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“Law for Whom?”: responding to sonic illegality in Brazil’s *funk carioca*

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ABSTRACT

Music and sound constitute an important site of politics in Brazil. Debates about laws regulating music and performance—particularly when related to historically marginalized genres—provoke debates about citizenship, belonging and inequality. Despite being Brazil’s most popular contemporary genre of music, *funk carioca* (funk from Rio de Janeiro) faces multiple legal challenges. Various state laws have criminalised or banned live performances of *funk*. Furthermore, *funk* producers and DJs flaunt copyright through intensive, unauthorized sampling of American hip-hop, freestyle, funk, and other genres. Despite pervasive sonic and musical illegality, *funk* musicians imagine the law as a source of protection which should work for them. In response to *funk*’s illegality, musicians focus on lawmaking to declare the genre popular Brazilian “culture” and on educating artists on copyright law.

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The paredão de som (big wall of sound) – dozens of stacked speaker boxes – rumble the sounds of *funk carioca* (*funk* from Rio¹), an Afro-Brazilian music with roots in hip-hop and Freestyle. *Equipes de som* (soundsystems, literally sound teams) compete with each other for “sonic dominance” (Henriques 2011) using their technology and their ability to overwhelm the publics’ senses with booming sound from locally made and decorated speakers and colourful light displays. Between bass drops and laser sound effects, loops of reverb-heavy low-pitched male voices recite the soundsystem’s name and brag about its power, “Nuclear Chatubão! War tank of sound!” “Performing on the most modern equipment for DJs, Cuca! Be careful!” “Cashbox, the sound above normal! Cashbox!” From cobblestone streets on hillsides with seaside views, to soccer fields in the outskirts of the city, DJs blast *funk* remixed live using laptops or MPCs (Music Production Centres) drumming out samples to create sonic collages on the fly. Heavily amplified, *funk* vibrates buildings and bodies. *Funk* musicians and fans spoke about their love for *funk* as something they felt in their skin and enjoyed feeling *funk*’s vibrations circulating through their bodies. They did not talk about *funk* as a music they listened to only with their ears. Loudness can break peoples’ “sense of detached observation and replace it with a sense of immersion” (Gracyk 1996, 106). A feeling of immersion might be undesired. The *bailes*’ loudness destroyed the heavily policed differences and social distance between the “informal” favela and “formal” neighbourhood, between the *morro* (favela, literally hill) and *asfalto* (asphalt, or neighbourhood). In favelas

perched above wealthy neighbourhoods like Ipanema and Copacabana, the baile made the favelas heard and felt beyond their socially recognised boundaries. Bass from bailes expanded the sonic space of the favela into the formal city and immersed the asfalto in the sounds of the favela.

Since the 1990s, *funk carioca* has been the most popular contemporary genre of music native to Rio de Janeiro. *Funk's* immediate roots date to *bailes funk* (funk dances) in the working class suburbs during the 1980s where soundsystem DJs played Electro, Miami Bass and Freestyle records smuggled from the US. American music became vernacularised as Rio *funk* when DJs “baptised” American songs with Portuguese nicknames, when fans sang along to Miami Bass and Freestyle tracks with their nonsensical or Portuguese lyrics, and through vinyl records such as DJ Marlboro’s *Funk Brasil Number 1* (1989) which features amateur singers rapping in Portuguese over assemblages of Miami Bass samples. At the turn of the 21st century, *funk* began to sample homegrown Brazilian rhythms, when increasing access to PCs running free or pirated music production software enabled producers and MCs to make their own instrumental *loops* (DJs employed the English word for sample). Beginning in the 2000s, *funk's* dominant rhythm became *tamborzão* (big drum) featuring Afro-Brazilian drumming patterns sampled from drums or MCs beatboxing these rhythms. Although two DJs claim to have individually invented *tamborzão*, most musicians agreed that the rhythm was collectively created and hundreds or thousands of versions of it exist. Produced primarily by young men in simple home studios, *funk carioca* is a diasporic, self-made electronic music symbolic of favelas.

Funk carioca not only became the most popular contemporary genre of music in Rio, it also has been the most legally contested. Its popularity in favelas, where the majority of MCs, DJs and producers reside, has contributed to the sound becoming the “voice of the favela youth” (Lopes 2011). In hundreds of favelas and working class suburbs, soundsystems transformed soccer fields, samba schools and streets into community *baile funk* (funk dances), which have drawn hundreds or thousands of mostly youthful attendees. Despite its popularity, numerous state laws and resolutions have attempted to criminalise live performances of *funk*. Furthermore, some police have benefitted financially from baile *funk's* illegality. The criminal status – or onerous legal regulations of bailes – has facilitated police demanding bribes to allow *bailes* to take place (Palombini 2013). Thus, continuing to criminalise *bailes funk* in favelas has allowed police to financially benefit from their illegality.

Funk's production and circulation have often been at odds with copyright law. Like hip-hop, *funk carioca* emerged as a genre because musicians sampled records to create montages from loops of sound. Beginning in the late 1980s, DJs and producers played and then sampled Miami Bass, Freestyle and Electro records smuggled by DJs and airplane pilots from the US (Vianna 1988). During the 1990s, the so-called “Volt Mix” rhythm – the 1987 B-side instrumental track “808 Volt Mix” by Los Angeles’ DJ Battery Brain – was sampled in countless tracks. “Volt Mix” is itself more than one song; it samples 28 soul, funk, disco and hip-hop tracks.² Beginning in 1999, DJs’ references began to shift towards Afro-Brazilian sounds – samba, Candomblé drumming and capoeira – and *funk's* dominant rhythm became *tamborzão* (big drum), a locally and collaboratively produced rhythm. Throughout, *funk* producers have created tracks through a cut-and-paste approach using loops. Over USB sticks, Microsoft Messenger or WhatsApp, DJs, MCs and producers have shared loops – diverse samples of Afro-

Brazilian drums, popular *funk* lyrics, news reports, gunshots from old Westerns – with their friends. Gift exchanges were gendered – all producers were men – and loop libraries were built through relationships of reciprocity. Legally, however, sharing samples and using samples in one's songs could also be viewed as piracy.

Dialogic tension between intellectual property (IP) and piracy influences media ecologies and shapes “the channels available for both creation and consumption” (Dent 2016b, 2.4). *Funk*'s localised insider understandings and norms of authorship and permissible usage – which would be considered piracy to outsiders – limited its circulation. The illegality of how *funk* artists produce their music may make it difficult for them to seek copyright protection for their work. Despite contradictions between copyright and *funk*'s mode of production and circulation, musicians imagined that copyright law could protect them if more musicians simply knew their (copy)rights.

Laws regulating music and sound in Brazil provoke debates about citizenship, inequality and law itself. In particular, music marked by histories of racialised inequality and exclusion is an important sphere of political action in post-dictatorship Brazil. As Ana María Ochoa eloquently argues, there has been a contemporary turn from the visual to the aural “as a locus of analysis and political struggle” (2006, 808) and “the aural has been a sphere of crucial constitution of Latin America's highly unequal modernity” (Ochoa Gautier 2006, 804; see also García Canclini 2002). Focusing at the scale of the city, Leonardo Cardoso contends that “debates on urban noise within the city's lawmaking sphere are one possible line of inquiry to discuss citizenship in Latin America” and illustrates how the state – informed by North American and European techno-scientific ideals of urbanity – mediates tensions between universal and individual freedoms at the scale of the city in a region marked by relatively high economic inequality, corruption, violence and contested land ownership (Cardoso 2017, 920).

Drawing upon research based on 18 months of ethnography, interviews and archival work in Rio de Janeiro beginning in 2008 until the Olympics in 2016, I argue that state governance of music and sound provokes an active engagement with law among impacted musicians. While *funk carioca* often exists outside or in opposition to the law – related to its racialisation and connections to favela youth – in this article, I demonstrate how discourses and practices of (il)legality have fostered relationships between *funk* practitioners and the state. Illegalisation of *funk* provoked musicians to educate themselves and others on law, to build alliances with lawyers, academics and politicians in order to change laws and claim law as something which should serve their interests. *Funk carioca* serves both as grounds for exclusion while also providing a way for some to claim rights. Sound and music are imbricated in politics and provide a unique site in which marginalised communities engage with the law and negotiate citizenship in the face of ongoing trends in contemporary Brazil of criminalising poverty.

***Funk* is trash**

As a popular music associated with the poor, *funk carioca* has been the frequent target of state laws, which either criminalise or “culturalise” its performance. Laws, which attempt to criminalise *funk*, legislate its performance as potentially dangerous in ways which reflect fears of sonic contagion based on racist and classist stereotypes. The sound of the favela – *funk carioca* – is treated as a representation of poverty and trigger of

violence, crime and transgressive sexualities. Controlling sound becomes a biopolitical project in that sonic control is perceived as a means of policing violence, crime and sexuality particularly stereotyped as problems of the poor (Guilbault 2007). The state criminalisation of expressive cultured produced in favelas and peripheries extends criminalisation of poverty, which serves to consolidate the penal state in post-dictatorship Brazil (Facina 2016). While state laws, which criminalised performances of *funk carioca*, historically have been proposed by politicians connected to policing and security (i.e. Rio's Chief of Civil Police and Secretary of Security), citizens have also supported attempts to criminalise the genre.

In 2017 Marcelo Alonso, a web designer from São Paulo, submitted a proposal to the Brazilian Senate to criminalise *funk*. He had received over 20,000 signatures, the minimum which Congress required for citizens' suggestions to receive consideration and a chance for public audience in the Senate to debate the potential proposal. Although it had nearly 22,000 signatures, "Suggestion 17/2017" was extremely vague and did not explain how *funk* would be prohibited, who would be targeted or what any punishment should be. The proposal did not define *funk* musically or socially other than describing it as a tool for criminals and labelling it a "public health crime". It stated that the *bailes de pancadões* (São Paulo's community *funk* parties, literally "dances of thunder") "are only a recruitment [tool] organised on social networks for criminals, rapists and paedophiles to commit crimes" including "orgies and sexual exploitation, rape and group sex between children and adolescents, pornography, paedophilia". The legislative suggestion further stated:

It is a fact and knowledge of Brazilians, spread by various vehicles of communication of media and of the Internet with rotten content alerting the population and public powers of the crimes against children, minors and the family. Public health crime of this "false culture" called *funk*.³

The proposal reached Romário, a soccer star turned senator from Rio de Janeiro, who decided to invite Alonso to participate in a public audience with famous *funk* musicians including Valesca Popozuda, MC Koringa and Bochecha.

The suggestion for proposing a "legislative idea" against *funk* came from a follower of Alonso's Facebook page, FUNK É LIXO (*funk* is trash), which he started in 2015. According to Alonso, a FUNK É LIXO follower suggested proposing a "legislative idea" (a service offered to any citizen on the Federal Senate's website) to criminalise *funk* as a crime against public health.⁴ Alonso elaborates on the threat to public hygiene, which he believes *funk* poses:

The crimes "correlated" with the *funk* genre began to emerge. The crime of paedophilia, pornography, rape, abuse, child molestation, among others, and *funk* has no base in any culture, it began to show its face, and ... it was approved in RJ as culture in 2009 and in SP.⁵

He continues – anthropomorphising *funk* – that the state laws recognising *funk* as culture "only confirm what we have begun to believe, that this was its objective, and the facts confirm this and with the facts, there aren't arguments".⁶ *Funk's* primary crime, the legislative idea claims, is of inciting and facilitating improper sexuality. "Suggestion 17/2017" represents the thunderous sound of the baile *funk* as enticing children and teenagers to dances and triggering or facilitating precocious, promiscuous or illegal sexuality.

Calling *funk* "trash" and framing the genre as a threat to public health partially continued a history around hygiene projects in Brazil. Hygienic projects have been a

longstanding Brazilian mode of wrestling between “civilization and barbarism” (Collins 2015), which often target favelas and the poor. Furthermore, in Latin America police, politicians and the public have long tradition “of framing ‘cleaning’ ... as the removal of unwanted social types” (Dent 2016a, 428). Labelling *funk* lixo that needs to be cleaned up represents *funk* as both a threat to public health and as a dangerous contagion associated with criminals.

What is new is that labelling *funk* lixo also appears to have been in reaction against the proposal to legally recognise *funk* as “culture” in the state of São Paulo. The FUNK É LIXO Facebook page started the same year that a state law was proposed in the Legislative Assembly of São Paulo to “define ‘Funk’ as a cultural and musical movement of popular character”. Although the state law has yet to be approved (counter to Alonso’s claim), the emergence of the FUNK É LIXO page corresponds to the proposal of a state law – similar to the existing one in Rio de Janeiro – which would have recognised *funk* officially as culture.

Funk musicians and supporters decried the attempt at criminalising *funk* as racist, classist and an affront to *funk*’s cultural patrimony. Mr. Catra, an MC whose 20-year career has spanned various styles of *funk* from conscious rap to gangster *proibidão* to sexy *putaria*, defended *funk* as culture in various press interviews. Catra asserted, “They’re trying to go against cultural patrimony. *Funk* is a cultural patrimony. It’s total prejudice. And because we live in a free country, in which *funk* represents the people, [this would be] a law against its own people”. By declaring that *funk* is cultural patrimony, Catra pointed to Rio de Janeiro’s so-called “Funk é cultura” (*Funk* is culture) law (Law 5.543/09). The state law – authored by state deputies, Marcelo Freixo, an ally of the Association of Professionals and Friends of *Funk* (APAFUNK), and Wagner Montes – defends *funk* by defining it as “a cultural and musical movement of popular character” that should be treated no differently from other similar manifestations of popular culture such as samba. However, *funk*’s culturalisation continued to be contested and, like other genres in Latin America such as champeta or cumbia which face difficulties in becoming “brands” of the nation—such as the tango in Argentina—because they are polemical and cause moral panics (Luker 2016). Despite this, by declaring *funk* cultural patrimony, Catra made clear that he was versed in a recent laws pertaining to *funk* to call on it for protection and legitimation.

FUNK É LIXO’s attempt at creating a national law that would make *funk* illegal based on its threat to public health provoked a defence by *funk* musicians. *Funkeiros* responded by familiarizing themselves with relevant laws and appealing to liberal ideas against racism and classism to claim freedom of expression and cultural rights.

Criminalising *bailes funk*

“*Saudade* hits for when we had a menu of community *bailes funk* to enjoy on the weekends. I was happy and I didn’t know it. I played in more than 30 favelas of Rio de Janeiro. I miss this. Besides my home, Chatuba, my favourites were Mangueira, Jacaré, Caratê and 15 in City of God, Mangueirinha, Corte 8, and Furk Mendes ... The government put make-up on some communities and oppressed the culture of the favelas ... And now? I don’t know. All I hear is the Sound of Gunshots”. -DJ Byano

In a Facebook post from 2015, DJ Byano reminisced about Rio's wealth of *bailes funk*, community dances, and bemoaned how the state was repressing the culture of favelas by silencing these live performances. Byano's own baile in Chatuba had been silenced during the five years that his community had been occupied by the União de Polícia Pacificadora (Unit of Pacifying Police, or UPP). Police pacification of favelas were an attempt to wrest control from narcotraffickers. To assert their dominance over newly occupied favelas, pacifying police pacified the sonic space of the favela by banning the loudest live event, the baile *funk*.

After winning bids to host the World Cup and the Olympics, Rio de Janeiro inaugurated a novel form of policing in favelas in 2008. The UPP is a public-private initiative whose stated objective is "permanent taking back of communities dominated by traffic, as a guarantee of closeness between the State and the population".⁷ Thirty-eight UPPs consisting of nearly 10,000 police claimed to have taken back approximately 264 "territories". Almost uniformly, the arrival of the UPP spelled the end of community bailes. The UPP commanders wielded tremendous power over daily life in newly pacified favelas. In many pacified favelas, community bailes became a point of contention between pacifying police, residents, *funk* musicians and soundsystem owners. To assist with pacification, the city passed resolutions regarding governance and defining the police's power in these spaces. Resolution 013 – approved by Secretary of Security José Beltrame and currently imprisoned Governor Sérgio Cabral – required that social events in favelas obtain permission from pacifying police commanders. Furthermore, if a police commander did not give permission for an event, residents had little recourse for contesting decisions. Although Resolution 013 could impact events from baptisms to popular samba-derived *pagode* performances, *funk* musicians complained that Resolution 013 inordinately applied to bailes, which had ceased to occur in almost all pacified communities.

While Resolution 013 illustrates how post-dictatorship Brazil's criminalisation of poverty relies on state practices, which target expressive culture in impoverished areas, I am interested in how and why music and sound became a focus of policing. The political implications of the criminalisation of performances of *funk* is that everyday life in the favelas was treated as an aural sphere which police could exert authority over through sonic control. Banning the *baile funk* helped further establish police pacification as a felt experience. On weekends, *bailes funk* no longer drew hundreds or thousands of youth to dance, drink or laugh together while showing off their practiced dance moves. Lyrics referencing the name of the favela or its DJs, MCs or other prominent residents no longer were amplified via "big walls of sound". With their livelihood and performance spaces threatened, musicians and sound system owners have contested *funk's* criminalisation through claiming their music as valuable, national culture. I focus on the struggles of DJ Byano, a music producer and sound system owner, to bring back the baile to Chatuba after pacification in order to show how *funk* musicians have appealed to the law and the state to fight against the silencing of live *funk* performances.

The baile *funk* in Chatuba had been known as the "Maracana of *Funk*" (Facina and Palombini 2017) and had only recently returned after five years of silence. Performing at this baile had been for *funk* artists what playing in Rio de Janeiro's famed Maracana stadium is to soccer players. Chatuba's baile was considered the top. MCs, DJs and dancers innovated styles, techniques and trends and built their reputations in the

context of influential bailes like this one. Begun in 1996, Chatuba's baile was one of Rio's most important bailes between 2005 until 2010 when it had been shut down. Songs were produced and tested at the baile at Chatuba, which "was an incubator of MCs whose careers exploded afterwards" (Rosenblatt and Palombini 2014). The baile, however, had been silenced for five years between 2010 until 2015 because of the new policing programme in Rio de Janeiro. The baile only returned after a change in UPP commanders, and the new commander still affirmed, "If this causes any problem, we'll suspend the baile" (Facina and Palombini 2017, 357). Because the UPP had set up their headquarters next to the plaza where the baile occurred, the baile now "would be in the headquarters of the UPP, a type of panopticon where everyone is observable" (Facina and Palombini 2017, 357). The UPP symbolically laid claim to space by occupying what had been the location of the renowned baile *funk* with new police headquarters.

Below I discuss my first meeting with DJ Byano to examine how the criminalisation of the baile prompted Byano to learn how to apply for grants from the Secretary of Culture, navigate labyrinthine state bureaucracies weekly and appeal to the "funk is culture" law to claim legitimacy for the baile *funk* in his community.

August 2015

After riding the metro, train, bus and, finally, hopping on a moto-taxi, I arrived in the square of Chatuba, a favela in Rio's North Zone. In the plaza which doubled as a soccer field, I called Byano on WhatsApp. Instrumental guitarrada drifted from the nearby bakery's window. A Siamese cat meandered by. Several young boys flew kites from the plaza's adjacent school playground. Byano, with his two-year-old son in tow, strolled up wearing an "Eu Amo Baile Funk" t-shirt – *funk* party in Rio's nightlife district Lapa trendy among upper-middle class college students. Byano and I sat down at a table to talk, and he placed his son on a plastic tricycle to play.

"Clack, clack, boom!" Semi-automatic fire and grenades exploded over our heads. Byano sprang into action and scooped his son up and ran into the closest building. I ran behind along with the boys who had been flying kites through the open door of a health clinic across the street. Huddled next to two desktop computers away from the door, Byano asked me, "So, what was it you were asking me?"

Although pacification of Chatuba had spelled the end of the weekly baile, it had not ousted criminal factions nor ended occasional firefights between police and narcotraffickers. Between bursts of gunfire nearby, Byano talked about the difficulties of bringing back his baile. The first commander of the local UPP was Evangelical and had refused to negotiate with Byano about the baile. In response, Byano appealed to Rio's Secretary of Culture for legitimation. The Secretary of Culture had offered "Creative Favela" grants for *funk* or hip-hop projects. DJ Byano explained why he applied for a grant for bailes in his community:

"With pacification of Chatuba, I've spent 5 years planning this [baile]. 5 years planning this and only taking no to my face. No, no, no. There was a commander who was Evangelical, who hated *funk*, never for nothing would he allow *funk* to happen. So, I had to run to the Secretary of Culture, to get support from them".

Funding from the Secretary of Culture would provide legitimacy to bailes and offered organizers a means of voicing grievances. Sound system owners like Byano posted images of the "funk is culture" law or paperwork documenting their approval as a

“Creative Favela” grant recipient on their Facebook pages when they complained about their bailes not being approved. The various state and institutional sponsors listed on flyers for Chatuba's post-pacification baile (see Figure 1) document Byano's work building connections to and appealing to the state.

Organizing a baile in a pacified favela required that soundsystem owners apply for grants from the state, become familiar with and learn to engage with various state and police bureaucracies. Even with the start-up funds and stamp of legitimation from the Secretary of Culture, Byano had to navigate a dense bureaucracy to stage a baile. Byano explained the process of getting documents for the baile approved every week:

“Each week, I get the document at the sub-prefecture, I take it to the base of the Military Police of the region, the UPP (Union of Pacifying Police). There, the commander decides whether he'll liberate the event. Every week, I have to go through the same process. In reality, you also need to get approval from the civil police, the firefighters and the battalion. But I only have to get it from the sub-prefecture and the battalion or the UPP of the area. Because I have a partnership with the Secretary of Culture, I don't need to get one of the other documents from the sub-prefecture each week”.

Connections to the Secretary of Culture, which created the Favela Criativa grant to support *funk*, was only possible because members of the Association of Professionals and Friends of Funk (APAFUNK) had made concerted efforts to appeal to and create allies within the Secretary of Culture by inviting them to meetings, debates and events.

In 2010, the first baile to take place in a pacified community, Tabajaras, only was made possible through various meetings between musicians in APAFUNK, politicians and UPP commanders. For instance, state deputy Marcelo Freixo facilitated a public audience at the Legislative Assembly of Rio de Janeiro with the Commission of Culture's president, APAFUNK's president, Eu Amo Baile Funk's founder, a lawyer at the Fundação Getúlio Vargas, the Secretary of Culture, the Secretary of Security and the general commanders of



Figure 1. Flyer for Chatuba's baile with various state and institutional sponsorships.

the UPPs and military police. At this debate, each participant delivered a speech outlining his concerns and beliefs about *bailes funk*. Broadly, police voiced opposition to these events as security concerns while *funk* supporters claimed that repressive laws against *bailes* were continuations of dictatorship-era laws. In these discussions, live performances of *funk* in the city's poor, marginalised areas stood in for and facilitated debates about citizenship, democracy, and social and legal inclusion.

In Latin America, the aural sphere must be considered a site of intense political struggle (Ochoa Gautier 2006). Surprisingly attempts at criminalising *funk*'s performance – through laws, resolutions and pacification practices – pushed *funk* musicians and baile organisers to familiarise themselves with relevant laws and to cultivate alliances with lawyers, social activists, academics and politicians. The aural sphere – particularly when shaped by histories of racialised inequality, exclusion and poverty – is a highly contested arena of politics in post-dictatorship Brazil. In this realm, musicians and residents contest a broader trend within contemporary Brazil of criminalising of poverty through framing the criminalisation of expressive sonic culture of the poor as in violation of music and performance as their cultural right, which they lay claim to through lawmaking.

Claiming copyright

Copyright represents another realm where *funk*'s illegality pushed some musicians to engage with the law and reconceptualise copyright as source of potential protection. Musicians formulated hybrid conceptions of ownership, authorship and copyright, which held together paradoxes. To discuss these hybrid conceptions of ownership, authorship and credit, I analyse the publication of a manual on copyright for *funk* musicians. In 2009, the Association of Professionals and Friends of *Funk* (APAFUNK) co-published a handbook to educate musicians about copyright. Illustrated like a comic book, *Free the Beat: Manual of the Defense of Funk Artists: The Rights of the MC* explains the how-to behind copyright and warns against how impresarios and labels take advantage of MCs through exploitative contracts. Direito Pra Quem? (Law For Whom?), a legal justice organisation, provided legal expertise and co-authored the manual. The handbook suggests that *funk* musicians' ignorance of the law has disadvantaged them and explains how musicians have signed recording contracts, which grant 96–100% of songs' royalties to label-owning impresarios.

Representing impresarios as engorged fleas on a musician's forearm or top-hat-wearing capitalists, the manual warns against impresarios' greediness. In one panel the impresario is shown as an overweight man in a suit smoking a cigar while ringing money out of a skinny MC's body. The caption nods to Karl Marx – a member of APAFUNK and Direito Pra Quem was handing out copies of *Capital* to MCs at the time – and reads, "At times the author is obliged to sell his work for the price of a banana to impresarios for not having the necessary technology to circulate and sell his work" (APAFUNK & Direito Pra Quem, 2009). The manual pairs warnings about exploitative contracts with specific discussions of copyright law – from the law's origins to a step-by-step guide on how to copyright music as illustrated by Figure 2.

The manual's goal is pedagogical, demystifying copyright and asserting the importance of copyright to protect musicians whose practices fall outside of or break copyright law. The manual smoothes over tensions between copyright and *funk* practices



Figure 2. "Step by Step of the Funkeiro: What Is Copyright???" (APAFUNK & Direito Pra Quem 2009).

such as unauthorised sampling and expresses a belief in copyright's potential to protect artists' "patrimonial" and "moral" rights. One section, "Step by Step of the *Funkeiro*", illustrates how to copyright a song. In the panels, an MC fills out a form online, takes that receipt to the Bank of Brazil to make a payment, and then walks to the National Library with receipt of payment, sheet music for the song, an identity card and proof of residency. Although some requirements are difficult for *funk* musicians to fulfil – for instance, many *funkeiros* do not read music and would not be able to provide the sheet music for a song – the manual affirms copyright's importance: "The registration of your song is important for you to be protected. The legal manner to protect yourself from any problem is simple and cheap. And you won't run the risk of losing your idea to anyone" (APAFUNK & Direito Pra Quem, 2009). This belief in copyright law echoes anthropologist Michael Brown's assertion about the potential for cultural copyright to protect indigenous culture: "Copyright stands little chance of dismantling the master's house, but it is already offering native peoples modest protection for their own dwellings" (2003, 68). By contrast, ethnomusicologist Anthony Seeger argues that copyright's problems originate entirely from "the application of a single, European-created, commerce-driven standard to all forms of music, in all societies, in all nations" (2004, 74). The manual, however, expresses optimism that copyright could serve legally-informed musicians, and that copyright could be reinterpreted to protect people who have historically been disenfranchised by these laws (Sunder 2012). While the manual could be read as an uncritical embrace of copyright law, it illustrates hybrid conceptions of ownership, authorship and

copyright in the global south (Geismar 2013; Strathern 2005) and a belief in the potential for the law to serve rather than to exploit the poor.

Yet, even veteran MCs, who knew the basics of copyright law and were wary of impresarios, struggled to receive royalties for their work. For instance, an MC who co-authored *Free the Beat* – and knew from his own experience about how major impresarios use contracts to take advantage of MCs – signed a standard contract with DJ Marlboro’s Big Mix/Link Records, which granted DJ Marlboro 96% of any royalties. The MC hoped that his new song would become a hit after being played on Marlboro’s radio show and would revitalise his career. He had paid *funk*’s top producers of the moment Robson and Leandro to produce the track because “their names open doors”. He attempted to negotiate a more favourable contract with Marlboro for months before signing the standard contract. He had no other option because, in 2010, Marlboro and his competitor Romulo Costas of Furação 2000 were the only way to enter mainstream media since they had radio and television shows, owned soundsystems and ran music labels. The duopoly limited artists’ ability to negotiate, and – like the Fania label which dominated salsa music in New York (Washburne 2008) – Big Mix and Furação 2000 were notorious for obscuring or denying artists’ contributions and for not fully paying royalties in part because the genre has been marginalised within the music industry at large. More generally, music’s history “is a history of composers and artists, as well as their rights, being exploited” (Frith and Marshall 2004, 11), and musicians from marginalised genres like *funk* or salsa face further exploitation based racial, ethnic or class-based barriers.

Further upstream, lack of transparency and corruption at ECAD, Brazil’s privately run music royalty collection and distribution bureau, compounded the problem of receiving royalties. While copyrights obviously generate value within music industries, documenting how much various rights are worth or how income and royalties flow is notoriously difficult (Frith and Marshall 2004, 14). MCs expressed suspicions about ECAD and interpreted its perceived corruption as symptomatic of “Brazil”. MC Xakal, a member of APAFUNK, summed up the problem of tracking royalties by cleverly punning ECAD with “e cadê?” (and where is it?). In 2010, Xakal’s first hit song gained radio success, reaching the number two spot on DJ Marlboro’s radio show. But it would be six months after its debut that he would begin receiving royalties, and he worried that some of his royalties would “go missing” because of ECAD’s corruption. Overall, musicians felt that they have little recourse if they had complaints with ECAD or with their impresarios since they often were bound by contracts tying them to particular impresarios.

Few MCs have successfully broken their contracts with their impresarios and been able to produce and distribute their music afterwards. For instance, in 2013 MC Beyoncé (Ludmila Oliveira da Silva) broke with her personal impresario, the MC-turned-manager Roba Cena (“Steal the Scene”), after realising that he was taking advantage of her financially. MC Beyoncé’s hit song, “Fala Mal De Mi” (“Speak Badly of Me”) had gone viral on YouTube in 2012. In 2013, however, she announced via YouTube and in series of Tweets – both subsequently deleted – that she was ending her career:

Hi, guys, I’m not here with good news. My dream was always to have a band, dancers, everything. But I discovered that I was being very robbed by my impresario ... He never wanted to invest in me. When I tried to walk with my own legs, he began to threaten my family, my mother, even me with death. Ending my dream. So, I wanted to let you know that I will not sing anymore, that MC Beyoncé is over.⁸

Although she did not end her career, she had to change her artistic name because of her contract with Roba Cena. As Ludmilla – a misspelling of her first name – the MC has enjoyed greater subsequent success and became one of five contemporary MCs who have signed with major international labels (in her case Warner Music Brasil) and even performed during Rio's opening ceremonies of the Olympics in 2016.

Most MCs who contested their contracts risked their careers. Veteran MCs frequently spoke about how impresarios took artists' songs off the radio if they contested their contract or complained about not receiving their fair share of royalties or payments for shows. While waiting in the parking lot outside of the radio station, FM O Dia, hoping to talk to Marlboro after his show, one MC warned the others: "If you don't know your rights, the 'lion' will collect all your royalties. If you try to get released [from your contract] for your rights, he will simply say, 'That's fine. I'll take your music off the radio'". This comment reveals how musicians perceived their position as vulnerable and weak in relation to the "lions" of *funk*.

Funk musicians often framed MCs losing their royalties and copyright as related to Brazil's persistent problems of inequality linked to racism, classism and poor education. Issues of authorship and ownership in *funk* may resonate with those in samba's history. Historian Marc Hertzman notes how, with the end of slavery, "Afro-Brazilian musicians collectively transformed themselves from human property into professionals" and samba musicians used this moment to dispute authorship, claim certain instruments as their intellectual property and stake a claim in both their music and the nation, while sometimes embracing stereotypes as "emotive ... apolitical, and anticommercial" (2013, 245). MCs often drew parallels to samba to argue that *funk* was discriminated against while it should be valued as authentic Brazilian culture. For instance, MC Doca called *funk* the "child of samba" to discuss how it faces similar racial and class-based stereotypes as a music of the favela. Doca asserted, "In the beginning, the guy who was a sambista was [considered] a bandit, understand? How many died and how many went to jail as a thief, as a bandit in the samba epoch? And *funk* also suffered the same prejudice".

Many veteran *funk* musicians asserted that *funk* musicians lost their royalties or their copyright because many were "*preto, pobre, e favelado*" (black, poor, from the favela). More broadly this should be understood within the history of "rights poverty" among the poor in Rio de Janeiro, which as historian Brodwyn Fischer argues, is at the core of modern Brazil (Fischer 2008). Despite expansion of citizenship in modern Brazil (1930 to 1964), Rio's poor continued to be excluded, face criminalisation of daily life, while still struggling for equal citizenship. Continuing this historic struggle, some *funk* musicians – like other marginalised groups in post-dictatorship Brazil – adopted human rights talk and developed familiarity with the law in order to defend their interests in various arenas (Fernandes 2007; Drybread 2009). For many working class and impoverished Brazilians, as James Holston articulates, "the law, which has oppressed them for centuries, has become something intimate to their sense of belonging to the public" (2008, 309).

As a sample-based genre which flaunts copyright, however, *funk* faces a paradox when musicians attempt to claim protection from copyright. Like early hip-hop DJs in the US (McLeod and Peter 2011), *funk* DJs and producers liberally sample sounds from other songs, movies, television reports and Microsoft Messenger tones to produce loops

for their instrumental productions. For instance, in his studio Grandmaster Raphael – one of the pioneers of *funk* – excitedly explained how he decided to download one of Bezerra da Silva’s sambas to use as a sample in a song he was producing for MC Galo – who was considered the first MC from a favela. “I thought who’s the original *malandro* (romanticised trickster or petty criminal)? Bezerra! Galo’s song is called ‘Malandro’ and Galo is classic like Bezerra”. Downloading and sampling the song wasn’t viewed as wrong. It was simply how *funk* was made. Rather, sampling Bezerra da Silva showed Grandmaster Raphael’s adventurousness as a producer and knowledge of music. He was not simply using the same loops, which are used in thousands of *funk* songs, but was making a choice to evoke the ultimate *malandro* of samba in Galo’s song and to produce a sonic connection between *funk* and samba. Although musicians did not view sampling as illegal, *funk* was at odds with copyright law. Even though *funk*’s production and circulation frequently violates copyright law, musicians hoped that copyright would protect and benefit them in the future if they and other musicians became educated about it.

Conclusions

Illegalising music and sound in Brazil provoked musicians to reimagine the law as something, which could and *should* serve them. This contrasts with historical uses of the law in Brazil encapsulated in the saying, “For my friends everything, for my enemies the law” (Holston 2008). Holston argues that democracy in post-dictatorship Brazil was produced in the city’s auto-constructed margins, in favelas inhabited by the formerly rural and illiterate, now urban, literate poor who have used their textual knowledge of the law and the constitution to argue for the law existing for them (2008).

Instead of accepting illegalisation of *funk carioca*, musicians began to question law and imagine it as a site in which they could claim rights to freedom of expression, of assembly and to cultural expression. Neither were sound system owners, DJs or MCs content to continue to bribe police to allow bailes to occur. Furthermore, police pacification of the favelas disrupted previous arrangements between police who had worked in those favelas and *baile* organisers or financiers. As the state attempted to consolidate police control of favelas, new policies and laws criminalised poverty in new ways. Criminalisation of poverty through criminalising acoustic expressive culture and performance of the poor, however, also contradicted post-dictatorship ideals against musical censorship, racism and diverse expressive culture.

In this atmosphere, illegalisation of sound and music provoked *funk* musicians and event organisers to become familiar with law and the workings of the state. *Funk* musicians expressed a belief in how building alliances with lawyers and politicians and working on their own knowledge of law – from copyright, to Resolution 013, to Rio’s so-called “*funk* is culture” law – could empower them to better defend their rights as musicians. Thus, music and sound constitute an important sphere of day-to-day political and legal struggles over race, class, and citizenship in contemporary Brazil.

Notes

1. I italicise Brazilian *funk* to distinguish it from US funk.

2. Who Sampled: Exploring the DNA of Music. [https://www.whosampled.com/DJ-Battery-Brain/8-Volt-Mix-\(Long-Version\)/samples/?cp = 2](https://www.whosampled.com/DJ-Battery-Brain/8-Volt-Mix-(Long-Version)/samples/?cp = 2) (Accessed 1 February 2018).
3. BBC Brasil. "The Law Project of the Criminalisation of Funk Repeats the History of Samba, Capoeira and Rap." Globo.com. <https://g1.globo.com/musica/noticia/projeto-de-lei-de-criminalizacao-do-funk-repete-historia-do-samba-da-capoeira-e-do-rap.ghtml> (Accessed 1 March 2018).
4. Funk é Lixo (Funk is Trash) <http://funkelixo.com.br/social/sobre/> (accessed 1 March 2018).
5. Ibid.
6. Ibid.
7. "What is UPP," http://www.upprj.com/index.php/o_que_e_upp (Accessed 1 March 2018).
8. Extra. "MC Beyonce Says She Was Threatened by Her Impresario and Announces End of Career." Globo.com. <https://extra.globo.com/tv-e-lazer/musica/mc-beyonce-diz-que-foi-ameacada-por-empresario-anuncia-fim-da-carreira-8107195.html> (Accessed 20 March 2018).

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