

## Citizenship in Rui Barbosa: "A Questão Social e Política no Brasil"

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A few months before the 1919 presidential election, in which he ran against Epitácio Pessoa, Rui Barbosa gave a lecture at Rio de Janeiro's Teatro Lírico titled "The Social and Political Question in Brazil," addressing a working-class audience. In this lecture, a text of major importance in his work, Barbosa proposed innovative approaches to and suggested hitherto unexplored options for political action. He introduced the theme of workers' rights ("*direitos sociais*") in Brazilian liberal discourse, recommending the establishment of social citizenship together with the modernization of political institutions. My purpose here is to discuss this text as a theoretical essay and a political act as well.

A warning is in order for readers of Rui Barbosa's lecture. There is a startling note in his introduction to the social issues ("*questão social*") of his day for he presents the defense of workers' rights as an extension of his abolitionist convictions. Barbosa states that there is a continuity between the principles that inspired him in the struggle for the emancipation of slaves and those behind his effort to alleviate the poverty among workers. His defense of abolition emphasized that it was not enough for slave owners to sustain their slaves but that it was just as important to ensure freedmen's social and economic redemption. In this vein, he called for a "second emancipation" that would conclude the task of improving workers' conditions in Brazil (Barbosa, "Questão" 427). It was of utmost importance to respond to the appeals for welfare from the growing number of urban and rural workers. As had been the case with abolition, it was a question of justice that called for a veritable moral crusade, one that should be led by those who made a point of "placing the law before iniquity" (429).

After stating his ambition to be acknowledged as patron of the workers' cause, Rui Barbosa changes his tone. He seems convinced that the honor to which he aspires will naturally be bestowed upon him due to "the consistency of his acts" (430). He no longer points to affinities between abolition and social reform. Instead of emphasizing similarities, he begins to point out differences. True, he reiterates that abolition and the "second emancipation" are subject to "the same moral order of ideas" (430), since both experiences are concerned with the dignification of labor. However, in spite of a common objective, he acknowledges that there are differences between the historical situations, which are "worlds apart" (430) with regards to labor and capital. Capitalists are now less intolerant and more intelligent, and no longer claim "rights against humanity" (*direitos contra a humanidade*). Workers, on the other hand, are no longer doomed "to the political and civil death that buried slaves alive" (429).

Although the situation in 1919 was less desperate, Rui Barbosa warned that it nonetheless implied unprecedented requirements. What was at stake now was not simply the attainment of the basic attributes of human rights (*atributos da pessoa humana*), but the challenge of promoting workers' economic independence. It was no longer convenient to insist on the defense of a formal contractual freedom (*liberdade contratual*) that had characterized liberal discourse during the Monarchy and in the early decades of the Republic. An increase in State participation in social welfare had become necessary. This much was demanded by the "wave of social concern" predominant throughout the world at the time (453), and which had influenced Rui Barbosa as well.

When asked his official opinion about a bill concerning the building of public housing in 1892, Rui Barbosa referred to the social issues as "melancholy, guilty, *ersatz*," and influenced by European historical trends (Barbosa, "Casas para Operários"). The very idea of the State regulating work conditions seemed to him misplaced in Brazil. It might make sense in Europe, he argued, where the disorderly occupation of land already required supervision by the government. But in Brazil, where the population was sparse and natural resources were abundant, quite the opposite was required: unrestrained expansion of private initiative without any State-imposed limits. In a country that had such potential for generating wealth, nothing could be less apropos than controlling the expansion of capital and subjecting it to legal constraints, as socialist doctrine preached.

Those who had been seduced by the language of confrontation between capital and labor, Barbosa believed, should note the evolution in the thought of such socialists as Proudhon, who had undergone a conversion and was now such a believer in the virtue of capitalism that he preached that the right of property should be absolute, even if it implied abuse, for in the long run it would purify itself. Now, if a socialist thinker whose critique of the market was notorious for its virulence had finally accepted the “excellence” of the institution of property, why not expect the same from Brazilian workers, who would have much to gain if free enterprise were left to develop unchecked in the country?

The contrast between such ideas and those Rui Barbosa defended in his Teatro Lírico lecture could not be sharper. The evolution in his thought from 1892 to 1919 was comparable to the change he himself believed had taken place in Proudhon’s ideas, only in precisely the opposite direction. Although Barbosa had not become an enemy of property, he now affirmed the “preeminence” of labor over the other factors of production. Quoting Lincoln, he stated that capital was nothing if not the fruit of labor; thus labor deserved “much higher consideration” (“Questão” 426). In addition, such an acknowledgment was taking place in the sphere of the law, for in a number of countries the individualistic view of human rights was increasingly giving way to the assertion of workers’ rights:

Society is no longer seen as a mere aggregate, a juxtaposition of individual units. ... but rather as a naturally organic entity, in which the sphere of the individual has as its inevitable limit... collectivity. Law is gradually yielding to morality, the individual to the association, egoism to solidarity. (431)

The model Rui Barbosa announces and to which he immediately affirms his allegiance is labeled “social democracy” (431). Based on the social doctrine of the Catholic Church, it allegedly contains features defined on the basis of the socialist experience, or of two antagonistic modes of socialism: “devastating socialism” and “benevolent socialism.” The former, reducing as it did social issues to class struggle, was the very opposite of the “ample, serene and sincere” democracy at which it supposedly aimed. Barbosa’s model, however, had much in common with “benevolent socialism,” in particular a commitment to social equity. Just as relevant to the building of “social democracy” was the socialist experience concerning the regulation of labor:

But [socialism] is also right when... it lays down the foundations of a body of workers' law, in which the absolute freedom of contracts is limited in order to protect the weakness of the needy against the greed of the affluent, restricting the imperatives of capital. (431)

Here, then, is the unambiguous sign of a radical change in Rui Barbosa's thought. The champion of a formal contractual freedom who was instrumental in the 1891 Constitution's prohibition of State regulation of labor relations, now claims that legislators should intervene in order to protect workers from capitalist abuse. He qualifies as "imaginary" the assumption of equality between employers and employees, a principle he has previously affirmed in order to defend contractual freedom and autonomy. He claims that pure contractualism ("*contratualismo puro*") has had the effect of contributing to the subjection of workers to degrading work conditions, a fact he claims is acknowledged by the League of Nations and advanced countries, including the United States, a nation highly committed to contractual freedom (436). Now, he says, is the time for Brazil to take the necessary steps to conform to "universal juridical conscience" (453). The first of these steps should be constitutional reform, in order to allow Congress to legislate on such social issues without hindrance.

Next, Rui Barbosa enlarges upon a possible social agenda for Congress. He has no pretension of being exhaustive. Rather, he is commenting on "basic points" which seem to him ripe for normative treatment (443). He begins with a discussion of work injury compensation, the object of a bill passed in January of that year (1919) and Congress' first action in the sphere of labor law since the proclamation of the Republic that he considers worthy of note. But Barbosa feels that this law will never be enforced, because it does not specify a deposit or insurance that would ensure compliance. Next, he demands equal pay for both sexes: "equal work, equal pay" (444). The third item has to do with child labor. He proposes that the exploitation of children be outlawed, and that a minimum age and a decent wage scale be established. Also, the number of working hours should be fixed in rural and urban contexts. This should not be left "to the discretion of contracts," which would lead to "the ineluctable preponderance of the stronger party over the weaker" (445). Another proposal is the prohibition or drastic reduction of night work. Barbosa also condemns the practice, common among small factories, of assigning piecework to craftsmen do be

done at home, under wretched work conditions and for insufficient pay, because this reduces the worker to “the sad condition of a servant” (445). The next “basic point” has to do with protection of pregnant workers, a subject which, given its social relevance, cannot be consigned to “the whim of interested parties” (446). He concludes his suggestions with a call for control of landowners’ practice of forcing workers to buy basic staples from their own stores at prices that ensured indebtedness which he calls a system of “perpetual, slow usury” (446).

Some of Rui Barbosa’s proposals show his concern that social legislation should not leave out rural workers, which at the time accounted for more than half of the national work force. It seemed to him unjustifiable that, in an “essentially agricultural country” (439), the law should give preferential treatment to urban workers, particularly when peasants were often submitted to the yoke of “cruel and irresponsible employers” (440).

His defense of workers’ rights makes it clear that Rui Barbosa no longer stands for the possessive individualism that characterized his liberal peers. But the text of his lecture also shows that he remained attached to the cause that had until then been his main concern: Brazil’s political and institutional modernization. In it, he reiterates the theses on political reform that he had originally presented in his previous presidential campaign (1910), recontextualizing their historical significance and placing them in the service of the affirmation of social citizenship. In this way, he anticipates T. H. Marshall in his study of the evolution of citizenship in England, where social attributes are expected to result from the free and generalized exercise of political rights. Here Rui Barbosa’s lecture gains relevance as a political act for its questioning of the authoritarian formula that orthodox Positivism forwarded as a corrective to the institutions of the Old Republic (1889–1930) and as a way to deal with growing social conflict. The general strike of 1917, the outcome of almost two decades of union mobilization, was an unmistakable reminder that the social issues had come to stay. The problem was what to do about it. To Barbosa, the solution was to be found in social legislation, or “legislative guardianship,” so long as it was adopted by means of democratic methods, which required reformed representative institutions (453).

At the opening of his lecture, Rui Barbosa vehemently expresses his hope that popular sovereignty will put an end to oligarchy. He calls on the people to combat the stigma of apathy and laziness that the power elite has attributed to them. To him, the “panjandrum” of the Republic assume that

they live in a country of “unlimited resignation and docile indifference” whose people are “a riffraff... of born slaves, conceived for the exclusive purpose of obeying orders” (422). Hence the insolence of those who wield political power. Decisions are made with complete disregard for “national opinion” (422). It is high time for the people to become aware of their power and to make it plain that “this is not Brazil” (423), that the country is not to be identified with “ballot riggers” and “fake statesmen” (424). “The people’s rediscovery of their own majesty” will not take place by force or civil disobedience, but by vote, in an election that actually reflects the will of voters, quite unlike what has until now characterized political practice in the Republic (424). An example of this was the “electoral swindle” (457) that had led to his defeat in the presidential race against Hermes da Fonseca in 1910. The doctoring of returns and the mechanism of Congressional ratification<sup>1</sup> had robbed him of the presidency. Constitutional reform can no longer be postponed—a theme Barbosa had insisted on in his 1910 presidential campaign, proposing, among other innovations, the prior registration of voters and the secret ballot. He suggested that the possibility of adopting the parliamentary system be discussed, for such a system seemed to him less subject to authoritarian pitfalls than presidential government. In the Teatro Lírico lecture he once again repeats this argument, praising parliamentarism because it allows more space for deliberation and for “moral crusades” such as his present crusade for the regeneration of labor (428).

Rui Barbosa’s demands for political reform were squarely aimed at the Positivism that had been espoused by Júlio de Castilhos and his followers. Although in his youth he had been sympathetic to Comte, he had gradually distanced himself from Positivism, particularly from the political current that seemed to have acquired permanent control of Rio Grande do Sul and that was behind Epirácio Pessoa’s candidacy. Barbosa referred to *castilhismo* as “the radical offspring of Comtism” (451). What he objected to in particular was the authoritarian tendency of orthodox Positivism, expressed in the State constitution of Rio Grande do Sul by the exacerbation of executive power at the expense of legislative power. Comte’s apostles preferred to concentrate normative functions in the hands of the head of government, who was expected to provide the scientific laws that would make Brazil rise to a higher level of civilization—which also implied progress in the social sphere. In the first year of the Republic, the Positivists had suggested—unsuccessfully, as it turned out—that Marshall Deodoro da Fonseca issue a body of social

legislation including such items as rights of tenure and limits on work hours. Such measures, it was hoped, would allow the executive branch of government to protect Brazil from any threats to the cohesion between capital and labor that was felt to be indispensable and that was perceived as challenged by the country's transformation into a mass society. Since the 1920s, such authors as Azevedo Amaral and Oliveira Vianna had been busy conferring scientific status on the Positivist platform, publishing works that were to provide the foundations for Getúlio Vargas's labor policy, put into practice after the 1930 Revolution by his Labor Minister, Lindolfo Collor, who had a *castilhista* background. Rui Barbosa would not live long enough to debate with Vianna or clash with Vargas, but he foresaw that Brazilian social policy was not going to be pursued by means of democratic methods, as he desired. He anticipated breaks with the constitutional order: "If I seem to be so concerned with the imminence of disturbances... it is not because I desire such things... but because... I see them looming in the distance, and would like to convince those who promote them that we should all unite against the tremendous danger they contain" (453).

With the victory of authoritarian Positivism, not only were Rui Barbosa's theses shelved but his very image was distorted. He began to be portrayed as an ideologue of the *ancien régime*, an intellectual committed to foreign models—a "utopian idealist," as Vianna wrote (2: 28-29). So much the worse for the history of ideas in Brazil, because an understanding of Barbosa's era was in this way compromised. It became received wisdom that there had been only two forces in the period: oligarchic liberalism and *castilhista* Positivism, with no third way. This led to the conclusion that the hegemony of authoritarian thought was a natural consequence of the exhaustion of belletristic liberalism, or even a historical necessity, dictated by factors cultural (the sheer weight of Iberian statism) or economic (the requirements of the diversification of the productive basis). Historical process was deprived of indeterminacy; the emergence of the "Estado Novo"<sup>2</sup> could no longer be seen as the choice of one political alternative among others.

In a recent work, Bolívar Lamounier (1999) attributes this misreading of Rui Barbosa to the influence of two discourses: orthodox Positivism and authoritarian leftism, both skeptical of the value of liberal institutions. I will not discuss Lamounier's argument here, but would like to add that the historical role of liberals (or self-described liberals) since the "Estado Novo" has been decisive in this respect. In his commitment to public freedoms and

his concern for workers' rights, Rui Barbosa was disowned by his peers. The history of Brazilian liberals since 1945 is a succession of coups, compliance with authoritarianism and social insensitivity.

These days there is much talk about the "deconstitutionalization" of workers' rights, in order to promote the autonomy of opposing parties. Has Brazil become so egalitarian that lopsided work contracts are definitely a thing of the past? Rui Barbosa was a lone voice in his time. And, most likely, so he would be again, should he come back to life today.

### Notes

<sup>1</sup> After an election, the winning candidates were screened by the Chamber of Deputies for ratification. In actual practice, this meant that only those candidates who were supported by the governors or by the President were allowed to hold office. (Translator's note)

<sup>2</sup> The authoritarian regime ("New State") imposed by Getúlio Vargas from 1937 to 1945. (Translator's note)

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