

# A Brazilian Counterweight: Music, Intellectual Property and the African Diaspora in Rio de Janeiro (1910s–1930s)\*

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*Abstract.* This article treats Tio Faustino, a little-known samba musician and Afro-Brazilian religious leader living in Rio de Janeiro, as an entry point for exploring larger questions about Brazil and the African Diaspora. The inquiry expands outward from Tio Faustino to Rio's early twentieth-century markets in 'African' commodities, the city's nascent music industry and the growing call to defend intellectual property rights in Brazil. In order to advance their careers, Tio Faustino and other artists accessed nationalist sentiment in ways that highlighted differences rather than commonalities with African-descended peoples elsewhere. In this way, Brazil's global standing and its colonial history and post-colonial trajectory functioned as a counterweight to transnational and diasporic connections. These findings deepen, rather than completely unseat, recent trends in diaspora and transnational studies.

*Keywords:* Brazil, African Diaspora, intellectual property, samba, music, Rio de Janeiro

## *Introduction*

In January 1933, an interview with the musician Tio Faustino (Faustino Pedro da Conceição) appeared in the *Diário Carioca*, a Rio de Janeiro newspaper. The newspaper article credited Faustino with 'introducing' three 'African-style' musical instruments into samba music: the *omelê*, the *agogô* and the *afoxé*. Each instrument has Central or Western African origins. Tio

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Faustino sought to claim the instruments as his own and insert them into Brazil's growing music market with the help of new legal protections for intellectual property. During his interview, he told the paper: 'I want to lodge a protest against those who are illegally using the instruments that I introduced'. They 'are officially registered ... [and] I want to advise my colleagues not to use them, because, well, otherwise, I will be obligated to act judicially against the offending parties and guarantee my rights to these exotic instruments.'<sup>1</sup>

By claiming to have 'introduced' the African instruments into an already existent musical form, Tio Faustino subtly tweaked accepted narratives about samba's origins. The idea that the instruments were new to samba, and that they were worthy of legal protection, helped disaggregate a musical form which many assumed to be an African relic from instruments thought to be equally timeless. By advancing this idea, Tio Faustino did not simply discard popular notions about Africa but instead selectively used them to his advantage. His words and actions provide a unique opportunity to consider what happened when individuals attempted to carry ostensibly African objects across the intangible lines that separate Africa from its diaspora, and slavery from freedom and capitalism.

As Tio Faustino struck a delicate balance among competing local, national and diasporic identities, Brazil's post-colonial condition often functioned as a counterweight that tipped the scales against global, diasporic connections in favour of national affiliations. The idea of a counterweight plays on Fernando Ortiz's famous formulation of Cuba's interlocking tobacco and sugar 'counterpoint'.<sup>2</sup> More than mere examples of 'transculturation' – a term pioneered by Ortiz that implies the presence of a pure, pre-existing culture which is subsumed, adapted or lost with the creation of a new one – Tio Faustino's actions suggest how he and other Afro-Brazilian musicians constructed their own definitions of Africa and Brazil through conscious dialogue with market forces, property rights, and their nation's global standing.<sup>3</sup>

Examining how Brazilian post-coloniality could operate as a counterweight against competing forces may help to productively readjust our diasporic and transnational lenses so as to more clearly see relationships between the national and the global. In this paper, 'post-colonial' refers to

<sup>1</sup> 'Ouvindo os "bachareis" do samba', *Diário Carioca*, 15 Jan. 1933. Unless otherwise noted, all translations are mine.

<sup>2</sup> Fernando Ortiz, *Cuban Counterpoint: Tobacco and Sugar* (Durham NC, 1995 [1947]). Also see Bert J. Barickman, *A Babian Counterpoint: Sugar, Tobacco, Cassava, and Slavery in the Recôncavo, 1780–1860* (Stanford, 1998).

<sup>3</sup> Ortiz, *Cuban Counterpoint*, pp. 97–103; Fernando Coronil, 'Introduction', in Ortiz, *Cuban Counterpoint*, p. xxvi.

Brazil's standing as an economically and politically marginalised former colony, and also to a set of mutually informed internal and external relationships and hierarchies. Brazil's colonial legacies did not simply disappear with large structural transformations – independence (1822), the abolition of slavery (1888), the Declaration of the Republic (1889) – but instead persisted in new forms well into the twentieth century. While foreign and domestic power structures were entwined in Brazil before and after independence, the ways in which Tio Faustino and other Afro-Brazilian musicians engaged them were unique to the period in which they lived. The individuals discussed in this paper were keenly aware of – and directly engaged with – Brazil's colonial history, the lasting political and economic consequences of that history, and their nation's place in a still-evolving post-colonial global order. In some instances, they seized openings created by the collective desire to define Brazil as a fully independent, developed nation. At other times, international assumptions about Brazil were reinscribed domestically, often through the hardening of old stereotypes and hierarchies. Tio Faustino and other Afro-Brazilian musicians were rarely passive victims in these processes; rather, they were active mediators who both challenged and reinforced extant power structures.

To explore the way that Afro-Brazilian musicians both confronted and reified those structures, this article engages the severely understudied topic of intellectual property. In general, historians lag far behind scholars in literature and cultural, communication and legal studies, who have used intellectual property law as a lens for understanding culture, society and capitalism, especially in Europe and the United States. In Brazil, where musical, theatrical, and literary forms of intellectual property are referred to as authors' rights (*direito autoral*, or *direitos autorais*), the few works which do exist are written either by or for legal scholars, or are primarily concerned with the institutions responsible for protecting these rights.<sup>4</sup> Yet the act of turning

<sup>4</sup> To my knowledge, there are no works which seriously consider the relationship between authors' rights and nation building in the Americas. Roland Barthes, 'The Death of an Author', in Stephen Heath (ed. and trans.), *Image-Music-Text* (New York, 1977), pp. 142–8; Carlos Alberto Bittar, *A lei de direitos autorais na jurisprudência* (São Paulo, 1988); Rosemary J. Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law* (Durham NC, 1998); Michel Foucault, 'What is an Author?', in Paul Rabinow (ed.), *The Foucault Reader* (New York, 1984), pp. 101–20; Peter Manuel, 'The Saga of a Song: Authorship and Ownership in the Case of "Guantanamo"', *Latin American Music Review*, vol. 27, no. 2 (2006), pp. 121–47; Kembreu McLeod, *Owning Culture: Authorship, Ownership, and Intellectual Property Law* (New York, 2001); Rita de Cássia Lahoz Morelli, *Arrogantes, anônimos, subversivos: interpretando o acordo e a discórdia na tradição autoral brasileira* (São Paulo, 2000); Eduardo Pimenta, *Princípios de direitos autorais: um século de proteção autoral no Brasil, 1898–1998 (Livro I)* (Rio de Janeiro, 2004); Daniel Rocha, *Direito de autor* (São Paulo, 2001); Oswaldo Santiago, *Aquarela do direito autoral: história, legislação, comentários* (Rio de Janeiro, 1985 [1946]); Brad Sherman and Lionel Bently, *The Making of Modern Intellectual Property*

‘black’ music and ‘African’ musical instruments into commodities and property in a post-slavery society raises interesting questions. What strategies did Afro-Brazilians use (and what obstacles did they confront) while asserting intellectual property rights in slavery’s aftermath? What role did Brazil’s global standing play in the formulation and defence of those rights? Even the brief answers outlined in this article suggest the rich potential in using intellectual property as a window into Latin American social, cultural and economic history.<sup>5</sup>

*W. E. B. DuBois, Transnational History and the African Diaspora in Post-colonial Latin America*

The arguments advanced here build from Robin Kelley and Tiffany Patterson’s instructive point that, for all of its value, when treated as an isolated unit of analysis, the diaspora can ‘keep us from seeing the full range of black transnational political, cultural, and intellectual links’.<sup>6</sup> But while I agree that the diaspora must be considered together with other forces, I also see the need to recalibrate the way in which ‘transnational links’ are examined. In the last ten years, historical scholarship has witnessed a boon of works that emphasise transnational perspectives and connections, and which together provide an attractive alternative to narrow frameworks focused exclusively on the nation-state. In Brazil, transnational history has helped insert the nation’s large African-descendant population into scholarly and popular global discussions from which they have often been excluded. While I am strongly in favour of these projects, I am also convinced that

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*Law: The British Experience, 1760–1911* (Cambridge, 1999); Matt Stahl, ‘Recording Artists, Work for Hire, Employment, and Appropriation’, SSRN Working Paper (23 Oct. 2008), available at <http://ssrn.com/abstract=1288831>; Jason Toynbee, ‘Music, Culture, and Creativity’, in Martin Clayton, Trevor Herbert and Richard Middleton (eds.), *The Cultural Study of Music: A Critical Introduction* (London, 2003), pp. 102–12; Martha Woodmansee, *The Author, Art, and the Market: Rereading the History of Aesthetics* (New York, 1994); Martha Woodmansee and Peter Jaszi (eds.), *The Construction of Authorship: Textual Appropriation in Law and Literature* (Durham NC, 1994).

<sup>5</sup> For a longer consideration, see Marc A. Hertzman, ‘Surveillance and Difference: The Making of *Samba*, Race, and Nation in Brazil (1880s–1970s)’, unpubl. PhD diss., University of Wisconsin–Madison, 2008. For a fascinating exploration of ownership and music during and after slavery in the United States, see Ronald Radano, ‘Listening to America, America Listening: On the Musical Constitution of Blackness’, paper presented at the presidential session of the American Historical Association, Washington DC, 3 Jan. 2008.

<sup>6</sup> Tiffany Ruby Patterson and Robin D. G. Kelley, ‘Unfinished Migrations: Reflections on the African Diaspora and the Making of the Modern World’, *African Studies Review*, vol. 43, no. 1 (2000), p. 14. Responding to Patterson and Kelley, Agustín Laó-Montes calls for diaspora studies to incorporate subaltern and post-colonial perspectives more effectively. This, I argue, is a crucial point. See Agustín Laó-Montes, ‘“Unfinished Migrations”: Commentary and Responses’, *African Studies Review*, vol. 43, no. 1 (2000), pp. 54–60.

transnational history alone, at least in its most common iterations, cannot fully explain the case of Tio Faustino or the larger trajectory of Afro-Brazilian identity and expressive culture.

The value of emphasising transnational links within the African Diaspora was elaborated a century ago by W. E. B. DuBois, whose work continues to shape the academic discussion on this subject. Part of DuBois's larger project involved tracing global connections among African-descended peoples, as he did in *The Negro* (1915), a study of African-descended peoples in Africa, the United States, Latin America and the Caribbean.<sup>7</sup> A similar impulse guides Patterson and Kelley's attention to cross-border links, as well as Paul Gilroy's *The Black Atlantic*.<sup>8</sup>

Nevertheless, for all the insights that transnational approaches provide, they often de-emphasise certain national contexts.<sup>9</sup> Brazil, for example, is hardly mentioned in Gilroy's classic work, and as others have noted, DuBois often missed examples of racial conflict in Latin America and the Caribbean.<sup>10</sup> In *The Negro*, he attributes Cuba's independence to 'the intervention of the United States', especially its 'Negro regiments'.<sup>11</sup> While acknowledging the importance of 'men of Negro descent' in Cuban politics, industry and literature, DuBois minimises the military role of Afro-Cubans, who in fact played crucial roles fighting in and orchestrating the protracted struggles against Spain. DuBois' oversight is especially significant in a nation which formulated its post-independence identity largely around the idea that white, black and mixed-race soldiers defeated the colonisers and together forged a 'raceless' society. During the late nineteenth and early twentieth centuries, Afro-Cubans staked claims to the promises of a raceless Cuba, only to see whites use the same discourse to dismiss black political movements and reinforce old hierarchies.<sup>12</sup> Similar dynamics were at play in Brazil, where a narrative of 'racial democracy' was consolidated between the end of slavery and the 1930s, just as Tio Faustino recorded his interview with the

<sup>7</sup> W. E. B. DuBois, *The Negro* (Oxford, 2007 [1915]).

<sup>8</sup> Paul Gilroy, *The Black Atlantic: Modernity and Double Consciousness* (Cambridge MA, 1993).

<sup>9</sup> See Kristin Mann, 'Shifting Paradigms in the Study of the African Diaspora and of Atlantic History and Culture', in Kristen Mann and Edna G. Bay (eds.), *Rethinking the African Diaspora: The Making of a Black Atlantic World in the Bight of Benin and Brazil* (London, 2001), p. 15.

<sup>10</sup> David J. Hellwig, *African-American Reflections on Brazil's Racial Paradise* (Philadelphia, 1992); Winston James, *Holding Aloft the Banner of Ethiopia: Caribbean Radicalism in the Early Twentieth-Century America* (London, 1998), pp. 97–9; Thomas E. Skidmore, *Black into White: Race and Nationality in Brazilian Thought* (Durham NC, 1993 [1974]), p. 67.

<sup>11</sup> DuBois, *The Negro*, p. 75.

<sup>12</sup> Alejandro de la Fuente, *A Nation for All: Race, Inequality, and Politics in Twentieth-Century Cuba* (Chapel Hill NC, 2001); Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution, 1868–1898* (Chapel Hill NC, 1999); Aline Helg, *Our Rightful Share: The Afro-Cuban Struggle for Equality, 1886–1912* (Chapel Hill NC, 1995).

*Diário Carioca*.<sup>13</sup> Brazil's supposed interracial bonds were said to have been forged not through bloody struggles for independence, as in Cuba, but instead on plantations, where masters and slaves were said to have mixed in relative harmony. Many Brazilians saw samba music, which became increasingly linked to national identity during the 1930s, as a positive product of that mixing.

Like various others, Brazilianists are paying increasing attention to the diaspora and its transnational links. Kim Butler suggests how, in the words of one Afro-Brazilian activist, 'the struggle of the Black people of Brazil is an aspect of a much larger struggle: the struggle of the Black people of the world'.<sup>14</sup> Micol Seigel embraces a similar perspective and suggests that black journalists in São Paulo who rejected diasporic and African connections were 'very particular to [their] forum', and the product of 'São Paulo's particular cosmopolitanism'.<sup>15</sup> John French highlights 'diasporic solidarity' between the United States and Brazil.<sup>16</sup> The emphasis on transnational connections has been thoroughly defended with convincing analysis and research, and each of the authors mentioned offers a welcome response to the North-heavy field of diaspora studies. So does a recent edition of *Radical History Review* dedicated to the diaspora, which includes a Latin American forum and seeks to understand how diasporic expressions both transcend and engage 'intimate conflicts and dialogues with specific nation-states'. The forum's editors and contributors agree 'that the burden shouldered by black

<sup>13</sup> The foundational text is Gilberto Freyre, *Casa grande e senzala: formação da família brasileira sob o regime de economia patriarcal* (Rio de Janeiro, 1933). For discussions of racial democracy and popular music in Brazil, see Martha Abreu, 'Mulatas, Crioulos and Morenas: Racial Hierarchy, Gender Relations, and National Identity in Postabolition Popular Song: Southeastern Brazil, 1890–1920', in Pamela Scully and Diana Paton (eds.), *Gender and Slave Emancipation in the Atlantic World* (Durham NC, 2005), pp. 267–88; John Charles Chasteen, *National Rhythms, African Roots: The Deep History of Latin American Popular Dance* (Albuquerque, 2004); Bryan McCann, *Hello, Hello Brazil: Popular Music in the Making of Modern Brazil* (Durham NC, 2004); Micol Seigel and Tiago de Melo Gomes, 'Sabina das Laranjeiras: gênero, raça e nação na trajetória de um símbolo popular, 1889–1930', *Revista Brasileira de História*, vol. 22, no. 43 (2002), pp. 171–93; Hermano Vianna, *The Mystery of Samba: Popular Music and National Identity in Brazil* (Chapel Hill NC, 1999).

<sup>14</sup> Kim D. Butler, *Freedoms Given, Freedoms Won: Afro-Brazilians in Post-Abolition São Paulo and Salvador* (London, 1998), p. 4.

<sup>15</sup> Micol Seigel, *Uneven Encounters: Making Race and Nation in Brazil and the United States* (Durham NC, 2009), p. 187. Also see Beatriz Gallotti Mamigonian, 'África no Brasil: mapa de uma área em expansão', *Topoi*, no. 9 (2004); J. Lorand Matory, *Black Atlantic Religion: Tradition, Transnationalism, and Matriarchy in the Afro-Brazilian Candomblé* (Princeton, 2005); 'Special Issue: "ReCapricorning" the Atlantic', *Luso-Brazilian Review*, vol. 45, no. 1 (2008).

<sup>16</sup> John D. French, 'Interlocução: Not All of History Is Recorded in the Books Supplied to School Children: Pale History Books and the Neglected U.S./Brazilian Dialogue Over the New World African Diaspora, 1914–1966', in Denise Pini Rosalem da Fonseca (ed.), *Resistência e inclusão: história, cultura, educação e cidadania afro-descendentes no Brasil e nos Estados Unidos* (Rio de Janeiro, 2003), p. 20.

populations in Latin America is centered on the conundrum of having to choose between race and nation'.<sup>17</sup> In Brazil, Tio Faustino and the others confronted a related but distinct puzzle: how to shape race and nation so as to avoid choosing between the two. In bringing race and nation together, they were often less concerned with establishing or imagining the diasporic links highlighted in recent scholarship than they were determined to shape and literally and figuratively own representations of Africa in Brazil. To the individuals discussed here, blackness might be connected to Africa, but not necessarily to African descendants elsewhere in the diaspora. Afro-Brazilian musicians did not simply embrace diasporic solidarity, nor did they always find vitality or meaning through transnational routes. More often, they embraced the weight of Brazilian post-coloniality and even sought to use it to their advantage.

### *From Africa to Bahia to Rio*

Before he moved to Rio de Janeiro, Tio Faustino lived in Bahia, in north-east Brazil. In 1911, he travelled south in the company of a powerful Bahian politician. Once in Rio, he spent much of his time in the area of town known as Little Africa, home to a large number of rural migrants, many of whom had migrated from Bahia – also known as Little Africa.<sup>18</sup> Rio's Little Africa played a crucial role in samba's rise and was probably quite different from Bahia's. There exists less research about Rio's Afro-Brazilian communities than Bahia's, and there is little evidence to suggest that residents of Rio had the kind of direct and sustained contact with West Africa as individuals in Bahia did. Nonetheless, Rio's Little Africa was a space where 'African' culture was preserved, altered, created and transmitted, especially at gatherings which combined music and religious devotion, officiated by community and religious leaders like Tio Faustino.

While he established himself as a neighbourhood and community leader, Tio Faustino's musical career appears to have been more limited. He was an

<sup>17</sup> Erica Ball, Melina Pappademos and Michelle Stephens, 'Editors' Introduction: Reconceptualizations of the African Diaspora', *Radical History Review*, no. 103 (2009), pp. 2, 3.

<sup>18</sup> Roberto Moura helped coin the phrase 'Little Africa', though only decades after the musician and artist Heitor dos Prazeres likened Rio's portside neighbourhoods to an '*África em miniatura*'. As Maria Cecília Velasco e Cruz points out, both terms belie the significant presence of working-class white European immigrants in the same area. Butler, *Freedoms Given, Freedoms Won*; Alba Lirio and Heitor dos Prazeres Filho, *Heitor dos Prazeres: sua arte e seu tempo* (Rio de Janeiro, 2003), p. 47; Matory, *Black Atlantic Religion*; Roberto Moura, *Tia Ciata e a Pequena África no Rio de Janeiro* (Rio de Janeiro, 1995 [1983]); Maria Cecília Velasco e Cruz, 'Puzzling Out Slave Origins in Rio de Janeiro Port Unionism: The 1906 Strike and the Sociedade de Resistência dos Trabalhadores em Trápiche e Café', trans. Sabrina Gledhill, *Hispanic American Historical Review*, vol. 62, no. 2 (May 2006), pp. 232–4.



instrumentalist in the well-known *Grupo da Velha Guarda* (Group of the Old Guard) and appears to have composed a handful of songs, but he did not achieve the success or notoriety of many of his contemporaries, and he remains an obscure, largely unknown figure. His path from Bahia to Rio resembles a trajectory frequently associated with samba, which is often said to have travelled from Africa to Rio through Bahia. From at least the early nineteenth century until around 1917, ‘samba’ referred to a variety of African- or Afro-Brazilian-inspired musical and religious practices. Between 1917 and the late 1920s, the word appeared with increasing frequency in Rio’s recording industry. Around 1928, samba musicians (*sambistas*) in Rio’s Estácio neighbourhood created a new rhythm that helped launch the music into its Golden Age (1929–45), when it became almost synonymous with Brazil’s national identity.

Carlos Sandroni shows that the form of syncopation which characterised this Golden Age samba departed not only from African and European forms, but also from earlier American rhythmic paradigms.<sup>19</sup> His findings resonate with works by Kofi Agawu, Ron Radano and Karl Miller, who, without dismissing the power of Africa-centric music narratives or categories such as ‘black music’ and ‘African rhythm’, examine how and why those narratives and categories have been constructed and what they hide. Even if ‘black music’ and ‘African rhythm’ mislead as much as they clarify, each author agrees that the categories themselves have helped create powerful, if often problematic, narratives.<sup>20</sup>

Before discussing how Tio Faustino and others used and altered such narratives in Brazil, it will be useful to briefly examine the origins of the ‘African-style’ instruments which he sought to claim as his own. All three instruments originated in Africa, crossed the Atlantic during the slave trade, and eventually became staples of religious practices and popular musical genres throughout the Americas. Details are somewhat sketchy for the *omelê*. A similar word is used for the middle of three drums in *bata* (or *bâtâ*) and *bata koto* drum sets in Nigeria and Benin. Groups in Cuba and the West Indies use instruments called *batá* and *oumalay*, respectively. Brazilian

<sup>19</sup> Carlos Sandroni, *Feitiço decente: transformações do samba no Rio de Janeiro, 1917–1933* (Rio de Janeiro, 2001); Sandroni, ‘Samba’, in Colin A. Palmer (ed.), *The Encyclopedia of African-American Culture and History*, vol. 5 (Detroit, 2006), pp. 1998–2003. Also see McCann, *Hello, Hello*; Flávio Silva, ‘Origines de la samba urbain à Rio de Janeiro’, unpubl. PhD diss., École Pratique des Hautes Études, 1975; Flávio Silva, ‘Pelo telefone e a história do samba’, *Cultura*, vol. 8, no. 28 (1978).

<sup>20</sup> Kofi Agawu, ‘The Invention of “African Rhythm”’, *Journal of the American Musicological Society*, vol. 48, no. 3 (1995), pp. 380–95; Karl Hagstrom Miller, ‘Segregating Sound: Folklore, Phonographs, and the Transformation of Southern Music, 1888–1935’, unpubl. PhD diss., New York University, 2002; Ronald Radano, *Lying up a Nation: Race and Black Music* (Chicago, 2003).



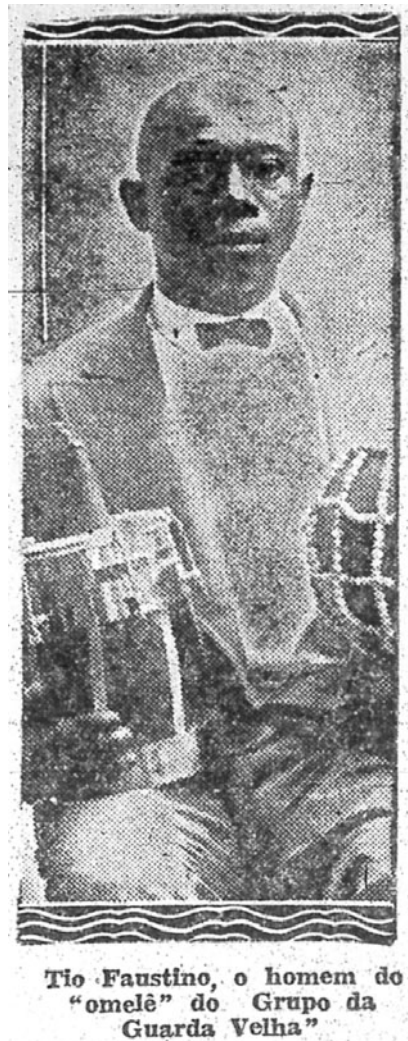


Fig. 1. Tio Faustino. *Source:* ‘Ouvindo os “bachareis” do samba’, *Diario Carioca*, 15 Jan. 1933. Courtesy UW-Madison Libraries.

references are scarce, but one dictionary likens the omelê to the *cuíca*, a friction drum with African origins which produces a low, groaning sound and is ubiquitous at Carnival. In a *Diario Carioca* photograph, Tio Faustino cradles his omelê between his right hand and right knee. Indeed, the instrument closely resembles the better-known *cuíca* (see Figure 1).<sup>21</sup>

<sup>21</sup> Oneida Alvarenga, *Música popular brasileira* (São Paulo, 1982 [1950]); Sibyl Marcuse, *Musical Instruments: A Comprehensive Dictionary* (New York, 1975), p. 376; Stanley Sadie (ed.), *The New Grove Dictionary of Musical Instruments*, vol. 1 (London, 1984), pp. 192–3.

A multitude of alternative spellings and instruments related to the afoxê and the agogô are found in Brazil, the Americas, and Western and Central Africa. The afoxê – a rattle, often made of calabash and adorned with shells, beads, twine and/or wire – is pictured in Tio Faustino’s left hand. The instrument seems to have Western or Central African origins but also may have been developed or modified independently in the Americas. The agogô, in its most common form, is U-shaped and forged of metal. Bells adorn the end of each leg of the U and are struck with a metal or wooden stick. Scholars have traced Yoruba, Igala, Edo, Nagô and Nzakara origins for this instrument. Similar instruments are used in Cuban *lucumi*, Brazilian *candomblé*, and during Carnival.<sup>22</sup>

It is clear that Tio Faustino was not the first to bring these instruments to Rio. References to afoxê-like instruments date to at least the mid-nineteenth century, if not well before. A 1904 piece about Rio, written seven years before Tio Faustino arrived in the city, mentions the agogô, and the city’s rich history of African instruments stretches back centuries before Tio Faustino’s time.<sup>23</sup> Whether or not we take his claims literally, they provide a window into the meanings of Africa, its diaspora, and intellectual property in post-abolition Rio. Tio Faustino’s community standing, his relationship to at least one powerful politician and his connections in the music industry gave him the wherewithal to ‘introduce’ the instruments to a larger audience and claim them as his own. At least in theory, patenting the instruments would bring financial gain, fortify his influence, and provide a way to shape evolving narratives about samba, Afro-Brazilian culture and the place of both in Brazil.

Tio Faustino’s assertion that he ‘introduced’ the African instruments into an already existent musical form is particularly significant because it helped him separate ‘his’ instruments from a timeless music without destroying his authenticity. Doing so required a form of mental gymnastics that served him well in a society that on the one hand placed value in its ‘modern’ institutions – which were often said to distance Brazil from an archaic, timeless Africa – and on the other hand selectively valorised its connection to that same imagined age-old past. By claiming the instruments as property within Brazil’s twentieth-century legal system, Tio Faustino connected them to a

<sup>22</sup> Alvarenga, *Música popular*, pp. 364, 365–6, photos 36, 38, 40–1; Mário de Andrade, *Dicionário musical brasileiro* (Belo Horizonte, 1999), pp. 11–13, 533; Luis da Câmara Cascudo, *Dicionário do folclore brasileiro* (Belo Horizonte, 1984 [1956]), pp. 18, 19; Heli Chatelain (ed.), *Folk-Tales of Angola: Fifty Tales, with K-Mbundu Text, Literal English Translation, Introduction, and Notes* (New York, 1969 [1894]), pp. 60, 61, 271 n. 217; Marcuse, *Musical Instruments*, p. 7; Chris McGowan and Ricardo Pessanha, *The Brazilian Sound: Samba, Bossa Nova, and the Popular Music of Brazil* (Philadelphia, 1998), pp. 16, 21, 42, 43, 119, 121–2, 207; Sadie, *The New Grove*, vol. 1, pp. 31, 32–3, 290; vol. 3, p. 71.

<sup>23</sup> See Mary C. Karasch, *Slave Life in Rio de Janeiro, 1808–1850* (Princeton, 1987), p. 233; João do Rio (Paulo Alberto Coelho Barreto), *As religiões do Rio* (Rio de Janeiro, 2006 [1904]), p. 45.

specific point and time within the diaspora. He did not claim to have invented the omelê, agogô and afoxê, but was still able to define himself as their custodian. By ‘introducing’ them, he placed himself and the instruments on the cutting edge of ‘modernity’, but still connected to a timeless samba. In this way, he kept one foot in ‘Africa’ and another in ‘modern’ Brazil.

During the 1933 interview, Tio Faustino explained the difference between *macumba* and *candomblé*. *Candomblé*, he told the *Diário Carioca* journalist, was a pure religious form that had been ‘adulterated’ by individuals in Rio, who diluted it with European sensibilities and created *macumba*. As early as the 1930s, researchers used the word *macumba* to refer to a wide range of practices – so wide, in fact, that the term ‘lacks any clearly established referent’.<sup>24</sup> Like Tio Faustino, others often used ‘*macumba*’ to refer to the dilution of African tradition. Artur Ramos and Roger Bastide associated *macumba* with the degradation of authentic African practices.<sup>25</sup> Donald Pierson contrasted ‘the genuinely wholesome character of the Bahian *Africanos*’ with ‘the Rio de Janeiro Negro, whose *candomblé* (known locally as the *macumba*) is now in such a state of disintegration that many unwholesome and even vicious practices have crept into its ritual’.<sup>26</sup>

For Tio Faustino, drawing a distinction between the ‘authentic’ and the ‘adulterated’ was not just a matter of setting the record straight for ignorant observers. It was also a way to assert ownership over *candomblé* and promote his financial interests – he informed his interviewer that he would soon be publishing and selling a ‘manual of African terms’. He operated as a mediator not only in his capacity as a community religious leader, but also by ‘translating’ and selling Afro-Brazilian culture to a wider audience. His livelihood was at least partially tied to the existence of a pure, unknown African Brazil, and its contrast to ‘adulterated’ European forms. By holding up and marketing a ‘pure’ Africa versus a diluted Euro-American version, Tio Faustino asserted his own cultural legitimacy and showed how the ‘African’ instruments could be not just artefacts but also new and innovative objects.

<sup>24</sup> Diana Degroat Brown, *Umbanda: Religion and Politics in Urban Brazil* (New York, 1994), p. 25.

<sup>25</sup> Cited in Brown, *Umbanda*, pp. 25–6. Roger Bastide, *The African Religions of Brazil: Toward a Sociology of the Interpenetration of Civilizations* (Baltimore, 2007 [1960]); Arthur Ramos, *O negro brasileiro: 1º volume, etnografia religiosa* (Rio de Janeiro, 2003 [1940]).

<sup>26</sup> Donald Pierson, *Negros in Brazil: A Study of Race and Contact in Bahia* (Carbondale, 1967 [1942]), p. 305. J. Lorand Matory, Luis Parés and Beatriz Dantas have shown how the idea of *candomblé* purity – and the hierarchical relationship between *candomblé* and other ‘dilutions’ – has been constructed over time. Beatriz Góis Dantas, *Vovó nagô e papai branco: usos e abusos da África no Brasil* (Rio de Janeiro, 1988); Matory, *Black Atlantic Religion*; Luis Nicolau Parés, *A formação do candomblé: história e ritual da nação jeje na Bahia* (Campinas, 2006).

*Selling and Owning Africa in Brazil*

Tio Faustino's actions are fully intelligible only when considered within the distinctly Brazilian cultural and political contexts in which they were formulated. The financial opportunities and regulations connected to 'African' products and the rise of a domestic record industry will be our first two orders of concern. The *Diário Carioca* interview took place during an era of sea changes in Brazil. Getúlio Vargas was in the midst of consolidating his power as head of state, and the idea that Brazil was a racial democracy was gaining steam. This was also the culmination of an era of intellectual production marked by an increased 'recognition of Afro-Brazilian symbols and ideas'.<sup>27</sup> 'Recognition' came in many forms and was often accompanied by the belief that Africa's presence in Brazil died with the end of slavery and the subsequent birth of the 'modern' republic. Africa was a potential source for Brazilian national identity, but only if its 'primitive' side could be tamed. Some pieces of Africa were to be embraced, in a particular way; others would be left behind. During Vargas' first reign as president (1930–45), Rio's Carnival became a centrepiece of an increased effort to attract foreign tourists. New parade rules prohibited the use of wind instruments and required the inclusion of an *ala das baianas*, women dressed in clothing associated with Bahian Afro-Brazilians. Around the time those rules were put into effect, a journalist journeyed to Mangueira, a hillside *favela* (shanty town) that was home to one of Rio's most famous samba schools. While explaining the neighbourhood's almost magical qualities, he reassured his readers that 'Mangueira is not in Africa. It's in Rio de Janeiro.'<sup>28</sup>

In certain contexts, the official balance between elevating and rejecting 'African' elements and connections tipped heavily towards rejection. During the 1920s and 1930s, authorities launched a wave of repression against witchcraft, or *feiticiaria*, a loose, derogatory term strongly associated with Afro-Brazilian religion but also connected to spiritism and other unorthodox faiths.<sup>29</sup> Religions like candomblé and macumba nonetheless occupied an ambivalent space in the popular imagination. The same gatherings that police

<sup>27</sup> Dain Borges, 'The Recognition of Afro-Brazilian Symbols and Ideas, 1890–1940', *Luso-Brazilian Review*, vol. 32, no. 2 (1995), pp. 59–78.

<sup>28</sup> Quoted in Nelson da Nobrega Fernandes, *Escolas de samba: sujeitos celebrantes e objetos celebrados, Rio de Janeiro, 1928–1949* (Rio de Janeiro, 2001), p. 53. Rio's first samba schools were formed in the late 1920s and continued and adapted traditions from earlier, music-minded community organizations. See Sérgio Cabral, *As escolas de samba do Rio de Janeiro* (Rio de Janeiro, 1996 [1974]); Allison Raphael, 'Samba and Social Control: Popular Culture and Racial Democracy in Rio de Janeiro', unpubl. PhD diss., Columbia University, 1981.

<sup>29</sup> Dain Borges, 'Healing and Mischief: Witchcraft in Brazilian Law and Literature, 1890–1922', in Carlos Aguirre et al. (eds.), *Crime and Punishment in Latin America: Law and Society Since Late Colonial Times* (Durham NC, 2001); Yvonne Maggie, *Medo do feitiço: relações entre magia e poder no Brasil* (Rio de Janeiro, 1992).

sometimes targeted were also attended by the city's wealthiest and most powerful individuals. Attempts to control and access *feitçaria* were linked to a desire to define Brazil as a unique but civilised nation – if not white, then certainly not black – that would take its rightful place among the world's great powers.<sup>30</sup>

In daily life, contestations over 'Africa' often revolved around money. Brazil's 1890 Penal Code included three articles that prohibited *feitçaria*. Because early Republican law protected religious freedom, authorities forbade activities such as herbal folk healing on the grounds that unknowing individuals might confuse witchcraft with 'legitimate' forms of medicine or science and become duped into paying for useless or dangerous services. The focus on professional legitimacy resonated with laws that targeted vagrants and gamblers and was part of a larger project, synthesised in the Penal Code, to distinguish licit and illicit forms of income. That project, and the Penal Code itself, were conceived in part as a response to fears that abolition would plunge the nation into social and economic chaos. Determining which professions were acceptable was one way authorities attempted to shape and order society after slavery. An 1895 judge's decision stated that witch doctors and anyone else exercising medicine without a license should not be afforded the 'professional liberty' protected in the Constitution. Such individuals forfeited their rights, the judge reasoned, because they preyed on the 'weak spirit' of 'ignorant persons' and inspired 'illusory hopes' among their victims. A separate case found that folk healing was 'not a profession'.<sup>31</sup> In both instances, reprimanding 'African' religion linked up with the intention to distinguish between acceptable and unacceptable methods of acquiring wealth.

Despite intentions to repress it, an informal religious healing market persisted. In 1917, authorities found Manoel Ferreira Pacheco, a white Portuguese immigrant, carrying 'astrological cards'.<sup>32</sup> Police concluded that Pacheco 'exploited' individuals through fortune telling and did not practice a respectable profession. To make their case, police produced a short, cryptic advertisement from a local newspaper that bore Pacheco's address and read 'AFRICAN: Scientific in his work'. Pacheco identified himself during questioning as an electrical engineer, and a letter prepared in his defence referred to his exploits in a 'battle in Africa', for which he had received high honours from Portugal. As further proof that he was innocent, the letter described his library, which contained books about philosophy, history, 'social questions' and anatomy, and countless works by 'the great men of modern literature'. 'Could anyone', the letter asked, 'conclude that an

<sup>30</sup> Skidmore, *Black into White*; Nancy Leys Stepan, 'The Hour of Eugenics': Race, Gender, and Nation in Latin America (Ithaca, 1991).

<sup>31</sup> Vicente Piragibe, *Diccionario de jurisprudencia penal do Brasil*, vol. 1 (São Paulo, 1931), pp. 223, 366–7.

<sup>32</sup> Arquivo Nacional (AN), '6z.3694'.

individual with a library of that order has dedicated himself to fortune telling, an occupation prohibited by law?’ Two decades later, in 1938, Rio police arrested a *macumbeira* (practitioner of macumba) who was found to have in her possession a ‘curious table of prices’, which listed the cost of eleven different consultations involving nine separate deities.<sup>33</sup>

The *macumbeira*’s table, Pacheco’s arrest and defence, and the larger struggle to control *feitiçaria* suggest how definitions of Africa and the line between Africa and Brazil were often connected to economic control. Considered in this context, Tio Faustino’s desire to own, market and gain formal recognition of the *omêlê*, *agogô* and *afoxê* takes on added significance. Less than 50 years after abolition, he asserted that he could own property and that his ownership should be recognised by Brazilian law. He also positioned himself as a representative and mediator of Africa’s presence in Brazil. With samba and Carnival becoming centrepieces of national identity, claiming property carried the potential for a high payout.

### *Producing and Protecting National Music*

In hopes of collecting such a payout, Tio Faustino tapped into a particular stream of post-colonial, national concerns that had shaped Brazil’s music market since at least the turn of the century. Brazil’s record industry was pioneered by Fred Figner, a European entrepreneur with a knack for identifying and capitalising on promising ventures.<sup>34</sup> In July 1878, less than a year after its first public presentation in the United States, Thomas Edison’s ‘talking machine’ was displayed in Rio de Janeiro before an enraptured audience at a weekly lecture series frequented by the royal family.<sup>35</sup> Phonographs became available through import and resale in 1897, opening a market that Figner quickly cornered. In 1902, he became the first in Brazil to acquire the ability to record music, a development which transformed the scope of opportunities available to composers, lyricists and performers. He consolidated his music empire, in part, by aggressively securing patents, trademarks and intellectual property rights.

Fluent in five languages and having lived and travelled throughout Europe, the United States and Latin America, Figner used his international connections to bolster his empire in Brazil – but he was also often at the

<sup>33</sup> Ramos, *O negro brasileiro*, pp. 177–8.

<sup>34</sup> Figner’s life and the history of Brazil’s early music industry remain virtually untold in English-language texts. Details and raw data about Figner and his recording empire have been made available by Humberto Franceschi, a music collector who owns Figner’s personal and musical archive. Humberto Moraes Franceschi, *A Casa Edison e seu tempo* (Rio de Janeiro, 2002); also see Hertzman, ‘Surveillance and Difference’, pp. 152–230.

<sup>35</sup> ‘Phonographo’, *Jornal do Commercio*, 26 July 1878; Franceschi, *A Casa Edison e seu tempo*, pp. 18, 20.



mercy of foreign companies and entrepreneurs. In 1911, upon learning of plans by Columbia Records to obtain rights to Brazilian repertoires through local *editoras de música*, the companies and record houses that published and often owned the rights to popular songs, Figner sprang into action. In an unpublished memoir, he recounted his strategy:

I grabbed about a hundred *contos* and went from [publishing] house to house, to all the *editoras* and acquired all of their authors' rights and any that they would command during the next twenty years ... the authors, grasping the situation, from then on, with rare exceptions, sold the printing rights to the publishing houses and the recording rights to myself and others.<sup>36</sup>

The same year, Great Britain codified its intellectual property laws, a move that had significant implications across Europe and the United States and provided impetus and a rough model for increased regulation and uniformity in Brazil.<sup>37</sup> Even after acquiring the technology to record in Brazil, key production processes took place in Europe. The wax discs on which songs were recorded in Brazil had to be sent to Germany, where they were finished, transformed into copper negatives, plated in silver and finally turned into the matrices that were used to produce records, which were then shipped back to Brazil and sold by Figner and other vendors.<sup>38</sup> It was not until 1912 that Brazilian-manufactured discs were forged entirely on national soil, and even then European and North American interests continued to exercise significant control over the production and sale of music in Brazil.

Like its record industry, Brazil's laws and regulations regarding music and authors' rights were shaped by events abroad and by the desire to protect national creations against encroaching foreign forces. Legal protection for individual artists and their work was codified in 1898, with the passage of Brazil's first comprehensive intellectual property law.<sup>39</sup> For four decades after the passage of the 1898 law, intellectual property defence was dominated and controlled by theatre composers, journalists and playwrights, who in 1917 formed the Brazilian Society of Theatre Authors (*Sociedade Brasileira de Autores Teatrais*, SBAT), the first organisation dedicated to protecting authors' rights in theatre and music in Brazil. Around the turn of the century, Chiquinha Gonzaga, the most accomplished Brazilian female musician of her time and a co-founder of the SBAT, travelled to Europe and later recounted an incident which gave impetus to stronger protections for national music. In

<sup>36</sup> Quoted in Humberto Moraes Franceschi, *Registro sonoro por meios mecânicos no Brasil* (Rio de Janeiro, 1984), pp. 75–6.

<sup>37</sup> Sherman and Bentley, *The Making of Modern Intellectual Property Law*.

<sup>38</sup> Franceschi, *A Casa Edison e seu tempo*, p. 117.

<sup>39</sup> 'Lei N. 496 de 1 de Agosto de 1898', in *Coleção das leis da República dos Estados Unidos do Brasil de 1898*, vol. 1 (Rio de Janeiro, 1900), pp. 4–8; Samuel Martins, *Direito autoral: seu conceito, sua história e sua legislação entre nós* (Recife, 1906), pp. 45–67; Pimenta, *Princípios de direitos autorais*, pp. 88–97.



Berlin, she reportedly entered a music store and found copies of her work for sale. Needless to say, she had not received royalties for the sales.<sup>40</sup> Over the next decade and a half, Gonzaga and others mobilised against the unauthorised trafficking of their music in Brazil and abroad. During that time some popular musicians were members of the SBAT, but they remained marginalised within the society and did not form their own organisations until the late 1930s and early 1940s.

In calling for greater protection for national artists, the SBAT often drew attention to disparities between Brazil and ‘civilised’ countries.<sup>41</sup> At one weekly meeting, a member opposed an official recognition of the death of a Portuguese actress, arguing that ‘in Brazil, there should not be [such] acts for foreigners, who never remember us on identical occasions’.<sup>42</sup> After Hungary centralised and bolstered its intellectual property laws, a writer for the society’s *Boletim* asked, ‘Will we have one day in Brazil the guarantees announced [in Hungary]?’<sup>43</sup> In addition to coveting the regulations developed in Europe, the SBAT actively pursued relationships with foreign societies. Such ties were necessary to secure payments for Brazilian music played abroad and to secure revenue from foreign pieces played in Brazil. By 1933, the SBAT had pacts with associations in 19 countries throughout Europe and the Americas.<sup>44</sup> Relationships with foreign societies worked as a double-edged sword, bolstering the SBAT’s revenue, strength and prestige while also highlighting its station in a global hierarchy. In 1927, the American Society of Composers, Authors, and Publishers (ASCAP) sent a letter to the SBAT, inquiring about how to best protect works by North American artists in Brazil. In exchange, the ASCAP offered to advertise but not necessarily protect Brazilian songs, which, the association claimed, were unknown in the United States.<sup>45</sup>

#### *‘A Storehouse of Materials’*

Efforts to develop authors’ rights protection and to forge an independent, national music market shaped the system which Tio Faustino sought to use in order to establish ownership over the ‘African-style’ instruments. That system received a boost in 1928 with the passage of the ‘Lei Getúlio Vargas’,

<sup>40</sup> Edinha Diniz, *Chiquinha Gonzaga: uma história de vida* (Rio de Janeiro, 1999), pp. 211–13.

<sup>41</sup> *Boletim da SBAT*, no. 97 (July 1932), p. 8.

<sup>42</sup> *Boletim da SBAT*, no. 9 (March 1925), p. 22.

<sup>43</sup> *Boletim da SBAT*, no. 20 (Feb. 1926), p. 139.

<sup>44</sup> Representatives of foreign societies were responsible for securing payments from music vendors, bars and other establishments that played or sold music written by Brazilian authors represented by the SBAT. After keeping a percentage for themselves, they then sent the money to Brazil. SBAT representatives did the same for foreign works played in Brazil.

<sup>45</sup> *Boletim da SBAT*, no. 31 (Jan. 1927), p. 250.

a piece of Legislation meant to bolster protections for national musicians and first proposed by Vargas when he was a representative of Rio Grande do Sul in the national Chamber of Deputies.<sup>46</sup> By the 1930s, increased local control at the point of production helped make the Brazilian record industry ‘one of the most successful Latin American cases of import-substituting industrialisation’.<sup>47</sup> Nonetheless, many Brazilian musicians felt that their work lacked respect abroad. The ASCAP’s letter, which emphasised Brazil’s inferior global standing, suggests that those fears were often well-founded. Foreign assumptions about Brazilian musical production helped stimulate reactions which alternately countered demeaning characterisations and fostered the domestic reinscription of global imbalances and stereotypes.

In 1938, the Pan-American Union published a pamphlet entitled ‘Latin American Composers and their Problems’.<sup>48</sup> The author, William Berrien, advocated for more exchanges among composers in the United States and Latin America. Berrien pleaded for inter-American cooperation, lauded the work of accomplished, classically trained Brazilian artists such as Heitor Villa-Lobos and called Brazil ‘the country whose music excels [sic] that of all other Latin American Republics in quality and quantity’. He also laid bare assumptions about Latin America, where ‘one need go back no farther than the last fifteen or twenty years to find the beginnings of a serious music’. The creation of ‘independent music’, he noted, was ‘still in the experimental stage’. He continued:

It would seem unnecessary to emphasize the fact that one of the most important problems of the Latin American composer is the manner in which he is to realize his aim ‘to attain a production thoroughly American in its substance, entirely apart from European art’. Yet too many of the Latin Americans have abandoned the dilutions of Chopin and Liszt ... only to concur in the error of aping the impressionistic subtleties of Debussy and Ravel.

Though pessimistic about the current state of Latin American music, Berrien saw a solution to the ‘problem’. ‘For content’, he suggested, ‘Latin American composers may draw on that veritable storehouse of melodic and harmonic inspiration – the folk music of the various countries.’ He added: ‘Negroid music in Brazil offers the Brazilian composer a limitless source of materials’.<sup>49</sup>

The concept of a black musical ‘storehouse’ was based in the assumption that musicians like Tio Faustino were sources, not owners – a belief that

<sup>46</sup> The law was in fact severely limited. ‘Decreto N. 5.492 de 16 de julho de 1928’, in *Collecção das leis da República dos Estados Unidos do Brasil de 1928*, vol. 1 (Rio de Janeiro, 1929), pp. 124–8. For more details, see Hertzman, ‘Surveillance and Difference’, pp. 338, 353–8.

<sup>47</sup> McCann, *Hello, Hello*, p. 26.

<sup>48</sup> William Berrien, ‘Latin American Composers and their Problems’ (Washington DC, 1938).

<sup>49</sup> *Ibid.*, pp. 3, 12, 15.

resonated with Brazilian law and popular opinion. Through at least the mid-nineteenth century, slave owners rented, sold and passed on to their heirs both musical instruments and slave musicians. Zephyr Frank demonstrates that ‘middling wealthholders’ – including former slaves – often drew significant income from slave bands and musical instruments.<sup>50</sup> Despite this, and despite the success of select black and mixed-race musicians in Brazil, the idea that Afro-Brazilian musicians could own the music and instruments that they wrote and played went against accepted ideas about property, blackness and Africa.

The legal statutes establishing property rights in Brazil were reformed slowly and long after the abolition of slavery. Brazil passed its Civil Code in 1916, for example, decades after most other Latin American nations. Keila Grinberg argues that the late passage of the Brazilian code was related largely to the endurance of slavery: ‘It was impossible for jurists to reconcile a liberal code, in which the rights of citizenship should be shared by all, with slavery, which was legally based on the distinction between *persons* – those who were free – and *possessions* – slaves’.<sup>51</sup> Brazilian patent collections from before 1910 and after 1940 include dozens of European-style instruments and musical notation systems, but no instruments with any obvious link to Africa. Though racial data was not recorded, last names included on the patent petitions suggest that the overwhelming majority of the applicants were white European immigrants or their descendants. Collections at the *Arquivo Nacional* and *Instituto Nacional de Propriedade Industrial* contain a frustrating gap between the 1910s and the 1940s, the era during which samba’s popularity soared and Tio Faustino sought to register the omelê, agogô and afoxê.<sup>52</sup> Despite this void, it is still possible to gauge general attitudes towards Afro-Brazilian invention, wealth and musical property.

After the SBAT’s founding in 1917, its membership and leadership were overwhelmingly white and connected to theatre. A handful of popular musicians were members, and an even smaller number were black or mixed-race. As late as 1937, more than 90 per cent of almost 2,800 registered artists and workers in Rio’s theatres were white.<sup>53</sup> This homogeneity contrasts with the diverse cast of composers and performers who worked at bars, clubs and

<sup>50</sup> Zephyr L. Frank, *Dutra’s World: Wealth and Family in Nineteenth-Century Rio de Janeiro* (Albuquerque, 2004).

<sup>51</sup> Emphasis in original. Keila Grinberg, ‘Slavery, Liberalism, and Civil Law: Definitions of Status and Citizenship in the Elaboration of the Brazilian Civil Code (1855–1916)’, in Sarah C. Chambers, Sueann Caulfield and Lara Putnam (eds.), *Honor, Status, and Law in Modern Latin America* (Durham NC, 2005), p. 109.

<sup>52</sup> Arquivo Nacional, Fundo Privilégios Industriais (AN-FPI); Instituto Nacional da Propriedade Industrial, Rio de Janeiro (INPI).

<sup>53</sup> Instituto Brasileiro de Geografia e Estatística, *Estatísticas do século XX* (CD-ROM) (Rio de Janeiro, 2003).

Carnival, and in the popular *teatro de revista* theatre circuit. Nonetheless, the numbers emphasise a dramatic, institutional racial disparity, which was tied to perceptions about race, property and creative genius that pervaded music, theatre and beyond. While scholars and elite musicians in Brazil and abroad saw great potential in ‘black’ music and held great respect for some African-descendant musicians, they generally viewed artists like Tio Faustino as resources more than as capable, independent composers. In 1901 and 1902, Mello Moraes Filho, a well-known white writer and folklore enthusiast, published a multi-volume collection of ‘traditional songs’. The collection, he wrote unabashedly, was ‘almost entirely the product ... of the popular, anonymous muse’.<sup>54</sup> While established white authors earned money and reputation by publishing stories and songs mined from anonymous sources, their ‘popular muses’ frequently remained unnamed and unremunerated.

Turn-of-the-century assumptions about black authorship did not simply disappear over time. Instead, they evolved with national identity and its imbedded assumptions about who should mediate and control African and Afro-Brazilian culture. In a 1936 article written for the *Diario Carioca*, the young law student Carlos Lacerda stated:

Art is not invention. It is the creation achieved through an emotive and sensorial process ... Samba is born of the people and should remain with them. Elegant samba played at official celebrations is deformed: it suffers deformities by passing from the poor to a form of entertainment for the rich.<sup>55</sup>

Lacerda, who went on to have a chequered, controversial political career, couched his remarks as part of a larger project of class uplift, one which would recognise the importance of Afro-Brazilians while also clearly delineating their character and potential contributions. ‘Samba is class music’, he wrote. ‘The lyricism of the black race resides in it.’ That ‘lyricism’ was destined to be elevated by enlightened, educated class warriors, who would help secure dignified spaces for samba and Brazil:

Samba should be admired where it is born, and not after it is robbed from its creators and transformed into musical salad for profit by the popular music industry ... Class’s constructive force, which will transform the world, gushes forth in the music’s improvisation, cadence, and rhythm ... samba is not exotic. It is human. It is an expression of living art ... When the oppressed defeat the oppressors, samba will gain the place that it deserves.

By defining samba as emotive and improvisational but not exotic, Lacerda walked a thin line crucial to both the construction of Brazilian national identity and the inclusion of samba in it. Samba was not an ‘invention’ to be

<sup>54</sup> Mello Moraes Filho, *Serenatas e sarásus: coleção de autos populares, lundús, recitativos, modinbas, duetos, serenatas barcarolas e outras produções brasileiras antigas e modernas*, vol. 1 (Rio de Janeiro, 1901–2), p. vii.

<sup>55</sup> Quoted in Cabral, *As escolas de samba*, p. 109.

packaged and altered for the music market. Instead, it was a pure expression that should remain connected to its authentic roots. At the same time, Lacerda argued, those roots and samba's sensorial, rhythmic nature should not be confused as exotic. This was a vital distinction during an era that saw the increased presence of Brazilian music abroad, often packaged with caricatured fruit headdresses and exaggerated tropical displays.<sup>56</sup>

Views like Lacerda's both bolstered and hindered the projects of Afro-Brazilian musicians like Tio Faustino. On the one hand, the valorisation of samba, its association with 'the black race' and the desire to defend both against money-grabbing record executives and exoticisation abroad may be read as public shows of support. On the other hand, the distinction between pure and market-driven music created hurdles for musicians who sought recognition of their authorship and property rights. Tio Faustino clearly would have agreed with Lacerda that authentic African and Afro-Brazilian culture should 'not be robbed from its creators', but the idea that samba was 'not invention' threatened any attempt to register and own African-style musical instruments. It was for this reason that Tio Faustino's careful choice of words – 'introduced' over 'invented' – was so clever and so potentially powerful. By describing the African instruments to the *Diário Carioca* as 'exotic' he further emphasised the transformative power of ownership. As his legal property, those instruments could become cultured without losing their authenticity and maintain an appropriate balance between the 'exotic' and the 'emotive and improvisational'.

### *Musical Colonialism*

Tio Faustino's word choice is indicative of how he and others adapted themselves to societal assumptions about race, music and property. Mário de Andrade, who helped found Brazilian modernist literature and ethnomusicology, was well aware of the perception that Brazil had yet to develop a 'serious', 'independent' national music. Andrade, who was of mixed-racial descent, created a vast archive of Afro-Brazilian music and culture, and travelled throughout Brazil to record, preserve and document folk traditions. In *Pequena história da música (A Short History of Music)*, he discussed the relationship between music and the nation-state. In Brazil, he wrote, 'we remained musically colonial' until the First World War. After the war, thanks to what he called a 'new nationalist emphasis', 'The Portuguese musician wanted to be Portuguese; the Brazilian, Brazilian; the Polish, Polish; and the African, African'.<sup>57</sup> His famous *Ensaio sobre a música Brasileira (Essay on*

<sup>56</sup> See McCann, *Hello, Hello*, pp. 129–59; Perrone and Dunn (eds.), *Brazilian Popular Music*.

<sup>57</sup> Mário de Andrade, *Pequena história da música* (Belo Horizonte, 2003 [1944]), pp. 163, 195.

*Brazilian Music*) went a step further by arguing that ‘folklore’ could be a useful font of inspiration for Brazilian composers, but only if those composers exercised caution. When composers ‘unilaterally’ appropriate other traditions, he wrote, ‘they become antinational: they make Amerindian, African, Portuguese, or European music’.<sup>58</sup> By placing Brazil opposite ‘Africa’, Andrade’s comments seem to exemplify the ‘conundrum of having to choose between race and nation’, which scholars have interpreted as a unifying burden for people of African descent across Latin America. Not all Brazilians saw race and nation as being mutually exclusive, however. If the right characteristics were emphasised and the wrong ones marginalised, blackness could become part of a national identity that would distinguish Brazilians of colour from individuals who resided elsewhere in the diaspora.

Some Afro-Brazilian musicians brought race and nation together through the seemingly counterproductive act of distinguishing their work from serious, sophisticated music. In 1922, the *Oito Batutas*, a popular band comprised of musicians with various racial backgrounds, travelled to France, a trip which helped give Brazilian popular music extra cachet at home and abroad.<sup>59</sup> A Brazilian living in Paris wrote to a Rio newspaper about the band’s successful visit. The *Batutas*, he cheerfully reported, ‘are not presenting themselves here as representatives of Brazilian art music (which would be ridiculous) and instead as specialists and introducers of our samba, which is gaining enormous acceptance’.<sup>60</sup> Pixinguinha (Alfredo da Rocha Viana Júnior), an Afro-Brazilian member of the *Batutas* and an influential composer and musician, seemed to agree. ‘It’s good to know’, he said during a 1922 interview,

that when we left here for Paris – celebrated by some, ridiculed by others – we did not have the foolish pretension of going to represent Brazilian art music abroad. What we were going to present in Paris, and what we did, with decency, thank God!, was simply play a few features of our music, the essentially popular and characteristic kind ... We were simply a group of modest but profoundly sincere artists, making heard the easy, unpretentious music of our popular songs.<sup>61</sup>

‘Art music’ refers to a broad genre characterised mainly by orchestras and chamber performances. Many of the musicians associated with art music – Villa-Lobos, Camargo Guarnieri and Francisco Mignone in Brazil, Carlos Chávez in Mexico and Amadeo Roldán in Cuba – were heavily

<sup>58</sup> Andrade, *Ensaio sobre a música brasileira* (São Paulo, 1972 [1928]), p. 29.

<sup>59</sup> Sérgio Cabral, *Pixinguinha: vida e obra* (Rio de Janeiro, 1997); Donga, Pixinguinha and João da Baiana, *As vozes desassombradas do museu* (Rio de Janeiro, 1970); Hertzman, ‘Surveillance and Difference’, pp. 232–86; Seigel, *Uneven Encounters*, pp. 95–135; Marília T. Barboza da Silva and Arthur L. de Oliveira Filho, *Filho de Ogum Bexiguento* (Rio de Janeiro, 1979).

<sup>60</sup> ‘A propósito dos “Oito Batutas”’, *A Noite*, 25 Sep. 1922.

<sup>61</sup> ‘Vinte minutos de Rua do Ouvidor’, *A Notícia*, 16 Aug. 1922.

influenced by ‘primitive’ indigenous and Afro-American traditions, which they most often treated as open sources of material and inspiration.<sup>62</sup> On other occasions Pixinguinha appraised his music and career quite differently, but upon returning from France he saw value in reassuring others that he was not so foolish as to consider himself a ‘serious’ musician. Doing so helped satisfy Brazilians who hoped to reverse their nation’s musical colonialism but remained uneasy about the prospect of dark-skinned artists leading the charge. In this way, Pixinguinha did not select nation over race. Rather, he strategically accessed nationalist sentiment by defining himself in a way that preserved racialised assumptions about the nation’s promising ‘storehouse’ of musical material.

Before travelling to France, the Batutas toured Brazil. Many of their trips were funded by Arnaldo Guinle, a wealthy patron of the arts, president of the Fluminense Football Club and founding member of the Rio Yacht Club. Guinle treated the Batutas’ trips as research missions, charging the musicians with the task of gathering material about ‘folkloric’ Brazilian music.<sup>63</sup> Much as Moraes Filho viewed ‘the popular, anonymous muse’, whose work he copied and sold, Guinle saw in Brazil’s rural peoples a great, untapped resource. When the Batutas went to France in 1922, the stated intentions were different from those for the domestic trips. Absent from discussions surrounding the Batutas’ transatlantic voyage was the notion that they would be travelling to Europe to do research. While the hottest band in Brazil had license to ‘explore’ the nation’s interior, no such privilege was assumed in France. In Europe, the Batutas’ job was to represent Brazil to the ‘civilised’ world, not to gather musical knowledge. But while the band was expected to represent Brazil abroad, its members did not put their own musical curiosity on hold in Paris. In later interviews, Pixinguinha recalled absorbing and learning music in France, just as he had done while travelling through Brazil. To him, the research mission did not stop or start where Guinle and others said that it should.

Benjamin Costallat, one of the Batutas’ most vocal Brazilian advocates, called the band ‘modest’, ‘spontaneous’ and ‘heroic’ and differentiated the group from North American bands. To those who protested the Batutas’ France trip by crying, ‘They’re black!’, Costallat replied, ‘Who cares? They’re Brazilian!’ He was not so accepting of dark-skinned musicians from the United States, however. He witnessed one show by:

A big black [North] American orchestra that plays Beethoven and all of the classics to the accompaniment of automobile horns, train whistles, bells, old cans, and the

<sup>62</sup> Gerard Béhague, ‘Latin American Music, c. 1920–c.1980’, in Leslie Bethell (ed.), *The Cambridge History of Latin America*, vol. 10: *Latin America Since 1930: Ideas, Culture and Society* (Cambridge, 1995), pp. 307–64.

<sup>63</sup> Cabral, *Pixinguinha*, pp. 53–7, 61–2.



most infernal and prosaic noises that the jazz band's morbid imagination can invent ... The Americans take noise [to Paris]. Ours [the Batutas] take sentiment. What was played with cans, now will be played with hearts. The difference is great ... No more Beethoven with rattles for the French. This is music from a land and a soul of a distant people.<sup>64</sup>

The Batutas' trip to France emphasises why samba, shaped on both sides of the Atlantic, must be understood with a frame that extends beyond Brazil's borders. But Costallat's comments also show that the struggles and strategies of Afro-Brazilian musicians were often shaped by specifically national forces. In interviews decades later, Pixinguinha explicitly emphasised his African cultural heritage. Upon returning from France, however, he was more interested in situating himself within Brazil than beyond it. He did so by embracing a discourse which portrayed him, at core, as nothing more than a 'sincere' and 'unpretentious' national musician. That construction made him a perfect foil to the 'big black American orchestra' and defined him as acceptably black *and* Brazilian.<sup>65</sup>

#### *Tio Faustino and the Black Atlantic*

The above examples suggest a close relationship between global and domestic forces. As Berrien looked on Brazil from abroad, Andrade, Lacerda and even Pixinguinha looked on the nation's vast interior. The post-colonial imbalances which shaped Brazil's music market and intellectual property laws were reinscribed domestically. Assumptions about who should have access to the nation's 'storehouse' created double standards for cosmopolitan Afro-Brazilian musicians like Pixinguinha, who was asked to plumb rural Brazil for 'sources' and then act a different part while representing Brazil in France. Some artists also saw limited openings in Brazil's post-colonial condition. Eduardo das Neves, one of Rio's most successful turn-of-the-century black performers, helped launch his career with the song 'A conquista do ar' (Conquest of the Air), in which he praised Alberto Santos Dumont, the Brazilian aviation pioneer. 'Europe bent to Brazil' (*a Europa curvou-se ante o Brasil*), Neves proudly proclaimed. 'Powerful old Europe' sought to be first in flight, 'But the winner in the end was instead our Brazil!'<sup>66</sup>

<sup>64</sup> 'Os Oito Batutas', *Gazeta de Notícias*, 22 Jan. 1922.

<sup>65</sup> Seigel provides a slightly different analysis of Costallat's statement, focused on what the statement tells us about Costallat and other white opinion makers rather than on the way that Pixinguinha and other Afro-Brazilian artists engaged their ideas. Seigel, *Uneven Encounters*, pp. 129–30.

<sup>66</sup> Eduardo das Neves, *Trovador da malandragem* (Rio de Janeiro, 1926), p. 9.

Decades later, Tio Faustino sought to access patriotic sentiments in another way. Though he appealed to the rule of law during his 1933 interview, on other occasions he looked elsewhere for protection. While recording for RCA Victor in Brazil, he clashed with one of the company's North American executives, who forbade him from using the omelê during recordings. The friction drum, the executive felt, produced a 'very strong sound [that] ruined the recordings'. Fellow musicians defended Tio Faustino, but the executive only relented after hearing Tio Faustino refer to Exú, the powerful candomblé *orixá* (deity) of communication. 'Well, well', Tio Faustino was heard saying to his band mates, 'If my omelê isn't recorded, I'll leave, kill a rooster, and offer it to Exú. We'll see whose god is stronger: mine or this American's'.<sup>67</sup>

It is tempting to understand Tio Faustino's appeal to both the Brazilian legal system and an Afro-Brazilian religious matrix as an example of 'double consciousness', the concept famously developed by DuBois and then Gilroy.<sup>68</sup> Tio Faustino moved beyond constricting definitions of race, authorship and property, but also capitalised on similar definitions to assert his own authenticity and cultural legitimacy. He sought to preserve and display connections to Africa, but was also after the prizes theoretically made available in Brazil's evolving legal and political system. He was, to borrow a phrase from Gilroy, both 'inside and outside the West'.<sup>69</sup> But Tio Faustino's home in Brazil was a quite different part of 'the West' than the locales studied by Gilroy, and this is a crucial point that is often lost in studies that focus on transnational links and diasporic unity.

The importance of this point is seen clearly by way of comparison. When Mário de Andrade wrote about Brazil's musical colonialism, he optimistically described the 'nationalist emphasis' that made African artists African and Brazilians Brazilian. To illustrate that trend, he referred to the Afro-British classical composer Samuel Coleridge-Taylor. While Andrade treated Coleridge-Taylor as an example of 'the African wanting to be African', Coleridge-Taylor's own identity was more complex. He participated in the first Pan-African Conference in 1900, and in the forward to his famous collection of folk songs, *Twenty-Four Negro Melodies*, he wrote, 'What Brahms has done for the Hungarian, Dvořák for the Bohemian, and Grieg for the Norwegian, I have tried to do for these Negro Melodies'.<sup>70</sup> While he cultivated African culture, Coleridge-Taylor's identity was not as one-dimensional as Andrade made it out to be. He was born in England to a white mother and a black father from Sierra Leone. He did not see his African

<sup>67</sup> Cabral, *Pixinguinba*, p. 134.

<sup>68</sup> W. E. B. DuBois, *The Souls of Black Folk* (Boston, 1997 [1903]); Gilroy, *The Black Atlantic*.

<sup>69</sup> Gilroy, *The Black Atlantic*, p. 30.

<sup>70</sup> Samuel Coleridge-Taylor, *Twenty-Four Negro Melodies* (New York, 1980 [1905]).

heritage as overriding or superseding other parts of his identity, as Andrade suggested they would. While touring the United States, Coleridge-Taylor was harassed for riding in a white train car and responded to his tormenters by declaring, 'I am an Englishman!'<sup>71</sup>

Coleridge-Taylor's declaration on the train car contrasts Andrade's one-dimensional description and also underscores a disparity between Tio Faustino and the British musician. Tio Faustino's attempts to bring his instruments to a wider audience and Coleridge-Taylor's cultivation of 'Negro' traditions reveal a shared connection to the diaspora and a joint desire to package and present its musical heritage, but the two men also carried and represented Africa differently, and embraced and accessed their distinct national identities in unique ways. Tio Faustino likely had much less direct contact with Africa and Africans in Rio than Coleridge-Taylor did in London, where the latter was 'well integrated and at ease with a network of educated London-based Sierra Leoneans and Sierra Leonean visitors'.<sup>72</sup> More to the point, Coleridge-Taylor, who was trained in classical music, had a white mother and lived in England, was 'inside and outside' a very different part of 'the West' than Tio Faustino. If Tio Faustino had travelled to the United States and confronted the same situation on the segregated train car, it is unlikely that he would have found the same benefit from asserting his Brazilian-ness as Coleridge-Taylor did in emphasising his Englishness.

An equally striking difference separates Tio Faustino from other famous performers. Paul Robeson, Art Blakey, Louis Armstrong and Josephine Baker, for example, all criticised US imperialism but did so from much different positions and vantage points than Tio Faustino's.<sup>73</sup> Even what one scholar calls Blakey's 'anticolonial internationalist perspective' contrasts discourses emanating from Brazil, which, as we have seen, were often rooted in the nation's unique, post-colonial standing.<sup>74</sup> In his study of the West-Indies-born performer Bert Williams, Louis Chude-Sokei shows how some forms of 'African American self assertion' have had the unintended, 'secondary effect of marginalizing and subsuming multiple black othernesses and

<sup>71</sup> Geoffrey Self, *The Hiawatha Man: The Life and Work of Samuel Coleridge-Taylor* (Aldershot, 1995), p. 159. Also see *Black Music Research Journal* vol. 21, no. 2 (Special Issue on Samuel Coleridge-Taylor, 2001); Avril Coleridge-Taylor, *The Heritage of Samuel Coleridge-Taylor* (London, 1979); W. C. Berwick Sayers, *Samuel Coleridge-Taylor: His Life and Letters* (London, 1927); William Tortolano, *Samuel Coleridge-Taylor: Anglo-Black Composer, 1875-1912* (Oxford, 2002).

<sup>72</sup> Paul Richards, 'A Pan-African Composer? Coleridge-Taylor and Africa', *Black Music Research Journal*, vol. 21, no. 2 (2001), p. 246.

<sup>73</sup> See Mary L. Dudziak, 'Josephine Baker, Racial Protest, and the Cold War', *The Journal of American History*, vol. 81, no. 2 (1994), pp. 543-70; Ingrid Monson, 'Art Blakey's African Diaspora', in Monson (ed.), *The African Diaspora: A Musical Perspective* (New York, 2003), pp. 329-52; Penny M. Von Eschen, *Satchmo Blows up the World: Jazz Ambassadors Play the Cold War* (Cambridge MA, 2004).

<sup>74</sup> Monson, 'Art Blakey's African Diaspora', p. 132.

their often conflictual micro-histories'.<sup>75</sup> For all of their value, works that emphasise 'diasporic solidarity' also often marginalise 'conflictual micro-histories' and minimise important ways in which hierarchies and disparities within the diaspora can create distinct nation- and region-specific challenges and strategies. Tio Faustino and Pixinguinha's actions and strategies represent the kind of micro-histories that are often subsumed by larger narratives focused on transnational links and diasporic unity. Like DuBois' depiction of Cuban independence, which identified important transnational connections but also unwittingly marginalised the roles played by Afro-Cubans, contemporary scholarship often misses the fact that many Afro-Brazilians forged their own paths in ways that distinguished them from their counterparts to the north.

It is no accident that when Tio Faustino conjured Exú, he also pointedly called the record executive a (North) American, thereby accessing post-colonial resentment to counterbalance an otherwise dangerously 'African' reference. This kind of creative manoeuvring did not always secure the desired results. While Pixinguinha, one of the great musicians of the twentieth century, rightfully occupies a hallowed place in Brazil's musical pantheon, Tio Faustino remains an obscure figure, barely a footnote in the historical record. There is no clear indication of how others responded to his assertions of ownership, but all indications suggest that they fell on deaf ears, swept aside in samba's heady rise. Despite his ability to balance the improvisational and the exotic, his property claims and career were ultimately drowned out by larger narratives.

### *Conclusion*

The cases discussed here do not suggest that lenses focused on transnational connections across the diaspora should be discarded altogether. Rather, the foregoing considerations show how some of the most poignant, creative and revealing examples of diasporic identity are expressed firmly within the national orbit. Paying close attention to such examples deepens our understanding of how Afro-Brazilian musicians dealt with the tricky task of asserting and claiming intellectual property rights in a society that saw them as 'storehouses' more than as artists or inventors.

Studies about intellectual property often focus on Europe or the United States and tend to highlight what is often assumed to have been the universal emergence and construction of individual authors during and after the Enlightenment. For example, Michel Foucault calls the invention of the

<sup>75</sup> Louis Onuorah Chude-Sokei, *The Last 'Darkey': Bert Williams, Black-on-Black Minstrelsy, and the African Diaspora* (Durham NC, 2006), p. 15.

‘author’ ‘a privileged moment of *individualization*’, when single individuals differentiated themselves from larger groups and came to claim and own works of art, musical instruments and the like.<sup>76</sup> Enlightenment-inspired definitions of authorship, and tensions between individual and communal ownership, are highly relevant in Brazil, but the cases considered here also point to a different form of individualisation, one that Foucault and other theorists of intellectual property in the United States and Europe often neglect. Tio Faustino and Pixinguinha were interested not only in distinguishing themselves, but also in ‘individualising’ Brazil. As they struggled against domestic and foreign stereotypes and hierarchies, Brazil’s post-colonial condition functioned as a counterweight that helped balance the emotive and improvisational against the exotic. By directing the power of Exú against the record executive and pointedly referring to him as ‘American’, Tio Faustino placed himself, the musical instruments, and his religious and cultural heritage in line with the nationalist, anti-colonial discourses issued by the SBAT, Andrade and others. Pixinguinha did something similar when he told reporters that in France he and Batutas ‘simply play[ed] a few features of our music, the essentially popular and characteristic kind’. This kind of strategy could be quite effective, as seen in Benjamin Costallat’s ‘Who cares? They’re Brazilian!’ response to race-based critiques of the Batutas. When emotive and improvisational displays were couched in appropriately national terms, exotic Brazil became something that commentators like Costallat could proudly contrast with the ‘infernal and prosaic noises’ of dark-skinned musicians from the North.

At other times, Brazilian post-coloniality functioned as a different type of counterweight, the kind used to close heavy doors. This second function is seen in the way that Pixinguinha and the Oito Batutas were identified as ‘researchers’ in rural Brazil but not in Paris. It is also apparent in the gazes of Moraes Filho, Andrade, Lacerda and Guinle, each of whom looked on Brazil’s ‘popular anonymous muse’ in much the same way that Berrien did. In broad terms, the challenges that Tio Faustino and others confronted resemble those faced by other artists and performers in the diaspora. But a close investigation of the strategies that he and Pixinguinha employed also reveals ‘conflictual micro-histories’ that were particular to Brazil and are easy to lose sight of with lenses trained on transnational links and diasporic solidarity. As dark-skinned musicians living in post-colonial Brazil, Tio Faustino and Pixinguinha inherited two colonial legacies, one that enslaved Africans and another that subjugated Latin America to Europe and the United States. Nearly a half-century after abolition and more than a century after independence, those legacies continued to pose significant obstacles – but with

<sup>76</sup> Emphasis in original. Foucault, ‘What is an Author?’, p. 101.

enough creative manoeuvring and delicate balancing, they could also be found to contain surprising, if severely limited, resources.

*Spanish and Portuguese abstracts*

*Spanish abstract.* Este artículo trata sobre Tio Faustino, un músico de samba poco conocido y líder religioso afro-brasileño viviendo en Río de Janeiro, como punto de entrada para explorar cuestiones mayores acerca de la diáspora africana brasileña. La investigación se expande desde Tio Faustino hasta los mercados de productos 'africanos' de Río de principios del siglo XX, la naciente industria musical de la ciudad, y el creciente llamado para defender la propiedad intelectual en Brasil. Con el fin de avanzar en sus carreras, Tio Faustino y otros artistas adquirieron un sentimiento nacionalista en formas que marcaron diferencias en vez de similitudes con afrodescendientes en otras partes. De esta forma, la posición global de Brasil, su historia colonial y su trayectoria postcolonial sirvieron como contrapeso a las conexiones transnacionales y de la diáspora. Estos hallazgos profundizan, en vez de desbancar completamente, recientes tendencias en los estudios transnacionales y sobre diásporas.

*Spanish keywords:* Brasil, diáspora africana, propiedad intelectual, *samba*, música, Río de Janeiro

*Portuguese abstract.* Como ponto de entrada para explorar questões maiores sobre o Brasil e a diáspora africana, o artigo utiliza a figura de Tio Faustino, sambista e líder religioso afro-brasileiro pouco conhecido no Rio de Janeiro. A partir do Tio Faustino a investigação se amplia para abordar o mercado carioca de mercadorias 'africanas' no início do século vinte, a indústria musical nascente e o clamor crescente em torno da defesa dos direitos à propriedade intelectual no Brasil. Com a ascensão profissional em vista, Tio Faustino e outros artistas acessaram sentimentos nacionalistas de forma que era dado destaque às distinções em detrimento das similaridades com afro-descendentes de outros lugares. Dessa forma o posicionamento do Brasil no mundo, sua história colonial e trajetória pós-colonial agiram como contrapeso às ligações transnacionais e da diáspora. Recentes tendências em estudos de diáspora e transnacionalidade são aprofundadas, ao invés de completamente rejeitadas desestabilizados, por tais achados.

*Portuguese keywords:* Brasil, diáspora africana, propriedade intelectual, *samba*, música, Rio de Janeiro