

## **LAW, RAPPING AND SOCIAL JUSTICE: RETHINKING TRUTH IN CONTEMPORANEITY**

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### **Abstract**

Our criminal justice system produces socially naturalized truths which authorize certain subjects' discourse, and silence others'. Rapping, as a counterculture, produces resistance from peripheral spaces in the complex power and knowledge net around us. Rap lyrics problematize a form of violence present even inside the state action, either as classifying subjects or in its so-called democratic discourse. Those questions are reasoned in this paper, in bibliographic contribution and compositions analysis in this genre.

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**Keywords:** Truth Production, Criminal Justice System, Rapping; Resistances

### **Introduction:**

This article is intended to characterize truth production in and by legal field, making a study of the disciplinary society to the standardization society. We acknowledge legal field, mainly the criminal justice system, through its discourses, is a strong truth producer that is accepted and reproduced as such, considering some statements naturalization and their agents legitimacy. However this scenario can be questioned because some of its assumptions are poorly applied in certain spaces, as further explained.

In order to understand and study some "silenced lores", we rely in studying rap lyrics made by composers from Pelotas, Rio Grande do Sul, Brazil and in its specialized literature. Our objective is to verify how these songs contribute to question the production of truths other than those assured by official law. In this sense, the reader is invited to discuss the social representation explained through the cultural expressions studied, in contrast to the knowledge and will power manufactured by the legal discourses, and therefore enabling us to question the current criminal justice system.

## 1. From the Disciplinary Society to the Standardization Society: Some Considerations on Truth Production in the Criminal Justice System

The neverending search for order, security and stability in a society is wrapped by fear (BAUMAN, 2008), it becomes particularly important to question the criminal justice system, its fundamentals and criteria used in order to assign some behaviors as illegitimate. Understanding, through legal mechanisms, the assignment of creating rules that should be obeyed, inflicting punishment to those who disobey the precepts of law, is a way to discuss truths produced in the criminal justice system. On this issue we can say that:

What is called a true knowledge is made by the game rules, by discourses that constrain these knowledges. The truth is a product of the power-knowledge, of the strategies articulation power and of the discourses taken as true. (COLAÇO; DAMÁZIO, 2012, p. 16, own translation).

The current system of law was wrought by a way of thinking conventionally called as modernity (SANTOS, 2010). The modern epistemological project is to represent the State as a center of power: “The State is understood as the sphere where all interests in society may come to a synthesis, this is, as the *locus* able to make collective goals, valid to everyone” (CASTRO-GÓMEZ, 2005, p. 171, own translation). The close relation between State, law and episteme result, among other consequences, in proposing strict rules on what is acceptable as scientific or legal, making unlawful anything beyond them.

In a perspective that doesn't see power as “The Power”, but rather as nets, knots, webs and practices, in this paper we oppose to a homogenic legal ruling that aims to understand behaviors so only by the provisions of the law, as if it were the characteristic center of power. In this line, to dive in some historical aspects of the “legal truths” made up in given times allows the foundations of this study, putting the subjects formation through disciplinary rules (FOUCAULT, 2009) and normalization (FOUCAULT, 2005).

Throughout the centuries, legal practices were articulated and new subjects were created and then shaped to fulfill different rules, as law, because it is, as already said, a main producer of truths raised in different societies (FOUCAULT, 1996).

Leaving absolute power behind - that one when a king sought to ban his enemies, he had centered the legal perspective in his own hands, being lawful to “kill and let live” (FOUCAULT, 2005) -, the disciplinary power was born. It was intended to comprehend bodies individually, limiting positions, actions, inhibiting diffusion of practices; introducing predictions, clearing rules and, therefore, making it possible to keep constant surveillance among individuals, ordering space in general. In this sense:

What was then being formed was a policy of coercions that act upon the body, a calculated manipulation of its elements, its gestures, its behaviour. The human body was entering a machinery of power that explores it, breaks it down and rearranges it. A ‘political anatomy’, which was also a ‘mechanics of power’, was being born; it defined how one may have a hold over others’ bodies, not only so that they may do what one wishes, with the techniques, the speed and the efficiency that one determines. Thus discipline produces subjected and practised bodies, ‘docile’ bodies. (FOUCAULT, 1995, p. 138).

This disciplinary society allows the framing of different legal practices, trained to the formation of subjects and subjectivities. The relationship between surveillance, control and correction (FOUCAULT, 1996), are characteristics of the criminal justice system even in contemporary times, making it possible to verify power of the disciplinary society built between the 17th and 18th centuries (FOUCAULT, 1997).

It's worth noting, to the author, this body docilization cannot be understood only negatively, because this discipline enables body positivity and use, it creates subjects "fit" to live in society and to work. The legal system relies in this disciplinary mechanism to settle the power structures, and to be possible, through law, point the social hierarchies using universal rules it stated:

[...] Whereas the juridical systems define juridical subjects according to universal norms, the disciplines characterize, classify, specialize; they distribute along a scale, around a norm, hierarchize individuals in relation to one another and, if necessary, disqualify and invalidate (FOUCAULT, 1995, p. 223).

It's clear, therefore, the criminal justice system selectivity, as its own rules marks social hierarchy. It rules not only to punish, but also to label individuals, making up among them a sever detachment, an abyssal line (SANTOS, 2010), in a alleged order by means of legal provision. Its mechanisms produce truths taken as given, as they are part of legitimate knowledge, "forgetting" other knowledges, made silent by the criminological knowledge, because:

[...] only one truth appears before our eyes: wealth, fertility and sweet strength in all its insidious universality. In contrast, we are unaware of the prodigious machinery of the will to truth, with its vocation of exclusion. All those who, at one moment or another in our history, have attempted to remould this will to truth and to turn it against truth at that very point where truth undertakes to justify the taboo, and to define madness [...] (FOUCAULT, 1972, p. 220).

A discourse is taken as true precisely by the tactics and strategies developed to allow certain discourses to stay and by silencing others, showing constant power articulation. There is, however, opposition to the criminal justice system homogeneity, yet to become speakable. This visibility allows us to discuss what is settled in legal texts, once:

[...] There is no binary division to be made between what one says and what one does not say; we must try to determine the different ways of not saying such things, how those who can and those who cannot speak of them are distributed, which type of discourse is authorized, or which form of discretion is required in either case. There is not one but many silences, and they are an integral part of the strategies that underlie and permeate discourses (FOUCAULT, 1998, p. 27)

In the face of the need of a power that did not aim only the individual body, but the massification of bodies in a range of individuals - a population - rises, circa the 18th century, another form of power, according to Foucault, which does not deny disciplinary power, but otherwise, uses it, unites to it in some circumstances, past individual bounds, permeating the social body.

This new power is called biopolitics, that is, a government reason, the art to govern through certain mechanisms, focusing in the "body-species". And through biopower this practice is exercised: "The old death potency that was symbol of the sovereign power now is, carefully, covered by the management of bodies and by the life calculative management" (FOUCAULT, 1997, p. 131, own translation). This way, the power that chose between kill or let live is reversed, becoming, then, the power to make live and let die.

Social regularity is demanded with biopower. A need for confession emerges in order to be possible to know, delimit and understand through acts and speech what the people do and plan to do beyond the discipline already set in the social body. In other words, truths are formulated based on subjects' confessions (either if made to a psychologist, to the

Judiciary or to the Government in a census, for instance), because the art of talking about a particular subject to certain subjects, allows the possibility of prediction of these speeches. To know the birth or death rates, life or crime expectancies (FOUCAULT, 1997) is a technique for saving power to the rulers; the possibility to beget a “biopolitic” that doesn’t aim just the individual body - indeed, also - but the people, the bodies mass.

One could note that a confession is made to a skilled subject that will be able to build a normative truth to rule the population. According to the analysed scope, Brazilian judiciary system predicts by law<sup>130</sup> confession<sup>131</sup> in the jurisdictional courts and it provides to the one who confesses reduction on the sentence, for instance, among other mitigating factors accordingly to charges.

However confession for itself is useless if not made in the face of those subjects owning “legit” power, in the legal field. Furthermore: the confider must show where the crime took place, the people who were present at the time and diverse other circumstances of that demeanor.

Beyond the naivety of thinking those procedures are only to ensure “fair” punishment of whoever made the alleged offense, one can realize this procedure allows to verify the territory where the crime took place, recurrence of some offenses, characterization of certain people - formerly as subjects and neighborhoods labeling and correlation between crimes and specific locations, through the act of confessing.

Ensues from it, the “virtuality”<sup>132</sup> of those facts, this is, being able to predict demeanors that may be committed before the labeling of either subjects, locations or “characteristic” crimes. In this sense it is worth noting that confession:

[...] it is also a ritual that unfolds within a power relationship<sup>4</sup>, for one does not confess without the presence (or virtual presence) of a partner who is not simply the interlocutor but the authority who requires the confession, prescribes and appreciates it, and intervenes in order to judge, punish, forgive, console, and reconcile; a ritual in which the truth is corroborated by the obstacles and resistances it has had to surmount in order to be formulated; and finally, a ritual in which the expression alone, independently of its external consequences, produces intrinsic modifications in the person who articulates it: it exonerates, redeems, and purifies him; it unburdens him of his wrongs, liberates him, and promises him salvation (FOUCAULT, 1998, p. 61).

It must be emphasized that legal rules didn’t emerge in order to bring safety to society, or ensure order, the beauty of legal regulation (CARVALHO, 2011), but because of a complex political game, the interconnection of different statements that makes the discourse of legal truth, knowledge, power.

As it has been asserted, alongside these statements there are many others silenced, this is, “subjected” (FOUCAULT, 2005, p. 12), but nevertheless absent. Practices that articulate other ways of living and being, that resist to the legal regulation. It insists in making invisible

<sup>130</sup> Article 197 of the Code of Criminal Procedure (BRASIL, 2014a).

<sup>131</sup> Here understood as a means of producing evidence in criminal procedure, which has lost its absolute value (it is no longer considered the “queen of evidences”) so it must “[...] be analyzed in its context, not in an isolated manner, but in a set composed by the collected evidence, in such a way that it wouldn’t, alone, justify sentencing, but, when located in the same line of the evidence, in conformity and harmony, it can be considered by the judge (LOPES Jr., 2012, p. 646, own translation)”.

<sup>132</sup> This is what is meant by Foucault (1996, p. 85, own translation) with “All sentences in the 19th century became a means of controlling, not precisely if what has been done by individuals is in conformity with the law, but what they can do, what they are capable of doing, what they are subjected to do and what they are about to do”

or silent the actions and/or positioning that disagree with the “legit” discourse in the eyes of some people.

According to this perspective the reader is invited to dive specifically in crime control practices in contemporaneity and in “counterdiscourses” that emerge contradicting the regularity advocated by the criminal justice system and externalizing other ways of living and being inside culture, as, for instance, through hip-hop movement, more precisely, through rapping.

## **2. Between Discourses and Counterdiscourses: Law, Rapping and Social Justice**

In a society surrounded by liquid fear culture, that is, “[...] a diffused, dispersed, indistinct fear [...]” (BAUMAN, 2008, p. 08, own translation) the development of a “culture of control” (GARLAND, 2008) presents as an immediate answer to assure the possibility of order in the social; to allow safety discourse; promote previous labelling of “other” and “self”, strenghtening, therefore, the walls of legal science. So, the criminal justice system, through its agents<sup>133</sup> (KANT DE LIMA, 2013, p. 544), presents itself as mechanism to label subjects that aren’t fully in accordance with the precepts of law: we expect possible crimes, “virtualities” to the commission of criminal practices. In this sense, we can typify:

[...] Police officers act in institutional environments characterized by weak inspection mechanisms, by generalization of organizational equity model and by the absence of articulation between formal structures and practical activities. It results that research and repression tasks are guided by a “logic-in-use” in the police medium which comprehend a knowledge inventory based in stereotypical categorizations of the criminals, where they live and how they act, and that, in its turn, stimulates the criminalization of the behavior of people who are less prepared to have their civil rights secured against the arbitrariness of police organizations [...] (BARREIRA, ADORNO, 2010, p. 306, own translation).

We can notice that this “knowledge inventory” refers to what is understood as police act legitimacy. In the logic of legal knowledge, because the police “Institution” allows conception of truth discourse, those agents are supported by legal provisions that allow their use, for instance, of “moderate strength”. Moreover, they can justify their arguments in “suspicious attitudes” of those who they approach or arrest, and rarely are questioned about it or are delegitimized in their speeches in the face of those ones who are apart of their social environment.

“[...] Confronted by a power that is law, the subject who is constituted as subject - who is 'subjected' - is he who obeys” (FOUCAULT, 1998, p. 85). Ergo, to question this obedience, this normalization, presents as incendiary in legal environment, because normality and abnormality can have different cultural acceptances, either because in some social settings reality goes counter to the supposed by law, or because this law reaches these settings in a distorted way.

As legal practices produce knowledge, we can also think as discourses produce and make legit certain knowledges upon subjects - upon women and men - and within a space - the legal one - that establishes a normal point of view of the world. On this aspect, legal discourses can make some behaviors more accepted than others, it can insert them in either a normality or abnormality frame, it continuously

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<sup>133</sup> When we refer to the term “agents” it is worth explaining, we report the diversity of actors in the legal field such as, for instance, magistrates, prosecutors, police officers, prison guards, etc

reconstructs multiple senses in the scope of social relations, mainly between men and women (FACHINETTO, 2011, p. 35, own translation).

The insertion in this “frame” happens exactly by the belief in a power taken as legit, in different intensities, in the labeling of subjects as deviant, abnormal or, otherwise, as law-abiding, normal. The abyssal thinking, a power considered “more legit”, normalizes, therefore, relations between subjects, taking ones as “citizens” e other ones as “noncitizens”, hazardous (SANTOS, 2010), ignoring power is exercised, not owned by ones and deprived to other.

We can note, therefore, a constant struggle between knowledges, this is, a struggle for legal discourse validity as a qualified mechanism to dictate truths and to place subjects to their discourses: on one hand, statal agents legitimated by this system spreading these truths and, in the other hand, sighs, or rather, cries spreading the criminal justice system dissonance in certain locations, researches that go through this path, and, better than that, art producing peripheral knowledge in many ways, small fragments, small mobilizations, counterdiscourses.

In this context, rap is a powerful mechanism through the voices of their composers and their listeners to point out other discourses than those spread by the criminal justice system, it can also be a mechanism to resist to legal truths. The constitutional principle is opposed by numerous songs showing dissonance between this principle and daily life of a portion of society in the face of our current legal system.

We don't intend to say the discourses in rap lyrics are “truer” or more legit than those propagated by the criminal justice system. We wish to propose new questions through our lyrics analysis, asking “how” these discourses against the precepts of law are configured and why they are configured, pointing to another kind of violence: the violence<sup>134</sup> perpetrated by the State itself.

Also, one can understand music as a two-way road, society creates it and it is created by it; there is, thus, a manufacturing of subjects in and by culture. In this sense we can add:

Where there is power, there is resistance, and yet, or rather consequently, this resistance is never in a position of exteriority in relation to power. [...] Their [correlations of power] existence depends on a multiplicity of points of resistance: these play the role of adversary, target, support, or handle in power relations. These points of resistance are present everywhere in the power network. Hence there is no single locus of great Refusal, no soul of revolt, source of all rebellion, or pure law of the revolutionary. Instead there is a plurality of resistances, each of them a special case: necessary, improbable; others that are spontaneous, savage, solitary, concerted, rampant, or violent; still others that are quick to compromise, interested, or sacrificial; by definition, they can only exist in the strategic field of power relations (FOUCAULT, 1998, p. 95).

Hip-hop, as resistance bearer movement, is in its amplitude characterized by black youth, which seeks to emphasize their heritage through its four elements: graffiti (drawing), DJ (rhythms mixing), break (dance) and rapping (music) (SANTOS, 2002; ANDRADE, 1999). They have their “tactics” and “strategies” (FOUCAULT, 1997) to diffuse certain discourses from minority groups in more privileged classes; to stress “subjects knowledges” in contemporary. It is citing worthy (2005, s/p, own translation):

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<sup>134</sup> Be that violence either in the arbitrary act of some of its agents, or by the omission in this acting.

Media discourse, therefore, ranges from demonizations to some glamorization of excluded people, media gives them “visibility” and allow them, somehow, report their “outcast” status and claim citizenship, bringing up the discussion of “poor people place”, or rather, the right to discourse, leisure and “access” to the city, bringing “democratization” process contradictions and their social tensions to the agenda. Peripheral culture has achieved, almost regularly, not only to produce a counterdiscourse, but, as well, to draw new socio cultural (and spatial) borders that fluctuate from exclusion and integration: a) to promote new social nets, revitalizing old social movements and community ties; b) to occupy, not always peacefully, city spaces, including prime areas; c) to denounce and expose in their songs the city “reverse postcard”; d) to enable through its events the meeting of different social segments; e) to amplify or conquer social visibility through articulation with institutionalized culture and market.

Transcending the peripheral vicinities, reaching the ears of those who deny the discourses made in “outskirts”, rapping started to create subjects. Through music these people stopped being just discourses, and became discourse producer subjects; claim producers:

Hip-hop subjectivity shows itself as a proposal to rethink concepts, very important to young people in peripheries and favelas. While little time ago they didn’t have any other choice rather than abide to be objects of police and legal discourses, by the time hip-hop developed they became discourse producers subjects and made room to fulfill of concepts the slums everyday, formerly reduced to the lack of conceptualization of social marginalization [...] The black stain spreads through brazilian subjective cartography. Surprisingly, middle and high classes discover there was an empty space in urban maps, something that doesn’t shoot bullets and steal tape players, but, rather, wants to produce culture, to point these elites perversity and claim for change - that is, something much more hazardous than it seems (GEREMIAS, 2006, p. 132 e 127, own translation).

The perspective is to bring up peripheral knowledge to widely accepted legal norms, highlighting the abyssal division between them (SANTOS, 2010), noticeable in the following lyrics. Pok Sombra, the composer, questions the “normality” granted to ones and the “abnormality” imposed to others.

I don’t think about being remembered as great Mandela/ But I think about making my own part for the favela kids/ Those who watch on screen, hop, drugs and prostitution/ Alienation on MTV and “Plim-Plim” [...] (POK SOMBRA, 2011, own translation).

We can note in the lyrics the will to produce reports about the place they live in, bringing their neighborhoods to context, addressing difficulties in their daily tasks, violence in the outskirts and complaints on not being heard in spite of their cry. According to Jair Brow:

[...] Total violence, general decay, brother killing brother, .50s, .38, at the end, suburbs are bad, son sitting on the edge of the canal, he looks at the others, listens the pop, talks to his bro, he knows there’s no return [...] Ease your mind, be intelligent, be a smart bro, here it’s always present [...] No one cares here, shouts I didn’t hear, many towns are likes this, I give you the bad, dark times, Vila Castilho, Bairro Dunas, Bom Jesus. The lights go out for many [...] schools,

what for? Cruel everyday life, many go to Heaven [...] Panic: in the suburbs, our day-to-day lives make us hurry/ There are few improvements, observe!/ So get a grip! There are many ways to change [...]/ Don't feed your mind with false illusions/ Look for a better way, better options (JAIR BROW, 2012, own translation).

In the following composition, it is pointed the perception of the songwriter against the criminal justice system through dictums used in the rhymes. It is stressed that Guido – the songwriter – puts the different stages of criminal process, be it the entrance to the “new world”, the creation of a new subject and their representation of those who judge them:

Today it's so hard to see sunshine/ If things seem bad, brother, it's natural/ Even saying time stopped/ But know this, everything goes back to normal, everything goes back to normal/ The sight darkens, darkness has taken place of light/ Welcome to the new world/ a.k.a. prison/ Where your friends will be gone, stars won't shine/ Where you can only be sure the doors were closed/ Knees bend, hands get tied/ Mouths got shut and eyes that cried/ Things that were thought, years that passed/ Memories that are gone and never came back/ Ideas were imagined, characters were created/ Fake world I created and one day they abandoned me/ Men who judged me in the end condemned me/ Today I am who I feared the most, the monster they created/ They don't heal me, they only humiliate me/ They killed the good things that existed around me/ My world went downhill, my lungs can't bear it/ I'm curious about knowing my new being, be prepared [...] (GUIDO CNR, 2012, own translation)

It is interesting, also, to highlight a stanza of a rap song produced by Gagui IDV. The complaint made in the lyrics is clear in the sense of relating the social disparity, moreover fantasies which are created to cover the apartheid still experienced in contemporary society:

Leave it to me that the manumission will be rewritten/ Without Princess Isabel, no probation/ No dreaming that discrimination is made up/ No hypocrisy of the covered apartheid[...]/ Hail the rap redemption in every corner of the ghetto (GAGUI IDV, 2011, own translation).

These rap lyrics demonstrate the complex power and knowing net that pervades contemporaneity. Among various approaches, it is noticed the production of discourses made by those who are generally considered illegitimate to build truths. The resistances through music denounce and face disparities in the criminal justice system against the constitutional principle of equality. This is pointed through the dictum put on songs, not of previous or future interpretations or projections, but what it is, actually, described on them.

In the same way, it is inferred that the projection of subjects' speeches and practices, allowed in and by the criminal justice system built in modern times, with the objective of forming behavioral regularities is defied. The individuals who transit through the referred lyrics above are not – or are not just – those who “shoot bullets and steal tape players”, but those who discuss other ways of being and living in this world through culture. Pushing to the limit, the very violent actions of the State that can create the “monster”, who is not “healed”. This exposes the contradiction between a democratic discourse and social spaces which sometimes are silenced by some practices, but remain wrapped in the plot of power and because of that, resisting.

The need of dialogue with other ways of reality contextualization becomes necessary in the search of approaches of legal discourses and discourses produced in and by rapping.



Not to create a more legitimate, more truthful knowledge, but so that other ways of being and living in this society come to light and be liable for discussion, putting “silenced lores” on the level of considered legitimate knowledge, allowing different ways to understand the local culture.

### **Conclusion**

As shown in this paper, the criminal justice system suffered many crossings in order to become the rules-and-discipline system established nowadays. The disciplinary and normalization forms created, emphatically, in modern society, allowed creation of truths and their naturalization as foundations in legal planning.

Following the deconstruction of this homogeneous way of thinking, other ways of living and being in this society started to be questioned, checking the creation of “counterdiscourses” as a way of resistance to this lawful precision, overcoming the idea that power is concentrated in the hands of some and taken of others, although it is presented in relational character.

In this sense, it was brought to discussion some Rap lyrics produced in the city of Pelotas, Rio Grande do Sul, Brasil, addressing different ways of living and being in contemporary culture, denouncing social disparities, reporting the existing abyss between the truth discourses produced in the legal field and what is experienced by individuals from outskirts of society. It is not intended to consider a discourse more legitimate than another, but to reassure the spread of different discourses and crossing of different truths.

It is shown, through what has been here exposed, the importance of music in contemporary society and the relevance which this cultural expression holds as a mechanism capable of enabling other ways of thinking and making different views of a portion of society on the criminal justice system. And so it is possible to create fissures and cracks on the solid legal thought, questioning its produced truths, pointing other ways to understand the social, not more or less legitimate, but open for discussion and analysis of social complexity of current time.

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