist discourse that looks for the *homo-economicus*, “a rationalist and utilitarian individual that ultimately expresses human nature as freed from antihuman traditions and myths” from the modernizing project at all locations (Dos Santos 1970, p. 05).

It is worth listing the following contributions from Mariátegui and Stavenhagen: (i) the history of the colony-Iberic metropolis relationship forged a sort of mining colonialism that was highly harmful to autochthonous populations of Latin American countries, which eventually affected the society as a whole; (ii) the economic foundations of these places eventually reflected production methods based on different principles, which consisted of slavery, feudal systems and the emerging bourgeoisie, meaning that the modern society of the periphery presents diversity, rather than a homogeneous process of “bourgeoisification” of the economy, culture and politics; (iii) the presence of indigenous peoples in these places triggered processes of legal control over these individuals through homogenization efforts aiming to include indigenous peoples in society and in labor arrangements; lastly, also in terms of structure, (iv) acculturation processes meant the resistance of these peoples, who used the discourse of protection of their identity and their forms of social relations as mechanisms of resistance to acculturation. The arguments of the two authors present signs of an original interpretation of the legal form that considers its strength to reproduce the dynamics that characterize capitalism – universalization and occultation of material inequalities, while it points to the possibilities of societal resistance – using the identity to protect the individuals.

This interpretation is compatible with dependency theory, which allows “understanding development and underdevelopment as a historic result of the development of capitalism as a world system that produced, at the same time, both development and underdevelopment” (Dos Santos 2011, p. 09). In order to discuss the deterministic character of dependency theory I rely on the approach of the “critique of dualistic reason”, which states that it would be possible to observe the experience in the periphery as a

¹² For an anthropological perspective of this debate, see: Clastres (1989).

dialectical integration between capitalist spaces and spaces over which capitalism expands (Oliveira 2003, p. 47).

This approach was forged by Francisco de Oliveira to interpret the problem of the "Brazilian backwardness" under a different perspective. For the author, Latin American pre-industrial economies had been created by the expansion of global capitalism, "as a reserve of primitive accumulation of the global system" (Oliveira 2003, p. 33). The issue of Latin American underdevelopment would be therefore not merely a problem of an inefficient or inadequate institutional arrangement for development. This was a conscientious position, determined by local elites, which supported the internal arrangement of social classes, maintaining a broad productive army to control the value of labor. Thus, the question of development is not merely external or a case of institutional adjustment, but represents an imbricate dynamic in a "whole" of production relations and social classes (Oliveira 2003, p. 34).

Oliveira's interpretation goes in the opposite direction of institutionalized L&D discourses. The author seeks to demonstrate the inherent contradictions within the dynamics of capitalist expansion, revealing its ambivalences. Oliveira was concerned with the analysis of the conquest of labor rights (Brazilian Labor Rights Consolidation - CLT) in the 40s in Brazil. For the author, this process occurred within a structural covenant held by labor regulations, populism and alignment between rural and industrial owners, which would ensure that distinctly capitalist forms of production could not fully penetrate the rural area, protecting the "typically non-capitalist" structures (Oliveira 2003, p. 65). The creation of CLT would have had a very important economic effect in comparison with other social policies. By establishing basic wage rates, this law controlled remuneration levels, ensuring that industrial elites had no loss of income by the lack of specialized workers in some nascent sectors of industry. The conquest of rights in Oliveira's interpretation served to reorient social conflicts and kept the dynamics of capitalist exploitation under the control of elites, while workers, underpaid, increased hours of work to ensure their survival with rising costs of living in cities due the acceleration of urbanization (Oliveira 2003, p. 70).

By analyzing the data about workers' income within the process of Brazilian industrialization, Oliveira proved his thesis stating that the implementation of social protections like a minimum wage determined at that time a conservative pact between rural and industrial classes. By doing so, he indicates the possible adverse effects of the rights implementation in the period, although he does not deny its importance as social achievement. His proposal could be seen as an analytical acquisition; in other words, the Brazilian development process would take place with "dialectical integration" between inequalities. The expansion of capitalism in Brazil occurred with the introduction of "new relations in the archaic and archaic relationships in the new" (Oliveira 2003, p. 60). Minimum wage policies appeased marginal classes dealing with growing inequality, but left unsolved the problem of concentration of income and property. This approach brings interesting elements for the analysis of regulations within the BFP. It allows for a critical interpretation on the path of Brazilian development and its control over subalterns. In addition, it highlights the less apparent possible effects of enacting labor laws in Brazil. The results of this analysis alert us of the potential conservative effects of social policies.

The following questions are therefore open to research: Which contradictions can be observed within the current policies of income distribution in Brazil? What role does the law play in this process? What are the limits of developmental analyses of these policies?

As stated earlier in this article, despite the highly optimistic analyses of current social policies, there are a number of open issues that need to be clarified in the public debate. I set apart especially the advancement of conservatism in Brazil (even in the face of recent demonstrations in June 2013). Observing the models of social reforms I intend to assess how these are structured to forge certain behaviors, practices and worldviews, since these policies influence not just economy but behavior and role of gender within family structures. My objective is not to reproduce elitist discourses that deny the need for social intervention for poverty eradication. However, if we develop a complex understanding of the problem, we may be able to unveil its ambivalent dynamic.

The "critique of dualistic reason" seeks to overcome the deterministic scheme of dependency theory and reconstruct the relation between colonization and development as intrinsically linked organic positions. In this sense it indicates the maintenance of moral hierarchies and socioeconomic differences between the global North and South, which becomes explicit in the speeches of development experts. Additionally, it provides important conceptual acquisitions like the observation of social categories from the concept of neocolonialism and the critique of eurocentrism. Such influences, however, need to be added to a research agenda that identifies the relationship between a model of modernization and the ideological dimension of the legal technique mobilized by social reforms. This ideological dimension brings about reforms that conform to certain patterns of development grounded in a Western epistemology or "worldview", which ensures that the paths charted maintain the established power structures in global capitalism.

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