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Racial Thinking and Ethnic Minorities in Latin America  
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## Racial Thinking and Ethnic Minorities in Latin America

I will divide my comments in two parts. In the first part I offer a few examples of my work as a historian, tracing the origins of racial thinking in Argentina, and the ways in which, despite a prevalent belief in the powers of Argentine society to socially assimilate and integrate, the present cultural and social climate regarding ethnic minorities has been marked by a parallel and long-standing current of mistrust towards those considered racially 'inferior'. In the second part, I will consider some matters arising from Professor Villas Bôas's paper, which I think are worthy of discussion.

### I

A more complete review of relevant literature on the intellectual history of racial thought, ethnic minorities and cultural diversity in general should probably cover three main bodies of literature, which even today are expanding very productively in Argentine historiography. The first comprises studies of slavery and abolition in the River Plate in the early 19th century; the second, studies of indigenous tribes, the frontier, and the state-building process; the third, studies of the process of massive European immigration and the consequent debates over the process of assimilation and/or preservation of original cultural identities.<sup>1</sup> In the following paragraphs I will focus only on some examples of the reactions that the presence of European

1 GRAHAM (1990) and STEPAN (1991) provide very useful general overview on race and racial thinking in Latin America. VACANO (2012) explores the presence of race in Latin American political thought. A recent collection provides several points of entry to the issue of race in Argentina: ALBERTO/ELENA (eds.) (2016). For the Afro-descendants in Argentina, the classic pioneering work by ANDREWS (1980) and BORUCKI (2015). Two recent studies explore the intersection of race and gender in Argentina: EDWARDS (2020) and KERR (2020). NOVOA/LEVINE (2010) studies the ways in which Darwinian evolutionism interacted with racial thought.

migrations generated, fuelled by the expansion of diverse currents of racial thought at the turn of the century.

Intellectual life and political debate in late 19th-century Argentina was marked by growing concern about the relative backwardness of the country's political culture and about the consequences of the social transformations produced by immigration, urbanization and industrialization. After decades of civil wars and rebellions by provincial caudillos, the country was politically stabilized, and a constitution sanctioned in 1853. Consolidation of the nation-state was also facilitated by the conquest of the frontier and the displacement of Indian populations. Prompted by the incorporation of new lands and the subsequent increase in cereal production and exports, massive immigration and influx of European capital, economic growth led to important changes in the social and economic fabric of the country, now entering a new 'age of progress'.

However, public debates tended to reflect deep-seated fears of racial degeneration, or even permanent racial inferiority. This produced a curious tension between the notions of progress and decline, both of which were connected to the racial composition of the country in a line thought that was not uncommon in the whole region. The "inevitable anarchy of the Spanish American republics" was due, according to Gustave Le Bon, to "the mere fact that the race is different and lacks the qualities possessed by the people of the United States [...]". Many Latin American intellectuals and statesmen made the dictum their own and, despite important variations from country to country regarding the value of *mestizaje* and the Whitening ideal, it became a generally accepted belief. In Argentina, Lucas Ayarragaray, a physician who, like many of his colleagues, combined his profession with intellectual and political activities, wrote extensively on the problem of race, closely following Le Bon's arguments. Argentina's political shortcomings were ultimately due to "the hereditary constitution" and had to be treated as a problem of "biological psychology". Without improvement to the country's racial stock by the addition of European immigrants, he stated, it would be impossible to adapt Western institutions because these had developed "amidst homogeneously superior populations" while Argentina's had a "degenerative propensity".<sup>2</sup> In *Nuestra América* (1903), Carlos Octavio Bunge

2 LE BON (1899), this is the English translation of LE BON (1894) 148–152; AYARRAGARAY (1904) 2, 276; AYARRAGARAY (1912 and 1916).

attributed to the difference in ethnic composition the struggles between Buenos Aires (European) and the interior (Indian and Mestizo), Buenos Aires benefiting from the fact that its Indian population had been devastated by alcohol, smallpox and tuberculosis, thus “purifying its ethnic elements”. In his commentary on the Second National Census (1895), Gabriel Carrasco stated that although the Latin race predominated in the local population, “Germanic, Anglo-Saxon, and Scandinavian races contribute to its improvement”. The result would be “a new and beautiful white race produced by the fusion of all European nations on American soil”.<sup>3</sup>

Socialist intellectuals and politicians shared many of the assumptions of the evolutionist-racist approach expounded by liberals and conservatives. Ideas that later became symbols of reactionary politics, such as the intrinsic superiority of certain racial groups over others or the need for a ‘scientific’ regulation of racial purity were then ‘progressive’ notions shared by liberals, socialists and conservatives alike, both in Argentina and in the countries where many of these doctrines originated.<sup>4</sup> José Ingenieros, a socialist writer and one of the most influential Latin American intellectuals of the time, revealed how far the new evolutionary ideas and the principle of the struggle for life in particular had gone in the formation of the new outlook when he declared that the republican trilogy of “liberté, égalité, fraternité [...] was scientifically absurd. Determinism denies liberty, biology denies equality, and the principle of the struggle for life, which rules over every sentient being, denies fraternity.” He was also one of the foremost advocates of racial interpretations of social phenomena. The superiority of the white race, said Ingenieros, made inevitable in America the progressive substitution of the indigenous races, as exemplified by the emergence of an ‘Argentine white race’.<sup>5</sup>

Rising crime rates in urban centres and the numbers of Italians and Spaniards arrested by the police for criminal offences were also easily attributed to racial factors in line with the Italian school of criminology, which had many adepts among Argentine jurists. The late 1880’s saw the foundation of the *Sociedad de Antropología Jurídica*, which included in its membership a number of notable intellectuals such as José María Ramos Mejía, José Nicolás Matienzo, and Rodolfo Rivarola. Luis María Drago’s *Los hombres de*

3 BUNGE (1918) 157–163; CARRASCO (1898) xlv, xlviii.

4 I have analyzed these trends in ZIMMERMANN (1992).

5 INGENIEROS (1906) x; INGENIEROS (1915).

*presa* (1888) and Antonio Dellepiane's *Las causas del delito* (1892) were the first works of Argentine jurists who adhered to the new school. The publication of a scientific journal, *Criminalología Moderna*, in 1898 marked the beginning of its expansion. The journal, founded in Buenos Aires by Pietro Gori, an Italian lawyer who sympathized with peaceful anarchism, listed the leading Italian criminologists among its collaborators (Lombroso, Ferri, Garofalo, Colajanni), and united many of their leading Argentine counterparts: A. Dellepiane, L.M. Drago, O. Piñero, R. Rivarola, J. Vucetich (who developed fingerprinting as a means of perfecting the anthropometric identification of criminals), and José Ingenieros.

In 1908 José Ingenieros wrote the prologue to the work of a colleague from the *Instituto de Criminología*, Eusebio Gómez, which summarised the approach of the new Argentine criminological school and its tendency to combine both approaches. Criminals did not know they were the victims of a complex determinism, based on both heredity and milieu: “espíritus que sobrellevan la fatalidad de herencias enfermizas o sufren la carcoma inexorable de las miserias ambientales” (“spirits who bear the fatality of unhealthy inheritance or suffer the inexorable rot of environmental misery”).<sup>6</sup>

Labor activism was also viewed as another dimension of ‘the racial problem’: anarchists were considered psychologically prone to experience ‘emotional crisis’ that could lead them – as in the assassination attempt against President Quintana – to an “abnormal spiritual condition”. As for their physical features, deformed ears were seen as “an evident sign of degeneration”, or, as in the case of Simon Radowitzky, who killed Police Chief Ramón L. Falcón in 1909, “an excessive development of the inferior jaw, a depression in his forehead, a light facial asymmetry” which revealed “the stigma of criminality”.<sup>7</sup>

The new science of eugenics also provided scientific arguments for those searching for rational solutions to the new social problems caused by the accelerated pace of immigration, urbanization and social change. Among criminologists it was not unusual to discuss the merits of “an artificial selection, more efficient and quicker than natural selection, to be realized

6 INGENIEROS (1908) 5–15.

7 “Radovizky, Simón. Por homicidio en las personas de Ramón L. Falcón y Alberto Lartigau. Alegato del Agente Fiscal, Dr. Manuel Beltrán”, Archivo General de la Nación, Tribunal Criminal, Letra R, Legajo No. 5, 1872–1909, 172.

through the sterilization of degenerate individuals". Social life, therefore, required the elimination of those criminal types that through heredity could 'infect' society and produce its moral and physical degeneration. The consequences deriving from eugenics went beyond criminology: the causes of poverty and economic inequality were identified by some as originating in heredity. But eugenics also led many to reverse this causal order and to place more emphasis on the influence of poor standards of living on the deterioration of biological traits, thus pushing for social reform.

Many of these trends were entrenched by the emergence of more authoritarian nationalist movements during the interwar years. My purpose in presenting such sketchy observations here is to point out that the legacy of these movements can be found in many contemporary attitudes to the treatment of ethnic minorities in contemporary Argentina. The history of these precedents, therefore, is of direct relevance to discussing the problems that legal theory faces when confronting the standing of these groups in society.

## II

I am not a legal theorist, so I couldn't possibly comment on the more specifically 'technical' dimensions raised by the very interesting paper presented by Professor Villas Bôas. Therefore, I will limit myself to suggesting a number of matters arising from my reading of his text, which I think might be worth considering for a general discussion. In some cases I shall take advantage of my status as an 'outsider' looking in to play devil's advocate.

1. *Citizenship* and the "imposition of exogenous normativity". I would suggest we can frame this point within a more general question: Is it possible to think about some conception of citizenship that would not require some degree of exogenous normativity on the various groups that compose any particular polity? This, of course, raises many interesting theoretical points that go well beyond the scope of Professor Villas Bôas' paper.

2. On the other hand, there are many other important questions that do arise from the paper. Is the notion of citizenship a part of contemporary debates about indigenous peoples in Brazil? Are there indigenous groups that claim access to rights as defined in the standard conception of citizenship, such as civil liberties, electoral rights, social and welfare benefits, etc? What about

the rise of the new ‘identity politics’? Are the demands of indigenous groups to be encompassed by this new rubric and the challenges it poses to the universalism of human rights and citizenship?

3. Traditional systems of conflict resolution “differ substantially from Eurocentric judicial systems based on written documents, legal professionals, legal processes against adversaries, and decisions in which there are clearly winners and losers”. Do indigenous groups perceive no benefits in the use of these mechanisms (e. g., written documents, legal professionals) in order to advance their claims? In other contexts, legal historians have shown the ways in which subaltern groups have used these mechanisms to advantage, notwithstanding their origin in Eurocentric judicial systems.

4. It seems to me that in many passages what the paper presents as the preponderance in Brazil of what Le Roy (1987, 1999) designates an “imposed order” (*ordre imposé*) transcends the discussion of legal theory and indigenous groups in the contemporary world to raise a more general point about the processes of state formation in Latin America, or possibly about the origins of the modern state in general. Is it legitimate to put it in these terms? Does this problem raise a more general question about the validity of the modern nation-state as a form of social organization? Should we then discuss not only a notion of citizenship but also introduce the problematization of the idea of *sovereignty* when addressing these issues?

5. Related to the previous point, are “juridification” and “judicialization” instances of the process of “legibility and simplification”, as James Scott put it in *Seeing Like a State*, a process which is part of the process of state formation in general? To quote Scott:

“How did the state gradually get a handle on its subjects and their environment? Suddenly, processes as disparate as the creation of permanent last names, the standardization of weights and measures, the establishment of cadastral surveys and population registers, the invention of freehold tenure, the standardization of language and legal discourse, the design of cities, and the organization of transportation seemed comprehensible as attempts at *legibility and simplification*.”<sup>8</sup>

8 SCOTT (1998) 2.

## 6. Along the same lines: Professor Villas Bôas states

“Le Roy (2013a) argues that land rights are the realization of different ways of thinking about space and social relations. It follows that, in order to understand the typicality of modern private property law, it is necessary to relate this invention to a ‘geometric representation’ of the space which, by measuring the surface, gives it a use value, an exchange value and introduces it into the market.”

The alternative seems to be respect for local uses concerning the structure of land tenure. But how do we reconcile this with standing legal orders and even the structure of every modern nation-state? Again, to quote James Scott:

“Imagine a lawgiver whose only concern was to respect land practices. Imagine, in other words, a written system of positive law that attempted to represent this complex scheme of property relations and land tenure. The mind fairly boggles at the clauses, sub-clauses, and sub sub-clauses that would be required to reduce these practices to a set of regulations that an administrator might understand, never mind enforce. [...] Indeed, the very concept of the modern state presupposes a vastly simplified and uniform property regime that is legible and hence manipulable from the center.”<sup>9</sup>

So, I guess my point here is that it might be highly productive to counterpose the issues of “juridification” and “judicialization” with Scott’s interpretation of the processes of “legibility” and “simplification” and their relation to modern processes of state building.

7. Professor Villas Bôas points out the ways in which “the ignorance and ethnocentrism of the ordinary jurist” in Brazil dealing with land issues end up working against the interests of indigenous peoples in Brazil. I am sure that this is also the case with Argentine jurists facing similar situations, but I wonder whether we are not asking too much of lawyers and judges that have been trained to uphold the law rather than to act as interpreters or legislators of a multicultural society. Should we address the issue of legal education in Latin America as part of the problem? Is the historiography of legal pluralism and empires (cf. Lauren Benton, for instance) a body of literature that jurists should be conversant with in order to approach the problem of juridification and the imposition of normative orders on indigenous communities?

9 SCOTT (1998) 35.

8. Should we consider that just as “the rhetorical use of the ‘Rule of Law’ can serve to ‘camouflage’ the plundering by Western capitalist countries”, the legitimate claims of indigenous groups can serve as camouflage for the opportunistic rent-seeking behaviour of many of them? How are we to treat such conduct if not from within the contours of our legal systems?

Needless to say, these observations should not be taken as criticisms of shortcomings in Professor Villas Bôas’ paper. On the contrary, I have found his text a very suggestive launchpad for a general discussion not only of the problems of “juridification” but, as I stated above, of more general questions of state formation and multicultural societies that attract the attention not only of jurists but of contemporary social scientists in general.

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