

Toward a History of Rights in the City at Night: Making and Breaking the Nightly Curfew in Nineteenth-Century Rio de Janeiro

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Reconstructing the daytime life of nineteenth-century Rio de Janeiro's public spaces is laborious but fairly straightforward work. We find rich details, for example, in the narrative travel accounts and watercolor sketches that crowded the shelves of European bookstores after the post-1808 opening of Brazil's ports to foreigners in the wake of the arrival of the Portuguese royal court fleeing a French invasion of Iberia. Each dawn the streets began to stir with barefoot women of the religious sisterhoods collecting alms, some flanked by one or two enslaved servants. By six in the morning the sun had risen, and people began to tumble out of homes. The milkman led his cow on a rope, kneeling from time to time to fill his bucket. The streets soon surged with men and women carrying merchandise—bird cages, baked sweets, calicoes, live chickens, lard for cooking, and so on—on trays in their hands or in straw baskets on their heads. Many of them were *escravos de ganho* (slaves for hire) who plied the streets selling small items or their services throughout the day. From the city's homes, workers both enslaved and free emerged with wooden barrels or piles of soiled linens on their heads, heading for one of the city's public fountains. Teams of stevedores and porters met boats at the port and heaved boxes and sacks. At around four in the afternoon groups would gather at the bayside Largo do Paço, where,

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according to the French artist Jean-Baptiste Debret, “blacks, both slaves and free, went seeking customers for the sweets, baked goods and drinking water they sold” to passersby. Laundresses piled the stiff, sun-dried linens on top of their washbowls on their heads as the day ended. Members of a funeral procession bearing lit wax tapers might pass through the streets at dusk, gathering in front of a house before proceeding to church. The sun set behind the mountains, and the story, for the most part, ends there.¹

But what about the nighttime? Foreign travelers used aural references to evoke the urban clamor of Rio, filled with groups of enslaved workers and their “incessant chatter,” which they contrasted with the quiet after the church bells would toll, signaling curfew. A pair of visitors from the United States, writing in the 1830s, noted that slaves would rush to avoid breaking the 10:00 p.m. curfew, “and woe to him that is caught” by police on the street after that hour. They write, “Nothing could be more surprising to a stranger from the North ... than to find the streets and the beautiful suburbs of the city almost as tenantless and silent as the ruins of Thebes or Palmyra.”²

Travel writers and folklorists who walked readers through the paces of daily life in Rio, to the sounds of splashing fountains and street vendors’ cries, could not resist the dramatic appeal of ending their stories with frightened, barefoot workers scampering home. Unlike the daytime city, authors produced few narrative accounts of quotidian public life after dark. Yet the story of nineteenth-century Rio’s daily life need not end at sundown. Paradoxically, interdictions against entering the city’s public spaces at night generated both the notion that Rio’s streets were empty and our knowledge that they were not. The curfew to which these travelers refer went into effect just after Brazil’s independence as a series of police edicts and municipal regulations that criminalized the act of being in any public space after the toll of the evening church bells for most, but significantly not all, persons. These regulations held force for more than half of the nineteenth century, spanning most of the post-independence period of monarchical rule known as the Empire (1822–1889). To the extent that interdictions are an index of what people actually do, we can surmise that nineteenth-century Rio was alive

¹ Robert Walsh, *Notices of Brazil in 1828 and 1829*, repr. in Robert Edgar Conrad, ed., *Children of God’s Fire: A Documentary History of Black Slavery in Brazil* (University Park: Penn State University Press, 2000), 219; Ernst Ebel, *O Rio de Janeiro e seus arredores em 1824* (São Paulo: Companhia Editora Nacional, 1972), 73. The quotation comes from Jean-Baptiste Debret, *Viagem Pitoresca e histórica ao Brasil*, vol. 1 (São Paulo: Livraria Martins, 1954), 143–45. See generally Miriam Lifchitz Moreira Leite, *Livros de viagem (1803–1900)* (Rio de Janeiro: Editora UFRJ, 1997); and Luiz Carlos Soares, *O ‘Povo de Cam’ na Capital do Brasil: A Escravidão Urbana no Rio de Janeiro do Século XIX* (Rio de Janeiro: Editora FAPERJ/ 7 Letras, 2007), 123–91.

² Thomas Holloway, *Policing Rio de Janeiro: Repression and Resistance in a Brazilian City* (Stanford: Stanford University Press, 1993), 22–23. The quotation is from Rev. James C. Fletcher and Rev. Daniel Kidder, *Brazil and the Brazilians, Portrayed in Historical and Descriptive Sketches*, 6th ed. (Boston: Little, Brown, and Company, 1866 [1857]), 124–25.

after dark. And the archive bears out this supposition. Scattered throughout the police logs and municipal administrative documents from the late 1820s through the 1870s, when this curfew was in effect, are references to men and women—nearly all enslaved or free persons of color—apprehended for being in the streets after the evening church bells.

The police officials and bureaucrats who authored these documents were laconic in relaying this information to each other and, eventually, to us. Cumulatively, though, these memoranda and daily police logbooks are like glimpses through a tiny keyhole at nocturnal public culture before the era of Rio's famed nightlife, before there was supposed to be any. The curfew's history amounts to far more than a description of the city's after-dark lost worlds. This article will explore how the curfew established patterns and means of limiting the basic freedom to move about the city. Although no formally codified right to assemble or circulate in public spaces existed during the Empire, the customary ability to do so bore immense importance as urban public life intensified in the nineteenth century. Limiting this freedom in time did not halt all movement after dark but rather instituted a reign of selective policing. It was at night when both the fragility and the necessity of what jurists in Brazil called the "freedom to come and go" came into view. The daily transition between day and night enacted juridical changes that are invisible in the nation's Constitution, legal codes, or in any national statute, yet which fundamentally shaped the social categories that determined people's places in society in ways that historical research has yet to explore.

The rules that legally defined the nighttime did not come from any national-level law or founding document. Rio's nocturnal sociolegal world, instead, was the product of police edicts, on-the-ground policing practice, city ordinances, and the actions and practices of people as they used the darker hours for work, play, and resistance against oppression. In other words, this is a phenomenon of urban governance that forces us to look beyond the nineteenth-century nation-state to understand the exercise of power at a local level. This analysis gains inspiration, in part, from a recent generation of Brazilian historians who focus their studies of social and particularly labor history on the operation of what they call "municipal power."³ The

³ Paulo Terra, Marcelo Magalhães, and Martha Abreu, eds., *Dimensões do poder municipal* (Rio de Janeiro: Editora Mauad, 2019); Juliana Teixeira Souza, "A autoridade municipal na Corte imperial: enfrentamentos e negociações na regulação do comércio de gêneros (1884–1889)," PhD diss. (Campinas: Universidade Estadual de Campinas, 2007); Cristiana Schettini and Paulo Terra, eds., "Trabalhadores e Poder Municipal," special issue of *Mundos do Trabalho* 5, 9 (2013): 3–125. For a longer view, see Magnus Roberto de Mello Pereira and Antonio Cesar de Almeida Santos, *O poder local e a cidade: A Câmara Municipal de Curitiba, Séculos XVII a XX* (Curitiba: Aos Quatro Ventos, 2000); Luciano Rocha Pinto, "Sobre a arte de governar das Representantes de Sua Majestade: apresentando nossos olhares e fazeres," in Luciano Rocha Pinto, ed., *Arte de governar: O poder local no Brasil, Séculos XVIII–XIX* (Rio de Janeiro: Editora Multifoco, 2014), 13–14; Roberto Guedes Fragozo and Thiago Krause, eds., *A América portuguesa e os sistemas atlânticos*

day-to-day functioning of the postcolonial Brazilian city, intricately documented in executive and police records and neighborhood petitions, has traditionally formed the basis for works that trace local experiences but resonate little beyond that particular locale. This new scholarship has rediscovered local governing bodies like *Câmaras Municipais* (Municipal Chambers), the rules they produced, and their role in urban society, and has yielded new understandings of the broad themes that have brought Brazilian social history to the attention of researchers throughout the world interested in slavery, labor relations, and social inequality. For the Brazilian historians who have embraced this approach to studying urban life, labor, and power relations, it has presented a useful alternative to the focus on liberal citizenship that has dominated the study of postcolonial Brazil since the country's emergence from over two decades of dictatorship in the 1980s.⁴ This new historiography usefully brings the analysis of equality, belonging, and rights down to the municipal scale. From this vantage, we can study what might otherwise look like inscrutable contradictions, in particular the coexistence of constitutional rights and freedoms alongside extreme and legally sanctioned inequalities and preemptive restraints on liberties.

At a constitutional moment when this postcolonial Atlantic port city still in the grip of slavery tried to balance public security with individual freedom, Rio's selective curfew was part of the broader, troubled history of the rule of law. Everywhere in the region, the Spanish and Portuguese Empires' successor states enacted modern legal codes and national charters based on the rule of law and equal justice for all, dispensing with colonial distinctions between classes and ethnicities. Newly independent nations confronted the conundrum of how to maintain the rule of law in the face of perceived security threats from both outside their borders and, moreover, from within.⁵ In postcolonial Brazil, as

na *Época Moderna: Monarquia pluricontinental e Antigo Regime* (Rio de Janeiro: Editora FGV, 2013), 37–40; Maria Fernanda Baptista Bicalho, "As câmaras ultramarinhas e o governo do Império," in João Fragoso, Maria Fernanda Bicalho, and Maria de Fátima Gouvêa, eds., *Um antigo regime nos trópicos: A dinâmica imperial portuguesa (séculos XVI–XVIII)* (Rio de Janeiro: Civilização Brasileira, 2001), 191.

⁴ See especially the work of José Murilo de Carvalho; e.g., *Cidadania no Brasil: O longo caminho*, 3d ed. (Rio de Janeiro: Civilização Brasileira, 2002); *Pontos e Bordados: Escritos de história e política* (Belo Horizonte: Editora da UFMG, 1999); and *Os bestializados: O Rio de Janeiro e a república que não foi* (São Paulo: Companhia das Letras, 1987).

⁵ Ricardo D. Salvatore, *Wandering Paysanos: State Order and Subaltern Experience in Buenos Aires during the Rosas Era* (Durham: Duke University Press, 2003); Christian Edward Cyril Lynch, "O caminho para Washington passa por Buenos Aires: A recepção do conceito argentino do estado de sítio e seu papel na construção da República brasileira," *Revista Brasileira de Ciências Sociais* 27, 78 (Feb. 2012): 149–69; Ricardo D. Salvatore, Carlos Aguirre, and Gilbert M. Joseph, *Crime and Punishment in Latin America since Late Colonial Times* (Durham: Duke University Press, 2001). On the rule of law, see Jeremy Adelman, "Institutions, Property, and Economic Development in Latin America," in Miguel Centeno and Jeremy Adelman, eds., *The Other Mirror: Grand Theory through the Lens of Latin America* (Princeton: Princeton University Press, 2000), 27–54; Brian

elsewhere, the ideal of the rule of law meant not just consistency but also universality in its application, and restraints on the arbitrary exercise of state power. Yet, as historians of Brazilian slavery have shown, by the 1830s a dual system of justice emerged that aimed to protect private property and public order, which rendered absurd the idea of equality and revealed the ideal of the rule of law as flawed, at best, in its real-world application.⁶ As some scholars have noted, recognition of this miscarriage of the rule of law in postcolonial Latin America, and beyond, can easily devolve into a tendency to pathologize the Global South as innately corrupt and lawless. While we might be confounded by the seeming paradox of postcolonial authorities' willingness to suspend the law alongside their tendency to "fetishize" it, this contradiction can itself provide precious insights. Jane Burbank and Frederick Cooper urge us to dispense with the idea that there "is something the matter with contradictory legal phenomena within one political regime. We should be able to acknowledge that the ideal of universal law—that laws are to be exactly the same for every subject—is itself a creation and one that 'contradicts' the inequalities everywhere present in social life at all times."⁷ In the Global South and elsewhere, communities constitute themselves by making law, and the "dialectic" of obsession with the law and "lawlessness" arises from the multiplicity of "discontinuous, overlapping sovereignties" simultaneously in force.⁸ While most commentators on these "contradictions" have implicitly understood them as national phenomena, it is at the local level where the jurisdictional questions that created them most elaborately come into play. Rio's residents recognized the authority of national and provincial bodies of law, but also of municipal ordinances, police edicts and practices, and judges' rulings; in addition, women, enslaved people, and minors all fell under personal jurisdiction.⁹ Only by examining this history of everyday

Owensby, *Empire of Law and Indian Justice in Colonial Mexico* (Stanford: Stanford University Press, 2008).

⁶ Eduardo Spiller Pena, *Pajens da Casa Imperial: Jurisconsultos, escravidão, e a lei de 1871* (Campinas, SP: Editora da Unicamp/ Coleção Várias Histórias, 2001). See also Emília Viotti da Costa, *The Brazilian Empire: Myths and Histories*, rev. ed. (Chapel Hill: University of North Carolina Press, 2000).

⁷ Jane Burbank and Frederick Cooper, "Rules of Law, Politics of Empire," in Lauren Benton and Richard J. Ross, eds., *Legal Pluralism and Empires, 1500–1850* (New York: New York University Press, 2013), 285. See also Gerald Frug, "A 'Rule of Law' for Cities," *LSE Cities* (Nov. 2007), <https://lsecities.net/media/objects/articles/a-rule-of-law-for-cities/en-gb> (accessed 3 Oct. 2017).

⁸ Jean Comaroff and John Comaroff, "Law and Disorder in the Postcolony," *Social Anthropology/Anthropologie Sociale* 15, 2 (2007): 133–52. See also Ananya Roy, "Slumdog Cities: Rethinking Subaltern Urbanism," *International Journal of Urban and Regional Research* 35, 2 (2011): 223–38.

⁹ On overlapping local jurisdictions, see Edilson Nunes dos Santos, "Direitos e cidadania no Rio de Janeiro: poder e disputas por espaços de trabalho na praia da Saúde em 1841," *Revista Mundos do Trabalho* 9, 18 (2017): 63–79. See also Mariana Valverde, "Practices of Citizenship and Scales of Governance," *New Criminal Law Review* 13, 2 (2010): 216–40.

authoritarianism at the level at which municipal power functions can one see the threads that make up the “horizontal tapestry of partial sovereignties” in postcolonial Brazil.¹⁰ It is at this level of analysis that daily temporality becomes visible, and where one can observe the night emerging as a modern political formation and a juridical category.

The curfew overtly discriminated between social classes and was only applied to enslaved persons, those who could be mistaken for slaves such as free persons of African descent, and, on occasion, foreigners. The well-off were explicitly exempted and lighter-skinned people appear to have been implicitly so. Brazil’s first Constitution (1824) made all non-enslaved males born in Brazil, whether born free or not, into citizens guaranteed equality before the law. Although all citizens were supposed to be able to exercise liberal political and civil rights freely irrespective of their ethnicity, a stark color line divided those who enjoyed the freedom to move around in and make use of the city from those who did not.¹¹ Though people of color in nineteenth-century Rio faced the indignities of racial animosity and a constant threat of illegal enslavement or re-enslavement, all residents, including those of African descent, generally enjoyed a customary right to move about the city by day. After dark, simply circulating or assembling in the streets became a crime, and the night vested the newly professionalized police with emergency powers.

Yet even those men and women whom the selective curfew targeted consistently took to the streets after dark. Police records from throughout this period show incidents of men and women arrested after dark, or “*fora de horas*,” (after hours), to use the police language of the day. It is clear that the regulations and edicts designed to curtail public socializing and circulation after dark failed to do so.¹² Most people who carried out nocturnal activities did so illegally or because they had obtained an exception. What, this article asks, were the social, cultural, and legal effects of this nightly suspension of freedom of movement, this nightly state of emergency? And what is revealed when we take seriously the nighttime not simply as backdrop but as a category of analysis in itself?

¹⁰ Comaroff and Comaroff, “Law and Disorder,” 146.

¹¹ Sidney Chalhoub, *A força da escravidão: Ilegalidade e costume no Brasil oitocentista* (São Paulo: Companhia das Letras, 2012); Beatriz Gallotti Mamigonian, *Africanos livres: A abolição do tráfico de escravos no Brasil* (São Paulo: Companhia das Letras, 2017), 26, passim. See also Rebecca Scott, “Public Rights, Social Equality, and the Conceptual Roots of the *Plessy* Challenge,” *Michigan Law Review* 106 (2009): 777–804.

¹² Examples abound. See Arquivo Geral da Cidade do Rio de Janeiro (hereafter AGCRJ), Códice 40.3.78, f. 2. (Ofício, 18 de junho de 1836); Arquivo Nacional (Brazil) (hereafter AN), Polícia da Côte, Códice 327, vols. 1 and 2; AN, Polícia da Côte, Códice 330, vols. 6 and 7. Sidney Chalhoub also cites arrests for curfew-breaking, in “The Precariousness of Freedom in a Slave Society (Brazil in the Nineteenth Century),” *International Review of Social History* 56 (2011): 405–39.

Put another way, what if we make urban time instead of urban space the focus of our analysis? Urban histories of Brazil have dwelled on stark distinctions between house and street, which more recent and critical histories have questioned and complicated. Studies of cultural ferment in the city's bohemian haunts, radicalized port workers in the marine districts, the singular social life of Rio's famous beaches, and spaces of resistance and rebellion on public squares have brought about a rich appreciation of how important contests over urban terrain have been to the social and political history of not just Brazil but Latin America, the Atlantic World, and indeed the Global South.¹³ Regimes of time deserve analytical attention too, though, since they delimited people's actions and behaviors in ways that differed from the already amply studied contests over city space.

"Night" is absent from the indexes of classic works on penology, the history of crime, and cultural history. Surprisingly, even studies of nightlife take for granted that modern urban commercial entertainment occurs after dark, taking the darkness as a backdrop but not subjecting it to analytical thinking.¹⁴ Historians have examined attitudes toward and folktales about the night that show how life after dark has been a perennial concern in Western culture.¹⁵ Most analytical works of history that examine the night are sweeping, macro-historical endeavors. They make the case for the relevance of the study of everyday urban temporality, in part by showing the transhistorical importance that night has held in both popular and elite cultures, and in part by making clear what is lost in analytical specificity and depth when we consider daily

¹³ Carlos Eugênio Líbano Soares, *A capoeira escrava e outras tradições rebeldes no Rio de Janeiro (1808–1850)* (Campinas, SP: Editora da Unicamp, 2001); Martha Abreu, *O Império do Divino: Festas religiosas e cultura popular no Rio de Janeiro, 1830–1900* (Rio de Janeiro: Nova Fronteira, 1999); Sandra Lauderdale Graham, "O Motim do Vintém e a cultura política do Rio de Janeiro, 1880," in Mônica Duarte Dantas, ed., *Revoltas, Motins, Revoluções: Homens livres pobres e libertos no Brasil do século XIX*, 2d ed. (São Paulo: Alameda Casa Editorial, 2018), 485–510; B. J. Barickman, "A Social History of the Beach in Rio de Janeiro: Sea-Bathing and Beach-Going in the Nineteenth and Twentieth Centuries," unpub. MS, 2015; James N. Green, *Beyond Carnival: Male Homosexuality in Twentieth-Century Brazil* (Chicago: University of Chicago Press, 2001); André Cicalo, "Campos de pós-abolição: identidades laborais e experiência "negra" entre os trabalhadores do café no Rio de Janeiro (1931–1964)," *Revista Brasileira de História* 35, 69 (2015): 101–30; Sidney Chalhoub, *Visões da Liberdade: Uma história das últimas décadas de escravidão na Corte* (São Paulo: Companhia das Letras, 1990).

¹⁴ See, for example, Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia: Temple University Press, 1991); David Nasaw, *Going Out: The Rise and Fall of Public Amusements* (Cambridge: Harvard University Press, 1999); and Jacques Rancière, *Proletarian Nights: The Workers Dream in Nineteenth-Century France* (London: Verso, 2012).

¹⁵ There are notable exceptions to this descriptive tendency: Matthew Beaumont, *Nightwalking: A Nocturnal History of London* (London: Verso, 2015); Craig Koslofsky, *Evening's Empire: A History of the Night in Early Modern Europe* (New York: Cambridge University Press, 2011); and Peter C. Baldwin, *In the Watches of the Night: Life in the Nocturnal City, 1820–1931* (Chicago: University of Chicago Press, 2012).

temporality across centuries and continents.¹⁶ Some studies of the world's cities during the long nineteenth century show a keen awareness of the night as a privileged time for the genesis of cycles of repression in particular places. Their authors, however, have had their sights set on other historical problems—such as gender-based violence, popular religiosity, or Afro-diasporic culture—and so have not made the definition of the night a part of the historical problem to be solved.¹⁷ Still, these works have positioned us to pose the deeper analytical questions about time that have been asked so effectively about other seemingly natural phenomena, questions that have created large and enormously enlightening subfields of history: such as the study of sex and gender, or the senses. As the historian Joan Scott showed in her classic essay on the study of gender, inquiring into the implicit understandings and uses of a taken-for-granted social category can provide “new perspectives on old questions,” such as, in this case, how social inequality is reproduced and how political rule is imposed and experienced.¹⁸

In pondering the nighttime restrictions selectively imposed on nineteenth-century Rio's residents, one feels the gravitational pull of those theorists whose writings have bridged the sovereign exercise of state power on the one hand, and the “state of exception” on the other. This legal-political phenomenon was systematically theorized first by Carl Schmitt (1888–1985) and more recently by Giorgio Agamben, and it was debated by those wary of the reactions to the 9/11 attacks on the United States.¹⁹ How can we understand systemic arbitrary justice within a constitutional order that holds the rule of law as its paramount value?²⁰ When a government implements a state of exception, in the words of one commentator, “the dam of individual liberties breaks

¹⁶ A. Roger Ekirch, *At Day's Close: Night in Times Past* (New York: W. W. Norton, 2006); Lodewijk Brunt and Brigitte Steger, eds., *Night Time and Sleep in Asia and the West (Exploring the Dark Side of Life)* (New York: Routledge, 2013); Bryan D. Palmer, *Cultures of Darkness: Night Travels in the Histories of Transgression* (New York: Monthly Review Press, 2000); and Murray Melbin, *Night as Frontier: Colonizing the World after Dark* (New York: Free Press, 1987).

¹⁷ Judith R. Walkowitz, “Jack the Ripper and the Myth of Male Violence,” *Feminist Studies* 8, 3 (1982): 542–74. On Brazil, see Holloway, *Policing*; Carlos Eugênio Libano Soares, *A negrada instituição: Os capoeiras escravos na Corte Imperial, 1850–1890* (Rio de Janeiro: Access Editora, 1999); and Abreu, *O Império do Divino*.

¹⁸ Joan W. Scott, “Gender: A Useful Category of Historical Analysis,” *American Historical Review* 91, 5 (1986): 1053–75, 1075. On the history of the senses, see “The Senses in History,” *American Historical Review*, 116, 2 (2011): 307–400.

¹⁹ The writings of Schmitt and Agamben, and other thinkers with whom they were in dialogue such as Walter Benjamin and Hannah Arendt, have generated a debate whose breadth and nuances I cannot address here. Contemporary writers are again raising the specter of “constitutional dictatorship.” See Jed Shugerman, “Think Matthew Whitaker Is a Hack? He's One of Many,” *Washington Post*, 16 Nov. 2018; Leonardo Augusto de Andrade Barbosa, “Under the Sign of Elections: The Making of Undemocratic Electoral Politics during the Brazilian Civilian-Military Regime,” paper presented at American Society for Legal History Annual Meeting, Nov. 2018.

²⁰ Mary Nyquist, *Arbitrary Rule: Slavery, Tyranny, and the Power of Life and Death* (Chicago: University of Chicago Press, 2013).

and a society is flooded with the sovereign power of the state.” Agamben shows how these conditions stem from a troubling paradox built into the rule of law: “The state of exception is the point at which the law provides for its own suspension.”²¹

Such thinking on states of exception illuminates the sociolegal history of the night because it lays bare the circular logic of authoritarian power; Agamben’s point of departure, after all, is Carl Schmitt’s definition of the sovereign as “the one who decides on the state of exception.”²² Agamben points toward a “tendency in all Western democracies” in which “the declaration of the state of exception has gradually been replaced by an unprecedented generalization of the paradigm of security as the normal technique of government.”²³ The exceptional, in other words, readily becomes normal, and the sovereign does not even need a specific law or an actual emergency to invoke it.²⁴ This “permanent state of emergency” lies at the heart of modern governance, even for democratic states. Agamben writes, “Modern totalitarianism can be defined as the establishment, by means of the state of exception, of a legal civil war that allows for the physical elimination not only of political adversaries but of entire categories of citizens who for some reason cannot be integrated into the political system.”²⁵

Theorists of the state of exception, then, have given us the critical language with which to speak of the regime that took effect each night in nineteenth-century Rio, when guarantees of equal justice coexisted with repressive rules that applied to selected persons in the city’s public spaces. Yet despite their apparent resonances with the nighttime suspension of rights, studies of states of exception tend to take for granted the national level at which civil and political rights are both secured and suspended. They provide little guidance for understanding specifically how “municipal power”—the cluster of

²¹ Leland de la Durantaye, *Giorgio Agamben: A Critical Introduction* (Stanford: Stanford University Press, 2009), 338.

²² Benedetto Fontana, “Symposium Notes on Schmitt and Marxism,” *Cardoso Law Review* 21 (2000): 33–38. On Schmitt’s “rehabilitation,” see Benno Teschke, “Decisions and Indecisions: Political and Intellectual Receptions of Carl Schmitt,” *New Left Review* 67 (2011): 61–95. See also Giorgio Agamben, *State of Exception*, Kevin Attell, trans. (Chicago: University of Chicago Press, 2005), 1.

²³ Stephen Humphries, “Legalizing Lawlessness: On Giorgio Agamben’s *State of Exception*,” *European Journal of International Law* 17, 3 (2006): 677–87, 678; Agamben, *State of Exception*, 14. Agamben principally references Nazi Germany and the United States in the post-9/11 international world order and draws examples from Western Europe, from Ancient Rome to the French Revolution to interwar France, Germany, and Italy.

²⁴ Others have shown how states of exception do away with the normal temporal limits of “emergency” and amount to “bureaucratic mechanisms of exclusion”; Frederik Rosén, “Towards a Theory of Institutionalized Judicial Exceptionalism,” *Journal of Scandinavian Studies in Criminology and Crime Prevention* 6 (2005): 147–63, 148.

²⁵ Agamben, *State of Exception*, 2. Agamben’s genealogy of the state of exception in the modern West starts with revolutionary France and the “democratic-revolutionary tradition” that came out of it rather than either Nazi Germany or an earlier absolutist tradition; *ibid.*, 4–6, 49–50, 87.

sources of authority that function at the level of the city—structures and delimit its urban lives.²⁶ The blanket of the rule of law is full of holes not only because the law legislates its own exceptions but also because the law provides multiple jurisdictions: the national versus the local, and also municipal authority versus seigniorial or patriarchal privilege.²⁷ Municipal authorities imposed a curfew in nineteenth-century Rio in a context of fragmentary and lumpy sovereignty divided between individual households, slave owners, and various municipal authorities. Slave owners and municipal police each did their part to enact the nighttime repression of people of color, whether enslaved or free, and to decide to whom it would apply.

This repression was defined by its exceptions, and these likewise evade the conceptual framework constructed to comprehend how power functions on a national scale. To understand the urban night as a sociolegal invention means to unearth the common roots of the “sovereign exemption” and racial inequality. Alexander Weheliye criticizes Agamben for failing to account for instances of the production of “bare life”—the Italian philosopher’s coinage to signify a condition of rightlessness—like imprisonment, torture, and particularly slavery that are actually part of the normal legal order. Racial violence “does not necessitate a legal state of exception in order to fabricate the mere life of those subjects already marked for violent exclusion; in fact, we might even say that this is its end goal.” Weheliye joins those critics of Agamben who have noted that “the state of exception does not apply equally to all, since the exclusion of and violence perpetrated against some groups is anchored in the law.”²⁸

During Brazil’s formative postcolonial century, the country’s legal order had to bend around the existence of humans who were not considered legal persons. Nighttime restrictions on spatial mobility and the racial logic of access to the city predated the nineteenth century, yet a professionalized police force only existed in Rio from the 1820s on, and with it, for the first time, came the potential to enforce a selective nightly lockdown. The curfew—the emergence of nighttime restrictions unprecedented in their draconian

²⁶ Schmitt assigned the absolutist state the monopoly of violence at the expense of private entities like cities and private jurisdictions; Teschke, “Decisions and Indecisions,” 64.

²⁷ Miranda Spieler, “The Vanishing Slaves of Paris: The *Lettre de Cachet* and the Emergence of an Imperial Legal Order in Eighteenth-Century Paris,” in Zvi Ben-Dor Benite, Stefanos Geroulanos, and Nicole Jerr, eds., *The Scaffolding of Sovereignty: Global and Aesthetic Perspectives on the History of a Concept* (New York: Columbia University Press, 2017), 231; “Editors’ Introduction,” in Zvi Ben-Dor Benite, Stefanos Geroulanos, and Nicole Jerr, eds., *The Scaffolding of Sovereignty: Global and Aesthetic Perspectives on the History of a Concept* (New York: Columbia University Press, 2017), 3–4, 12; Fontana, “Symposium Notes”; Mariana Valverde, *Chronotopes of Law: Jurisdiction, Scale, and Governance* (New York: Routledge, 2015).

²⁸ Alexander G. Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human* (Durham: Duke University Press, 2014), 86–87. On Agamben’s silence “on the matter of slavery,” see Ian Baucom, *Specters of the Atlantic: Finance Capital, Slavery, and the Philosophy of History* (Durham: Duke University Press, 2005), 129.

reach, and if not the manpower fully to enforce it at least the political will to try—created of the nighttime a sociolegal category that effectively altered the material world each evening at sundown: an artisan's tool, after dark, became a weapon; a person of African descent became a presumed slave and public enemy abroad in the city streets, who posed a potential danger to society that eclipsed his or her rights. Each night at sundown, the law allowed for its own suspension, and police held the power to decide—ironically just as visual perception became more difficult—who deserved to be arrested, searched, and flogged. One achieved access to the city by way of exceptions to restrictive rules. With its extraordinarily large populations of enslaved workers and free persons of color, post-independence Rio de Janeiro at nightfall provides a useful way of thinking with, but also beyond, the concept of the state of exception. The ways in which people conformed to or defied the curfew, or indeed allowed for exceptions to it, present us with a new view of the individual, the city, and the postcolonial state coming into being.

The curfew generated little, if any, public controversy, at least among the scribbling classes. It was discussed occasionally and matter-of-factly in newspapers, and later in folkloric literature. It appears in the fiction of the century's end set in the early Empire, serving to highlight how different daily life had been in an earlier age.²⁹ Jurists and political essayists of the early and mid-Empire who so prolifically wrote on a plethora of other subjects, from corporal punishment to habeas corpus to maritime law, did not concern themselves with the nightly curfew. Its theoretical marginality itself is telling, and the paucity of juridical writing directly addressing the curfew has also meant that anyone studying its imposition and effects must rely on arrest records. There are certainly other stories to tell about life after dark in nineteenth-century Rio, but the social and legal history of the curfew provides a promising start toward understanding this as yet unknown nocturnal world. The artifacts of the criminalization of being in the streets after dark reveal the creation of the night as a socio-judicial category and the process of a “social and cultural system defining itself.”³⁰

THE TOQUE DE ARAGÃO

In the decades after Brazil's independence from Portugal in 1822, Rio de Janeiro, the vice-regal capital of colonial Brazil and then the seat of its national government, simultaneously experienced the great surge of African slavery,

²⁹ José de Alencar, *Senhora* (São Paulo: Companhia Melhoramentos, 1941 [1875]); Manuel Antonio de Almeida, *Memórias de um Sargento de Milícias* (São Paulo, Livraria Martins, 1941 [1854]).

³⁰ “In the identification of a particular action as a crime, one encounters the social and cultural system defining itself.” Edward Muir and Guido Ruggiero, eds., *History from Crime: Selections from Quaderni Storici*, Corrada Biazzo Curry, Margaret A. Galucci, and Mary M. Galucci, trans. (Baltimore: Johns Hopkins University Press, 1994), 226.

also felt in the United States and Cuba, and the onset of urban modernity. Rio grew from colonial outpost and underpopulated entrepot to busy port city and Imperial Court of the new Brazilian monarchy. The authorities and institutions convened to govern and police the city confronted not only intermittent political turmoil but also the vexing problem of slavery. An immense proportion of the city's population—nearly half in 1821—were considered chattels and enjoyed no effective form of formal legal personality or rights and lived under the bitterly divided jurisdictions of both their masters and public authorities.³¹ The census taken in Rio in 1849 showed the city's slave population was higher than anywhere else in the Americas, around four times larger than that in New Orleans. Until the 1850s, most enslaved residents of Rio were African-born, from the west-central part of the continent. Tax records from the 1840s indicate that an average of 3.6 enslaved residents belonged to each household, and, in 1849 there were approximately 110,000 in the city. By 1864, that number had grown to around three hundred thousand.³²

Brazil had the world's largest concentration of persons of African descent outside Africa itself, and free or freed persons of color were a distinctive presence in the capital city. In 1849, Rio was home to 10,732 freed persons (about 60 percent of them women, who could more easily arrange for their manumission), 116,319 free persons, and 78,855 enslaved.³³ Throughout most of the

³¹ Kristen Schultz, *Tropical Versailles: Empire, Monarchy, and the Portuguese Royal Court* (New York: Routledge, 2001). There is no agreement concerning the legal personhood of slaves. Augustinho Marques Perdigão Malheiro, a jurist and author of the most influential book about slavery and law in Brazil, states that slaves have "no legal personality or status" and are "fully deprived of any civil capacity"; *Escravidão no Brasil: Ensaio histórico, jurídico, social*, vol. 1 (Rio de Janeiro: Typografia Nacional, 1866), ch. 3, article 3. While numerous scholars agree that slaves technically could be considered, at least potentially, to possess juridical personhood, they categorically were non-citizens and generally lacked the legal status needed to leverage their "personhood" to derive rights and formal legal standing from it. See Keila Grinberg, "Slavery, Liberalism, and Civil Law: Definitions of Status and Citizenship in the Elaboration of the Brazilian Civil Code," in Sueann Caulfield, Sarah C. Chambers, and Lara Putnam, eds., *Honor, Status, and Law in Modern Latin America* (Durham: Duke University Press, 2005), 109–19; Beatriz Gallotti Mamigonian, "O direito de ser africano livre: Os escravos e as interpretações da lei de 1831," in Sílvia Lara and Joseli Mendonça, eds., *Direitos e justiça: Ensaio de história social* (Campinas: Editora da Unicamp, 2006), 129–60; Mariana Armond Dias Paes, "Sujeito da história, sujeitos de direitos: personalidade jurídica no Brasil escravista, 1860–1888," MA thesis (Faculdade de Direito, Universidade Estadual de Campinas, 2014); Brian Owensby, "Legal Personality and the Processes of Slave Liberty in Early-Modern New Spain," *European Review of History: Revue Européenne d'Histoire* 16, 3 (2009): 365–82.

³² Perdigão Malheiro, *Escravidão no Brasil*; Manolo García Florentino, *Em costas negras: Uma história do tráfico atlântico de escravos entre a África e o Rio de Janeiro (séculos XVIII e XIX)* (Rio de Janeiro: Arquivo Nacional, 1995), 38, 52; Mary Karasch, *Slave Life in Rio de Janeiro, 1808–1850* (Princeton: Princeton University Press, 1987), xxi, 60–61; Marilene Rosa Nogueira da Silva, *Negro na Rua: A nova face da escravidão* (São Paulo: Editora Husitec, 1988), 71.

³³ According to a 1849 census, Rio's urban zone had 205,906 inhabitants, of which 78,855 were enslaved and 10,732 freed former slaves; Luiz Carlos Soares, *O "Povo de Cam" na Capital do Brasil: A Escravidão Urbana no Rio de Janeiro do Século XIX* (Rio de Janeiro: Editora FAPERJ—7 Letras, 2007), 29. See also Chalhoub, "Precariousness of Freedom," 406–8.

century, free persons of color shouldered the burden of proof to demonstrate their free status to avoid being treated by arresting police or private citizens as enslaved.³⁴ Even persons captured in Africa illegally after the 1831 treaty outlawing the trans-Atlantic slave trade, and removed from ships in Brazilian waters, were subjected to twelve years of compulsory labor despite their designation as *africanos livres* (free Africans).³⁵ A rich historiography demonstrates the general “precariousness of freedom” for former slaves and free persons of color in Brazil, in both legal and socioeconomic terms.³⁶

In this context, when the Emperor of newly independent Brazil named the first Intendente Geral da Polícia—the rough equivalent of a chief of police—this official had broad powers and complicated directives: to maintain order and “public tranquility” in a rapidly growing city that was the showcase and Imperial Court of the new nation, where the extent of the police’s power vis-à-vis the Municipal Chamber, the judiciary, and slave owners was in continual dispute.³⁷ The question of just how to bring about “public tranquility” was more ambiguous still because, despite Brazil’s large enslaved population, its national government never passed its own version of the slave codes instituted elsewhere in the Americas.³⁸ Because the 1824 Constitution made no mention of slavery, the criminal jurisdiction over enslaved people living in Brazil fell, by default, to their masters and the police. Municipal Chambers, the local governing bodies for all incorporated cities and towns in Brazil since colonial times, passed city ordinances (*posturas*) that regulated commerce and managed public works, health, and safety.

Municipal authorities in nineteenth-century Rio regulated the nighttime city through ordinances and criminal interdictions, and they addressed the population’s shared need for safe passage in providing public illumination, the first truly public service other than (but linked to) policing. Professionalized

³⁴ On the eighteenth century, see Sílvia Hunolt Lara, “Customs and Costumes: Carlos Julião and the Image of Black Slaves in Late Eighteenth-Century Brazil,” *Slavery and Abolition* 23, 2 (2010): 143–46.

³⁵ The authoritative work on “free Africans” is Beatriz Galotti Mamigonian, *Afrianos livres: A abolição do tráfico de escravos* (São Paulo: Companhia das Letras, 2017).

³⁶ See Chalhoub, “Precariousness of Freedom,” and *A força da escravidão*; Henrique Espada Lima, “Freedom, Precariousness, and the Law: Freed Persons Contracting out Their Labour in Nineteenth-Century Brazil,” *International Review of Social History* 54, 3 (2009): 391–416; Mamigonian, *Africanos livres*; Manuela Carneiro da Cunha, *Negros, Estrangeiros: Os escravos libertos e sua volta à África*, 2d ed. (São Paulo: Companhia das Letras, 2012). On the precariousness of freedom for contract laborers not necessarily of African descent, see Joseli Maria Nunes Mendonça, “Sobre cadeias e coerção: Experiências de trabalho no Centro-Sul do Brasil do Século XIX,” *Revista Brasileira de História* 32, 64 (2012): 45–60.

³⁷ AN, Fundo: Polícia da Córte, Códice 332, folhas 2–3. See Kristen Schultz, “The Crisis of Empire and the Problem of Slavery: Portugal and Brazil, c. 1700–1820,” *Common Knowledge* 11, 2 (2005): 264–82; Leila Mezan Algranti, *O feitor ausente: Estudo sobre a escravidão urbana no Rio de Janeiro* (Petrópolis: Vozes, 1988).

³⁸ On the French Code Noir and its relationship to both urban night and the question of race, see Koslofsky, *Evening’s Empire*, 270–71.

police forces did not formally exist, either by day or by night, until the nineteenth century, but nighttime patrolling has deep roots in Ibero-American history. In medieval Europe, guards and “armed notables” kept an eye on city gates by day, and at night unarmed guards patrolled to watch for fires, intruders, and other dangers. The Philippine Ordinances, the body of Portuguese law that was compiled in 1603 and held force in Brazil into the nineteenth century, stipulate rules for recruiting and controlling night patrols. In Lisbon and other large towns, men were subject to a public safety labor draft.³⁹ Nocturnal policing in colonial-era Rio de Janeiro included not just night patrols but also *capitães de mato*, or “bush captains,” men tasked with catching runaway slaves in the areas surrounding the cities.⁴⁰

When the Portuguese aristocrat and freshly appointed Intendente Geral de Polícia Francisco Alberto Teixeira de Aragão (1788–1847) issued his curfew edict on 3 January 1825, it came from both a long tradition of nighttime restrictions and the necessities of the growing city. The “Toque de Aragão” (Aragão’s Curfew), which remained in force for fifty-three years, made it a crime to be on the streets after the evening church bells.⁴¹ Its first article asserts the authority of police patrols to stop and search people and to apply coercive force: “All, with the exception of no person, who are found by any Patrolman, Guard, or Soldier of the police force, must obey when they are ordered to do so” and submit to being “questioned, searched, and presented to some Authority.” Failure to comply “shall be considered resistance for the purpose of being able to use force against those who are disobedient; and even violent means can be employed if required.” Six of the nine articles that follow lay out the parameters of the curfew and penalties for breaking it: fines for free persons, fines and flogging for the enslaved:

After 10 o’clock at night in the summer, and after 9 o’clock at night in the winter, until the dawn no one shall be exempt from being frisked, and stopped by the Police Patrols, and even before that hour if the person is under suspicion of carrying weapons or instruments to break into doors and rob houses. And so that everyone knows that it is 10 o’clock at night in the summer and 9 in the winter, the bells of the São Francisco de Paula Church and the São Bento Convent shall toll for a half hour without interruption, so that no one can allege not knowing the time.

Although the curfew edict required that “all, without exception” submit to police stops, it then warned that patrolling officers had to enforce these

³⁹ *Ordenações e Leis do Reino de Portugal Recopiados per Mandado delrei D. Philippe o Primeiro: Duodecima Edição, Segunda a nona* (Coimbra: Imprensa da Universidade, 1850), tomo 1, título 65, p. 17, pars. 13 and 14. On the late nineteenth and early twentieth centuries, see Marcos Luiz Bretas, *A guerra das ruas: Povo e polícia na Cidade do Rio de Janeiro* (Rio de Janeiro: Ministério da Justiça/ Arquivo Nacional, 1997), ch. 3., and p. 59, n17.

⁴⁰ João Paulo de Mello Barreto Filho and Hermeto Lima, *História da polícia do Rio de Janeiro: Aspectos da cidade e da vida carioca* (Rio de Janeiro: Editora A Noite, 1939), 36.

⁴¹ All references to the Toque de Aragão come from *Império do Brasil: Diário Fluminense* 1, 5 (3 Jan. 1825): 2–3.

restrictions selectively: “The Patrols must be given precise instructions not to abuse this measure, and it must not be applied to well-known persons or persons of integrity.”

The Toque de Aragão applied an ancient public security tactic, one tried and tested in Rio itself during the colonial period, particularly during moments of heightened concern about public order. In 1808, two months after the arrival of the Portuguese royal family in Rio, the police intendant Paulo Fernandes Viana had passed an edict prohibiting the operation of shops, taverns, and gambling houses after 10:00 p.m., so as to avoid “gatherings of idlers” and slaves shirking their work.⁴² While Aragão’s curfew was no innovation, it was part of a new process of modernization of the police rather than the preservation of old disciplinary methods. Tellingly, in addition to imposing the curfew, the edict also provided formal payments for police in exchange for their services; they had previously been remunerated mostly as privately funded bounty hunters or haphazardly through prizes or shares of seized property. Likewise, it drew into systematic, rule-bound policing the ancient idea of unequal justice. It sorted city residents into categories, each deserving their own treatment in ways that would have been clear to both those imposing the curfew and those subject to it. While the edict stipulates specific rules for enslaved people, it barely mentions the treatment of freed or free persons of color. In its subtext, however, their position rings out clearly. The discretionary power accorded to police, the usage of the word “blacks” (*pretos*) as implicitly synonymous with “slaves,” and the presumption of slave status for people of color meant that the edict built selective policing into the modernization of Rio’s police force. It established temporally designated legalities in Rio’s public spaces, where the exceptions were as important as the rules themselves.

The curfew effectively made a person a presumptive criminal when out in public after dark, but its regulations extended to the thresholds of houses and especially businesses that attended to the city’s poor. One of its articles reads: “After the evening church bells have stopped ringing, it is prohibited to linger without an obvious motive on corners, squares, public streets; to whistle, or to give any other signal. This prohibition extends to blacks and people of color even before this hour, but after it becomes dark.” It targeted not only those out in the city’s streets but also those in its interior, private, yet public spaces, particularly Rio’s many taverns and small shops: “Every person, who after the church bells is found in a shop, tavern, bar, or gambling house, shall pay [a fine]...; if the person is a slave (s)he shall be taken to the [slave prison called the] *callabouço* ... and punished by whipping.” The whipping would likely have been public, a practice only outlawed in 1886.⁴³ The

⁴² AN, Polícia da Corte, Código do fundo 0E, Códice 318, folha 11v.

⁴³ Holloway, *Policing*, 46–47.

edict decreed punishment for sellers and tavern keepers who allowed “at night, or in the daytime, inside or in the doorways of their shops or taverns, the gathering of people who are not buying anything, especially blacks.”

It was perhaps the interdiction against going into the streets that drove slaves and people of African descent into taverns and small shops to avoid flogging and socialize away from the public gaze. Authorities worried constantly about “Africans” and “blacks” in shops and taverns, and the archive shows that they did indeed frequently congregate in these small commercial establishments, both by day and by night, since, contrary to the law, many apparently remained open after curfew.⁴⁴

Over time, authorities tinkered with the curfew and enacted subsequent edicts and ordinances that limited nighttime movement. Rio’s police chief ordered a new curfew in 1831 in response to a wave of political turmoil, changing the time from 9:00 or 10:00 p.m. to sunset, which usually came at around 6:30 p.m., but applying it only to slaves and sailors. Police did, in fact, carry out the instructions first made official in Aragão’s edict, both immediately after its publication and over the following decades. Numerous cases in Rio’s police records during this period include people caught “walking around in the street after hours” (“*andar na rua fora de horas*”) who were arrested, sent to jail, subjected to whipping (when the people arrested were enslaved), and forced to labor on the Imperial Court’s many public works: building roads, maintaining public squares, and building and repairing the city’s fortifications.⁴⁵

No statistics exist to indicate how many people the police arrested for breaking the curfew, but we can count the numbers recorded in sporadic, narrative police reports. Of the 224 persons arrested during just one week in 1831, for example, thirty-four were apprehended for violating the curfew, as opposed to thirty-five for vagrancy and twenty-five for weapons possession, the other most common categories. In 1862 and 1865, curfew violation was the single most common reason for arrest, followed by vagrancy. In both of those years, about a quarter of all arrests were curfew violations. Throughout this period, police arrested more slaves than free persons for breaking the curfew.⁴⁶ As with any type of criminal statistic, we cannot know whether a relative prevalence of police stops indicates the frequency of actual behavior or

⁴⁴ AN, Códice, 327–3; Polícia da Córte, OE, 327, vols 1 and 2, CODES.

⁴⁵ Most of these cases are found in the Brazilian National Archive’s collection called “GIFI” (Grupo de Fundos Identificados), which contains the records from the Ministry of Justice and the municipal police (Polícia da Corte). See also AN, Fundo: Polícia da Córte, Códice 330, vol. 7, n.p.; AN, Polícia da Córte, Códice 339, f. 39; AN, Polícia da Córte, código 323, vol. 8, f. 40; AN, Polícia da Córte, Códice 323, vol. 9, f. 27; AGCRJ, Códice 40.3.78, f. 2. On impressment into the navy for curfew-breaking, see Saulo Álvaro de Mello, “Eugenia na Marinha Imperial Brasileira, 1822–1910,” paper presented at Associação Nacional de História (Brasil), 2011.

⁴⁶ Holloway, *Policing*, 198, 201.

disproportionate persecution. Rio's major newspapers indicate the likelihood that those who were effectively immune from the curfew frequented Rio's streets after dark; advertisements appear daily for evening classes and theater performances and the arrival of ships, for example, documenting the functioning of the city "after hours."

The police archive breathes some life into the spotty numeric data, showing how police targeted and harassed people of color after dark. An official communication from a district magistrate to the police chief raised alarm about "public gatherings of blacks," "especially at night," and insisted that "all of these blacks that are found" be "apprehended and taken from wherever they are, whether in the streets or in a tavern, and the taverns that let them in should be criminally prosecuted."⁴⁷ References in police records to individual arrests rarely exceed one sentence.⁴⁸ Such cases were adjudicated on the street and never reached a court of law; the suspects were never put through the criminal procedures that would have generated more than a few lines in a daily police logbook.

Each night, church bells filled the air with the unifying sound of moral and political authority and of the spatial and moral centrality of the church to the community. Even without the ambient urban noise of today, the reach of the bells in this hilly and relatively windless city would probably have been only a one mile or so. This "speaking architecture," to borrow the term the art historian Niall Atkinson used in his study of civic bells and urban political power in Renaissance Florence, tells of the curfew's spatial focus: the center of the city, but not its rural hinterlands.⁴⁹ Rio's streetlamps were likewise concentrated in the central neighborhoods, even as they proliferated in the decades when the curfew was in effect. The nighttime as a legal phenomenon was a space demarcated by sound but mitigated by light. Authorities endeavored to illuminate the darkness and extend the time for work and leisure for some, even as they reinforced the day and night divide for others. As Rio's residents navigated the city, they would have known about its different temporal regimes and the spatial as well as the racial unevenness with which the curfew was applied.

AFTER HOURS

The curfew was never intended to keep the streets empty after dark. Instead, the Toque de Aragão sought to control Rio's population while accounting for the need to differentiate between classes of people who shared the city's public spaces. In other words, this rule was imposed not despite Rio's nascent

⁴⁷ AGCRJ, Códice 40.3.78, f. 2, Ofício de 18 de junho de 1836.

⁴⁸ See, for example, AN, Fundo: Polícia da Côrte, Códice 330, vol. 7.

⁴⁹ Niall Atkinson, "Sonic Armatures: Constructing an Acoustic Regime in Renaissance Florence," *Senses and Society* 7, 1 (2012): 39–52.

nocturnal public life but because of it. The night was a time of work and production, and of leisure activity, too, but one when, as we have seen, the presumption of the need to move about the daytime city freely gave way to the anticipatory and officially sanctioned fear of anyone who did not appear to be “of integrity.”⁵⁰ The fear of arrest and physical violence, in turn, would have structured the decisions that workers who needed or wanted to use the city’s public spaces at night had to make.

Rio’s authorities controlled the city’s daily rhythm through criminal interdictions, and also through a myriad of rules that segmented the day and limited activities in time. As the historian Mark Smith has shown in his study of the antebellum U.S. South, one did not have to labor beside a ticking factory clock to have an awareness of mechanical time. Church bells and the imposition of a time regimen enforced by the whip could serve similar purposes.⁵¹ Mechanical clocks were a rarity in Rio, but the city had long since abandoned the natural cycles of “sun time” as the principal means of determining and imagining daily time and regulating and measuring the work day. Keeping time was paramount in the South Atlantic’s premier commercial port, for both navigation and commerce. Municipal regulations concerning the opening and closing times of public markets and taverns, the entry and departure of ships in the harbor noted in the daily newspapers, and of course the echoing church bells that signaled the nightly “shutting in” were all measured in hourly time.

The time discipline imposed on the workday was neither purely task-oriented nor purely clock-oriented, but rather combined both.⁵² A multiplicity of temporal regimes ruled nineteenth-century Rio. A brief survey of the types of labor that kept the city functioning makes clear that the daily rhythm of work extended beyond the period “from sun to sun,” to use a nineteenth-century astronomical expression for daytime. The only national census taken during the Empire in 1872 shows that a miniscule proportion of Rio’s 37,576 enslaved persons were involved in artisanal or industrial production.⁵³ The others worked according to schedules determined by various factors. Ships arrived mostly but not exclusively during the day; carriers, who performed one of the principle types of physical labor in demand in

⁵⁰ Article III of Aragão’s *edital* reads: “As Patrulhas se hão de dar as precisas instruções, para que se não abuse deste medida, sem se adopte para com as pessoas notoriamente conhecidas, e de probidade”; *Império do Brasil*, 2–3. See, for example, AGCRJ, Código 40.3.78, folha 2.

⁵¹ Mark Smith, *Mastered by the Clock: Time, Slavery, and Freedom in the American South* (Chapel Hill: University of North Carolina Press, 2007).

⁵² E. P. Thompson, “Time, Work Discipline, and Industrial Capitalism,” *Past and Present* 38 (1967): 56–97.

⁵³ *Recenseamento Geral do Império do Brasil* (Rio de Janeiro: Imprensa Nacional, 1872). There had been attempts to count the population in the eighteenth and early nineteenth centuries; Nireu Cavalcanti, *O Rio de Janeiro setecentista: A vida e a construção da cidade da invasão francesa até a chegada da Corte* (Rio de Janeiro: Jorge Zahar, 2004), 253–58.

nineteenth-century urban Brazil, met the vessels whenever they arrived. For fishermen, the tides, not the sun, determined the start and end of the workday. When night fell, lamplighters made their rounds, lighting and then, before sunrise, extinguishing the whale oil and gas lanterns in the city's central streets.

The largest number of enslaved persons in nineteenth-century Rio labored in domestic service, and the reliance on enslaved workers for all kinds of tasks brought domestic slaves into the streets around the clock. They ran errands, delivered messages, carried goods, gathered water, and disposed of household waste. Masters appeared to have ignored the curfew in sending enslaved workers into the streets at night, sometimes intentionally in search of the cover of darkness. On several occasions in the municipal records in 1842, for example, the enslaved were detained, and their masters fined, for illegally dumping garbage on the streets after the evening church bells.⁵⁴ The selective application of the curfew allowed for some negotiation. In that same year, an enslaved woman named Ermelinda was arrested for being out after hours and, making matters worse, throwing water in the street that had been used to wash feet. She was detained for several weeks in the Public Warehouse (Depósito Público), a judicial depository for property that was either unclaimed or under legal dispute, until her master paid a fine.⁵⁵ In 1878, a freed domestic worker named Ana Maria de Jesus, in a legal complaint she lodged against her employer for unpaid wages, used as evidence of her onerous working conditions the fact that her job required her to gather kindling and remove trash in the street "after hours."⁵⁶ She understood the risks of being in the streets at night: the humiliation of body searches, arrest, possible flogging, and even re-enslavement, which was a common occurrence.⁵⁷ The interdiction against being out at night added yet another element of danger to the jobs of the enslaved and people who might be incorrectly identified as slaves.

Perhaps above all, the prevalence of people of African descent who performed odd jobs in the streets as vendors and tradesmen, and women street traders called *ganhadores* (or sometimes *negros de ganho*), determined both the rhythm of daily labor and the perceived need to control workers "after hours." *Ganhadores* do not appear separately in the census returns, but by all other accounts, in the mid-nineteenth century they were one of the most characteristic features of Rio's urban landscape. They were mainly enslaved workers (although later in the century most were freedpersons) who depended

⁵⁴ AGCRJ, Códice, 6.1.45, folhas 2, 5.

⁵⁵ *Ibid.*, folha 14.

⁵⁶ AN, Relação do Rio de Janeiro, Código do fundo 48, caixa 187, no. 2587, Ano 1878–1880, Galeria c, Apelação Civil.

⁵⁷ Chalhoub, *A força da escravidão*; Chalhoub, *Visões da liberdade*; and Keila Grinberg, "Re-escravização, direitos, e justiça no Brasil do século XIX," in Sílvia Lara and Joseli Mendonça, eds., *Direitos e justiças: Ensaios de história social* (Campinas: Editora da Unicamp, 2006), 101–28.

on permission from a guarantor to walk the streets selling goods or performing services for cash.⁵⁸ Labor discipline was entangled with the continual conflict between the state and slave owners over their human chattels. A master could give written permission to his or her slave to be out after dark, an exemption that the police appear to have honored. Such a note could prevent a flogging, but non-enslaved or freed persons of color who were subject to the curfew but often lacked a patron to vouch for them did not benefit from such protections.⁵⁹ The curfew did not necessarily prevent people from carrying out their work after dark in the city's public spaces. It did, however, redistribute the perceived risk of having Rio's most oppressed workers walk the streets during the day by coercing them to return at sunset; some of the burden of this risk fell upon slave owners and guarantors, but most of all it rested on those who could be accosted, searched, and flogged by the police for breaking the curfew.

THE DEATH OF JOSÉ NABO, AND THE AFTER-DARK LIFE OF THE CITY

If some types of labor might be required after nightfall (like that of midwives), others were explicitly needed only after dark: in particular the workers who lit, tended, and extinguished the public lanterns that spread throughout the city center in the course of the century.⁶⁰ After the Viceroy introduced public illumination to Rio in 1790, while it was still under Portuguese colonial rule, the process of installing whale oil-burning street lanterns began. This service was funded and controlled in turns by the police, the Municipal Chamber, or a series of government ministers. In 1827, the city's public spaces had 620 lanterns, whose installation was contracted out to a private company.⁶¹ Classified announcements in Rio's daily newspapers reveal that already in 1830 streetlights had become a common feature of the landscape, which readers used as a reference to instruct their interlocutors about where to go ("the house with the streetlamp") to explain a meeting place, exchange information about something for sale, or return a lost item to its owner.⁶²

Rio converted to gas lighting beginning in the 1850s. Public illumination fell within the purview of the police, who took most of the responsibility for its

⁵⁸ Patricia Acerbi, *Street Occupations: Urban Vending in Rio de Janeiro, 1850–1925* (Austin: University of Texas Press, 2017); da Silva, *Negro na rua*; Mieko Nishida, *Ethnicity, Gender, and Race in Salvador, Brazil, 1808–1888* (Bloomington: Indiana University Press, 2003), 19–21; Luiz Carlos Soares, "Os escravos de ganho no Rio de Janeiro no sec. XIX," *Revista Brasileira de Historia* 8, 16 (1988): 107–42.

⁵⁹ One municipal ordinance reads: "Every slave that is found after 7 o'clock in the evening without a note from his or her master, dated from that same day declaring the destination where he or she is going, will suffer eight days of prison, at the cost of the master"; *Código de Posturas de 1838*, Seção Segunda—Policia, Título VII, artigo 6°.

⁶⁰ On midwives being permitted to enter the streets after curfew, see AN, Maço IIJ6 211.

⁶¹ AN, Policia da Côrte, Código 336.

⁶² These announcements appear throughout the classified sections of the *Jornal do Comércio* from January through February 1830.

management.⁶³ In 1851, when the city signed a concession contract with a private entrepreneur to light the city with gas, the lanterns already numbered in the hundreds. By 1857, the city's urban districts had nearly three thousand gas lanterns, and someone had to tend to them.⁶⁴

Unlike during colonial times, when public lighting was strictly a private affair, the government controlled the illumination of the city streets, a service that depended heavily on captive labor. For this work Rio relied on enslaved workers (rented from their private owners) and workers captured from the illegal slave traffic and sent into forced labor, the so-called *africanos livres*. In the words of one contemporary, "The lamplighters were slaves, who as a rule slept on the sidewalks, covered with oil, which was one of the saddest spectacles in the city."⁶⁵ The archival record does not reveal the numbers of lamplighters working at any given time, but administrative records show how the public illumination service functioned from the period of its expansion in the 1830s onward. The city was divided into districts, each assigned to an overseer responsible for approximately six "servants" for every eighty lanterns. According to an 1830 government contract, "Illumination shall begin as quickly as possible in all districts of the city before it becomes completely dark, and the lanterns must stay lit until dawn or until the appearance of the moon."⁶⁶ A partnership between the police, the administrators of the *africanos livres*, and the Public Illumination Service was firmly established by the 1840s. Scores of documents refer by first name to an *africano livre* "who is suitable to perform service in Public Illumination."⁶⁷

If by the 1830s Rio's lampposts became references that city residents often called upon to find their way, and fixtures in the popular urban imagination, so did the workers who made their rounds each evening to light and then extinguish the lanterns on top of them. Lamplighters could, and in fact were forced to, move about the city after dark. They led the city through the transition from day to night. We can reconstruct their roles in the first century of public illumination through a combination of folklorists' writings and popular imagery, and the perfunctory bureaucratic documents assigning them

⁶³ Rio's first police force, the Intendência Geral da Polícia, followed a model borrowed from eighteenth-century Portugal via Bourbon France, which assigned to the police a wide range of administrative responsibilities, including public works and lighting. See Schultz, *Tropical Versailles*, 276–77; Holloway, *Policing Rio*.

⁶⁴ Centro Cultural da Light, "A iluminação no Rio de Janeiro," unpub. MS; AGCRJ, Códice 8.4.58, folha 49; AGCRJ, Códice 8.4.58, folha 70; AGCRJ, Códice 8.4.57, folha 3; AGCRJ, Códice 8.4.57, folhas 27–29.

⁶⁵ The quotation is from an unnamed source and is dated 1838. It is cited in Americo Jacobina Lacombe, "A iluminação do Rio com óleo de baleia," *Revista Light* (Jan. 1933), 27.

⁶⁶ The contract is reprinted in the newspaper *Jornal do Comércio* 1, 20 (27 Jan. 1830): 1–2, under heading "Parte Comercial."

⁶⁷ See, for example, AN, Gifi, caixa 5B 519; AN, IJ6 211; AN, IJ6 216. AN, Polícia da Côte 232, vol. 8, n.p., AN IJ6 215.

tasks and accounting for their labor.⁶⁸ This material generally reveals little about lamplighters' lives or how they themselves used the city.

In 1848, however, two lamplighters were accused of murder.⁶⁹ Police led Pedro Congo, an African-born enslaved man, out of the cell where he was held in Rio de Janeiro's House of Correction for interrogation. He affirmed during his questioning that he was a slave who lived in the city center in the home of a man named only as Mister (*Senhor*) Paranhos while his master traveled overseas, and that he worked as an *ascendedor de lâmpioes*, a lamplighter; he lit the whale oil lanterns on a single street in the city center. When he had tended to the flame for the last time at about one in the morning and his nighttime work was done, he explained, he walked with three fellow lamplighters, also slaves, to the Oil Warehouse to rest, hours after the evening church bells would have signaled the start of curfew.

On this day, Pedro Congo testified, rather than proceeding straight to the Oil Warehouse, he and one of the other men paused at the door of a small shop located along his route because something caught his eye: he saw a "*pardo*" (brown-skinned man) named Francisco positioned "half in and half outside the door." The two lamplighters went closer to the store, when Francisco said he and another man known as "Vira Mundo" had killed the cashier and shop assistant there, José, commonly known as "José Nabo," or Joe Turnip. Francisco offered both lamplighters "ten bucks and asked them to keep quiet." Francisco and Vira Mundo had been heard on the street corner the night before, according to Pedro Congo, plotting to murder José and rob the shop. Pedro's testimony continues: After discovering this murder and being paid off to keep silent, he and his partner Antonio proceeded with their nightly rounds. They returned the lanterns and rope used to light the street-lamps, they extinguished the lanterns, and finally they went back to the warehouse, where they probably spent the rest of the night.

As police interrogated lamplighters involved in the case one by one, details emerge about the rhythms of their nightly work and the various forms of syncopation that they introduced to these patterns. We learn from this testimony that each of these enslaved lamplighters worked a stretch of urban territory encompassing not much more than a few blocks and a public plaza. And each night after they walked along their designated streets and squares lighting and tending to the lanterns, they went back to the warehouse, but not always directly. Some stopped to drink water at the public fountain at the Largo do Paço, a major meeting place in the center of a large, public square. Some

⁶⁸ See Amy Chazkel, "Imagens nostálgicas: Os ascendedores de lâmpião na Revista *Light*," in Andrea Casa Nova Maia, ed., *O mundo do trabalho nas páginas das revistas ilustradas* (Rio de Janeiro: Editora 7 Letras, 2016).

⁶⁹ All references to this murder case come from AN, IJ6 211. I am grateful to Sidney Chalhoub for bringing this document to my attention.

explained in elaborate detail the circuitous routes they took before finally coming to rest in the warehouse. One said that when his work was done, he stopped at the murdered José Nabo's shop, which doubled as a tavern, "because he wanted to drink something, and he knew that shop and the cashier." This group of enslaved nocturnal workers had a special relationship with the shop and with José Nabo, its shopkeeper. The two lamplighters who "were closest friends with José, often used to sleep there in the back of the store during the day, and to sew his clothes for him." In fact, José Nabo's shop served as a major meeting point for the neighborhood; one of the suspects testified that he "went to the shop almost every day, sometimes in the daytime and sometimes at night."

The case also reveals the ways the two accused, Francisco and Vira Mundo, moved through the nocturnal city. Francisco, nineteen-year-old free *pardo*, lived in the kitchen of a nearby *casa de pasto*, a sort of proto-restaurant, near José Nabo's store, performing odd jobs there in the day and probably sleeping on the floor at night. Both of the accused were among the frequent clientele of José Nabo's shop. When asked if he knew Vira Mundo, Joaquim, another enslaved lamplighter implicated in the murder, said that "he knew him for a long time, and that he always used to walk around looking very dirty, and that after he heard that this robbery had taken place, he started to walk around all spiffy and with his clothes pressed." Vira Mundo, when questioned, testified that he had known the murdered José for four years, that he frequented the tavern, and that he often bought items there on credit.

Vira Mundo and Francisco protested their innocence, but, as with too many of these precariously preserved manuscript police investigation records, there seem to be no surviving records of the outcome of this case. Yet, for the purposes of this analysis, the judge's verdict is less important than the details revealed along the way. Lamplighters plied the streets every night technically breaking the law; they made their rounds of the city during the hours when normal rules were suspended and the enslaved and persons of color would be flogged for being caught in public. It seems that, ironically, the urban residents who best embodied the use of the resource of darkness were the very ones whose job it was to illuminate the city, to render it useable for members of that privileged minority allowed to be in the streets at night. Although lamplighters' nightly labor was circumscribed, the testimony in this murder case makes clear that they made numerous independent decisions along the way about their routes, peripheral activities, and companions.

THE FREEDOM TO COME AND GO

The ability of Vira Mundo and Francisco to move about the city at night, to make friends with tavern-keepers, and to improvise new routes back and forth in their nightly rounds should not simply be taken as evidence to restate a truism about the relative freedom of urban slavery. The intense

social interaction and relative freedom of urban as opposed to rural slavery have become an accepted and sometimes unspoken supposition underlying much historical writing on the subject, for Brazil and throughout the Atlantic World.⁷⁰ This historical debate is complicated, though, when we consider not only urban space but also urban time. The relative freedom of urban slavery stopped at nightfall. Moreover, for free persons of color, the nighttime exacerbated their precarious condition and imposed risks and limits on their ability to move around and gather in public.

It is unsurprising that in a city so dependent on captive labor authorities imposed rigorous social control measures on its enslaved residents, with little controversy or debate. Even as the institution of slavery lost legitimacy in the course of the mid-nineteenth century, the general view of slaves as public enemies, seeking to upend the social order, prevailed in the law as it was applied in the courtrooms and on the streets.⁷¹ It is notable here that the curfew treated some slaves as freepersons and some freepersons as slaves. This legal confusion was useful; it effectively reconciled the ubiquitous presence of rightless workers with the needs of a modernizing commercial center and the high-minded liberal constitutional principles of the new nation.

Independent Brazil's founding document, the Constitution of 1824, guaranteed "inviolable" civil and political rights that "shall apply equally to all," as well as the right to property and freedom of religious practice, albeit qualified by questions of morality and "respect" for the "state." The freedoms of movement and assembly, expressed as the "freedom to come and go" ("*liberdade de ir e vir*"), are only directly addressed in the Constitution as a right to leave the country. Not until the first Republican Constitution in 1891 were Brazilians guaranteed the freedom of assembly. Nor did the Constitution of 1824 explicitly grant the right to Habeas Corpus, the principle evoked when one's freedom of movement is threatened with violence or coercion.⁷² In short, that constitution did not guarantee the freedom to move about, or gather in, the city's public spaces. On the contrary, the Brazilian national Criminal Code of 1830 specified

⁷⁰ See, for example, Algranti, *O feitor ausente*; Mariana L. R. Dantas, *Black Townsmen: Urban Slavery and Freedom in the Eighteenth-Century Americas* (New York: Palgrave MacMillan, 2008). For a nuanced analysis of the mobility of enslaved people in urban space, see Rashauna Johnson, *Slavery's Metropolis: Unfree Labor in New Orleans during the Age of Revolutions* (New York: Cambridge University Press, 2016).

⁷¹ Perdigão Malheiro writes, "In all countries where this cancer [of slavery] has been introduced, the slave is reputed to be not only a domestic enemy but also a public enemy, ready at any time to rebel, to rise up in rebellion"; *Escravidão no Brasil*, 32. See also Célia Maria Marinho de Azevedo, *Onda negra, medo branco: O negro no imaginário das elites—século XIX* (São Paulo: Annablume Editora, 1987).

⁷² *Constituição Política do Império do Brasil* (25 Mar. 1824), Título 8º, arts. 178 and 179, accessed at http://www.planalto.gov.br/ccivil_03/constituicao/constituicao24.htm (accessed 25 Aug. 2019). See L. de Mello Aguirre and E. Francisco Volpato, "A influência do liberalismo na primeira constituição brasileira," *Contribuciones a las Ciencias Sociales* (June 2014), www.umed.net/rev/cccss/28/direitos.html (accessed 25 Aug. 2019).

interdictions against and punishments for “illicit gatherings”⁷³ and “gatherings that become suspicious for public order,” and, “prohibits nighttime gatherings of five or more persons that do not have a recognized and justified purpose in streets, city squares, and roads.”⁷⁴

Although far from being settled law, the free association and comings and goings of the enslaved and free poor, by both day and night, generated much concern in Brazil’s capital in the decades after independence.⁷⁵ Local authorities’ approach to governance turned on their control of individuals’ physical movements in Rio’s public spaces. Historians have documented a surge in arrests of people of color in the 1810s and throughout the following decades for “gatherings” (*ajuntamentos*) and for *batuques*, a form of Afro-Brazilian drumming and dance.⁷⁶ The city’s most marginal laborers, enslaved and freedpersons and the free poor, for their part claimed their slice of urban terrain and their customary right to make use of it, and to move around in and through it.⁷⁷ In numbers impossible to recover, fugitives from slavery had an important impact on the governance of the freedom to come and go. To use the historian Sidney Chalhoub’s evocative term, Rio’s “hideout city” (*cidade esconderijo*) within a city sheltered those fleeing captivity. Hidden in plain sight among a mixed population of enslaved and free people of African descent, through their ability to move around the city and in and out of it, runaways tried with at least temporary success to pass as free as they sought work or housing. Rio provided a refuge, but the other side of this coin was that authorities and slave owners acted with a pronounced distrust of people of color.⁷⁸

Although both enslaved and free persons had to circulate in the city as a matter of logistical necessity, slave owners and police did subject persons under their control to surveillance in the daytime, too. The Municipal Chamber produced great volumes of rules that governed urban commerce and public order in ways that inhibited the freedom not just to come and go

⁷³ Thomas Alvez Junior, *Anotações Theóricas e Práticas ao Código Criminal*, tomo IV (Rio de Janeiro: B. L. Garnier, 1883).

⁷⁴ *Código Criminal do Império do Brasil* (Lei de 16 Dec. 1830). Accessed at http://www.planalto.gov.br/ccivil_03/leis/lim/LIM-16-12-1830.htm (accessed 25 Aug. 2019).

⁷⁵ These concerns echo in the police and judicial archives. See, for example, AN, Códice 339, vol. 2: “Portarias, 1841–1850.”

⁷⁶ Juliana Barreto Farias, Carlos Eugênio Líbano Soares, and Flávio Santos Gomes, *No labirinto das Nações: Africanos e identidades no Rio de Janeiro, século XIX* (Rio de Janeiro: Arquivo Nacional, 2005), 88–90. On the control of movements of enslaved workers and foreigners, see AN, Códice 339, vol. 2, “Portarias, 1841–1850.”

⁷⁷ João José Reis, “‘The Revolution of the *Ganhadores*’: Urban Labor, Ethnicity, and the African ‘Strike’ of 1857 in Bahia, Brazil,” *Journal of Latin American Studies* 29, 2 (1997): 355–92; Flávio dos Santos Gomes and Carlos Eugênio Líbano Soares, “‘Dizem as quitadeiras’: ocupações urbanas e identidades étnicas numa cidade escravista, Rio de Janeiro, século XIX,” *Acervo* 15, 2 (2002): 3–16; Edison Nunes Santos Junior, “Direitos e cidadania no Rio de Janeiro: poder e disputas por espaços na Praia de Saúde em 1841,” *Mundos do Trabalho* 9, 18 (2017): 63–79.

⁷⁸ Chalhoub, *Visões da liberdade*. See also Farias, Soares, and Gomes, *No labirinto das Nações*, 35–49, 67–93.

but also to shout, whistle, or drink in a tavern. Municipal ordinances addressed everything under the sun. They did not, however, specify restrictive rules that only applied in daytime, and although they sanctioned many kinds of behavior, all that was not explicitly prohibited was permitted. By contrast, local authorities prohibited every sort of movement and gathering in public after nightfall. It was then up to the police, slave owners, and elite guarantors to grant exceptions. The customary right to come and go, *de facto* although not *de jure*, was established during the dark hours when the law had nothing straightforward to say.

The imposition of a curfew during certain hours and for certain people conditioned the daily work and leisure routines of the city's most socioeconomically vulnerable and reminded people every day that some were more equal than others. In a letter published in the newspaper *Correio do Rio de Janeiro* in 1823, João José Pereira, a free man of African descent, complains:

I have heard that every free man who has born on Brazilian soil is a citizen, as are his sons and slaves who are able to obtain their emancipation. But how is it, Mr. Editor, that when a Black man is given a military insignia and the corresponding honors related to his rank or his service in the Militia, or in the Church, or in Letters, how is it permitted that this man should be with his wife and children in his box in the Opera theater being liberally subjected to rude indiscretions and the greatest insults, when the poor man just wants to enjoy and educate himself in that opera house?... Is equality an empty word?⁷⁹

As the night was "colonized" for pleasure activities as well as for work and for worship, this letter to the newspaper editor expresses eloquently its author's understanding of citizenship rights in the post-colonial Brazilian city and the freedom to enjoy unfettered and equal access to it.⁸⁰ In the day and at night, the freedom to come and go was only an implicit constitutional principle; the day-to-day rules of conduct issued in the form of police edicts and compiled in city ordinances are what established, and moreover limited, these freedoms. Municipal authorities' ability to suspend the freedom to come and go eclipsed the national-level public law's will and ability to guarantee it.

CONCLUSION

Rio's police revoked the curiously prolonged curfew with the stroke of a pen in 1878.⁸¹ Considering the many lives this regulation had touched, it ended with little fanfare. By the late 1870s, the city had ample public lighting and an active

⁷⁹ Cited in Gladys Sabina Ribeiro, "Linguagens e práticas da cidadania no século XIX," in Gladys Sabina Ribeiro and Tania Maria Bessoni da C. Ferreira, eds., *Linguagens e práticas da cidadania no século XIX* (São Paulo: Alameda Casa Editorial, 2010), 15.

⁸⁰ Melbin, *Night as Frontier*.

⁸¹ On the revocation of the curfew, see Amy Chazkel, "The Invention of Night: Visibility and Violence after Dark in Rio de Janeiro," in Gema Santamaría and David Carey, Jr., eds., *Violence and Crime in Latin America: Representations and Politics* (Norman: University of Oklahoma Press, 2016), 153–55.

and growing entertainment culture.⁸² Perhaps the end of the Toque de Aragão attracted so little attention from newspapers and chroniclers because it seemed inevitable. A curfew, after all, can be reasonably seen as a premodern mechanism of urban governance, because it takes for granted the stark separation between day and night—the absence of commercial life after dark, for example—and because it conflicts so violently with the liberal freedoms of movement and association that characterize the modern era.⁸³

Just as striking as the unbroken length of time during which the Toque de Aragão was in effect is the absence of commentary on it and the general lack of recognition of the active, albeit clandestine, street life that brought people into the city's public spaces after the curfew bells to work and to socialize. Evidence of both the curfew's powerful effects and the many violations of it is present but must be creatively teased out of the archival record that documents the day-to-day policing of the city. As I have noted, jurists also found the matter unworthy of their paper and ink. Why were both the curfew and the countless curfew-breakers so invisible to some observers? Perhaps so few remarked on the curfew because it seemed so mundane. It formed part of the urban landscape like the streets that people passed through and, moreover, like the rivulets, walls, and granite hills that they had to cross or circumvent. It is possible, too, that the curfew and the men and women who violated it over five decades have remained largely hidden from historians' view because they were the products of municipal regulations that may have seemed, incorrectly, to offer little help in answering weighty questions with trans- or supra-local repercussions. Furthermore, urban historians have been primarily preoccupied with space and have not taken seriously the element of time in examining the perennial themes of the contestation over power and the production and reproduction of social inequality, even though it is precisely the rhythm of daily life that appears most vividly when we chose to delve more deeply into the question of "municipal power." The police and the Municipal Chamber established rules about opening and closing times and a curfew; nowhere in those same police records that document police accosting curfew-breakers does there appear a single arrest for entering forbidden territory in the city's public spaces.

As a case study in the invention of the urban nighttime as a social and legal phenomenon, Rio de Janeiro under the Toque de Aragão is far from exceptional

⁸² On public entertainment in nineteenth-century Rio de Janeiro, see Sílvia Cristina Martins de Souza, "Com um olho no entretenimento e outro na política: História, teatro, e cotidiano politizado no Alcázar Lírico (Rio de Janeiro, década de 1860)," *Baleia na Rede: Estudos de Arte e Sociedade* 9, 1 (2012): 16–33; Andrea Marzano, *Cidade em cena: o ator Vasques, o teatro e o Rio de Janeiro (1829–1892)* (Rio de Janeiro: Folha Seca/FAPERJ, 2008); and Fernando Antonio Mencarelli, *A Cena Aberta: A interpretação de "O Bilontra" no teatro de revista de Arthur Azevedo* (Campinas: Editora da Unicamp, 1999).

⁸³ See Peter Goodrich, "Signs Taken for Wonders: Community, Identity, and a History of Sumpuary Law," *Law and Social Inquiry* 23, 3 (1998): 707–28.

despite its unusually long duration. Studies of other cities have mentioned, although always in passing, the existence of municipal regulations that criminalized the act of being out in the streets after dark in the nineteenth and even the twentieth centuries; these places include New Orleans, Lisbon, Washington, D.C., and London, not to mention other cities in Brazil.⁸⁴ In the modern, industrializing era, nighttime curfews were a resource available to authorities in cities throughout the world, and one for which they did not hesitate to reach.

Those decades during which the Toque de Aragoão was in force coincided with a particularly interesting global moment for taking time seriously as the world underwent a transition from living by the sun to living by the watch and stood on the cusp of a global move to standardize time. This process culminated in 1884, with the adoption of Greenwich Mean Time and in the 1910s with the implementation of daylight savings time and a system of time zones. The global standardization of time reveals a widespread understanding of the socially and politically constructed and manipulable nature of daily time and how it is calculated and regulated. As the historian Vanessa Ogle has shown, the standardization of time (in the creation of time zones, for example) felt necessary to national leaders in the late nineteenth century to allow the world's vast multiplicity of local times to converse with each other; to ensure safe and efficient rail travel; to facilitate telegraphy; and for certain types of commerce and the emerging practice of financial speculation to function. This process was far from uncontested; local times meant the comfort of daily routines and adhering to them meant resistance to various forms of imperialism. What resulted from this period's push toward standardization was not a truly standardized globe but a "pluralistic" one.⁸⁵ And, I would add, this "temporal pluralism" occurred at the very local level, too.

The changing rhythm of the workday, along with changing social expectations and mores, brought about a nocturnal public culture in Rio by the middle of the nineteenth century. The curfew was still in effect then, and police patrols routinely stopped people on the streets "after hours." The night, for some, became a time of leisure, as opposed to the daytime as a time of work. As counterintuitive as it may seem now, if we return to the mid-nineteenth century, we can see that the imposition of a curfew and the

⁸⁴ See, for example, Edward Baptist, *The Half Has Not Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014), 60; Beaumont, *Nightwalking*; Gladys-Marie Fry, *Nightriders in Black Folk History* (Raleigh: University of North Carolina Press, 2001), 89–91; Maria Alexandre Lousada, "Una nuova grammatica per lo spazzio urbano: La polizia e la città a Lisbona, 1760–1833," *Storia Urbana* 108 (2005): 67–85.

⁸⁵ Vanessa Ogle, "Whose Time Is It? The Pluralization of Time and the Global Condition," *American Historical Review* 120, 5 (2013): 1376–402; and *The Global Transformation of Time, 1870–1950* (Cambridge: Harvard University Press, 2015). My thinking about the concept of pluralism and urban history has been informed by my reading of Hendrik Hartog's classic article, "Pigs and Positivism," *Wisconsin Law Review* 917 (1985): 899–935.

“nocturnalization” of urban public life formed two sides of the same coin.⁸⁶ Although the curfew might seem like a holdover from an ancient form of social control, the sociolegal distinction between day and night created, or at least made possible, a multilayered modern city.

Abstract: During much of the nineteenth century, Rio de Janeiro, the Brazilian capital, was under a selective curfew that made it a crime to be in the city’s public spaces after dark. The curfew bent normal rules and attenuated supposedly universal rights, overtly discriminating between people on the basis of class and race. Rules that legally defined the nighttime did not come from any national statute, or from newly independent Brazil’s liberal Constitution (1824) or its Criminal Code (1830). Instead, Rio’s nocturnal sociolegal world was the product of police edicts, on-the-ground policing practice, and city ordinances. It also emerged from the actions of people who used the darker hours for work, play, and resistance against oppression, especially members of the city’s immense enslaved population and the growing number of free persons of African descent. In other words, this is a phenomenon of urban governance that allows, and indeed forces us to look beyond the nineteenth-century nation-state to understand the exercise of power at a local level. This article explores how the curfew established patterns and means of limiting the basic freedom to move about the city. It was at night when both the necessity and fragility of what jurists in Brazil called the “freedom to come and go” came into view. The daily transition between day and night enacted juridical changes that, although invisible at the national level, fundamentally shaped the social categories that determined people’s places in society in ways that historical research has yet to explore.

Key words: nightlife, urban history, temporality, Rio de Janeiro, Brazil, rule of law, curfews, policing, history of crime, states of emergency

⁸⁶ I borrow the term “nocturnalization” from Koslofsky, *Evening’s Empire*.