

## INTRODUCTION



On July 25, 1907, two police soldiers banged on the door of the home of Carlos Figueiredo, a forty-four-year-old gilder, in a working-class neighborhood of Rio de Janeiro. Figueiredo's wife answered the door, and the two men entered without her consent and proceeded to rifle through his possessions. The police finally found the evidence they sought stuffed behind the statues of saints on Figueiredo's household altar: seventy-eight torn slips of paper with handwritten columns of numbers on them.<sup>1</sup> Most Brazilians today would readily identify the bits of paper the police found over a century ago as tickets for the clandestine lottery called the *jogo do bicho* (the animal game). Long disassociated from the zoo in Rio de Janeiro that gave it its name, the *jogo do bicho* still exists throughout Brazil. All that is required to play is a few cents, the ability to walk to the street corner, a bit of luck, and a willingness to risk arrest. Ticket buyers wager small amounts of money in the hope of multiplying their investment twentyfold or more. Today, as they did a century ago, *jogo do bicho* dealers consistently honor their pledge to pay any player who selected the winning number.

This book owes its existence to the paper trail that this and thousands of other stories left behind in over a century of the persistence—and illegality—of the *jogo do bicho*. The *jogo do bicho* first spread through Rio de Janeiro, then the nation's capital, as a diffuse practice of questionable legality in the 1890s. It soon became a prominent feature of the city's



FIGURE 1 “The zebra won in the jogo do bicho, and I ended up in jail,” pamphlet by Franklin Maxado (ca. 1980).

cultural landscape, then a nationwide practice, and, in the twentieth century, a fully blown organized crime network. Elite magazines referred to the jogo do bicho with a wink and a smile. Residents of Rio and eventually all of Brazil wrote songs and theatrical pieces about it and played it routinely and, one suspects, unrepentantly for the past 115 years. This story, as quintessentially local as it is, suggests a larger process that shaped the hemisphere’s modern cities at the dawn of the twentieth century. The ambivalent and contested criminalization of popular practices like the jogo do bicho generated a legal, cultural, and social dynamic that lies at the center of urban public life in Latin America and elsewhere.

The jogo do bicho resembles innumerable gambling practices that emerged throughout the Americas and Europe with remarkable simultaneity: the numbers game in the United States, side-betting on horse races in England, and La Bolita in the Caribbean, to name a few.<sup>2</sup> Outside the Atlantic world, too, history supplies vignettes that illustrate both the

ubiquity of games of chance and their perennial illegality. People in late nineteenth-century China, for example, were known to bet on the results of the civil service exam.<sup>3</sup>

Societies in all places and epochs have come under the thrall of practices based on venturing one's worldly possessions for the possibility of winning money or other prizes. Why people gamble is more the stuff of myth, folklore, and human psychology than of historical analysis. Games of chance have a metaphysical dimension, too: the divining function of gambling points to a universe of hidden causalities and stands as a metaphor of the knowability or unknowability of the future and the causes that bring it about. Some observers argue that the modernizing, Western world has tended to engage in games of chance whose logic parallels that of capitalism or, others say, that pronounce poignant critiques of the ideologies capitalism implies.<sup>4</sup> The abiding attraction of risk and chance in Western society has been accompanied by moral trepidation and a sense of mystery and danger. In Brazil and elsewhere in the Western world, gambling has both parodied and epitomized the ideas and practices of modern society by trading on the volatility of pecuniary value while short-circuiting the necessity for productive labor.<sup>5</sup>

Commentators on Brazil have claimed that gambling, with its reliance on luck and its antirational bent, constitutes a flight from modernity or, some have said, a critique of it. Probably the most famous of all Brazilian intellectuals, the sociologist Gilberto Freyre, describes the *jogo do bicho* and other games of chance as holdovers from Brazil's indigenous and African totemic past.<sup>6</sup> Yet in Brazil, as elsewhere, playing games of chance became phenomenally popular at just the moment urbanization and consumer capitalism took hold.

Only implicitly and occasionally does this book treat the *jogo do bicho* as part of a global urge to gamble that accompanied urban modernization, although those interested in games of chance in other parts of the world will find a compelling counterpoint in Brazil's immensely popular animal game. Instead, I place the *jogo do bicho* in the context of the world of criminalized yet ubiquitous popular practices—unlicensed petty commerce and Afro–Latin American religion, for instance—that is, itself, a trademark of modern, urban public life throughout Latin America and across the globe. Until recently, most readers would likely have found paradoxical the assertion that such popular customs are part of, rather than antithetical to, “universalism, scientific rationality, the rule of the mar-

ket, [and] the demands of the state”<sup>7</sup>—in other words, modernity. In the twenty-first century, the observation that popular practices like dissident forms of folk religion and the *jogo do bicho* are the products of modernity rather than a refuge from it has become something of a truism. Building on the rich body of work from many disciplines that has made it possible to consign Freyre’s conception of the *jogo do bicho* to history as a classic relic of early twentieth century social theory, this book takes the link between informal practices and modern, urban public life not as its concluding argument but as its starting point.<sup>8</sup>

Revisiting Figueiredo’s case illustrates some of the complexities of the *jogo do bicho*’s early encounter with the state. According to his file, an anonymous informant had tipped off the police about Figueiredo’s *jogo do bicho* operation. In an apparently illegal search of his home police confiscated seventy-eight lists written on scrap paper (now preserved in the National Archive of Brazil) balled up with twenty-nine *milreis*, about nine dollars. He was arrested “*em flagrante*” for violation of article 367 of the Penal Code, which criminalized playing or dealing in unlicensed games of chance.

After posting bail and leaving police custody about two weeks later, the accused presented his defense, charging that the police had “no proof whatsoever” of his guilt. Figueiredo, or more likely his court-appointed lawyer, claimed “the accused was in his home, not so much as thinking about any prohibited games when [his] home was invaded by the police district chief and other conspicuous local authorities, who appeared there because of an accusation. The house of the accused contained neither criminal evidence nor stolen objects. The accused is a reputable man who has lived for more than eighteen years in that same house without ever being bothered by the police.” The search, he argues, was unjustified:

There is no evidence that these fragments of paper contain references to any game whatsoever, and the amount of 29 *mil reis* is not even the sum of money written on those pieces of paper. But even if I were to admit that these pieces of paper really do relate to some sort of prohibited game, I would ask: is there some legal position that prohibits any citizen from having in his own home, on his household altar, as many game tickets as he wishes? Of course not. And since the accused was at home, which absolutely is not a gambling den, and since he had not been conducting any business whatsoever with those game

tickets, the apprehension of these tickets and the imprisonment of the accused would not be less than an act of violence!

“To continue with your original thinking, *o Doutor Delegado*,” he wrote, sarcastically using the honorific title doctor, “would indeed have arrested the Saints on the Altar as gamblers playing the *jogo do bicho*!” Two days later, the judge reached a resolution: the prosecution had presented insufficient proof that a crime had occurred, and since “the *jogo do bicho* cannot be verified without the direct concurrence of at least two persons . . . I absolve the accused.”

This outcome was far from unusual. During the first thirty-five years the game was played only about 4 percent of *bicho* cases ended in a conviction.<sup>9</sup> Most often, judges based their acquittals on a lack of incriminating evidence or on the police’s failure to follow procedure. As Figueiredo’s case demonstrates, defendants, police, and judges all had a great deal of space in which to maneuver, and maneuver they did. Figueiredo used the very informality of the game to his advantage by referring to the “fragments of paper,” which, he insisted, failed to prove a crime had occurred. The judge decided to dismiss the charges even in the face of clear evidence the defendant had been involved in the forbidden lottery.<sup>10</sup>

Legislative debates, citizens’ letters denouncing gambling dens and houses of prostitution, and political speeches of the late nineteenth century demonstrate a surprising level of uniformity in their antivice rhetoric. They all called upon authorities to uphold what their authors claimed was a timeless, agreed-upon principle that games of chance threatened social order. Yet compelling evidence shows a lack of consensus within Brazilian society as to whether the state should permit and regulate popular practices like the *jogo do bicho* or place them beyond the pale of legality and punish their participants as criminals.<sup>11</sup> After all, the state ran its own lotteries; why not just regulate and tax the *jogo do bicho*? Some within the government voiced dissenting opinions regarding the law’s harsh treatment of games of chance. Opposition to the criminalization of the *jogo do bicho* also came from members of the urban entrepreneurial class, who installed the city’s first large-scale public amusements: the entertainment impresarios long rumored to be the first *jogo do bicho* bankers, men who helped finance illicit games of chance and encouraged their expansion. Many agents of the state, too, diverged from the official anti-*jogo do bicho* creed, as they skimmed the profits in a tradition of corruption still present today.

Above all, men and women of all socioeconomic classes and ethnic backgrounds showed their approval of the *jogo do bicho* simply by buying and selling chances to win. While most players left no written record of their interaction with the *jogo do bicho*, such cultural artifacts as published tip sheets, popular songs, and plays featuring the game bear witness to its broad popularity in the decades after its inception.<sup>12</sup>

Popular writings on the *jogo do bicho* have long marveled at its longevity and popularity in the face of police repression. The game's omnipresence in the city even today attests to the failure of attempts to eradicate it. Yet despite the apparent impunity of most ticket buyers and sellers, in reconstructing the first half century of the game we can see its criminalization unfolding. This process allows us to trace shifts in conventional wisdom and new modes of social interaction, which the changing urban environment of the late nineteenth and early twentieth centuries brought about. The intervention of the law in the *jogo do bicho*, equivocal as it often was, had a profound impact on the historical development of the game and on urban society.

It is instructive to compare the policing of urban public life in Brazil's early First Republic with the sumptuary laws of medieval and early modern Europe, another type of law that, in retrospect, seems an ineffectual, even frivolous, attempt to defy reality. Sumptuary statutes variously forbade the wearing of certain colors, fabrics, and accessories and limited the use of such finery as decorative studs on a horse's bridle to the aristocracy. By regulating and even criminalizing certain types of outward appearance perceived to threaten the status quo, these laws aimed to suppress ostentation and control custom by managing consumption. When obstacles to the socioeconomic mobility of the poorest classes began to abate with the breakdown of the feudal order in late medieval Europe, the dominant classes utilized the law to enforce normative values.<sup>13</sup> Official control of consumption patterns thereby established or upheld social hierarchy. Generally understood historically as a means of compensating for the loss of the ability to distinguish people by class, sumptuary laws also had an antifraud intent: one's outer attire must truthfully represent, rather than obscure, one's inner essence.<sup>14</sup> As in late medieval Europe, the disappearance of hereditary legal differences in Brazil after independence from Portugal, the establishment of the Republic in 1889, and especially the end of slavery sent tremors of anxiety through those with an interest in maintaining the socioeconomic status quo. Laws that criminalized popular prac-

tices like the *jogo do bicho* limited private expenditure in the public realm and transformed it into an issue of public order.

The history of the persecution of petty gambling that my book tells gives credence to the legal scholar Alan Hunt's recent revision of the conventional understanding of sumptuary law. It is commonly believed that sumptuary laws "were alien to modernity" and "their disappearance provided evidence of the advancing good sense of rulers who no longer thought it desirable to seek to regulate such 'private' matters as what people should wear." Rather than dismissing sumptuary law as a failed premodern project, as most scholars do, Hunt argues that its logic was central to state formation. In fact, he rejects the failure model: "If, as all commentators seem to agree, they were doomed to failure, why did so many legislators, rulers, administrators, judges and others continue to enact and reenact sumptuary provisions?" These regulations are the key to understanding modern governance of public life. A prevailing "sumptuary ethic" dictated that the church, the guild, the crown, and eventually the modern, liberal state must regulate consumption.<sup>15</sup> An analytical model that interprets rampant lawbreaking as failed social control impedes understanding of the powerful role the criminalization of everyday life played in constructing the relationship between urban Brazilians and the state.<sup>16</sup>

The *jogo do bicho* developed when criminal law played a crucial role in engineering the relationship between the state and society in Brazil. In 1888 the country emerged from over three hundred years of chattel slavery; nearly a century of monarchy ended in 1889. A new Penal Code passed in 1890 bore a special burden in the face of the difficult social realities of postabolition Brazil—a nation that was heterogeneous, vast in landmass, and carried into this new era a legacy of extreme socioeconomic disparity. The game became phenomenally popular during Brazil's gradual transition to an industrial economy and the massive structural and socioeconomic transformations occurring in the capital city. The *jogo do bicho* thus allows us to enter through an underground passageway, so to speak, into some crucial historical problems concerning Brazil's and Latin America's experience of modernization, urbanization, and the changing relationship between the state and society.

My analysis of the *jogo do bicho*'s first half century of existence affords access to three closely related issues crucial to understanding the historical development of urban public life in Latin America. First, the criminalization of previously tolerated acts and the geopolitical and economic

changes that accompanied the transition to a capitalist, consumer economy both point to an urban version of a process usually associated with agrarian history: the enclosure of the commons. Enclosure recalls the image of a fence interrupting the rural landscape's flowing green undulations and restricting access to the basic stuff of material survival regarded from time immemorial as common property. This fence provides a powerful metaphor for the process that this book observes in motion. Rio's inhabitants in the late nineteenth century and early twentieth needed to acquire the legal right to live, work, and purchase their daily goods in the city's increasingly privatized public spaces; those who could not were compelled to carry out such quotidian activities outside the bounds of the law. Second, the historical roots of what policymakers and social scientists would later label the informal sector—the domain of work and retail commerce—stood outside that metaphorical fence. The *jogo do bicho* allows one to scrutinize the broader criminalization of everyday life already underway in this period, a phenomenon that would ultimately drive most buyers and sellers in Latin America's consumer economies over the line between legal and illegal. Third, then, this book will reevaluate the legal repression of the popular classes that accompanied urban modernity everywhere in Latin America, the sometimes draconian social control policies long understood as the hallmark of the relationship between the Latin American state and society at the turn of the twentieth century.

In the late nineteenth century the farthest-flung neighborhoods of Rio de Janeiro dwarfed the urban zone in their vast territorial expanse. The tight cluster of buildings in the historical center was only beginning to crawl southward and westward. The compactness of Rio's urbanized center compared to the city's enormous hinterland puts in perspective how the agrarian and pastoral livelihoods in which residents of Rio's rural zone engaged fed a growing, hungry, and still largely rural city. If life in the outskirts of the capital still sprung from the earth, Cariocas, as Rio's residents are called, also cultivated plants and animals for consumption and harvested wild fruit from the islands of the Atlantic Forest not yet submerged in the city's rising, spreading sea of brick and concrete. Urban policy in this era, designed to modernize and sanitize the city, accelerated the pace of a social and politico-economic transformation far from unique to Rio or to Brazil: the increasing difficulty of autonomous sustenance as an inevi-



table effect of urbanization. In an article from the 1910s, Alfonso Henriques de Lima Barreto, the novelist, social critic, and chronicler of Rio's daily life in the early First Republic, laments that the half-century-old mango and tamarind trees in Rio's public spaces were in danger of being cut down because of the "avidity, greed, and stupidity" of the municipal authorities implementing the massive urban reform project then underway. For him, the destruction of an old tamarind tree in the suburban neighborhood of Engenho Novo that provided "a sort of oasis" for both people and draft animals was too dear a price to pay for the construction of a modern avenue.<sup>17</sup>

Lima Barreto's words betray a deep nostalgia for a bygone time when the city's inhabitants shared public spaces of respite and sociability, accessible to all—a commons, in the Anglo–North American nomenclature. In some ways, he was homesick for a land he had never visited. The utopian tableau of shady groves, shared fruit, and social equilibrium he depicts was aspirational as much as truly retrospective. Yet Lima Barreto's earthy example of urban change offers a glimpse of a broader process, one that would be invisible in the political boundaries and geological features of a map: the physical and juridical separation of the city's residents from the public resources that once sustained them. Such a process of enclosure evades the cartographic record because, unlike the paradigmatic example of the fencing in of common grazing lands with the onset of industrialization in England, in urban places the restriction of access to public spaces has been accompanied by an equally significant process of enclosure, albeit an abstract one.<sup>18</sup> In this era in Rio few people relied on food hunted and gathered from the urban *selva*; the transition to a cash economy was by then thorough and complete. Yet in the shrinking physical space in which unpropertied Cariocas improvised a living, a nexus of state regulations restricted their choice of profession. The state handed control of public goods like transportation and utilities to private business interests and ceded dominion over individual enterprises and indeed entire sectors of the economy to monopoly concessionaires.

Innumerable scholars have considered enclosure beyond the specificity of the sheep pastures of early modern England. The scientist-turned-social-theorist Garrett Hardin's prescriptive discussion of the "tragedy of the commons" largely set the terms of the debate in the late twentieth century. Hardin and the rational-choice social science that his work helped to set in motion held that public resources must be enclosed to save the

public from its avaricious self-interest.<sup>19</sup> E. P. Thompson revisited the process of enclosure in early modern rural England and traced social and legal conflicts over the use of the commons to show how the law acted to mystify its role in cementing socioeconomic inequalities.<sup>20</sup> Neoliberal writers who came to dominate the discussion have pointed to the disappearance of the commons everywhere, depicting it as an unstable form of ownership and rights regime.

Recent scholarship on contemporary Latin American cities has shown the protracted results of the restructuring—what I call enclosure—of modern urban public life over more than a century. Latin Americanists have sidestepped the debate over the chaos or sustainability of the commons by focusing on the contemporary effects of its erosion. Social scientists examining cases throughout the Americas have studied the loss of public ownership and oversight epitomized by the new “walled city.”<sup>21</sup> Yet little is known about the origins of this process.

In late nineteenth-century Brazil, the urban commons was less a legal designation than an empty space or a gray area in the law. The state constitutionally guaranteed all citizens the right to trade as long as they did not impede public circulation or violate other existing laws. Large-scale structural and ideological changes in the last quarter of the century moved the government to favor modernizing the city through the signing of concession contracts with large companies.<sup>22</sup> This trend influenced city planning in the area of petty commerce and its offshoot, the *jogo do bicho*, as well as in the construction of intraurban transportation networks, improvements in the port, and the gutting and reconstruction of the city center.<sup>23</sup>

With the reorganization of urban public life, which amounted to enclosure of a metaphorical common, urban dwellers found themselves paying money for goods and services they had previously acquired free of charge or had not needed or desired. The privatization and monetization of public life in Rio around this time extended to many dimensions of people’s daily lives. Because of the city’s sprawl and suburbanization, for instance, residents needed to travel longer distances to the center of city and to pay for public transportation, which was privately owned. The enjoyment of leisure time became something one purchased, for example, in amusement parks, popular theater, cinemas, and cabaret performances.

In sum, the process of enclosure in Rio involved both privatization and regulation. Regulation sometimes comprised consolidating buying and

selling into contained markets, otherwise restricting trade, and the criminalization of some types of trades. Ironically, the new, public interest in some activities acted to privatize them.<sup>24</sup> Public domains formerly outside the state's purview now attracted official attention. The criminalized *jogo do bicho* was a creature of this transition.

A process of urban enclosure did indeed occur as the nineteenth century became the twentieth in Brazil. Still, to emphasize the expropriation of resources and rights is to underestimate the importance of the persistent existence of people who continued to carry on their trades and livelihoods in technically illicit fashion.<sup>25</sup> Despite the legal and politico-economic sea changes of the time, Cariocas did not stop gleaning fruit from trees, raising pigs in the streets, and claiming for the public domain spaces that were increasingly funded, owned, and controlled by private interests. We can most usefully understand enclosure as part of a cycle of informalization. Those left outside the metaphorical (or actual) fence were not merely swept aside. *Jogo do bicho* dealers, unlicensed street vendors, and other participants in Rio's nascent informal economy were entangled in a struggle over de facto rights and access to resources and became part of the way both the state and the market operate.

As practices that either evade or defy state regulation but also, otherwise, occur legally, the street vendors and *jogo do bicho* dealers I describe fall within the definition of the problematic, yet irresistibly useful term *informal economy*. Even someone unfamiliar with the term can conjure a vivid image of the worldwide urban phenomenon it describes: the scores of street vendors who sell candy to passengers on buses and trains, for instance, or the children who proffer rags to wipe the windshields of cars stopped at intersections. Scholars and policymakers who study this realm of petty commercial life that operates outside legal bounds have amassed a stockpile of terms, none of which suits my purposes. The "parallel" economy, the stock geometrical metaphor often used to describe this economic realm, fails to capture the phenomenon this book reconstructs. The relationship between officially sanctioned behavior and actual, popular practice in the marketplace simply defies any neat characterization, as this relationship developed along the convoluted lines of the mutual involvement of tradition, legal codes and regulations, and an extralegal system that utilized the channels of law.

Even while the difficulty of fixing this concept in language attests to its elusive nature, it would be untenable to deny the significance of the fact that over 12.87 million Brazilians do work that the state does not officially recognize as such, and that an estimated 9.47 million businesses in Brazil today are not legally registered (Brazilian Institute of Geography and Statistics, 1997). An earlier article in a law journal states that the underground economy of Brazil “is estimated at thirty-five percent of Gross Domestic Product” and is “reputedly the second largest . . . in the world.”<sup>26</sup>

A problem of anachronism arises too: to designate a realm of informal commerce is to posit a category of behavior and experience that would have had little meaning to the people of Rio in the late nineteenth and early twentieth centuries.<sup>27</sup> Petty commerce in the era before retail buying and selling became fully formalized in fixed locations like retail stores evades present-day classifications. The conventional way of understanding the urban informal sector presupposes that it emerges only in the context of a highly developed consumer economy or within an advanced industrial capitalist socioeconomic structure. Perhaps because of the difficulty in discerning the appropriate manner of studying these activities without imposing anachronistic analytical categories, almost nothing is known about the historical development of the unregulated buying and selling of goods. What I describe here heuristically as informal trading encompasses much of public commercial life during this era in Rio. The terminology would not appear for almost a century, but events and policies in the late nineteenth century lay the structural and epistemological foundations for the economic transactions that would later fall into this category. One might say that this examination of the *jogo do bicho* reveals the prehistory of the informal sector, inasmuch as the official perception of its problematic nature was what summoned it into existence.

The concept of the informal economy came out of the concern with economic development and underdevelopment in the global South. In a study published in 1970 Keith Hart used the term *informal* to describe unlicensed petty entrepreneurs in Ghana. Much of the theorizing about the informal economy has come out of Latin America. As early as the 1950s Brazilian thinkers had debated the presence of a dual economy in terms that anticipated Hart’s writing on the presence of an economic sector that operated outside the purview of the law. Brazilian social scientists, most famously the economist Ignácio Rangel, wrote about the “duality” or “duplicity” of Brazilian economic life and culture, a legacy of colonialism; the

slave plantation (*fazenda escrava*) had been subject to two distinct bodies of law, one internal and one external to the plantation.<sup>28</sup> The sociologist Alberto Guerrero Ramos similarly described two economies, one focused on internal and the other on external relations of production. “But,” he writes, “the law of duality, as it is called, can be generalized to all aspects of Brazilian life.” These social theorists believed that Brazil’s legal culture was imprinted by the pluralism and divided loyalties born not only of a weak colonial state, but also of a tradition of impunity.<sup>29</sup>

In Latin America in the second half of the twentieth century, ideas about what Hart would call the informal economy changed in tandem with developments in social science and policy concerning urban poverty. After the extreme material dearth Latin American urban populations experienced in the 1950s and 1960s, “classic marginality theory” emerged, encompassing two divergent approaches to understanding modern poverty and uneven economic development: waning modernization theory and ascendant dependency theory.<sup>30</sup> Policymakers and scholars, primarily from a Marxist orientation, saw the informal economy as the outcome of deepening class and racial inequalities. Observers of the multitudes of underemployed and illegally employed proclaimed the existence of an “industrial reserve army” that forced down all workers’ salaries and kept workers in a permanent state of exploitation. The discussion came to rest on the question of whether the capitalist economy “would be able to absorb” this “reserve army.”<sup>31</sup>

By the seventies and eighties it became clear that the informal sector was a permanent part of the urban socioeconomic landscape. It no longer made sense to characterize those who labored illegally as marginal to the mainstream economy, but rather to define an informal sector that existed outside legal regulation.<sup>32</sup> As the debate about marginality in cities in Latin America and elsewhere in the so-called developing world reached full florescence in the 1970s, persistent critiques of the concept of marginality led to the idea that the unregulated underclass was intricately connected to the formal economy. The question of how to absorb the reserve army of urban poor into the mainstream economy and polity was now beside the point because the urban economy had thoroughly absorbed them. Mainstream social science redefined participation in the informal economy, like constructing and living in *favelas*, urban shantytowns, as a creative coping mechanism; marginal practices were construed not as the problem but as the solution.<sup>33</sup>

The concept of the informal is only slowly beginning to emerge as a category of analysis in the consumer as well the labor market. Contemporary academic and policy debates have centered on whether the burgeoning number of unlicensed workers and merchants arises from some “cultural shortcoming” (older, usually rather invidious explanations); on the inefficiency of the law and its failure to recognize and support the grassroots capitalist productive capacity of its people (neoliberal arguments like that of the Peruvian economist Hernando de Soto, which called for greater protection of private property and a streamlining of state intervention in private enterprise); and on the injustices of capitalism in creating a perpetual urban underclass (antineoliberal).<sup>34</sup>

In the 1890s the underlying economic conditions in which the nascent informal economy and, within it, the *jogo do bicho*, grew would look familiar to those who have studied the region’s contemporary cities: a growing migrant population, shortages of affordable housing in the city center, and a volatile export economy. The socioeconomic upheavals of the late nineteenth century and early twentieth increased the supply of jobless Cariocas. Bitter political conflict among factions of the agrarian oligarchy, the army, and the navy marked the political transition from monarchy to republic. Intermittent civil war caused high administrative costs in the new government and contributed to inflation. Financial speculation and an expansionary monetary policy struck the new Brazilian republic in 1890 and caused economic turbulence well into the twentieth century. One side effect of the inflation brought on by economic turmoil was industrial and commercial expansion as well as increased protection of domestic production. Growth in agriculture and an enormous wave of foreign immigrants also stimulated productive industry by providing both capital and labor.

Rapid industrial and urban expansion in the context of political and economic instability benefited local elites and the growing bourgeois sectors, but affected the growing urban proletariat adversely. The cost of living shot up, aggravated by immigration, the increased demand for consumer goods by the new rich, and the government’s tendency to prioritize the slumping export economy over increasingly impoverished wage earners.<sup>35</sup> Internal prices tripled between 1889 and 1898 as the government expanded credit to agriculture, the money supply increased rapidly, and exchange rates deteriorated. Food production decreased because of an agricultural crisis in the hinterland, which further damaged the domestic market and drove food prices up. Rents skyrocketed. In real terms, a family that pre-

viously survived on a daily wage of four or five milreis now struggled with their six or eight milreis.<sup>36</sup>

A tight labor market and material dearth helped to precipitate a proto-informal sector in the early First Republic, but its causality and historical importance cannot be reduced to economic factors. Simultaneously, laws and law enforcement defined the boundaries of the permissible to the detriment of the many who followed their ingenuity rather than the letter of the law in finding an occupation. Those who made a living in these professions demonstrated their willingness to risk fines and prison terms to sell goods illicitly. Yet evidence shows that sellers of *jogo do bicho* tickets ran a relatively low risk of legal reprisals for their illicit occupation. Police, *bicheiros* (*jogo do bicho* vendors), fruit stand operators, and other petty vendors acted in an uncoordinated and accidental confederation to create a trade network that was only partially submerged. The close-to-the-ground view of the informal economy that the *jogo do bicho*'s history affords allows us to transcend mechanistic models of what some have called "extralegal normativity."<sup>37</sup>

Probing the complex relationship between the law and those compelled perpetually to act outside it forces one to consider further the problematic nature of the term *informal economy*. As critics have pointed out, its usefulness is limited by the fact that in cities throughout the world unregistered work and commerce make up nearly all economic activity, in certain cases some 80 percent of gross domestic product. What do we do when the underworld is in fact the world? To differentiate between formal and informal is to impose the state's vantage on the experiences of the millions of workers and consumers who participate in these market relationships; the criticism of the analytical model that limits its vision of the popular economy to the formal/informal dyad should be taken seriously.

Yet crucial to understanding the development of informality is the fact that its illegality matters, not just to the state, but also to the people subject to state power. In other words, one cannot separate people's perceptions and experiences of the popular economy from the illegality of a growing segment of these market transactions. In using the trajectory of the *jogo do bicho* to reconstruct a small corner of the developing informal economy, I argue that such illegal or semi-illicit forms of trading were the precursors to the massive informal economies of today. In tracing this history one can see where the licit and the illicit diverged. Tracing the development of the informal economy reveals the history of contingency of criminality, a topic

of current interest in the study of Latin America—but, as we will see, one that has led scholars to take for granted some crucial aspects of the elite “civilizing mission” that marked this period in cities throughout Latin America, aspects that themselves deserve to be held up to scrutiny.

Workers and consumers who participated in the informal sector are undocumented in two senses: they operated illegally; and they typically left no written records of their activities. In this way, the *jogo do bicho* differs from the city’s myriad other forms of unlicensed commerce. The repression that drove the lottery underground also made its history uniquely visible today. The judicial archive brimming with arrest records of buyers and sellers of the *jogo do bicho* may be unusual among urban Latin America’s other doubly undocumented workers, yet the judicial and police repression of popular practice would be immediately intelligible to anyone familiar with this moment in the region’s history.

Present-day scholars disagree about the extent to which Latin America’s late nineteenth-century urban modernity was state-led, imitatively Europhilic, or leavened by an acute interest in national folk cultures, but most concur on the illiberal, antipopular nature of the politics that brought it about.<sup>38</sup> Nineteenth-century Latin American republics shared a postcolonial dilemma: how to incorporate a diverse population, the majority of whom had been juridically unequal and culturally denigrated for centuries, into the nation’s faltering embrace. By century’s end, national leaderships’ ambivalent, eclectic take on liberalism, the uneasy coexistence of enduring colonial legal codes and practices alongside new, republican ones, and deep cultural anxieties about rural barbarism had left their imprint on the legal culture of the region’s cities.<sup>39</sup> Jurists, law enforcement workers, and political leaders in Latin America’s prepopulist era still generally dismissed the so-called social question of how to address the plight of the working classes as a matter for the police.<sup>40</sup> Scholarship on Porfirian Mexico, for example, a case analogous to republican Brazil, has shown that a subtext of moral panic behind urban modernizers’ battle cry of “order and progress” underlay the obtrusive interference of the state, particularly the police, in the lives of the urban poor.<sup>41</sup> Studies of the uglier side of the *belle époque* in Latin America include gambling, vagrancy, prostitution, and drinking among the practices marked by class and race that the state criminalized as part of the authoritarian politics that accompanied urban modernization.<sup>42</sup>



The Latin American elite's "enlightened intolerance" of certain manifestations of popular culture and the enforcement of public propriety through often tyrannous and discriminatory policing were hardly innovations of the late nineteenth century.<sup>43</sup> Yet during this period judicial archives burgeoned as policing apparatuses grew and some customary rights became criminal offenses.<sup>44</sup> The increases in arrests for certain infractions were a symptom of social change, one whose meaning scholars have debated.<sup>45</sup> Revisionist scholarship and the interdisciplinary thinking that the law and society field has facilitated have opened up the interpretive possibility that a perceived "decline of propriety" resulted not from any absolute change in popular behavior, but from the state's tendency to pass more repressive, antipopular laws.<sup>46</sup> Whether the number of accused criminals taken into police custody rose because the class interests of the elite forced a shift in the criteria for arrest or because of a surge in the number of people who misbehaved, fear of public disorder still holds unquestioned explanatory power in analyses of the criminalization of vernacular practice.

Almost immediately after the first bettors began to buy *jogo do bicho* tickets in the early 1890s, talk of the dangerous masses arose in legislative debates, bureaucratic correspondence, and judicial writing that established the legal basis for its criminalization. Arrest records show that the city's rapidly growing poor population alone suffered the legal repercussions of this activity in which both rich and poor avidly participated. The *jogo do bicho* is but one example of many of how the livelihoods and avocations of the popular classes aroused official suspicion even though they directly threatened neither life, limb, nor private property. The official reaction to the *jogo do bicho* suggests how the roots of modern social control grew tangled around what Thompson calls "the class-bound and mystifying functions of the law."<sup>47</sup>

Yet the ostensibly inevitable link between normative public order and the thoroughgoing repression of popular practice requires deeper inquiry. Even an axiomatic belief that class conflict characterizes modern society would not obviate the need to reconstruct the minute steps by which the *jogo do bicho* passed into the realm of the legally forbidden, for the historical significance of this repression derives as much from its ambivalence and failures as from its persistence.<sup>48</sup> Such policies as vagrancy law and the repression of popular practices have typically been interpreted as the state's attempts to dragoon the masses into wage labor and to create a disciplined laboring class.<sup>49</sup> Yet, as I show, the state itself described its efforts in multi-

ple ways, ways that included but were not limited to the desire to press the nascent working class into disciplined service. The state's social control project can explain official repression, but it fails to explain both the impunity and persistence of illicit activities and the cultural and social impact of the throngs who found themselves on the wrong side of the law.

The state's "proliferation of rules" produced a working definition of the public good that was fragmentary, tentative, and open to interpretation by the vast numbers of state and nonstate actors who acted on it.<sup>50</sup> Scholars have noted the paradoxical, somewhat counterintuitive phenomenon that occurs within this contested and negotiated definition of the public good: the creation of criminality. As Pablo Piccato shows in his study of the social construction of a crime wave in early twentieth-century Mexico City, the *jogo do bicho* did not begin as a unitary, distinct practice; its criminalization brought it into existence by both joining disparate, informal lotteries under a single criminal nomenclature and creating an illicit source of income for police.<sup>51</sup> But beyond reversing the causal arrow between criminality and policing, as critical historical studies of the law have done, one needs to show how official anxieties about public disorder emerged as part of a process of "legal marginalization" of the urban poor.<sup>52</sup>

The political elite in Brazil saw the nation's capital as a critical front in the country's sporadic war between civilization and perceived barbarism. But fear of the unruly masses and the need to press them into service in the nascent proletariat took hold along with fear of political disunity and unrest. Concerns over public order grew in this period, shaped by existing class and racial fears, political anxieties, and, in circular fashion, the process of criminalization itself.

The *jogo do bicho* emerged during the First Republic, the rather deceptive name given to the period from 1889 to 1930. The country had abolished slavery in 1888 and, a year later, the sixty-seven-year-old period of monarchical rule known as the Empire ended. The promise of change in the patronage-based political system provided hope for some, such as the incipient workers' movement in Rio. But the political map of Brazil was redrawn so as to exclude the vast majority of Brazilians from active citizenship and access to social power. In 1930 only about two million of the Brazilian population of some thirty million could vote. Republican rhetoric lifted straight from the French Revolution was accompanied by repression that hearkened back to another French political phenomenon: the counterrevolutionary Paris of Georges Haussmann after 1851. In fact, the engi-

neer Francisco Pereira Passos, the mayor of Rio from 1902 to 1906, is remembered as the “tropical Haussmann.” Rio, the political capital, the site of the republican military takeover, and the home of many of its national heroes, held a special place for the patriots of the Republic. It was the unrivaled cultural and economic center of the country and the site of the greatest promise—and the greatest predicament—of political participation in Brazil’s modern history.

Though marginalized in the city’s polity, Rio’s poor and working classes were the target of intensified surveillance. When slavery ended, punishment and the maintenance of public order became heightened public concerns. The issue of public order in the city was made more pressing by the explosive growth of the population and the flood of immigrants, mostly impoverished people from southern Europe and internal migrants from rural areas. In 1890 Rio had a population of about 520,000, and by 1906 it had swelled to over 810,000.<sup>53</sup> Worry over the retrogressive force a large, unruly populace could exert on the capital intensified because of a preoccupation with presenting the country as modern, both to bolster nationalist morale and to attract foreign investment and immigration.

The economic and cultural importance of Rio derived largely from its status as the capital of the new federalist Republic. The Constitution of 1891 provided for the creation of a Federal District in the middle of the vast plateau in the interior state of Goiás.<sup>54</sup> The capital would not move from Rio de Janeiro to Brasília for another sixty-nine years. Yet even as Rio reveled in its political, cultural, and economic ascendancy, the federal legislature ratified plans to demote it. This decision reflected a spatial solution to the social tensions arising in the city and the country as a whole. In the apt words of the historian Nicolau Sevcenko, “The intention of the political factions [that resolved to move the capital to the interior plains of Brazil] was to separate politics from history, for the purpose of making the ruling classes immune to the growing social tensions of the day. It was a means of privatizing politics, and of distancing politics from the public scene.”<sup>55</sup>

One of the rationales for moving the Federal District was public security. According to a proposal published in 1907 that urgently called for the relocation, the recent military revolt in Rio’s Fort Santa Cruz stood “in the heart of every Brazilian patriot” as a painful reminder “demonstrating the critical need for a measure that, once and for all, will save the government of the country from the agitations in the barracks and in the streets.” As the

words of this jurist and those of many commentators show, moving the capital city aimed to save the government from political agitation. He called for the implementation of “what then would be the most prompt and efficient measure that could be taken to protect the country from anarchy and the rule of political bosses [*caudillismo*], or at least make difficult the implantation of these tremendous evils among us.”<sup>56</sup>

The fears of the urban elite bore a certain logic. Rio had been the scene of various types of political violence during its days as the Imperial Court, when the population was far less dense and heterogeneous than it was at century’s end. Tumults and uprisings there punctuated the nineteenth century. The slave rebellion of 1835 in the northeastern city of Salvador da Bahia fueled a fear that reverberated in Rio until abolition in 1888.<sup>57</sup> The new Republic hardly brought social peace and political stability to the country. As the site of the military coup that overthrew the emperor and the seat of the military government in power from November 15, 1889, to 1891, when the first civilian president assumed office, Rio witnessed waves of violence and aggressive political repression for a decade after the Empire. Many of the most serious disturbances occurred in Rio, especially a naval revolt and a palace war that deposed the new president. In April of 1892, the vice president, acting as president, reacted to a military demonstration calling for new elections by decreeing a state of emergency and ordering the imprisonment or exile of several congressmen to “remote parts of the national territory.”<sup>58</sup> In 1898 soldiers returning to Rio from the infamous campaign against a messianic religious community in the northeastern city of Canudos created further unrest. In an attempted presidential assassination in the wake of this turmoil the minister of war, Marshal Machado Bittencourt, was killed. A state of emergency was reinstated, and members of Congress were again imprisoned and exiled. The early years of the First Republic saw vexing questions of public order that pitted the intellectual elite’s pride in the country’s modernity and dedication to the rule of law against their fear that the country was being torn apart from within.<sup>59</sup>

Policymakers’ and intellectuals’ assessment of their country at the dawn of the new Republic also sounded notes of optimism. Most notably, this national “Brazilian problem” brought down to the municipal level involved the beautification of the city. The architects of the massive urban renewal of Rio were motivated by civic pride and aesthetic concerns as well as by anxieties about public order and health and the ever-present need to at-

tract foreign investment. Urban reforms were not new to the republican period. Projects designed to improve the urban landscape in the 1870s and 1880s included new building regulations, widening of streets, reclaiming of coastal terrain through landfills, construction of a lushly landscaped promenade along the coast (*Passeio Público*), and the repair and reconstruction of houses. By the late 1880s any resident of Rio with a small amount of money could ride a tramway or railway line to most parts of the city.

The civilian presidential administration of Manuel de Campos Salles in 1898 marks a watershed in the establishment of a stable government and the initiation of a period of urban demolitions and dramatic reforms that would come to be known as the “putting under” (*bota abaixo*). Campos Salles’s handpicked successor, Francisco de Rodrigues Alves, ascended to the presidency in 1902 on a platform of reforms in the Federal District that included a dramatic remodeling of the city and a sanitation campaign. The public sanitation drive addressed the problem of disease and hygiene but also had powerful, albeit indirect, social connotations.<sup>60</sup>

In December of 1902, Rodrigues Alves appointed Passos as mayor of the Federal District.<sup>61</sup> The four years of his administration, known to his detractors as the “Passos dictatorship,” transformed the landscape of the city. The mayor waged an epic battle against backwardness.<sup>62</sup> His policies were a paean to an aesthetic widely shared, at least among those residents and admirers of the capital whose words are preserved in print.<sup>63</sup> Planners and administrators looked to Europe and especially to Haussmann’s Second Empire renewal of Paris and the related “elitist methods for urban development and social control.”<sup>64</sup> Officials ordered the demolition of tenement houses (*cortiços*), said to breed disease, criminality, and social conflict, forcing working-class and poor residents to relocate to far-flung areas of the city. The construction of a wide, Parisian-style boulevard, Avenida Central, inaugurated on November 15, 1905, involved the demolition of 641 stores. Avenida Beira Mar (Seaside Avenue) required the massive destruction of *cortiços* in the city center and of warehouses in the maritime districts of Candelária, São José, Santana, and Santa Rita.<sup>65</sup> Public statues were erected, streets widened, and scenic avenues constructed along the seacoast. The Passos administration closed public fountains, where people had gathered for over a century to wash clothes and collect water. Open-air retail vendors were shut down in favor of forms of commerce that officials could more easily tax, regulate, and contain.

The features of republican urbanism may be summarized as having four

principal characteristics. First, it included the privatization of most public utilities, such as electricity, gas, and the mass-transit system. Second, it instituted the deregulation of meat and food staple provisions, whose oversight passed from the auspices of colonial-era local jurisdictions to large, often foreign-owned corporations. Third, it involved the development and annexation of the surrounding suburbs. Finally, in the spirit of the shift toward laissez-faire capitalism, under the new urbanism the government abandoned some licensing requirements and adopted a policy of noninterference in large business enterprises. These changes went hand in hand with a new neglect of the less fortunate, a neglect ideologically reinforced by social Darwinism and French positivism, which valued the progress of society guided by a “scientific-minded and determined vanguard.”<sup>66</sup>

The preface to the census taken in the Federal District in September 1906, while the city was in the thick of the Passos reforms, is a narrative bursting with pride at Rio’s growing grandeur. The virtual tour of the city begins with a description of rua Primeiro de Março (First of March Street), one of Rio’s colonial nuclei, which had transformed from a small, dirt trail in the sixteenth century into a center of commerce and *flânerie* in the early twentieth. Rua Primeiro de Março was a “commercial street with a great deal of movement”; several narrower roads ran perpendicular both to it and to the recently opened Avenida Central. The smaller streets, in turn, were transected by other narrow streets. Together, they formed “the immense and compact commercial neighborhood of the city, and they have a picturesque aspect because of [this area’s] originality, its movement, its appearance of a tumultuous marketplace that fills these streets with the clamor of street cries, the rolling along of vehicles, the agitation of pedestrians, the variegated colors of the shop signs.”

The government publication describes one of these bustling narrow streets in the city center as being especially interesting: “The rua do Ouvidor . . . despite its narrowness, [is] the principal artery of the urban center, full of sumptuous shops, and so replete with people that at certain times of day it becomes difficult to cross the street. It is the street on which everyone meets. Someone once gave it the name, quite appropriately, ‘The Open Air Club,’ and not even the opening of the Avenida Central, which crosses the rua do Ouvidor, has managed to diminish its prestige as the favorite street.” From there, the narrative proceeds down other narrow streets leading north and westward toward the Praça da República (Republican Square), commonly known as the Campo de Santana, and then

to the rail station, Central do Brasil, the initial point of the network of train service that linked the vast, growing suburbs with the old, central city.<sup>67</sup>

The anonymous writers of this preface to the government census went beyond the prosaic rendering of numbers and pie charts that the rest of the document contains. Knowing that the document would be preserved and read as reference material for generations, they used the opportunity to take stock of the Federal District's demographics and also of its built environment and human geography. As the narrative weaves through busy streets and pushes past the urban multitudes that walk them, one glimpses the range of venues that would contain and constrain the city's public life. The public policies and private initiatives that sought to transform public spaces into quasi-private "Open Air Clubs" had only mixed success.

These stretches of asphalt, grass, and stone, these falling trees, deepening rock quarries, and rising walls of granite, brick, and wood will play a major role in the story of the *jogo do bicho*. On the glamorous *rua do Ouvidor* clandestine lottery operations flourished between the stores that sold English haberdashery and French perfume. The *Avenida Central* saw surges of antigambling police initiatives invade the private clubs believed to be gambling dens, forcing them to move to more distant neighborhoods. Wandering *jogo do bicho* peddlers fought over turf on the *Campo de Santana*; men and women walked from that square to the nearby *Central Station* and bought train tickets with counterfeit money. And in *Vila Isabel*, a new neighborhood at the western edge of Rio's sprawl, the commercial entertainment venture of an urban developer and concessionaire turned the culture of popular gambling into a criminal underworld with intricate connections to the police, shopkeepers, and citizens.

The first two chapters of this book describe the criminalization process that brought individuals like Carlos Figueiredo, the accused *bicheiro* introduced earlier, into contact with the justice system, and the larger social process that made such popular practices as the *jogo do bicho* into crimes. Chapter 1 outlines the origins of the *jogo do bicho* and the events that caused authorities in early Republican Rio de Janeiro to begin to view the game as a threat to public order. Through a historical process uninhibited—in fact, abetted—by petty gambling's juridical ambiguity, police targeted the *jogo do bicho* almost immediately after it was invented. Chapter 2 lays out the legal and practical concerns behind the promulgation of the crimi-

nal legislation related to the *jogo do bicho*. The unusually high rate of acquittal in cases of illicit gambling resulted from the wide discretionary power judges and police exercised. Extrajudicial policing practices and judges' failure to prosecute gambling offenders bear witness to the formation of an embedded system of informal justice that would characterize Brazilian urban public life in the twentieth century.

Evidence abounds that petty gambling had already become part of the daily life of the Federal District by the time of Figueiredo's arrest. The changing commercial landscape of the late nineteenth-century city had created an infrastructure that facilitated the purchasing of tickets to the many lotteries, both licit and illicit, which at this time became one of the most pervasive of Carioica cultural practices. Chapter 3 shows how the game developed in tandem with urban popular commerce in Brazil, arguing that the cultures that formed around the *jogo do bicho* were shaped by the structure and ethos of the popular, or informal, marketplace. Chapter 4 considers how money itself became crucial to the spread of the game and its criminalization and how it was both a token and a vehicle of mass culture and public life. Chapter 5 explores the cultural and folkloric aspects of the game, presenting an alternative to essentialist explanations of the Brazilian people's predilections for purportedly fetishistic aspects of the *jogo do bicho*, such as its system of dream interpretation, its animal symbolism, and players' superstitious dependence on the vagaries of chance. The popular tales, magazines, and forms of expressive culture that commented on the *jogo do bicho* demonstrate that its cultural meanings grew together with its illegality.

By 1917, a turning point, the *jogo do bicho* had become both an informal culture industry and a partnership between police, impresarios, and individuals involved in the game. Chapter 6 draws some conclusions about the importance of the game to the development of Brazilian urban society and legal culture. This historical moment was marked both by violent crackdowns on popular culture and labor organizing and by police corruption. Despite police repression, urban dwellers had not reached a consensus about whether the law should permit or forbid the immensely popular animal game. Debates in the daily press continued throughout the 1910s and 1920s regarding its proper legal treatment. Although it generated consternation in some corners, the *jogo do bicho* continued to penetrate urban society and spread to other parts of the nation. The chapter emphasizes the ironic social and cultural worth of this illicit practice; it describes a



period of harsh, centralized repression of popular gambling in order to contrast the game, which functioned reliably well, with a society in which, from the perspective of the nonelite majority, little else did.

The state became powerful and effective enough to enforce antigambling laws. If only suggestively, the epilogue considers the persecution and persistence of the *jogo do bicho* into the late twentieth century. This concluding backward glance describes how far the game had come by then in terms of its ubiquity, its unquestioned importance to society, its structural connections to urban popular culture, and the advanced repressive apparatus the state used against it.

The trajectory of the *jogo do bicho* makes it possible to trace the symbiotic relationship between law enforcement and popular practice. Over time, waves of repression came mainly as a result of the leadership of one or another aggressive, doctrinaire, or ambitious official. The lawyer Armando Vidal Leite Ribeiro, for instance, as *delegado* (police district chief) undertook the “kill the animal” (*mata-bicho*) campaign described in chapter 6. Yet there is another trend: the gradual institutionalization of the *jogo do bicho* as an illicit partnership between renegade police and citizens acting in the criminalized urban underworld that had come about as the result of police intervention. The repression of the *jogo do bicho* was not originally, or ever, really a moral or legal question. Rather, it manifested the state bureaucracy’s perceived need to regulate behavior, which itself derived as much from a desire to increase tax revenues and to punish wayward police as from a preternatural fear of the popular classes and their folkways. Moral and legal questions were pulled into the discussion and soon became intertwined with the political, social, and economic ones in an impossibly tight and complex knot. This uneven, accidental collaboration between agents of the law and the people forged the link between authoritarian repression and urban public life that many have come to see as a natural and organic feature of the urban landscape.