

Making a Brazilian New Deal: Oliveira Vianna and the Transnational Sources of Brazil's Corporatist Experiment

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Abstract. This article explores the legal writings of Brazilian sociologist and jurist Francisco José de Oliveira Vianna to reveal the global context that shaped Brazil's corporatist experiment in the 1930s. From the Labour Ministry, Oliveira Vianna was at the forefront of legal and political debates over how to create corporatist laws and institutions. He was often cast as an authoritarian and retrograde thinker, yet this article looks beyond those categories to examine how his engagement with the US New Deal inserted corporatism into global debates over the role of the state in economic recovery and social welfare.

Keywords: Brazil, legal and constitutional history, US New Deal, Oliveira Vianna, corporatism, global history

Brazil's 'Third Path'

Permit me to extend to you my best wishes in the great work which you are doing in the re-moulding of the Constitutional life of your splendid Brazilian empire which, I am confident, is destined to lead the countries of South America toward greater and greater civilization.¹

In April 1939, Moses Aronson, Professor of Philosophy at College of the City of New York and founder of the *Journal of Social Philosophy*, wrote to praise

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¹ Moses Aronson to Oliveira Vianna, 6 April 1939, Casa de Oliveira Vianna, Niterói, Brazil (hereafter COV), OVN-CP-0065.04.

friend and interlocutor Francisco José de Oliveira Vianna, Brazilian sociologist and jurist.² This correspondence is the kernel of a forgotten encounter between two distinct legal and political cultures, with both the US philosopher and Brazil's leading corporatist ideologue in pursuit of an alternative to liberalism as they 'emerge[d] out of the confusion of eighteenth-century thought'.³ During the Estado Novo (New State) dictatorship installed by Getúlio Vargas in the 1930s and 1940s, Oliveira Vianna served as chief legal advisor to the Ministry of Labour, Industry and Commerce. There, he drew upon his sociological study of Brazil's backwardness to rewrite its laws. Oliveira Vianna embraced corporatism as a model that could resolve class conflicts and promote development. While corporatism has long been discredited as the mere window-dressing of this nationalist and repressive government, Oliveira Vianna rather championed corporatism as one of many experiments to arise from the Great Depression and privilege the state in managing the economy. In his engagement with Aronson and other US legal scholars, we find one piece of a broader intellectual project in which Oliveira Vianna not only defended corporatism, but also asserted its relevance to political events across the globe, even in the New Deal of the liberal democratic United States.

This article aims to de-provincialise the study of corporatism by exploring this model as part of a transnational process of reimagining the state as an agent of economic development and social peace. In this legal and intellectual history centred on Oliveira Vianna, I argue that Brazilian-style corporatism was influenced by a global circulation of ideas and institutions concerning the transformation of law into an effective tool in state-building and social policy.

Oliveira Vianna worked to implement corporatism in Brazil in the context of a worldwide crisis of liberalism and free market capitalism, one that began with World War I and reached a breaking point with the 1929 Wall Street Crash. The Great Depression triggered a 26 per cent decline in the global volume of goods traded between 1929 and 1932, with nominal value falling by 48 per cent.⁴ Latin America, a region economically dependent on exporting agricultural products, was hit hard by worsening terms of trade, as prices – and demand – for commodities collapsed. These nations grappled with rising unemployment, cash crop stockpiles, debt defaults and political instability, as governments long dominated by agrarian elites crumbled.⁵ In Brazil, a

² 'Dr. Moses J. Aronson Resigns', *The New Scholasticism*, 15 (July 1941), p. 284.

³ Aronson to Oliveira Vianna, 6 April 1939, COV, OVN-CP-0065.04.

⁴ Peter Temin and Gianni Toniolo, *The World Economy between the Wars* (Oxford: Oxford University Press, 2008), pp. 94–6.

⁵ Consequences of the Great Depression varied across Latin America, depending on the size/autonomy of national markets and the 'commodity lottery'. Carlos Díaz Alejandro, 'Latin America in the 1930s', in Rosemary Thorp (ed.), *Latin America in the 1930s: The Role of the Periphery in World Crisis* (Oxford: Macmillan, 1984), pp. 19–20; for a more recent synthesis,

depressed coffee economy empowered Vargas to topple regional planter oligarchies and impose projects for centralisation and modernisation.

In response to buckling global markets, governments worldwide experimented with new models of state intervention for economic recovery. This was a profoundly transnational process. During the 1920s, examples from Fascist Italy's corporatist political economy, from social welfare in Weimar Germany and from Soviet-style collective planning circulated widely as viable solutions for market failures like price instability and unemployment, or social conflicts engendered by industrialisation. With the Great Depression, more models proliferated. The New Deal in the United States, for instance, became an exemplar of state-led responses to economic catastrophe, and was itself, in the words of historian Daniel Rodgers, an 'explosive release' of social and economic policy circulating across the north Atlantic in prior decades.⁶ I argue that Brazil's *Estado Novo* needs to be studied in this global context.

Of all the formulas for state–society relations tested in the interwar period, corporatism gained remarkable traction, particularly as the economic system of choice for dictatorships. Definitions of corporatism vary, but at its core it presented an alternative to liberalism and socialism by organising society into state-directed collective groups, differentiated and ranked according to economic profession and social role. To ensure harmony between labour and capital, the state took an unprecedented role in controlling social pressures and economic growth via wage and price agencies, labour tribunals and technical councils.⁷ Where liberal societies are individualist and pluralist, the corporatist vision was statist and hierarchical.⁸ Corporatist ideas circulated widely in the interwar period, penetrating the institutions of Latin America and southern Europe, where proponents renounced liberalism and capitalism as ill-suited to the cultural and racial realities of these societies. This led some social scientists to label corporatism a degenerate 'Iberic-Latin' development path that was authoritarian, elitist, Catholic, conservative and fascist.⁹

Paulo Drinot and Alan Knight (eds.), *The Great Depression in Latin America* (Durham, NC: Duke University Press, 2014).

⁶ Daniel Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, MA: Harvard University Press, 1998), p. 416.

⁷ Howard Wiarda, 'Corporatism and Development in the Iberic-Latin World: Persistent Strains and New Variations', *The Review of Politics*, 36: 1 (1974), p. 5.

⁸ Philippe Schmitter, 'Still the Century of Corporatism?', *The Review of Politics*, 36: 1 (1974), pp. 99–104.

⁹ Political scientists in the 1970s and 1980s took systematic interest in corporatism. While they attempted to disassociate corporatism from its pejorative connotations, their focus on Latin America and southern Europe cemented it as an authoritarian solution for underdeveloped nations: Howard Wiarda, *Corporatism and Comparative Politics: The Other Great 'Ism'* (Armonk, NY: Sharpe, 1997); Howard Wiarda, *Corporatism and National Development in*

While these categories are important for the study of corporatism, they obscure how its implementation was part of a global conjuncture created by the 1929 crisis.

Unlike other 'isms' of the modern era – capitalism, liberalism, socialism and communism – corporatism receives relatively little scholarly attention, studied in imprecise terms, conflated with fascism or dismissed outright as a deviation from proper capitalist development.¹⁰ With no founder, canonical text or country of origin, research on corporatism is complicated by its multiple intellectual genealogies: Catholic social thought following encyclicals *Rerum Novarum* (1891) and *Quadragesimo Anno* (1931); George Sorel's anti-capitalist syndicalism; Italian Fascism; protectionism championed by Romanian Mihail Manoilescu; and technocratic and pro-capitalist reformism in the New Deal.¹¹ In practice, these strands were interwoven, as in Brazil, where nationalist-modernising impulses fused Catholic elements with bureaucratic praxis.¹²

Scholars often acknowledge this transnational diffusion of corporatism, yet it continues to be studied in a nation-centric framework.¹³ One reason for so few global histories of corporatism is its association with the nationalist fervour that hijacked the interwar period. Corporatism is consistently linked with its own set of 'isms' – authoritarianism, nationalism and protectionism – that overpowered any fluid exchange across national borders. For contemporaries, with liberalism tainted by its foreignness and universal claims,

Latin America (Boulder, CO: Westview Press, 1981); Peter Williamson, *Varieties of Corporatism: A Conceptual Discussion* (Cambridge: Cambridge University Press, 1985).

¹⁰ In Italy, corporatism was a core component of Fascism, but not all corporatist regimes are Fascist. Brazil's home-grown Fascist movement, Integralismo, had several branches, but corporatism was mostly an afterthought. Vargas suppressed Integralismo in 1938. João Fábio Bertonha, *O Integralismo e sua história: memória, fontes, historiografia* (Salvador: Editora PontoCom, 2016).

¹¹ Schmitter, 'Still the Century of Corporatism?', pp. 87–8. On the New Deal, Donald Brand, *Corporatism and the Rule of Law: A Study of the National Recovery Administration* (Ithaca, NY: Cornell University Press, 1988).

¹² On technocratic elements, Eli Diniz, 'Engenharia institucional e políticas públicas: Dos conselhos técnicos às câmaras setoriais', in Dulce Pandolfi (ed.), *Repensando o Estado Novo* (Rio de Janeiro: Editora Fundação Getúlio Vargas, 1999), pp. 27–30.

¹³ An exception is Love's work on Romania and Brazil, which argues that corporatism gave rise to structuralist thought: Joseph Love, *Crafting the Third World: Theorizing Underdevelopment in Rumania and Brazil* (Palo Alto, CA: Stanford University Press, 1996). Recently, scholars have recuperated corporatism, in comparative perspective. Francisco Carlos Palomanes Martinho and António Costa Pinto (eds.), *A vaga corporativa: Corporativismo e ditaduras na Europa e na América Latina* (Lisbon: Imprensa de Ciências Sociais, 2016); Francisco Carlos Palomanes Martinho and António Costa Pinto (eds.), *O corporativismo em português: Estado, política e sociedade no salazarismo e no varguismo* (Rio de Janeiro: Civilização Brasileira, 2007); Didier Musiedlak (ed.), *Les expériences corporatives dans l'aire latine* (Bern: Lang, 2010). Nevertheless, we still lack transnational discussions of corporatism.

corporatist ideologues were uncompromising in their defence of the statist programme as home-grown. Oliveira Vianna partook of these nationalist sentiments, evident in his pessimistic views of Brazil's racial composition and immigrant populations. He insisted on the originality of his corporatist model, uniquely suited to the nation's alleged 'backwardness' and political disunity. This obscuring of the transnational nature of corporatism makes it all the more necessary to recover how a global outlook persisted alongside the rise of economic and political nationalism in the 1930s.

Writing a global intellectual history from the perspective of Oliveira Vianna will demonstrate how Brazil's corporatist experiment was influenced by the diffusion of ideas and institutions across cultural and political boundaries. Few scholars have considered his engagement with foreign jurisprudence and policy, dismissing the transnational conversations in his writings as irrelevant or perfunctory, in light of how Brazilian intellectuals compulsively cited European or US authors for legitimacy.¹⁴ This article, however, joins recent intellectual histories of Latin America in rejecting the premise that ideas passively flow from (so-called) core to peripheral countries.¹⁵ Oliveira Vianna did not copy corporatism from abroad, as his critics insisted, but 'cannibalized, reconstructed and re-authored those ideas' to reflect local contexts.¹⁶

This article begins, first, with an overview of Oliveira Vianna's sociological and political thought and, second, his role in redefining Brazil's constitutional framework following the 1930 Revolution in order to highlight his critique of liberalism. Both discussions underscore how concerns over Brazil's racial and ethnic composition led him to the conclusion that only a centralised state – one that organised and disciplined economic interests – could raise the nation up from its laggard development. The focus then turns to how Oliveira Vianna defended corporatism in Brazil by emphasising its parallels with the US New Deal. He asserted that Supreme Court Justice Louis D. Brandeis was a corporatist, coining a new political category – '*individualismo corporativista*' – to bridge the gaps between the political cultures of Brazil and the United States. As is Kiran Klaus Patel, in his recent global history of the

¹⁴ José Murilo de Carvalho, 'A Utopia de Oliveira Viana', in José Murilo de Carvalho (ed.), *Pontos e bordados: Escritos de história e política* (Belo Horizonte: Editora UFMG, 1998), pp. 205–6. The spelling of Oliveira Vianna's name was not consistent in his day. Both 'Vianna' and 'Viana' were used, albeit 'Vianna' seems to be the more common spelling.

¹⁵ Federico Finchelstein, *Transatlantic Fascism: Ideology, Violence, and the Sacred in Argentina and Italy, 1919–1945* (Durham, NC: Duke University Press, 2010); Elías José Palti, 'The Problem of "Misplaced Ideas" Revisited: Beyond the "History of Ideas" in Latin America', *Journal of the History of Ideas*, 67: 1 (2006), pp. 149–79; James Sanders, *The Vanguard of the Atlantic World: Creating Modernity, Nation, and Democracy in Nineteenth-Century Latin America* (Durham, NC: Duke University Press, 2014).

¹⁶ For a model of how to write the intellectual history of the 'periphery', Christopher Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge: Cambridge University Press, 2012), p. 3.

New Deal, I am more interested in the ‘routes’ – rather than the ‘roots’ – of these ideas and institutions.¹⁷ In this discussion of Brazil–US exchanges, we also grapple with *why* Oliveira Vianna emphasised the New Deal, and not more representative corporatist regimes like Fascist Italy or Portugal’s own Estado Novo. This final section argues that Oliveira Vianna’s enthusiasm for the United States stemmed from his typology of what separated (so-called) ‘civilised’ nations from Brazil, with corporatism as a roadmap for overcoming the nation’s social and racial backwardness.

In summary, I argue that corporatism should not be reduced to the theoretical façade of an arbitrary dictatorship. Instead, this ‘third path’ precipitated the meticulous retooling of constitutionalism and legal institutions in Brazil, with long-lasting impact. By dismantling the liberal order – foremost concerned with property rights and individual freedoms – the corporatist experiment heralded statist intervention in economic life. Oliveira Vianna traversed democratic and authoritarian contexts to highlight the global nature of this transformation, and to scrutinise the emergent relationship between law and development.

The article is grounded in careful readings of Oliveira Vianna’s lesser-known and (largely) forgotten legal essays, supported by archival materials from the Casa de Oliveira Vianna, located in Niterói, Brazil. This archive holds correspondence with foreign interlocutors, legal opinions written for the Labour Ministry, as well as a personal library, where the marginalia in his books make it possible to retrace how he assimilated foreign models to match Brazil’s Estado Novo. With these sources, I reconstruct the intellectual encounters that shaped how ideas of law and development coalesced in Brazil to design corporatism. While these processes are often understood as emanating from the core nations of the north Atlantic to the rest of the world, Oliveira Vianna allows us to invert this framework and see how the so-called ‘periphery’ also served as an intellectual conduit for new solutions following the Great Depression.

A Sociologist’s Critique of Liberalism

Born in 1883 in Saquarema, on the outskirts of then-capital Rio de Janeiro, Oliveira Vianna (1883–1951) witnessed his family’s fortune vanish as the economic pull of the nation shifted to São Paulo and its expanding coffee sector. As a member of the moribund *fazendeiro* (landowning) class, he turned to law, appointed law professor in Niterói in 1916.¹⁸ He quickly earned renown in

¹⁷ Kiran Klaus Patel, *The New Deal: A Global History* (Princeton, NJ: Princeton University Press, 2016), p. 3.

¹⁸ Jeffrey D. Needell, ‘History, Race, and the State in the Thought of Oliveira Viana’, *Hispanic American Historical Review*, 75: 1 (1995), pp. 4–8.

intellectual circles for his sociological writings, analysing Brazil's 'social question' in light of the abolition of slavery (1888) and the inauguration of the First Republic (1889–1930). He inveighed against the liberal and federalist tenets of this republican experiment, incompatible with the pervasive patrimonialism that stunted political development by limiting the emergence of self-governing economic interests.¹⁹ In 1920, the sociologist published *Populações meridionais do Brasil I*, styled the 'first scientific analysis of the nation's formation'.²⁰ Its point of departure was decentralised economic life in Brazil, taking the rural clan as its unit of analysis, a clientelistic mode of organising social relations in which honour codes governed in place of rule of law.

Oliveira Vianna was part of the historical turn in Brazilian intellectual life during the interwar decades, reappraising the colonial legacy to analyse how slavery, racial *mestiçagem*, ruralisation of power and clientelism impacted socio-political development. There was symmetry in what Oliveira Vianna classified as a society of clans in *Populações meridionais do Brasil I*, Gilberto Freyre deemed patriarchal in *Casa grande e senzala* and Sérgio Buarque de Holanda reckoned overrun by *caudilhos* in *Raízes do Brasil*.²¹ Unlike his contemporaries, however, Oliveira Vianna was expunged from the cannon of twentieth-century interpretations of Brazil after the fall of Vargas in 1945.

Critics – from the 1930s to the present – have rebuked Oliveira Vianna on account of his support for authoritarian forms of politics and embrace of 'whitening' schemes to promote European immigration in order to 'improve' Brazil's racial makeup.²² Contemporary opponents deployed racial epithets to discredit his sociological and political arguments, with historian José Honório Rodrigues calling him a '*mulato róseo*' and renowned sociologist Gilberto Freyre sneering at how his '*mestiço*' heritage coupled with support of '*aryanismo*'.²³ During Brazil's military dictatorship (1964–85), another generation of scholars assailed Oliveira Vianna's corporatist model

¹⁹ Maria Stella Martins Bresciani, *O charme da ciência e a sedução da objetividade: Oliveira Vianna entre intérpretes do Brasil* (São Paulo: Editora UNESP, 2005), pp. 33, 355.

²⁰ Sociologist João Batista de Vasconcelos Torres quoted in Evaldo Amaro Vieira, *Oliveira Vianna e o estado corporativo: Um estudo sobre corporativismo e autoritarismo* (São Paulo: Editorial Grijalbo, 1976), p. 28.

²¹ André Botelho, 'Passado e futuro das interpretações do país', *Tempo Social: Revista de Sociologia da USP*, 22: 1 (2010), pp. 47–66; Sérgio Buarque de Holanda, *Raízes do Brasil* (Rio de Janeiro: Livraria José Olympio, 1936); Gilberto Freyre, *Casa grande e senzala* (Madrid: Alca, 2002); Francisco José de Oliveira Vianna, *Populações meridionais do Brasil I: populações rurais do centro-sul* (Brasília: Senado Federal, 2005).

²² Nancy Stepan, *The Hour of Eugenics: Race, Gender, and Nation in Latin America* (Ithaca, NY: Cornell University Press, 1991), p. 155.

²³ Gilberto Freyre, *Sobrados e mucambos: Decadência do patriarcado rural do Brasil* (São Paulo: Companhia Editora Nacional, 1936), p. 372; José Honório Rodrigues, *História da história do Brasil: A metafísica do latifúndio, o ultrarreacionário Oliveira Vianna*, vol. 2 (São Paulo: Companhia Editora Nacional, 1979), pp. 6, 236–9. Scant biographical evidence exists to confirm his mixed-race ancestry: Needell, 'History, Race, and the State', p. 17.

as authoritarian and retrograde, condemning his sociology as an apologia for the white landholding class.²⁴ Along these lines, scholars argue that his *sindicalismo corporativista*, under a strong interventionist state, constituted a return to a conservative (imperial) tradition, in the spirit of nineteenth-century thinkers Visconde de Uruguai and Alberto Torres.²⁵ Historian Jeffrey Needell sees Oliveira Vianna's corporatism as a 'monarchy adapted to modern Brazil' designed to reinforce the existent racial hierarchy.²⁶ Others, instead, recognise the modernising impulses in the sociologist's technocratic corporatism.²⁷ Still, even scholars who concede corporatism as a model of 'conservative modernisation' rarely look beyond the conclusion that this system was authoritarian to consider what *else* Oliveira Vianna could tell us about the political and intellectual climate of the Vargas era.²⁸

These critiques of Oliveira Vianna tend to compress his prolific, evolving and erudite scholarship into facile conclusions of how the rural panorama and racist undertones of his works made him nothing more than the backward-looking custodian of a patriarchal order. Careful readings of his scholarship, however, suggest that both his racial and political thinking deserve more scrutiny. For example, given his enthusiasm for the 'eugenic selection of immigrants',²⁹ scholars see Oliveira Vianna as a vestige of nineteenth-century scientific racism, which asserted the biological determinacy of race.³⁰ His theories on Brazil's racial evolution, however, were more complex: he focused on how the process of miscegenation was conditioned by environment, climate

²⁴ Nelson Werneck Sodré argued this point, based only on *Populações meridionais do Brasil I*. Nelson Werneck Sodré, *A ideologia do colonialismo: Seus reflexos no pensamento brasileiro* (Rio de Janeiro: Civilização Brasileira, 1965), pp. 165–253.

²⁵ Ângela de Castro Gomes called him 'the last of the saquaremas', a nineteenth-century party of landed elites: Ângela de Castro Gomes, 'O praxis corporativa de Oliveira Vianna', in João Quartim de Moraes and Élide Rugai Bastos (eds.), *O pensamento de Oliveira Vianna* (Campinas: Editora Unicamp, 1993), p. 57.

²⁶ Needell, 'History, Race, and the State', p. 28.

²⁷ Eli Diniz, 'O pensamento autoritário dos anos 30', *Ciência Hoje*, 5: 29 (March 1987), pp. 60–5; Vieira, *Oliveira Vianna e o estado corporativo*; Ricardo Silva, *A ideologia do estado autoritário no Brasil* (Chapécó: Argos Editora Universitária, 2004); Ângela de Castro Gomes, 'Autoritarismo e corporativismo no Brasil: O legado de Vargas', in Pedro Paulo Zahluth Bastos and Pedro Cezar Dutra Fonseca (eds.), *A era Vargas: Desenvolvimentismo, economia e sociedade* (São Paulo: Editora UNESP, 2011), pp. 69–92.

²⁸ Moraes and Bastos rehabilitated the study of Oliveira Vianna with their canonical volume, *O pensamento de Oliveira Vianna*.

²⁹ Francisco José de Oliveira Vianna, *Evolução do povo brasileiro* (São Paulo: Companhia Editora Nacional, 1938), p. 11.

³⁰ Oliveira Vianna's most emblematic work on this topic is *Raça e assimilação*, 2nd edn (São Paulo: Companhia Editora Nacional, 1934). See also Jair de Souza Ramos, 'Ciência e racismo: Uma leitura crítica de *Raça e assimilação* em Oliveira Vianna', *História, Ciências, Saúde—Manguinhos*, 10: 2 (2003), pp. 573–601; Thomas Skidmore, *Black into White: Race and Nationality in Brazilian Thought* (Durham, NC: Duke University Press, 1993), p. 204.

and population density, as well as legacies of colonialism and slavery.³¹ Accordingly, his position was not so dissimilar from that of his contemporary Gilberto Freyre, whose lyrical prose, self-promotion and positive spin on Brazil's racial democracy made him far more popular, within and beyond Brazil.³² For this reason, Oliveira Vianna grew frustrated with Freyre's lack of intellectual 'scruples', accusing him of pilfering his ideas and distorting them into a straw man defence of eugenics.³³

This contextual reading of Oliveira Vianna does not absolve him of racism, but rather aims to consider why this sociological framework led him to corporatism. He unequivocally endorsed an immutable racial hierarchy, one in which European settlers in Brazil were valorised above African and Amerindian peoples, and believed that Brazil's 'inferior' races had contaminated 'superior' ones in the process of *mestiçagem*.³⁴ Within the Labour Ministry, he developed policies that reinforced this racial hierarchy, namely 'whitening schemes' favouring European immigration as a short-term solution for long-term development. Still, in cases where his government actions were explicitly informed by these racial prejudices, his arguments did not linger on race *per se*, but rather on his fixation with miscegenation. In his review of Chinese immigration, for example, his misgivings towards Asian workers in Brazil was on account of their '*infusibilidade*', or disinclination towards mixing.³⁵ Since Brazil's immigration laws could not discriminate by ethnic group, Oliveira Vianna proposed policies to diversify agricultural colonies and promote 'forced and intense assimilation'.³⁶ This argument is important because it highlights not only his embrace of 'whitening' as state policy, but also his underlying rationale for corporatism: Brazil's backwardness stemmed from its racial and geographic heterogeneity, which could not be forged into a modern nation without heavy-handed state intervention. As a historical sociologist, he stressed that Brazil's vast territory and small population density caused the diffusion of economic activity across islands of agrarian production, which stymied rule of law and 'pulverized' political power.³⁷ In Brazil, 'everything [was] rudimentary,

³¹ *Populações meridionais do Brasil* was a three-volume series (only the first was published in his lifetime). It identified three societies in Brazil: the *sertanejo* in the north, *matuto* from the south-centre, and *gaúcho* of the south, each with a distinct racial composition and born from particular geo-climatic circumstances. The challenge for any government was to unify these into a nation. Oliveira Vianna, *Populações meridionais do Brasil I*, p. 52.

³² Peter Burke and Maria Lúcia Pallares-Burke, *Gilberto Freyre: Social Theory in the Tropics* (Oxford: Peter Lang, 2008).

³³ Oliveira Vianna vowed to never read another book by Freyre, and seemed true to his word since only one of Freyre's books is in his library. Oliveira Vianna to his editor, n.d. [likely 1933/4], COV, OVN-CA-0001.16.

³⁴ Oliveira Vianna, *Populações meridionais do Brasil I*, p. 173.

³⁵ Oliveira Vianna, legal opinion on Chinese immigration, n.d., COV, Box 6 [*pareceres*, 'legal opinions'], no. 2286.

³⁶ *Ibid.*

³⁷ Oliveira Vianna, *Evolução do povo brasileiro*, p. 246.

formless and fragmentary'.³⁸ Herein lies the key to why corporatism was the only adequate path for Brazil: centuries of isolation and individualism had degraded society by stunting the formation of class interests. Only a strong, centralising state could correct chronic backwardness.

The impetus behind these sociological writings was to prove the mismatch between liberalism and Brazil's social realities. For colonial and imperial Brazil, Oliveira Vianna asserted, the symbiotic institutions of monarchy and slavery connected the scattered nodes of economic production and upheld a racial hierarchy.³⁹ Following the abolition of slavery, the architects of the First Republic vaunted liberalism as the path to 'civilisation', linking progress to decentralisation, property rights and free trade. Oliveira Vianna was sceptical. His work *O idealismo da constituição* (1927) disparaged the 1891 Constitution as a sham for its heterogeneous mix of 'French democracy, English liberalism and American federalism', incompatible with Brazilian social realities.⁴⁰ In his view, the Republic shattered the brittle ties between expansive regions, offering only a weak and decentralised state.

During the 1920s, the lawyer-cum-sociologist introduced the corporatist idiom in his works to discredit liberalism in Brazil. Modern society required an *espírito corporativo*, he argued, to prompt class consciousness and organise public opinion. In Brazil, however, clientelism had long retarded class-based interests. In this sociological thesis, popular classes were guided by atavistic 'clannish sentiments', condemned to behave 'just as men of their environment, of their era, of their race'.⁴¹ The uncontrolled and emotional 'instincts of our original races', Oliveira Vianna explained, made it impossible to govern Brazil according to rational economic interests, the necessary prerequisite for representative democracy.⁴² As no autonomous 'corporatist spirit' could mature, Brazil required an interventionist state capable of disciplining social and economic life. This aspiration found political expression in corporatism.

In Oliveira Vianna's early writings, Brazil's *deficits* or *failures* were reviled in comparison to the Anglo-American world, where autonomous and self-governing associationalism proved to be the prerequisite for *successful* economic and political development. He often praised the 'magnificent spectacle of Anglo-Saxon democracies', in which social groups could 'impose' their interests on the government to influence policy-making.⁴³ Placing this *espírito corporativo* at the root of progress may seem a misreading of the United States and Great Britain. The prosperity of these societies is often attributed to rugged

³⁸ Oliveira Vianna, *Populações meridionais do Brasil I*, p. 193.

³⁹ Oliveira Vianna, *Evolução do povo brasileiro*, p. 120.

⁴⁰ Francisco José de Oliveira Vianna, *O idealismo da constituição* (São Paulo: Companhia Editora Nacional, 1939), p. 84.

⁴¹ *Ibid.*, p. 69.

⁴² *Ibid.*, p. 68.

⁴³ *Ibid.*, p. 94.

individualism and free enterprise. Instead, the Brazilian sociologist argued for a modernity that was associationalist and cooperative, not individualistic and competitive, folding the north Atlantic paradigm into one compatible with corporatism. His writings showcased a global circulation of racial, cultural and civilisational comparisons which pervaded notions of backwardness and progress in Brazil.⁴⁴

Constitution-Writing and Alternatives to Liberal Democracy

Oliveira Vianna's sociological writings took on political meaning with the 1929 crash. In Brazil, the value of exports fell by 70 per cent from 1929 to 1932, with the price of coffee – its most valuable commodity – declining 60 per cent.⁴⁵ The crisis disrupted the regional balance of power in Brazil, toppling the *café com leite* politics of the First Republic when power alternated between São Paulo (coffee) and Minas Gerais (cattle) elites. The crisis weakened the Paulista oligarchy and created an opportunity for Vargas, then governor of Rio Grande do Sul, to launch the 1930 Revolution. With bold claims of national renewal, modernisation and social order, Vargas seized power to govern as President-turned-dictator until 1945, sustained by elections in 1934 and the 1937 Estado Novo coup.

Vargas' trajectory typifies how the Great Depression was a 'turning point' across Latin America.⁴⁶ The collapse of global markets overturned the political and economic arrangements of the nineteenth century. Oligarchic governments were deposed or voted out of power, as emergent economic groups placed increasing demands upon the state for social rights, protectionism and modernisation.⁴⁷ From the 1933 Revolution in Cuba, Popular Front in Chile and Lázaro Cárdenas in Mexico, popular classes, intellectuals and economic elites contended with and mobilised behind new conceptions of the state in social and economic life. Historians have paid particular attention to government responses to the 'social question', both in terms of state violence against popular classes and the reformist impulses that decreed minimum wages, affordable housing and social security. This expansion of social citizenship was forged in new spaces of popular participation in politics,

⁴⁴ On the political potency of the category 'Anglo-Saxon civilisation', Paul Kramer, 'Empires, Exceptions and Anglo-Saxons: Race and Rule between the British and United States Empires, 1880–1910', *The Journal of American History*, 88: 4 (2002), pp. 1315–53.

⁴⁵ Thorp (ed.), *Latin America in the 1930s*, Tables 2 and 4; Fiona Gordon-Ashworth, 'Agricultural Commodity Control under Vargas in Brazil, 1930–1945', *Journal of Latin American Studies*, 12: 1 (1980), p. 91.

⁴⁶ 'Introduction', in Thorp (ed.), *Latin America in the 1930s*, p. 1.

⁴⁷ For how economic elites pushed for stronger banking and financial institutions in interwar Latin America, and the interactions between foreign experts and local statesmen in this process, Paul Drake, *The Money Doctor in the Andes: The Kemmerer Missions, 1923–1933* (Durham, NC: Duke University Press, 1989).

but often engineered via elitist, hierarchical and paternalistic state institutions.⁴⁸ And, as in Oliveira Vianna's legal and sociological corpus, these formulas for progress often depended on racialised understandings of Latin American societies.⁴⁹

Historians of Latin America have paid considerable attention to 1930s social politics, but less to law and jurisprudence. Focusing on Oliveira Vianna, I explore how the advent of social citizenship depended on new constitutions and legal institutions.⁵⁰ This is significant because this process in Brazil went hand in hand with the dismantling of democratic institutions. The 1930 Revolution subverted the liberal and federalist bedrock of the First Republic. It galvanised enthusiasm for strong centralised states and scepticism towards liberal democracy, trending across Europe and Latin America. As one socialist-leaning Brazilian journalist exclaimed from exile in Lisbon, Portugal: 'We did not manage to be a democratic nation at the apogee of democracy. We must avoid that disgrace during its decay.'⁵¹ Vargas and his inner circle seized upon this distrust of democracy to overhaul the powers of government and substance of law.

The legal transformations under way in Brazil were most apparent in debates over its constitutional future. Initially, Vargas suspended the 1891 Constitution, ruling by decree. However, the outbreak of a bloody civil war in São Paulo in 1932, appropriately called the Constitutionalist Revolution, ignited demands for the return to rule of law. Vargas conceded and promised a new Constitution. In November 1932, he appointed a special committee to write the first draft. The Itamaraty Commission was presided over by Minister of External Relations Afrânio de Melo Franco, working alongside distinguished government ministers, politicians, army generals and Oliveira Vianna, the sole academic invited.⁵² Oliveira Vianna was selected for his stature as a prominent intellectual of the 1930 Revolution, and for his work

⁴⁸ For how 'corporatist' policies were implemented through state violence and savvy political realignments, Robert Whitney, *State and Revolution in Cuba: Mass Mobilization and Political Change, 1920–1940* (Chapel Hill, NC: University of North Carolina Press, 2001). Social politics often depended on and reproduced patriarchal family norms; see Karin Alejandra Rosemblatt, *Gendered Compromises: Political Cultures and the State in Chile, 1920–1950* (Chapel Hill, NC: University of North Carolina Press, 2000).

⁴⁹ On how ideas of race shaped interwar policy-making, Paulo Drinot, *The Allure of Labor: Workers, Race, and the Making of the Peruvian State* (Durham, NC and London: Duke University Press, 2011).

⁵⁰ On social citizenship and law in Brazil, Brodwyn Fischer, *A Poverty of Rights: Citizenship and Inequality in Twentieth-Century Rio de Janeiro* (Palo Alto, CA: Stanford University Press, 2008).

⁵¹ Raphael Correa e Oliveira to Oswaldo Aranha, 20 Nov. 1933, Centro de Pesquisa e Documentação de História Contemporânea do Brasil, Rio de Janeiro, Brazil (hereafter CPDOC), Arquivo Oswaldo Aranha, OA33.01.09, microfilm 11, no. 0304.

⁵² José Affonso Mendonça de Azevedo, *Elaborando a Constituição nacional: Atas da subcomissão elaboradora do anteprojecto 1932/1933* (Brasília: Senado Federal, 1933), pp. xii–xviii.

within the Labour Ministry, a hotbed of corporatist thinking. Now, he stood at the forefront of efforts to translate revolutionary ideals into constitutional form, as his sociological arguments for corporatism became politically viable.

On the subcommittee, Oliveira Vianna supported a hierarchical, centralised and elitist state. He was sceptical of Brazil's preparedness for participatory government and rejected nineteenth-century conventions: separation of powers, individual freedoms and parliamentary democracy. He even opposed professional representation – a platform of the 1930 Revolution⁵³ – on the grounds that organised class interests in Brazil were too 'embryonic'.⁵⁴ Brazilians lacked a 'parliamentary psychology', given their inchoate education and lack of 'mentality' for civic participation.⁵⁵ Notwithstanding this pessimism, he asserted with uncanny confidence that Brazil, despite (or perhaps because of) its limitations, had always served as an 'admirable guinea pig' for all sorts of political and social experiments.⁵⁶ Corporatism would be its next experiment.

Oliveira Vianna was convinced that politics could no longer be left to elected politicians. To sidestep entirely debates over direct versus indirect suffrage, he favoured government by expertise, rather than by clientelism. Already in the first edition of *Problemas de política objetiva*, published on the eve of the 1930 Revolution, he lamented that laws in Brazil were inefficient because they were 'written without prior consultation with the interested classes, without ... advice from "professionals", "experts" and "practical experience"'.⁵⁷ Now in a position to influence the structure of government, Oliveira Vianna proposed the creation of a '*corporação*', of 15 to 20 delegates, appointed from among political and intellectual elites to perform 'advisory functions' and assist the President.⁵⁸

The famed sociologist argued that the legislative branch was now obsolete, devoid of 'its primal importance across contemporary political systems'.⁵⁹ Looking to Portugal, Russia, France and the United States, he observed 'the advent of collaboration from *conselhos técnicos* [technical councils] and organised classes in the administrative work of the state and the amplification, each day greater, of legislative initiative from the Executive Branch'.⁶⁰ While reforms differed from nation to nation – the Câmara Corporativa in

⁵³ Ângela de Castro Gomes, 'A representação de classes na constituinte de 1934', *Revista de Ciência Política*, 21: 3 (1978), pp. 53–116.

⁵⁴ Oliveira Vianna to Afrânio Melo Franco, n.d. [likely 1932/3], COV, OVN-CA-0031.01.

⁵⁵ Oliveira Vianna, n.d. [likely 1932/3], COV, OVN-CA-0001.10.

⁵⁶ *Ibid.*

⁵⁷ Citing Charles Merriam's *New Aspects of Politics* (1925), Francisco José de Oliveira Vianna, *Problemas de política objetiva*, 2nd edn (São Paulo: Companhia Editora Nacional, 1947), pp. 172–3.

⁵⁸ Oliveira Vianna to Afrânio Melo Franco, n.d. [1932/3], COV, OVN-CA-0031.01.

⁵⁹ Oliveira Vianna, n.d. [1932/3], COV, OVN-CA-0001.10.

⁶⁰ *Ibid.*

Portugal, *conselhos técnicos* in Brazil and the new agencies of the US New Deal – the motivations behind these institutions were globally connected. Oliveira Vianna defended this model as the only efficient way of making laws in the modern era. Brazil, too, would be a part of this global revolution in governance.

After a year of subcommittee meetings, the constitutional draft was sent to the National Constitutional Assembly, elected by popular and professional suffrage. Many ‘revolutionary’ articles were stripped down or removed, a compromise between liberal demands for expanded individual freedoms and those advocating for centralisation, stronger executive powers and social reforms to counteract the ‘Bolshevik threat’.⁶¹ While Oliveira Vianna did not participate in the Constitutional Assembly, he openly sympathised with the latter bloc and his writings were cited in defence of corporatist initiatives. Excerpts from *Populações meridionais do Brasil I* were quoted by members of the constituent body to explain how the nation’s inchoate ‘political psychology’ remained paralysed by the arbitrary powers of political bosses.⁶² Brazilian political and legal texts rarely feature explicit discussions of race, yet, in one instance, a deputy quoted Oliveira Vianna to evoke the figure of the ‘*jeca*’, a caricature of a mixed-race rural worker often cited as a stand-in for the nation’s social ills. This mobilisation of Oliveira Vianna’s sociological arguments suggests how deeply questions of Brazil’s constitutional future were entangled with anxieties over ‘backwardness’.

In July 1934, the fourth and final draft of the 1934 Constitution was ratified.⁶³ It was a hybrid document that pleased few. While corporatism was not yet explicitly institutionalised, the state’s expanding role in social and economic life reflected the influence of corporatist ideas, namely professional representation and the creation of *conselhos técnicos*. The section ‘Of Economic and Social Order’ codified social rights: eight-hour workday, paid holidays, minimum wage and the creation of the *Justiça do Trabalho* (labour courts) to adjudicate disputes between employers and employees.⁶⁴ As will be explored in the next section, the labour courts provoked immediate controversy. Stalwart liberals, in particular, protested at how the tribunal eclipsed individual rights and separation of powers. Oliveira Vianna, on the other hand, was its champion: he defended its potential to harmoniously

⁶¹ Thomas E. Skidmore, *Politics in Brazil, 1930–1964: An Experiment in Democracy* (New York: Oxford University Press, 1967), pp. 4–21.

⁶² Domingos Velasco, socialist-leaning delegate from Goiás, quoting *Populações Meridionais do Brasil I*, 14 Dec. 1933, *Annaes da Assembléa Nacional Constituinte 1933/1934*, Vol. 2 (Rio de Janeiro: Imprensa Nacional, 1935), pp. 294–8.

⁶³ To compare drafts, Levi Carneiro, *Pela nova constituição* (Rio de Janeiro: Editor Coelho Branco, 1936), pp. 738–881.

⁶⁴ Articles 115–43, *Constituição da República dos Estados Unidos do Brasil* (Rio de Janeiro: Imprensa Nacional, 1934).

reconcile labour with capital and, critically, the devolution of legislative powers to the courtroom, where judges could better respond to socio-economic realities.

I argue that Oliveira Vianna's contributions to constitutional debates reveal not only the legal arguments that shaped corporatism, but also how anxieties over Brazil's social and racial makeup motivated this programme for development. His sociology depended on comparisons between Brazil and other nations, often against the yardstick of Anglo-American 'civilisation'. Inadvertently or not, these transnational comparisons were vehicles for talking about foreign policies. Even in a task as nation-centric as writing a constitution, Oliveira Vianna and his contemporaries understood their project for national renewal to be part of a global circulation of ideas and institutions, catalysed by a sense of shared problems and connected experiences. Speaking before the Constitutional Assembly, Brazilian jurist Levi Carneiro quoted Italian Prime Minister Benito Mussolini, who similarly defended his Fascist programme with appeals to national renewal, social order and modernisation: 'There does not exist policy that is entirely original'; what mattered was how ideas were transmitted through shared 'contagion of social and political problems ... that spread equally across all nations that share more or less the same stage of civilisation'.⁶⁵ This category of 'civilisation' was crucial for Brazilian statesmen, who constantly measured Brazil against the progress of other nations.

Global Translations of Corporatism: Brazil and the United States Converge

In 1935, Oliveira Vianna, alongside other Labour Ministry officials, drafted legislation to create the *Justiça do Trabalho*.⁶⁶ The proposal was waylaid for years in legislative chambers, due to conflicting visions over the tribunal. By 1937, Oliveira Vianna had grown so frustrated with this delay that he launched a public campaign in leading newspaper *Jornal do Commercio* to defend labour courts as the vanguard of corporatist law. This tribunal, he argued, transcended social and economic rights: it was about the capacity of the state to regulate the economy. Pointing to the labour boards recently created in Republican Spain, Weimar Republican Germany, Estado Novo Portugal and Fascist Italy, he emphasised the range of institutions that now refereed the social question. Yet his focus settled on the Anglo-American world. In Roosevelt's New Deal, Oliveira Vianna praised how law-making responsibilities were transferred from the legislative branch to the courtroom and other administrative bodies, an institutional development he translated as 'corporatist'. It was

⁶⁵ Levi Carneiro, 2 Dec. 1933, National Constitutional Assembly, *Annaes da Assembléa Nacional Constituinte 1933/1934*, p. 42.

⁶⁶ 'Aperfeiçoamento', *Correio da Manhã*, 22 July 1937.

not simply that something resembling labour courts existed in the United States – the National Labor Relations Board (NLRB) – but that this organ emboldened the state. Oliveira Vianna used the corporatist idiom to weave together nations considered beacons of democracy with those on the authoritarian path. This intellectual exercise upended the political dichotomies of the 1930s – democratic versus authoritarian or liberal versus corporatist – to highlight a universal search for an alternative legal framework, one befitting contemporary economic and political crises.

Debates over the *Justiça do Trabalho* reached their apogee by July 1937, just on the cusp of the *Estado Novo* coup.⁶⁷ The government's proposal stipulated that labour courts should be a special tribunal, with jurisdiction beyond labour disputes. Unlike in ordinary courts, labour courts could exercise '*poder normativo*', or regulatory powers, with their decisions applied to all persons in the same professional category as the litigants.⁶⁸ Where the 1934 Constitution stipulated judges elected by employer and employee associations, Oliveira Vianna's draft took a technocratic approach, with judges appointed for their 'expertise'.⁶⁹ He defended this framework for its promise to resolve class conflict in harmonious and rational ways. Opponents, however, considered the proposal unconstitutional for disrupting the separation of powers.

Leading the charge against labour courts was Paulista law professor Waldemar Ferreira, President of the Senate's Committee on the Constitution and Justice and former leader of the 1932 Constitutionalist Revolution.⁷⁰ In his view, the tribunal's proposal was unconstitutional: affording regulatory powers to any court would undermine the law-making function of the legislative branch. A fierce critic of Vargas and his disregard for rule of law, Ferreira was sceptical of corporatism and its 'all-powerful and limitless state', cautioning against the eclipse of individual rights and free association.⁷¹

In August 1937, Oliveira Vianna railed against Ferreira in the *Jornal do Commercio*, alleging that his opposition to labour courts was symptomatic of how Brazilian elites remained blindly committed to imported nineteenth-century legal codes, narrowly concerned with outdated formalism and individualism.⁷² For Oliveira Vianna, the liberal legal order – concerned with private property and private contracts – had failed Brazil. These essays,

⁶⁷ Philadelpho Azevedo, 'Vida jurídica', *Jornal do Commercio*, 3 July 1937, p. 2.

⁶⁸ Francisco José de Oliveira Vianna, *Problemas de direito corporativo* (Rio de Janeiro: Livraria José Olympio Editora, 1938), p. 34.

⁶⁹ Costa Rego, 'Inconstitucionalidades', *Correio da Manhã*, 19 June 1937.

⁷⁰ On Ferreira, John F. Dulles, *The São Paulo Law School and the Anti-Vargas Resistance, 1938–1945* (Austin, TX: University of Texas Press, 1986), pp. 10–30.

⁷¹ Waldemar Ferreira, *As directrizes do direito mercantil brasileiro* (Lisbon, Tip. da Empresa do Anuário Comercial: 1933), p. 186.

⁷² Essays published serially in Sunday editions of *Jornal do Commercio* in August 1937.

compiled into *Problemas de direito corporativo* in 1938,⁷³ decried that liberal jurists ‘are all great lawyers – experts on civil law, on commercial law, on procedure’, yet they lacked ‘the mindset for true public law, that is, they lack the will to observe the realities of social life, or study economic and political structures’.⁷⁴ Corporatist law would go beyond questions of individual rights to enshrine the law-making capacity of judges and other ‘experts’. As long argued in Oliveira Vianna’s sociological writings, Brazil’s laws needed greater latitude and force to respond to the local conditions of underdevelopment. At stake was ‘a new concept of law, born from the growing socialisation of legal life whose centre of gravity continued to shift from the individual to the group and from the group to the nation’.⁷⁵

Oliveira Vianna was not alone in forging this link between law and development. According to legal scholar Duncan Kennedy, from 1900 to 1968 there was a worldwide transformation in jurisprudence as law became more responsive to social and economic problems.⁷⁶ By the 1930s, this wave was a powerful force in Brazil, with liberal legal codes deemed inadequate for the challenges facing industrialising societies. The fusion of law and development took different channels depending on the country, with corporatism one of the most important variants in interwar decades. Oliveira Vianna is key to understanding this global nexus in Brazil.

Well aware of the entrenched racial and civilisational hierarchies of the 1930s, Oliveira Vianna attacked Ferreira by looking to ‘countries of the highest constitutional and political culture’, allowing a powerful defence of corporatism to emerge from an unexpected source: the liberal democracies of the north Atlantic.⁷⁷ As discussed above, Oliveira Vianna narrated the evolution of the Anglophone world in ways that negated its individualist and competitive framework. Now, he went one step further to argue that the

⁷³ *Problemas de direito corporativo* is relatively unknown among Oliveira Vianna’s writings. A handful of scholars have examined these legal essays, yet often narrowly, as a summary of his project for labour relations: Vanda Maria Ribeiro Costa, ‘Corporativismo e justiça social: O projeto de Oliveira Vianna’, in Moraes and Bastos (eds.), *O pensamento de Oliveira Vianna*, pp. 131–43. More recently, Luciano Aronne de Abreu has considered the essays in the context of interwar authoritarian thought, comparing Oliveira Vianna with Manóilescu to analyse whether Brazilian corporatism conforms to an ideal type: Luciano Aronne de Abreu, ‘Sindicalismo e corporativismo no Brasil: O olhar autoritário de Oliveira Viana’, in Luciano Aronne de Abreu and Rodrigo Patto Sá Motta (eds.), *Autoritarismo e cultura política* (Porto Alegre: Editora FGV, 2013), pp. 109–20. We lack, still, an analysis of *Problemas de direito corporativo* in its wider global legal context, and in relation to the foreign examples mobilised within the text.

⁷⁴ Oliveira Vianna, *Problemas de direito corporativo*, p. 28.

⁷⁵ *Ibid.*, p. vii.

⁷⁶ Duncan Kennedy, ‘Three Globalizations of Law and Legal Thought: 1850–2000’, in David Trubek and Alvaro Santos (eds.), *The New Law and Economic Development: A Critical Appraisal* (Cambridge: Cambridge University Press, 2006), pp. 21–2.

⁷⁷ Oliveira Vianna, *Problemas de direito corporativo*, p. 38.

political and economic institutions of those nations were, like Brazil, evolving beyond the strictures of liberalism. Woven alongside discussions of Italian and Portuguese dictatorships were the United States and New Zealand, so-called ‘greatly developed nations’.⁷⁸ New Zealand was especially relevant, due to the 1936 Amendment to the Arbitration Court (created 1894), which empowered this industrial relations court to set basic wages and other labour conditions.⁷⁹ As Oliveira Vianna understood the revamped Arbitration Court, it mirrored his proposal in how rulings applied *in specie* as well as to all persons of that same professional category to address ‘the contingencies that impact the economic structure of each group, sector or region’.⁸⁰ Oliveira Vianna sidestepped accusations that labour courts were fascist and antidemocratic, insisting that ‘New Zealand is not a corporatist or fascist country’.⁸¹ ‘On the contrary’, he continued, ‘it is a pure and typical expression of democratic organization, just like all nations that belong to that beautiful community of Anglophone peoples’.⁸² In setting corporatism in a global context, he rejected its categorisation as fascist, antidemocratic, reactionary and provincial.

Scholars of Oliveira Vianna often reduce this ambiguous position on Anglo-American liberalism to the oversimplified paradox of ‘instrumental authoritarianism’, or that he supported dictatorship in Brazil as a transitory solution to foster the preconditions for democracy.⁸³ This paradox, however, ignores the wider political context: during the interwar period, rejecting liberalism was the rule, not the exception. Oliveira Vianna’s campaign was more than an attempt to legitimise corporatism: it showcased how north Atlantic and Brazilian legal experiments were born out of the same crisis of capitalism. Indeed, Oliveira Vianna went one step further to ask his readers: what distinguished corporatism from the New Deal in the United States?

In studying the New Deal, Oliveira Vianna emphasised the triumph of public over private law, as he grew invested in the legal realism school. Identifying a cohesive definition of legal realism is a challenge, yet most scholars describe the movement as a rejection of nineteenth-century classical legal thought, which saw law as autonomous, self-executing and apolitical, geared to

⁷⁸ *Ibid.*, p. 64.

⁷⁹ Oliveira Vianna generalised the mechanics of the Amendment, but captured its spirit. E. J. Riches, ‘Compulsory Arbitration in New Zealand’, *Personnel Journal* (April 1937), pp. 350–9.

⁸⁰ Oliveira Vianna, *Problemas de direito corporativo*, p. 89.

⁸¹ *Ibid.*

⁸² *Ibid.*, p. 87.

⁸³ Wanderley Guilherme dos Santos, *Ordem burguesa e liberalismo político* (São Paulo: Livraria Duas Cidades, 1978), pp. 65–119; Fabio Gentile, ‘Uma apropriação criativa: Fascismo e corporativismo no pensamento de Oliveira Vianna’, in Martinho and Pinto (eds.), *A vaga corporativa*, pp. 223–53.

enforcing private contracts.⁸⁴ Legal realism was not a systematic jurisprudence, yet one critical point of convergence was the notion that mechanic interpretations of the law were ill suited to social realities.⁸⁵ Oliveira Vianna praised the legal realists as ‘pragmatic spirits for whom the Constitution is an instrument that society can use for its goals of progress and order’.⁸⁶ The ‘plastic and dynamic’ legal interpretations tendered by US judges, combined with their increasing reliance on sociological jurisprudence, or the use of sociological and economic evidence in legal briefs, convinced Oliveira Vianna that this evolution towards judge-made law presented a robust path for reform in Brazil, one that avoided the discord of parliamentary democracy.

Oliveira Vianna read extensively on administrative law, legal realism and sociological jurisprudence. His books, and marginalia, make it possible to retrace how he analysed US events. For example, he looked to University of Chicago Law Professor Ernst Freund for how the ‘devolution of legislative power, in spite of implicit and explicit constitutional constraints, [was] a current fact, a general and accepted practice’.⁸⁷ The Brazilian jurist observed the proliferation of institutions in the United States to oversee national economic organisation. He pointed to Progressive-Era efforts to regulate monopolies and public safety, under the Food and Drug Administration or Federal Trade Commission, as well as heightened state actions after the Great Depression, including the National Recovery Administration (NRA), Securities and Exchange Commission and NLRB. Oliveira Vianna argued that these institutions were part of a broader trend in governance – the rise of the administrative state – in which unelected officials took unprecedented power in shaping the lives of citizens.

Oliveira Vianna’s reading of events in the United States – unwittingly or deliberately – glossed over the internal conflicts and criticisms of Progressive and New Deal reforms.⁸⁸ Scholars have long debated the ‘progressive’⁸⁹ nature of these movements: some stressing the successful restraints on monopolistic competition and financial capitalism, and others emphasising the elitist and paternalistic nature of social policy, where eugenics, as in Brazil, provided

⁸⁴ Morton J. Horwitz, *The Transformation of American Law, 1870–1960: The Crisis of Legal Orthodoxy* (New York: Oxford University Press, 1992), p. 170.

⁸⁵ *Ibid.*, p. 142.

⁸⁶ Oliveira Vianna, *Problemas de direito corporativo*, p. 14.

⁸⁷ Oliveira Vianna, *Problemas de direito corporativo*, p. 39; Oliveira Vianna marginalia, Ernst Freund, *Administrative Powers over Persons and Property: A Comparative Survey* (Chicago, IL: University of Chicago Press, 1928), pp. 33–43, COV, library ref. 4313F889a.

⁸⁸ Critiques of the New Deal abound. See Ira Katznelson’s work for its international perspective, especially the ambivalent position of US statesmen towards European dictators, and for recasting the role of segregationists in New Deal policy-making: Ira Katznelson, *Fear Itself: The New Deal and the Origins of Our Time* (New York: Liveright Publishing, 2013).

⁸⁹ On how ‘volatile’ and heterogeneous ‘progressivism’ was, Daniel Rodgers, ‘In Search of Progressivism’, *Reviews in American History*, 10: 4 (1982), pp. 113–32.

convenient arguments.⁹⁰ And just as corporatism is equated to crony capitalism, historians like James Weinstein, Martin Sklar and Gabriel Kolko have argued that large corporations ‘captured’ progressive policy-making in the United States, forsaking social justice for ‘corporate liberalism’.⁹¹ Oliveira Vianna did not pause to consider these thornier points of comparison between Brazilian corporatism and the US New Deal. He also minimised controversies within US legal circles over the administrative capacity of the state, ignoring concerns for rule of law if unelected officials unilaterally enacted sweeping regulations.⁹² It seemed, for example, inconsequential to him that the NRA was declared unconstitutional in 1935 for its violation of the separation of powers, the same argument as that which Ferreira used against labour courts. What mattered was how NRA efforts to organise industry – setting prices and regulating labour – closely resembled corporatist institutions in Portugal or Italy, with Roosevelt calling it a system of ‘modern guilds’.⁹³ Oliveira Vianna praised the expansion of state powers: ‘In the United States’, he wrote, ‘we can see in its full light how the powers [of government] are evolving, how parliament’s legislative monopoly is being progressively repealed as new organs are emerging and multiplying to elaborate legal norms and regulations’.⁹⁴

Oliveira Vianna labelled the New Deal ‘neo-capitalist and corporatist’,⁹⁵ skirting the antagonisms between these two categories to foreground a common solution. His personal library provides insight into the comparisons and blind spots propelling this argument that Brazilian corporatism was on par with New Deal reforms. For example, he dubbed the national consortiums created in Brazil in the 1930s to manage sugar, coffee and other agricultural production ‘*corporações administrativas*’.⁹⁶ This was a Portuguese translation of ‘administrative tribunals’, a term he borrowed from Harvard Law School

⁹⁰ Thomas Leonard, ‘American Economic Reform in the Progressive Era: Its Foundational Beliefs and Their Relation to Eugenics’, *History of Political Economy*, 41: 1 (2009), pp. 109–41.

⁹¹ On corporate liberalism, Gabriel Kolko, *The Triumph of Conservatism: A Re-interpretation of American History, 1900–1916* (New York: The Free Press, 1963); Martin Sklar, *The Corporate Reconstruction of American Capitalism, 1890–1916: The Market, the Law, and Politics* (Cambridge: Cambridge University Press, 1988); and James Weinstein, *The Corporate Ideal in the Liberal State: 1900–1918* (Boston, MA: Beacon Press, 1968). For ‘regulatory capture’, William Novak, ‘A Revisionist History of Regulatory Capture’, in Daniel Carpenter and David Moss (eds.), *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (New York: Cambridge University Press, 2014), pp. 25–48.

⁹² Horwitz, *Transformation of American Law*, p. 214.

⁹³ Patel, *The New Deal*, p. 72.

⁹⁴ Oliveira Vianna, *Problemas de direito corporativo*, p. 42.

⁹⁵ Oliveira Vianna, *Problemas de política objetiva*, p. 191.

⁹⁶ Oliveira Vianna, *Problemas de direito corporativo*, p. 65.

Dean Roscoe Pound.⁹⁷ Similarly, Oliveira Vianna's proposal for the *Justiça do Trabalho* stressed how US courts had evolved into 'more those of making law than of merely declaring it'.⁹⁸ On the margins of Princeton University Professor Edward Corwin's *The Twilight of the Supreme Court*, he scribbled that Brazilian courts lacked the 'audacity' of their US counterparts to adopt 'whatever economic policy' was necessary for 'public welfare'.⁹⁹

It should be noted, nonetheless, that Oliveira Vianna's work within the Labour Ministry often lacked the 'audacity' of his public campaigns. Even when he ruled in favour of workers fired without cause or denied pensions, the legal opinions (*pareceres*) he penned were less concerned with 'public welfare' than with legal precedent and the evolving powers of government. Despite his penchant for sociology, he wrote little on the conditions facing Brazilian workers or socio-economic outcomes. Likewise, Oliveira Vianna's authoritarian bent was unequivocal in cases related to workers' strikes, usually judged 'criminal' and 'punishable'.¹⁰⁰ In other words, Oliveira Vianna's struggle was for labour courts not as social policy, but as the promise of a centralising and interventionist state. Critically, the rise of administrative powers in Brazil could resolve tired debates over centralisation versus federalism. In his sociological works, Brazil remained underdeveloped because of its geographic vastness, social heterogeneity and fragmented economy. Under corporatism, each economic sector would be governed by autonomous regulatory agencies that coordinated between labour and industry. This, for Oliveira Vianna, was a formula for 'functional decentralisation', which could transform Brazil's loosely connected agro-export regional economies into a modern nation.¹⁰¹

Problemas de direito corporativo marked a global convergence, bridging democratic and authoritarian contexts. Alongside US legal realists, it drew together Italian fascist jurist Guido Zanobini with Portuguese corporatists Marcelo Caetano and Luíz da Cunha Gonçalves, as well as political theorist Carl Schmitt and French jurist Joseph Barthélemy on administrative law. Some might dismiss the international scope of Oliveira Vianna's library as inconsequential, or his exhaustive footnotes as routine practice in Brazil, where citing foreign authors was a 'ritual of legitimacy' for intellectuals who

⁹⁷ Highlighted by Oliveira Vianna, Roscoe Pound, *An Introduction to the Philosophy of Law* (New Haven, CT: Yale University Press, 1930), pp. 138–9, COV, library ref. 340.1P875i.

⁹⁸ Highlighted by Oliveira Vianna, Edward S. Corwin, *The Twilight of the Supreme Court: A History of Our Constitutional Theory* (New Haven, CT: Yale University Press, 1934), p. xvi, COV, library ref. 341.240942C832t.

⁹⁹ Oliveira Vianna marginalia and underlining, *ibid.*, p. 99.

¹⁰⁰ Little research exists on Oliveira Vianna's *pareceres*. This author read through thousands, archived at Casa de Oliveira Vianna, to make these observations. See 'José Wetting contra Khair Irmãos', 10 Aug. 1932, COV, Box 2 [*pareceres*], no. 1782.

¹⁰¹ Oliveira Vianna, *Problemas de direito corporativo*, pp. 48–51.

knew their works were dismissed without references to European or north American authors.¹⁰² Yet in light of the Great Depression, Oliveira Vianna's readings of foreign jurisprudence should rather be understood as part of a global search for solutions for laissez-faire capitalism. Taking the United States as the model of corporatism, Oliveira Vianna destabilised the presumption that liberalism and capitalism were the only paths to progress. The audacity of this transnational argument was not lost upon Agamenon Magalhães, Governor of Pernambuco and former Labour Minister, who, upon reading Oliveira Vianna's exegesis, exclaimed that the 'book has the clamour and greatness of a clash of cultures'.¹⁰³

'Individualismo corporativo': *Oliveira Vianna and Brandeis*

On 10 November 1937, Vargas again overturned Brazilian politics with an autoup to block upcoming elections. He imposed the 1937 Constitution, drafted in secret, to create the corporatist authoritarian Estado Novo. The regime's draconian measures against opposition groups and dissidents did not, however, disrupt Oliveira Vianna's intellectual project to make Brazilian corporatism intelligible across political contexts. Rather, he asserted that the Estado Novo's Constitution gave democracy 'a more perfect and pure meaning' in how it centralised power in the President and created more federal agencies to manage economic life.¹⁰⁴

In March 1939, Oliveira Vianna published in *Correio da Manhã* another series of essays on corporatism. His interest in the New Deal now focused on Supreme Court Justice Louis D. Brandeis, celebrated as the 'people's attorney' for his progressive assault against the excesses of capitalism.¹⁰⁵ These (largely forgotten)¹⁰⁶ essays – 'Brandeis e o seu americanismo' and 'O indivíduo e o grupo' – first appeared in law review *Revista Forense*, and were then refashioned for the wider public.¹⁰⁷ Without flinching at the combination of seemingly contradictory terms, Oliveira Vianna coined '*individualismo corporativo*' to reconcile the political vision of the US judge with his own. His argument was uncanny: Brandeis was a corporatist.

Oliveira Vianna had long admired Brandeis for his sociological jurisprudence, finding a powerful ally in how the American judge transformed the

¹⁰² Carvalho, 'A Utopia de Oliveira Viana', p. 208.

¹⁰³ Agamenon Magalhães, 'Problemas de direito corporativo', *Correio Paulistano*, 3 July 1938.

¹⁰⁴ Oliveira Vianna to Valdemar Falcão (Labour Minister), May/June 1936, CPDOC, Arquivo Valdemar Falcão, VFpiViana, F.J.O.38/05/06.00.

¹⁰⁵ Melvin Urofsky, *Louis D. Brandeis: A Life* (New York: Schocken Books, 2009), pp. 201–4.

¹⁰⁶ Discussed briefly in Evaldo Amaro Vieira, *Autoritarismo e corporativismo no Brasil* (São Paulo: Editora UNESP, 2010), pp. 70–1.

¹⁰⁷ Francisco José de Oliveira Vianna, 'O Juiz Brandeis e o seu americanismo', *Revista Forense* (March 1939), pp. 169–70.

courtroom into an ‘instrument of social policy’.¹⁰⁸ Born in 1856, Brandeis graduated from Harvard Law School and spent his early career defending ‘big business’. His legal philosophy, however, evolved considerably during his lifetime, regarding both the structure of competition and the role of government in regulating labour. Oliveira Vianna praised the hallmark 1908 ‘Brandeis Brief’ in *Muller v. Oregon*, in which Brandeis defended laws regulating women’s work with hundreds of expert testimonies and sociological evidence on the harms of long workdays.¹⁰⁹ Before his nomination to the Supreme Court in 1916, Brandeis served as legal architect for President Woodrow Wilson’s ‘regulated competition’, designing banking reforms and anti-trust measures.¹¹⁰ Here is where Oliveira Vianna found a liberal model of corporatism.

In these 1939 essays, Oliveira Vianna turned to Brandeis to advance a critique of laissez-faire capitalism. The Brazilian jurist, himself vehemently opposed to socialism, did not waver in his admiration of Brandeis, even when describing him as ‘a man of the extreme left, an advanced socialist, suspicious of the wealthy classes, great industrialists and the powerful financial plutocracy of Wall Street’.¹¹¹ He explained to Brazilian readers that Brandeis fought against oligarchic concentrations of power and wealth that were ‘contrary to the spirit of democracy’.¹¹² From here, Oliveira Vianna concluded that Brandeis was a different sort of liberal, one who recognised the pitfalls of liberalism and embraced ‘*individualismo grupalista ou corporativo*’.¹¹³

Within Oliveira Vianna’s library, it becomes possible to reconstruct how this reading of Brandeis evolved from a shared critique of laissez-faire capitalism to a common corporatist project. Professor Aronson was the key intermediary. In 1935, he founded the *Journal of Social Philosophy*, which featured articles on the advent of legal realism.¹¹⁴ While it is unclear how he and Oliveira Vianna were introduced, their correspondence – and book exchanges – highlighted a mutual scepticism towards liberalism. Aronson’s January 1939 article ‘Democracy in Action: The Brandeis Way’ featured prominently in Oliveira Vianna’s works. This essay was partly a review of Brandeis scholar and

¹⁰⁸ Highlighted by Oliveira Vianna, Alpheus Thomas Mason, *Brandeis: Lawyer and Judge in the Modern State* (Princeton, NJ: Princeton University Press, 1933), p. 181, COV, library ref. 320M398b.

¹⁰⁹ Horwitz, *Transformation of American Law*, p. 209.

¹¹⁰ Gerald Berk, *Louis D. Brandeis and the Making of Regulated Competition, 1900–1932* (New York: Cambridge University Press, 2009).

¹¹¹ Francisco José de Oliveira Vianna, ‘Brandeis e o seu americanismo’, *Correio da Manhã*, 21 March 1939.

¹¹² Francisco José de Oliveira Vianna, ‘O individuo e o grupo’, *Correio da Manhã*, 28 March 1939.

¹¹³ *Ibid.*

¹¹⁴ Moses Aronson, ‘Tendencies in American Jurisprudence’, *The University of Toronto Law Journal*, 4: 1 (1941), pp. 90–108.

Princeton Professor Alpheus Thomas Mason's *The Brandeis Way*,¹¹⁵ and partly an inquiry into the intellectual climate of the Great Depression. Aronson explained how Adam Smith's vision of capitalism had been smothered by the 'monopolistic Juggernaut' of twentieth-century capitalism, compromising the livelihoods of common folk.¹¹⁶

Oliveira Vianna found in Brandeis a roadmap for navigating the ideological conflicts of the 1930s. Where Eric Hobsbawm called the twentieth century an 'age of extremes', bookended by the failures of free-market capitalism and communism,¹¹⁷ the economic catastrophe of the interwar decades provoked countless experiments in 'third paths', or how to build a mixed economy where the state could fix capitalism without total planning. 'The Brandeis Way' – as Mason argued – constituted a compromise between 'predatory individualism on the one hand; predatory statism on the other'.¹¹⁸ 'Between the irrational extremes of laissez-faire anarchy and totalitarian *étatisme*' of Fascism or communism, Aronson added, stood the 'cooperative democratic state in which Brandeis believes'.¹¹⁹ For Oliveira Vianna, the worlds of the US New Deal and Brazilian corporatism converged in search of 'third ways', with corporatism as a formula to balance individual freedoms with the nation's greater interests. Brandeis might be a 'liberal' and a 'pluralist', but Oliveira Vianna insisted that they both sought compromise between 'the absentee or non-interventionist State, of the pure liberal sort, and the Leviathan State, of a paninterventionist and totalitarian nature, whose coordinating and dominating actions eventually annihilate everything – the *individual* and the *group*'. Oliveira Vianna coined the term *grupalismo* as a way of reconciling the individualism of Anglophone societies with corporatism. A synonym for *espírito corporativo*, introduced in his sociological writings, *grupalismo* explained the 'success' of north Atlantic democracies in terms of how citizens 'freely discussed and debated their own collective interests'. Progress depended not on 'rugged individualism', but on public opinion organised according to economic interests, something Brazil (allegedly) lacked. This was the kernel from which he argued that, for Brandeis, 'the best political system would be corporatist'.¹²⁰

¹¹⁵ Alpheus Thomas Mason, *The Brandeis Way: A Case Study in the Workings of Democracy* (Princeton, NJ: Princeton University Press, 1938).

¹¹⁶ Moses Aronson, 'Democracy in Action: The Brandeis Way', *Journal of Social Philosophy* (Jan. 1939), p. 155.

¹¹⁷ Eric Hobsbawm, *Age of Extremes: The Short Twentieth Century, 1914–1991* (London: Vintage Books, 1994).

¹¹⁸ 'Address by Alpheus T. Mason', *United States Law Review* (Nov. 1938), p. 634. Louis Dembitz Brandeis Collection, Brandeis University Archive, Waltham, MA, Box 72.

¹¹⁹ Aronson, 'Democracy in Action', pp. 160–1.

¹²⁰ Oliveira Vianna, 'O individuo e o grupo'.

The construction of a ‘corporatism’ that included Brandeis will rightfully cause many to doubt Oliveira Vianna’s readings of foreign events. The Brazilian ideologue overlooked how Brandeis opposed state monopolies, notoriously telling President Roosevelt ‘we’re not going to let this government centralize everything’.¹²¹ The ‘Brandeis way’, for Aronson, was a ‘cooperative, non-authoritarian, [and] pluralistic ... state’.¹²² Brazil’s *Estado Novo*, in contrast, centralised government, suspended legislative powers and repressed individual freedoms. Oliveira Vianna also minimised the divergences in their support for organised labour: he supported placing unions under state control,¹²³ while Brandeis upheld free association. By sidestepping these disagreements, Oliveira Vianna emphasised the plurality of corporatism as what made it universally relevant.

When Oliveira Vianna explained that Brandeis did not harbour the slightest ‘vestige of socialisms or totalitarianisms’, he aimed to say as much about the *Estado Novo* as about the New Deal.¹²⁴ The deliberately neutral language of *grupalismo* fused the thinking of both jurists into a single argument, setting each apart from extremism and war in Europe. Indeed, Oliveira Vianna engaged examples from Portuguese and Italian corporatism in other essays. Brazil’s *Estado Novo* was, after all, named after the Portuguese *Estado Novo*, while the 1937 Constitution copied from the 1927 Italian *Carta del Lavoro*.¹²⁵ But he spotlighted the United States because Brandeis’ model of ‘regulated competition’ could be conveniently folded into Brazilian debates without overtones of authoritarianism.

Critically, at a moment when the world was carved up according to civilisational or racial blocs of nations, and with war looming, Brazil’s preeminent sociologist chose ‘free and democratic nations, where individual natural rights are still recognized’ to prove that a strong state was not reducible to reckless despotism.¹²⁶ His arguments reverberated within Brazil, especially among apologists for the *Estado Novo*. For example, Otto Prazeres, former member of Vargas’ cabinet, wrote his own essay echoing how ‘Brandeis supports a “corporatist democracy”’.¹²⁷ Published in April 1939 in the *Jornal do Brasil*, Prazeres explained in it that Brandeis advocated for the ‘combination of individualism with corporatism’.¹²⁸ The crisis of capitalism drew

¹²¹ Arthur Schlesinger, Jr., *The Politics of Upheaval: The Age of Roosevelt 1935–1936* (Boston, MA: Houghton Mifflin Company, 1960), p. 280.

¹²² Aronson, ‘Democracy in Action: The Brandeis Way’, p. 161.

¹²³ Oliveira Vianna, *Problemas de direito sindical* (Rio de Janeiro: Editora Max Limonad, 1943).

¹²⁴ Oliveira Vianna, ‘O individuo e o grupo’.

¹²⁵ Fernando Teixeira da Silva, ‘The Brazilian and Italian Labor Courts: Comparative Notes’, *International Review of Social History*, 55 (2010), pp. 381–412.

¹²⁶ Oliveira Vianna, ‘O individuo e o grupo’.

¹²⁷ Otto Prazeres, ‘Como realizar a democracia?’, *Jornal do Brasil*, 1 April 1939.

¹²⁸ *Ibid.*

together the intellectual worlds of Brazil and the United States, making it possible for Prazeres to make unlikely bedfellows of Brandeis and Oliveira Vianna, alongside French Catholic nationalist Charles Maurras and British mathematician Bertrand Russell.

Oliveira Vianna's neologism of *individualismo corporativo* not only made sense in Brazil, but also found sympathetic ears in the United States. Aronson received a copy of 'Brandeis e o seu americanismo' from a friend in Brazil and circulated it to his network of legal scholars.¹²⁹ Soon after its publication, Aronson congratulated Oliveira Vianna on his synthesis of the 'present zeitgeist'¹³⁰ and 'marvel[ed]' at his 'grasp' of US legal realism, especially his ability to distinguish various currents and internal debates. The philosophy professor even found his reading of Brandeis 'particularly sound', as well as his 'conception of liberalism in general'.¹³¹ In this correspondence, we find evidence that Oliveira Vianna's encounter with US legal events was not a unidirectional exchange of ideas, nor did it go unnoticed.

This 'zeitgeist' was the interwar spirit of experimentation, as crises gave way to new models for reorganising society. Corporatism, implemented in Italy, Portugal, Brazil, Spain, Austria and (later) Argentina, is often understood as a product of dictatorships that violently repressed civil liberties. For many, the authoritarian nature of these regimes makes any attempt to rethink corporatism in its global context a futile exercise. But in the 1930s it was not self-evident that Brandeis and Oliveira Vianna were part of diametrically opposed political movements. As Kiran Klaus Patel recounts in his global history of the New Deal, Roosevelt and his team learned from government planning in other nations, Brazil included, which informed the agricultural and industry policies of the Agricultural Adjustment Act and the National Industrial Recovery Act.¹³² More specific to law, German constitutional scholar Karl Loewenstein, exiled to the United States when the Nazi Party took power, travelled to Brazil on a Guggenheim Fellowship in 1942. He observed with sober curiosity the equivocations and contradictions of Brazil's Estado Novo, sometimes operating like an arbitrary dictatorship and at other times heralding social rights and modernisation. In an inversion of Oliveira Vianna's intellectual agenda, Loewenstein translated to US readers how Vargas transformed law into a tool for social change, while still subverting the rule of law.¹³³ Oliveira Vianna was thus not alone in thinking across authoritarian and democratic approaches to development. In scrutinising

¹²⁹ George R. Farnum (Boston lawyer and Aronson's friend) to Oliveira Vianna, 10 April 1939, COV, OVN-CP-0298.01.

¹³⁰ Underlined in original. Aronson to Oliveira Vianna, 14 April 1939, COV, OVN-CP-0065.01.

¹³¹ Aronson to Oliveira Vianna, 11 July 1939, COV, OVN-CP-0065.02

¹³² Patel, *The New Deal*, pp. 56–90.

¹³³ Karl Loewenstein, *Brazil under Vargas* (New York: Macmillan, 1942).

these categories – unstable yet intelligible across cultural boundaries – he condensed various models into a universalising project for the state, what he called ‘corporatism’.

These fluid comparisons between US and Brazilian experiments in the 1930s became less tenable with the violence and destruction of World War II. Oliveira Vianna’s career would not survive the war. In 1940, he resigned from the Labour Ministry, in protest at how his corporatist programme for state-sponsored professional syndicates was hijacked by industrialists.¹³⁴ Even the *Justiça do Trabalho* – finally installed in 1941 – bore little resemblance to the institution he spent years championing.¹³⁵ A similar fate befell Aronson. By 1941, he had become a controversial figure for his dissent against the liberal paradigm. He resigned from City College to protest against the ‘whispering campaign of slander by innuendo which brand[ed] him as a “reactionary” or a “fascist”’.¹³⁶ Following this resignation, Aronson deployed to Italy with the US Army. There, he lamented to his Brazilian colleague the ‘long period of intellectual sterility – and silence’ that had become of his career.¹³⁷

Oliveira Vianna’s interest in Brandeis has largely been ignored, but the repeated reprinting of his essays on the Justice suggests their sustained relevance for Brazilian political debates. Beyond the 1939 versions of the essays, one final iteration was published posthumously in 1952, retitled ‘Brandeis e seu individualismo grupalista’. It was rewritten after 1945, with references to Nazism and Fascism dropped to focus on how Soviet collectivisation had hardened criticism worldwide against ‘directed and planned economies’.¹³⁸ The retired Brazilian jurist now pitched *individualismo grupalista* against liberal Austrian economist Ludwig von Mises, who denounced socialism by equating any ‘economic interventionism’ with the tyranny of ‘collective economic systems’.¹³⁹ Brandeis again stood in to defend corporatism, to counter

¹³⁴ Vandá Maria Ribeiro Costa, *Origens do corporativismo brasileiro* (Rio de Janeiro: CPDOC, 1991), pp. 41–65.

¹³⁵ Still in place, the *Justiça do Trabalho* is often considered another shortcoming of Brazil’s legal system, serving industrialists and weighed down by bureaucracy and corruption. Yet John French highlights how workers did bring grievances before the court, a process that shaped the legal consciousness of Brazilians: John French, *Drowning in Laws: Labor Law and Brazilian Political Culture* (Chapel Hill, NC: University of North Carolina Press, 2004).

¹³⁶ ‘Dr. Moses J. Aronson Resigns’, p. 285.

¹³⁷ Postcard from Florence (Italy), Aronson to Oliveira Vianna, 1 March 1945, COV, OVN-CP-0065.05.

¹³⁸ Francisco José de Oliveira Vianna, ‘Brandeis e seu individualismo grupalista’, in *Problemas de organização e problemas de direção: O povo e o governo* (Rio de Janeiro: J. Olympio, 1952), p. 157.

¹³⁹ *Ibid.*, pp. 155–6.

the post-war revival of laissez-faire capitalism.¹⁴⁰ Oliveira Vianna was steadfast: ‘individual[s] and their economic liberty will only be saved by the State, intervening as an equilibrium force between the individual and the large organisms created by industrial capitalism’.¹⁴¹

Conclusion

Oliveira Vianna may seem an unlikely choice for a global intellectual history of interwar Brazil. He never travelled outside Brazil and is relatively unknown beyond the Portuguese-speaking world, with few of his works translated (and none into English). His legacy is further tarnished as Brazil’s foremost authoritarian and corporatist ideologue, epithets difficult to dislodge given his career within the Vargas regime and utter scorn for civil and political rights. This portrayal of an insular scholar with lacklustre undemocratic thought, however, deserves fresh attention in light of recent transnational historiographic turns. Exhuming his eclectic and prolific scholarship, especially lesser-known legal essays, and reading these alongside his library and personal correspondence, reveals the multinational universe that shaped the origins of corporatism in Brazil.

This article inserts Brazil into a global history of the 1930s, examining corporatism as part of a revolution in legal thinking to nurture the developmental capacity of law. It argues that Brazilian corporatism need not be bracketed as an aberration of authoritarian governments, nor should the Estado Novo be reduced to a dictatorship that amassed and monopolised power. At stake was an experiment in how to organise power differently: to govern outside liberal democratic parameters, to retool judicial review in pursuit of economic goals and, ultimately, to reformulate the relationship between state and society. Brazil was not a passive receptacle of foreign ideas: its statesmen and intellectuals actively participated in designing blueprints for the modern state. Sitting on the global periphery, Oliveira Vianna fashioned a versatile model of corporatism, one that united the New Deal and Estado Novo in a global turn against liberal capitalism that was modern and progressive. This was a controversial gesture, but not a misguided one.

In this interwar conjuncture, Oliveira Vianna’s choice of the United States as case study and counterpart to Brazil was devised to distance Brazil from Europe’s violent and racist regimes, and motivated by the fact that more people would listen if he evoked examples from the industrial north American giant. By virtue of his twin fame as jurist and sociologist, not to mention his reliance on comparisons between Brazil and so-called ‘civilised’

¹⁴⁰ Angus Burgin, *The Great Persuasion: Reinventing Free Markets since the Depression* (Cambridge, MA: Harvard University Press, 2012).

¹⁴¹ Oliveira Vianna, ‘Brandeis e seu individualismo grupalista’, pp. 159–60.

nations, we get insight into *why* corporatism took top-down and illiberal form. For proponents of corporatism, questions of how to remake law and politics were inseparable from pessimistic assessments of the nation's social and racial formation. This global reading of Oliveira Vianna, thus, also reminds us of the extent to which the Estado Novo was forged out of contemporary anxieties about how to overcome Brazil's legacy of colonialism and slavery.

Spanish and Portuguese abstracts

Spanish abstract. Este artículo explora los escritos jurídicos del sociólogo y jurista brasileño Francisco José de Oliveira Vianna para mostrar el contexto global en el que se forjó el experimento corporativista de Brasil en los 1930s. Desde el Ministerio del Trabajo, Oliveira Vianna estuvo a la cabeza de los debates legales y políticos alrededor de cómo crear leyes e instituciones corporativas. Oliveira Vianna está catalogado con frecuencia como un pensador autoritario y retrógrado, pero este artículo mira más allá de estas categorías para examinar más bien cómo su conexión con el *New Deal* estadounidense incorporó el corporativismo a los debates globales sobre el papel del estado en la recuperación económica y el bienestar social.

Spanish keywords: Brasil, historia del pensamiento jurídico y constitucional, US *New Deal*, Oliveira Vianna, corporativismo, historia global

Portuguese abstract. Este artigo explora os textos jurídicos do sociólogo e jurista brasileiro Francisco José de Oliveira Vianna para expor o contexto global que moldou o experimento corporativista dos anos 30 no Brasil. Oliveira Vianna, do Ministério do Trabalho, esteve à frente dos debates políticos e legais sobre como criar leis e instituições corporativistas. Oliveira Vianna é geralmente classificado como pensador autoritário e retrógrado, mas esse artigo vai além dessas categorias para examinar como o seu envolvimento com o *New Deal* dos EUA inseriu o corporativismo em debates globais sobre o papel do Estado na recuperação da economia e no bem-estar social.

Portuguese keywords: Brasil, história constitucional e legal, US *New Deal*, Oliveira Vianna, corporatismo, história global