



Absence-of-the-law-talk and absence-of-the-state-display: Urban space and exceptional state violence in Rio de Janeiro

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Those confined outside are people who are “cast out inside” within the state-space.

(Agier, 2012, p. 536)

And neither the society clothed by the state nor the society clothed by the state is any more naked than the other.

(Fowles, 2010, p. 38)

In January 2019, the state of Rio de Janeiro installed a new governor – former federal judge Wilson Witzel. Witzel’s installation inaugurated a phase of extraordinary violent police actions in the city.¹ After his installation, the number of people killed at the hands of police officers rose tremendously in comparison to previous years that had shown a decline.² Many of these killings take place in the city’s *favelas*³ and peripheral areas and occur during so called *operações* – police and military operations that involve open combat in the midst of densely populated areas. In many favelas, so called *faccões* – networks of drugs-trading gangs – or *milícias* – mafia-like organizations that include police

officers (Cano & Duarte, 2012; Mesquita, 2008; Zaluar, & Conceição, 2007) attempt to control (parts) of the local economy by means of force. Police operations in favelas generally involve different extra-ordinary police forces that enter the neighborhoods from the outside – sometimes accompanied by police helicopters manned by heavily armed police officers that shoot at alleged suspects from above.⁴ Witzel’s public statements concerning these lethal operations support the belief that the only way to end urban crime is to enter favelas with armored vehicles as if they were enemy frontlines in a traditional war. At one point, Witzel stated publicly: “... in the face of the cruelty of our enemies who are true narco-terrorists, the use of force is necessary to slaughter them.”⁵ Many people were outraged and questioned the legality of Witzel’s statements, but, in defense of his words, the president of the association of military officers of the state of Rio de Janeiro, coronel Carlos Fernando Ferreira Belo, said: “You have to understand that an armed criminal is ready to kill whoever he wants. The state has been *abandoned*, bandits with rifles are in charge, and the answer cannot be a bouquet of flowers (emphasis

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² <https://g1.globo.com/rj/rio-de-janeiro/noticia/2019/05/03/rj-bate-recorde-na-apreensao-de-fuzis-em-2019-numero-de-mortes-por-intervencao-policial-e-o-maior-nos-ultimos-20-anos.ghtml>.

³ Following the detailed description of Perlman (2010), the word *favela* has negative connotations but the alternatives suggested (in English and Portuguese) pose similar problems and, in many cases, fail to conjure the typical urban, material, and political characteristics of the neighborhoods. Residents who I interviewed often used the term *morro* (hill) but did not object to the use of the term *favela* when used in a respectful manner. They also regularly used the term *comunidade* (community), but such terminology also has its drawbacks (see Birman, 2008). In this article I use *favela* and *comunidade* interchangeably.

⁴ <https://diplomatieque.org.br/operacoes-policiais-no-rio-de-janeiro-da-lacuna-estatistica-ao-ativismo-de-dados/>.

⁵ <https://veja.abril.com.br/brasil/witzel-volta-a-defender-abate-de-criminosos-no-rio-de-janeiro/>.

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mine).”⁶

This article aims to contribute to discussions on the accountability of state organizations that employ excessive force in residential urban areas by way of analyzing state and media representations of *absence*. In broad terms, I argue that visual and textual representations of state absence play an important role in the state’s justifications of exceptional police actions in favelas during and beyond the pandemic. While different discourses intersect, in this article I focus on absence-of-the-law talk and on absence-of-the-state display to argue that these co-produce deceptive characterizations of the relations between state law, state space and favela territory. These characterizations are to be treated very critically because they are regularly used to legitimate police claims that their extra-legal violence on favela territory is lawful. While many scholars have written about representations of (state) space in relation to favelas – and I build on this impressive work (Cavalcanti, 2008; Leite, 2012, 2014, 2015, 2018; Machado da Silva, & Leite, 2007) – I add some reflections on the way representations of absence are employed to attempt to legitimate unlawful state-practices in specific places.

This article is based on fieldwork in Rio de Janeiro and on discourse- and visual analysis of media texts and photos, paying close attention to Brazilian politicians and state-actors that comment on urban conflicts (see also Oosterbaan, 2017). Much of my knowledge about the rules of the *faccões* in Rio de Janeiro derives from fieldwork in *Visionário*, a favela located near the city’s beaches in the south side of Rio de Janeiro.⁷ I lived 12 months in *Visionário* between 2002 and 2003 and I returned to the favela for shorter research intervals in 2009, 2011, 2014, 2016, 2018, 2019 and 2022. Beyond my work in *Visionário* I did exploratory fieldwork in a number of favelas among which several that belong to *Complexo da Maré* and several that belong to *Complexo do Alemão*.

1. Incessant exceptional violence and continuous recapturing

In response to decades of violent police operations, a conglomerate of civil society organizations, aided by the Brazilian Socialist Party (*Partido Socialista Brasileiro*), successfully submitted a Claim of Noncompliance with a Fundamental Precept (*Arguição de Descumprimento de Preceito Fundamental - ADPF*) at the Federal Supreme Court. This type of claim offers Brazilian citizens a juridical tool to hold Brazilian governmental bodies accountable in case they transgress constitutional rights.⁸ The claim, originally submitted in November 2019 was aimed explicitly at governor Witzel’s security policies and actions. It argued that the State of Rio de Janeiro recurrently violates fundamental rights during police operations in Rio’s favelas.⁹

In December 2019, Edson Fachin, minister of the Supreme Court, in charge of handling the claim gave governor Witzel ten days to respond to the claim and the data. Not long after, Rio de Janeiro was hit by the covid-19 pandemic. The pandemic caused enormous anxiety among

⁶ <https://www1.folha.uol.com.br/cotidiano/2018/11/abate-de-bandidos-de-fendido-por-novo-governador-do-rj-esbarra-na-lei.shtml>.

⁷ *Visionário* is not the real name of the favela. I have altered the name of the favela so as to minimize the possibility to identify and trace the people that feature in this and in other articles.

⁸ For a very insightful yet horrific overview of the extremely violent police operations – commonly called *chacinas* (massacres) – in Rio de Janeiro during the past decades see: https://wikifavelas.com.br/index.php/Chacinas_em_favelas_no_Rio_de_Janeiro. In general, for information and analyses of police violence and public security see: *Grupo de Estudos dos Novos Ilegalismos da Universidade Federal Fluminense* (GENI-UFF) and https://wikifavelas.com.br/index.php/Dicionário_de_Favelas_Marielle_Franco.

⁹ <https://www.conjur.com.br/2019-nov-20/psb-witzel-reduza-letalidade-policial-respeite-direitos> and <https://riotimesonline.com/brazil-news/nosubscricao/brazil-supreme-court-considers-landmark-case-on-police-operations-in-rios-favelas>.

favela residents, who generally have limited access to health care and can be considered extremely vulnerable. Many favela residents in Rio de Janeiro attempted to uphold social-distancing measures in urban environments characterized by density.

In April 2020, Fachin declared a major portion of the claim – titled ADPF 635 – grounded and he instructed the Rio State Government to design a plan to reduce lethal police violence and to implement measures to protect human rights.¹⁰ He also instructed Rio’s government to restrict the use of helicopters during police operations. Nevertheless, not long after this ruling, on May 15, 2020, an assemblage of different (special) police forces mounted another operation in a complex of favelas in Rio de Janeiro (*Complexo do Alemão*) during which thirteen civilians were killed. After the operation, people reported that police officers had tortured the alleged suspects. Moreover, officers had brought 5 corpses to the hospital, impeding any investigation at the scene from which could be deduced if lethal police violence had been legitimate.¹¹ As a result of this operation and several other violent police actions in Rio de Janeiro, the collective of organizations that submitted the original claim pleaded for immediate measures against the State of Rio de Janeiro. This time, on June 5, 2020, Fachin decreed that no police operations could be executed in favelas (*comunidades*) during the covid-19 pandemic. He added that, in the exceptional case that such an operation is deemed necessary, the police should inform the public authorities (*Ministério Público do Estado do Rio de Janeiro*) immediately with a written justification why the police operation is justified.¹²

The decree can be considered a huge success in the struggle against state violence.¹³ Nevertheless, Rio’s police forces did not diminish the police operations for long. After an initial decrease in comparison to the years before, police operations increased by the end of 2020 and the first half of 2021, while the pandemic was still roaming. Moreover, on May 6, 2021, special police forces mounted an operation in the favela *Jacarezinho* and killed 27 people. Whereas spokespersons of the *Policia Civil Janeiro* (a branch of the police) argued that the police forces acted rightfully and in compliance with the norms set by the Supreme Court, the exceptional necessity of the operation could not convincingly be demonstrated, according to human rights lawyers, members of the Socialist Party, academics and a host of civil society organizations.¹⁴ In response to the outcries, president Jair Bolsonaro twittered: “treating the *traficantes* (traffickers) as victims, while they steal, kill and destroy families, the media and the left equate them with common citizens who are honest and who respect laws and peoples.”¹⁵

Strikingly, only eight months after the brutal police ‘operation’ in *Jacarezinho*, on January 19, 2022, the new governor of Rio de Janeiro – Cláudio Castro – launched a new urban governmental program called *Cidade Integrada* (the Integrated City) and that program started with a massive police/military operation in *Jacarezinho*. According to news outlets, 1200 police officers joined the operation. The state of Rio de

¹⁰ <https://www.jota.info/wp-content/uploads/2020/04/adpf635mc.pdf>.

¹¹ Legitimate according to state legislation and procedural guidelines. By no means I want to suggest that embedding police violence in such legislation necessarily makes it legitimate.

¹² <http://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/ADPF635DECISaO5DEJUNHODE20202.pdf>.

¹³ For a collective statement of social movements in Rio de Janeiro see: <https://www.adpfdasfavelas.org>. For a detailed calculation of the decrease in injured and killed people during police operations in the weeks after the decree in comparison with the years before see: <https://geni.uff.br/2021/03/26/efeito-s-da-medida-cautelar-na-adpf-635-sobre-as-operacoes-policiais-na-regiao-metropolitana-do-rio-de-janeiro/>.

¹⁴ <https://www.conjur.com.br/2021-mai-07/operacao-policial-matou-25-rios-desrespeitou-decisoes-stf> and see also <https://diplomatique.org.br/analise-da-coletiva-de-imprensa-da-policia-civil-sobre-o-jacarezinho/>.

¹⁵ <https://exame.com/brasil/bolsonaro-defende-operacao-no-jacarezinho/>.

Janeiro indicated that the goal of this operation was to ‘occupy’ (*ocupar*) the territory.¹⁶ In addition, the state and media referred to the operation as a *retomada* (a retaking) of territory.¹⁷ According to the governor, the occupation was “the beginning of a broad transformative process for Rio’s communities.” According to him: “It took months to design a governmental program that will change the lives of the residents, bringing them dignity and opportunity.” In response to the questions raised about Fachin’s decree to halt police operations during the pandemic, a spokesperson of the *Polícia Militar*, Ivan Blaz, stated: “Fachin specified as exceptional circumstance, the moment when lives are at risk and in danger. When we are dealing with the implementation of such a big project that concerns not only the safety but also innumerable other social questions, our objective is to minimize lethal injuries in these deprived communities”.¹⁸ This answer seems far from satisfactory and, according to human rights activists in Rio de Janeiro, governmental communications concerning *Cidade Integrada* in fact say nothing about the reduction of state violence in line with the decree.¹⁹ Moreover, ironically, officers of the special police force *BOPE*,²⁰ had already ‘occupied’ *Jacarezinho* once, in 2012, with the same salvationist discourse, at the height of an earlier governmental program that centered on the ‘pacification’ of favelas. Strikingly, in 2012, *BOPE*’s operation finished with the ostentatious raising of the Brazilian flag, which, according to the newspapers symbolized “the retaking of territory”.²¹

As the map and the photo accompanying the article also demonstrate, *Jacarezinho* is not a peripheral neighborhood, and it is also not immense (Figs. 1 and 2). It has about 37 thousand inhabitants and it lies in the center of the northern zone of the municipality of Rio de Janeiro. It borders on lower middle-class neighborhoods and on the *Cidade de Polícia* (Police City), a huge compound of the civil police. *Jacarezinho* has a long and rich history that is tied up with the industrialization of Brazil in the 1930s and with its history of slave trade and labor in Rio de Janeiro. Many descendants of enslaved people sought work and residence in this region of the city as the adjacent neighborhood Jacaré had one of the largest industrial parks of the city.²²

How can we make sense of this? Ten years after the supposed ‘retaking of the territory’, the state reproduces a nearly identical display of recuperation of lost territory. And it does so only eight months after its police forces kill 27 people in the same neighborhood, while formally police operations in such neighborhoods were supposed to be discontinued during the pandemic. I will argue that state actors and institutions regularly point to their absence as justification of the state’s highly lethal presence, and they regularly refer to the absence of the law to legitimize their operations. Before returning to the visual and textual representations of state absence and of supposed lawlessness in Rio de Janeiro, I will first situate my reflections in some of the current scholarly debates on violence, space, absence, and sovereignty.

¹⁶ <https://g1.globo.com/rj/rio-de-janeiro/noticia/2022/01/19/governo-do-rj-ocupacao-jacarezinho.ghtml>.

¹⁷ <https://g1.globo.com/rj/rio-de-janeiro/noticia/2022/01/19/castro-diz-qu-e-operacao-integrada-e-um-grande-processo-de-transformacao-das-comunidades-do-rj.ghtml> and <https://veja.abril.com.br/brasil/governo-do-rio-lanca-programa-para-retomar-favelas-em-maos-de-bandidos/>.

¹⁸ <https://odia.ig.com.br/rio-de-janeiro/2022/01/19/6320358-cidade-integrada-operacoes-de-ocupacao-do-jacarezinho-e-muzema-tem-dezenas-de-presos.html>.

¹⁹ <https://www1.folha.uol.com.br/cotidiano/2022/02/favelas-ocupadas-nao-registram-os-maiores-indices-criminais-indica-estudo.shtml>.

²⁰ BOPE stands for *Batalhão de Operações Especiais* (Special Operations Battalion).

²¹ <https://oglobo.globo.com/rio/com-jacarezinho-ocupado-bope-hasteia-bandeiras-do-rio-do-brasil-6412238>.

²² <https://vejario.abril.com.br/coluna/william-reis/historia-favela-jacarezinho/>.

2. States of exception and an anthropology of absence

The violent actions of Brazilian state actors who suspend the rights of citizens in the name of the exception, remind us of the influential work of Carl Schmitt (1922), Walter Benjamin (1978), and Giorgio Agamben (1998, 2005), who have theorized the notion of sovereignty, violence and the suspension of rights in relation to modern state power. Building on the work of Schmitt (1922), Agamben (1998, 2005) has argued strongly that sovereignty – the power to decide on the exception – is at the heart of the political, establishing differences between those subjects that are to be protected and those that can be killed with impunity. Practically this means that constitutional democracies may have designed and implemented laws to protect citizens against arbitrary state violence, this has not abolished the aporia of the law: state actors frequently act beyond the law with the pretense that they need to (re) make or preserve it.

Building on the work of forementioned authors and that of Michel Foucault, Achille Mbembe’s (2003) has proposed the concept of *necropolitics* to argue that at the heart of modern state power lies the capacity to decide who can live and who can die, supported by classifications that distinguish between different kinds humans, which Foucault (2003) describes as *racism*. Tracing several historical trajectories from old colonial states to new colonial techniques, Mbembe argues that the trope of war, employed in relation to the presupposed wilderness of (neo-) colonial territories, strengthens the othering of colonized groups and the indefinite suspension of their human rights in the name of ‘war’.

The described interplay between sovereignty as the ongoing legalization of exceptional violence by means of the trope of ‘war’ applies to Rio de Janeiro. Arguably, Rio de Janeiro policemen are part of state institutions that constitute people who live in favelas as denizens, making it possible to relinquish their rights in the name of a re-establishment of order. Marcia Leite (2012, 2014, 2015, 2018) has written extensively about the spatial marginalization of favelas in relation to state power and the metaphor of war. According to Leite, the discursive employment of the concept of war for violent urban conflicts stands at the heart of the apparatus²³ (*dispositif*) that marginalizes urban territories, whose populations are associated with illegal and illegitimate practices that range from land occupation to drugs trade. Building on the influential work of Foucault (2003), and Veena Das and Deborah Poole (2003), Leite argues that favelas and *favelados* – labels used in popular news media and in state representations – come to stand for places and populations that resist inclusion in the legal order, supporting extra-legal state action in the name of the supposed re-constitution of state-law. Building on the work of Leite and others, Alexandre Magalhães (2021), recently argued that for a considerable time state and media employed ‘war’ metaphorically (fueling repressive state practices nevertheless), but over the past two decades, war has become the primary form of governance in Rio de Janeiro. This form depends on the reproduction of a radical alterity of urban populations and spaces and the normalization of military techniques, equipment, and homicides.

Whereas all the authors cited pay attention to the physical spaces of exception, I think more could be said about the interplay between the discursive and *visual* constitutions of space and the *fictitious absence* of the state and the law. My argument builds on the authors cited above, specifically the work of Leite (2012, 2014, 2015), Machado da Silva, and Leite (2007) and Magalhães (2021), to argue that the discourses and display of *absence* perversely help state actors to legitimize extra-legal violence in such places because it enables them to refer to the law and claim that it is/was absent. Whereas human rights organizations have long argued that the Rio de Janeiro state government should stop its lethal actions in densely populated areas because it infringes human rights, the recent ADPF and the current disregard of Fachin’s decree crystallize the pattern by way state actors claim their violent

²³ Foucault, & Burchell Gordon Miller, 1991. See also: Raffnsøe et al., 2016.

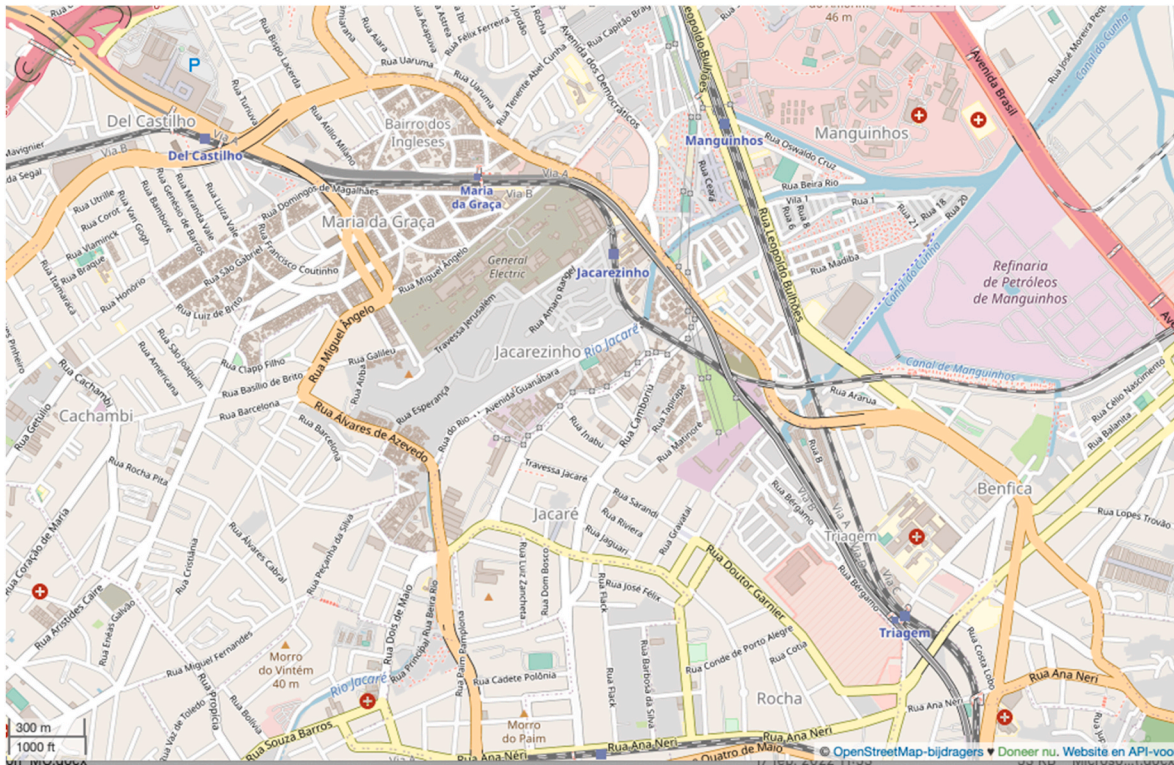


Fig. 1. Urban environment Jacarezinho, Rio de Janeiro. Courtesy of OpenStreetMaps.

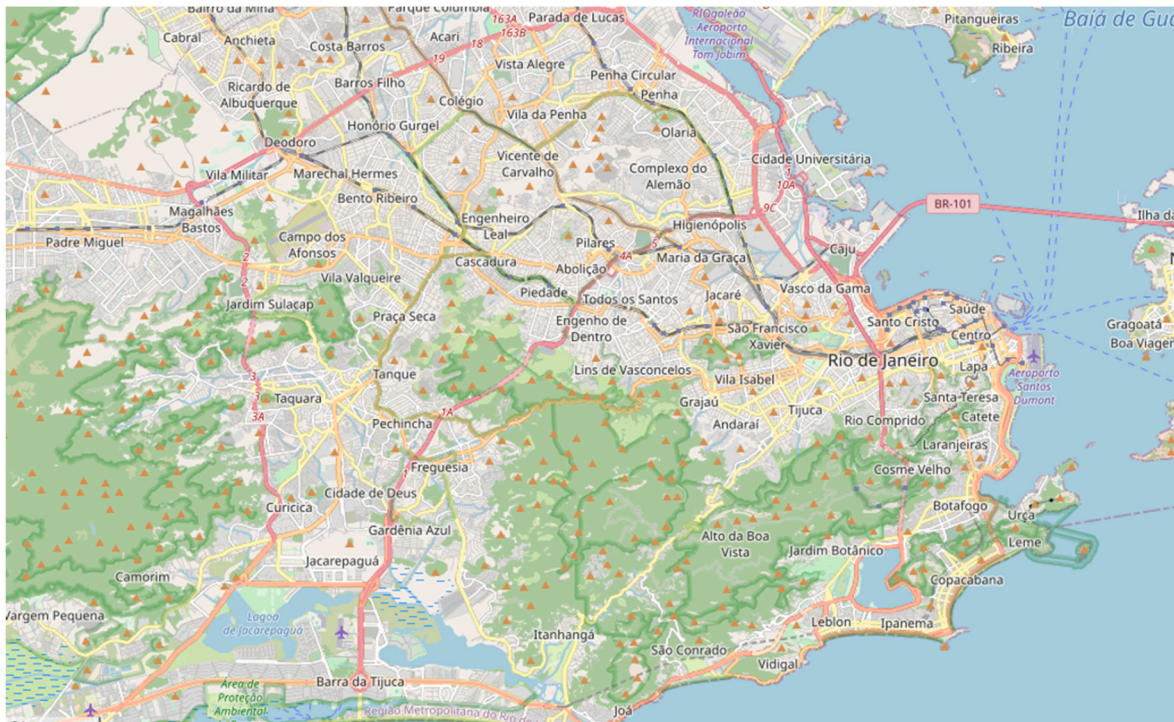


Fig. 2. Urban environment Rio de Janeiro. Courtesy of OpenStreetMaps.

interventions are exceptional and thus legitimate.

My emphasis on absence resonates with an *anthropology of absence* proposed by Mikkel Bille, Frida Hastrup, and Tim Flohr Sørensen (2010). According to the authors: “Absence is ... not just a theoretical concept implied as the default logical antonym to presence; it is also a corporeal, emotional and sensuous phenomenon articulated in distinctly concrete,

political and cultural registers” (2010, 13). Whereas the collected volume that gathers anthropological work on absence (Mikkel Bille, Frida Hastrup, and Tim Flohr Sørensen (2010)) primarily deals with material objects and organisms that hover between presence and absence, I think it is fruitful to focus on the politics involved in the imagination of absence and to highlight the longstanding relation between power and

the representation of absence. In his contribution to the edited volume, Severin Fowles (2010, p. 27) argues that “absences *perform labor*, frequently intensifying our emotional or cognitive engagement with that which is manifestly not present” (emphasis mine). Moreover, according to Fowles, we are facing a long tradition in which scholars classified types of societies by means of describing what societies lacked: pre-capitalist society, pre-industrial, *etcetera*. Absence generally summons that which is lacking and what is desired. Nevertheless, as Fowles suggests “absence can be aggressive; it can be cultivated” (2010, 37). Absence can be highlighted willfully as a counterpoint to unwanted presence. People are also “embracing absence and making it perform political work” (Severin Fowles 2010). Whereas Fowles describes such cultivation mostly in relation to counterhegemonic projects, I argue that the cultivation of absence is not restricted to them: state forces also cultivate absence.

As I will show in more detail below, claims that state and law are absent in favelas in Rio de Janeiro build on the presence of criminalized actors in these urban spaces and their specific modes of territorial control. In many cases criminalized groups fortify favela entrances and engage in armed combat when police officers attempt to arrive in the favela. Yet, in many cases, police officers are involved in the illegal activities of these armed groups, which problematizes the argument that state and law are absent because of the power of the armed actors and/or the weakness of the state (see also Machado da Silva, & Leite, 2007).

To be clear, here I am not so much interested in the question how we should juridically conceptualize spaces that are co-governed by legal and illegal actors. My suggestion is that we should, in any case, not follow binary oppositions that propose that the law is either present or absent (see also Cooper-Knock, 2018). State and law are present and function in Rio’s favelas, yet in a dispersed and uneven manner. Moreover, as Rafael Soares Gonçalves (2013) has shown, the Brazilian state itself has hampered the legal inclusion of favelas along their urban history. Moreover, we should be very critical of state supported discourses and representations that project images of lawless terrains within domestic territory because these can also masque the state’s role in the reproduction of such segregated spaces and, in addition, obfuscate its power to act within and beyond them.

In his monumental works, Henri Lefebvre (1991, 2009) stressed the political essence of space, and he emphasized the tremendous power of modern states to organize and reproduce space. According to Lefebvre, the state is an extremely powerful manager of spaces and it does so, amongst others things, by fragmentation and hierarchizing.

The illusory clarity of space is in the last analysis the illusory clarity of a power that may be glimpsed in the reality that it governs, but which at the same time uses that reality as a veil. Such is the action of political power, which creates fragmentation and so controls it - which creates it, indeed, in order to control it. (Lefebvre, 1991, 321)

Regardless of the question if Lefebvre took into consideration the fact that in many cities in the world formal state forces are enmeshed with criminal actors (see also Oosterbaan & Jaffe, 2022), he points to the important fact that (state) power can be fed by the illusory display of its own spatial absence. Identifying this mechanism and the scope of power of the state does not mean that I think there is such a unified thing as ‘the state’ that has complete oversight and control over ‘society’ (see also Abrams, 1988; Hansen & Stepputat, 2001). Nevertheless, I also think we should caution not to underperformance for weakness. By and large, I side with Bruce Kapferer (2010) who sees the state as a “self-reproducing, totalizing constellation of forces whose collective dynamics might be conceptualized as a politics machine directed toward creating and shaping relations in socio-cultural fields that are relevant to the reproduction of state power” (Kapferer, 2010, p. 128).

The interplay between presence and absence of the state in Rio de Janeiro bears similarities with other cities in the world and analyses of such cities helps us to understand Rio de Janeiro. In his writings on Cochabamba, Bolivia, for example, Daniel Goldstein’s (2012, 82–85)

presents the notion of the “phantom state”:

Rather than working for the economic and physical security of the population, in its *absent presence* the phantom state produces insecurity, using law to intervene occasionally in the chaotic reality of the margins and to force that reality into a kind of legibility, striving to create a legal order within urban space without providing it with a stable social order. (Goldstein, 2012, 83, *emphasis mine*)

Here, I want to emphasize again that it is not merely the question if and how states are present/absent but also how the ‘politics machine’ employs notions of absence to legitimate state operations. Also, it is important to underline that in this article, I will not be able to describe and analyze the experiences of inhabitants of the *comunidades* where I did research (for more detailed explorations see Author 2017). Here, I am primarily interested in analyzing how absent presence operates in Rio de Janeiro and by which mechanisms state actors co-produce the urban margins where they subsequently act with exceptional force.

Building on the work of Michel Foucault and Henri Lefebvre, Michel Agier (2012) analyzes the discursive dynamic by which state territories are pictured as extra-territorial places. According to Agier, favelas have several of the characteristics of what Foucault called ‘heterotopias’ (Foucault, 1984). In Agier’s view, a favela can thus be described as:

A place of confinement and a place to live that seems to be in the middle of a void but is actually always on the border of a social or national order ... the spaces have the shared trait of suspending any recognition of political equality between the occupants of these other spaces and ordinary citizens. There is indeed a treatment of exception associated with these spaces that is permitted by the fiction of extraterritoriality. (Agier, 2012, 536)

Especially the last sentence is important for my points. Agier’s analysis raises the question how this fiction is reproduced (repeatedly). By way of which representations, styles and discourses are people persuaded to believe in it? As I argue here, the fiction of extraterritoriality is closely connected to the fiction of the absence of the law. As I already hinted at, the two frequently operate in pairs, reproducing the conception that spaces where the law is not implemented correctly or functions poorly, lack state law in the same manner foreign territories fall outside sovereign state power. In the remainder of this article, I will focus on state and media representations of urban space, and particularly on absence-of-the-law-talk and absence-of-the-state display, but before I do, I will explain briefly what I mean with absence-of-the-law-talk.

3. Favela space and law-talk

Bolsonaro’s response to the extra-judicial violence in *Jacarezinho* in 2021 pitched the murdered armed actors against “common citizens” “who respect laws”. This is one example in which ‘the law’ enters into mediatized statements and becomes part of lay discourses about order and authority. Such a reference to the law, where it supposedly is (spatially) and who supposedly honors it is very common in Rio de Janeiro and I suggest that we should analyze it to uncover how references to the law operate in a segregated and violent city such as Rio de Janeiro.

In my analysis, I follow an understanding of discourse and power that is heavily influenced by Michel Foucault (1978, 1991) and Antonio Gramsci (1971) and that sees discourse as simultaneously expressing and shaping human understanding of the world. In such a social constructivist perspective, language and power are entangled: available ways of speaking about self and the world shape possible action in the world and delimit thinking and acting otherwise. While I see language as a crucial element of knowledge and power, visual representations, sounds and objects are also part of the world making practices that reproduce hegemonic understandings of it (see also: Fairclough, 1995; Ranciere 2006).

In this article, I am interested in media representations – textual and visual – that contribute to lay understandings of the presence and absence of state laws and that are employed to legitimate police action. ‘Absence-of-the-law-talk’ in Rio de Janeiro denotes utterances (supported by visual representations) that describe certain territories in the city as places where state law is absent. The concept is an adaptation of James Holston’s (2008) description of ‘law-talk’ as it is practiced by marginalized urban residents in São Paulo. Holston’s ethnographic study of the law in Brazil predominantly focuses on land rights to argue that multiple agendas inform both the application and the construction of laws (2008, 206). By no means denying the potential fairness of laws, Holston’s anthropological account of Brazilian land laws shows that their embeddedness in a violent society, characterized by class differences and stark socio-economic inequality, reproduces a society in which laws predominantly function to aid those who already belong to the higher echelons of society. Nevertheless, as Holston argues, in the past decades, Brazil’s urban residents have started to voice their protests and unfair treatment in terms of rights thus attempting to benefit from the legal frameworks that often work against them. This is what Holston calls ‘law-talk’.²⁴

Holston’s descriptions of ‘law-talk’ refers to residents’ aspirations to benefit from the state’s legal framework and contribute to what he calls: ‘insurgent citizenship’. However, alongside this type of ‘law-talk’, we simultaneously encounter in Rio de Janeiro state actors, journalists and politicians who exercise different kinds of ‘law-talk’. These actors predominantly talk about state-law in terms of its absence and repeat the often-heard phrase that ‘the law’ is absent in the favelas of Rio de Janeiro.²⁵ This type of law-talk – a type that denotes absence – contributes to repressive strategies in a different manner than the application of laws by people in powerful positions, although the two types often work in tandem, I would argue.

Absence-of-the-law-talk consists of common sets of oppositions that journalists and politicians (and laymen) employ to classify people and places in relation to the law. A good example can be found in a *Rede Record* television broadcast of *Jornal da Record* on 23 January 2014, titled: *Território sem lei: reportagem flagra ação de traficantes no Morro do Chapadão* (Lawless Territory: a report catches the action of traffickers in Morro do Chapadão).²⁶ The broadcast opens with drone footage of several favelas and subsequently exhibits hazy images of armed men while playing carioca funk music, a criminalized music genre that is popular among adolescents in Rio de Janeiro. The voice-over accompanying the video informs the audience that this particular favela, *Morro do Chapadão*, is an example of the regions of the city that are “dominated by organized crime”. In this video, as in many news broadcasts that concern public security in Rio de Janeiro, the public presence of armed *faccão* members – pejoratively called *bandidos* (bandits) *traficantes* (traffickers) or *marginais* (marginals) – is taken as an index of the absence of the law.²⁷ Such interpretations rely heavily on the normative idea that the state should hold the monopoly on legal use of force within its own territory and the idea that drugs trade and consumption is illegal.

The news broadcast pushes an additional reading: Illegal practices in

²⁴ Holston’s description of the employment of the law relate to what John and Jean Comaroff have called “*lawfare*, the use of legal means for political and economic ends” (2009, 56), and connects also to discussions about the juridification of society at large (see also Sieder, 2020).

²⁵ See, for example the title of a recently published book: *Rio sem lei: Como o Rio de Janeiro se transformou num estado sob o domínio de organizações criminosas, da barbárie e da corrupção política*, <https://www.troiaeditora.com.br/produto/ri-o-sem-lei-574>.

²⁶ See the news video: <https://recordtv.r7.com/jornal-da-record/videos/territorio-sem-lei-reportagem-flagra-acao-de-trafficantes-no-morro-do-chapadao-rj-05102018>.

²⁷ Stigmatizing and criminalizing classifications are set against presumed positive categories such as *cidadão* (citizen) or *trabalhador* (worker).

the favela supposedly demonstrate that there is *no law* in the favela and – as a matter of fact – in all the favelas where *faccões* operate. Such a rhetoric relies heavily on skewed conceptualizations of the space of the state. Favelas are recurrently pictured as places beyond the state-space, as extraterritorial spaces. Take for example an article titled “The new lawless territory of drugs traffic in Rio”, published in the popular magazine *VEJA* of June 2012, which also discusses the *Morro do Chapadão* and a number of other favelas in an urban region called Costa Barros. In the article, the journalist writes that the favelas located in this region have been living “in the shadow of public order (*poder público*) for decades”.²⁸ These and similar news reports employ a number of similar concepts (law, order, state) to denote the spatial borders between favelas and other urban neighborhoods.

Much discourse regarding the presence and absence of the state was produced during the so-called ‘pacification era’, the period leading up to the FIFA World Cup final of 2014 and the Olympics of 2016, which both took place in Rio de Janeiro. Anticipating these events, the government of the state of Rio de Janeiro started installing *Unidades de Polícia Pacificadora* (Pacification Police Units, UPPs) in 2008. UPP installation implied the placement of police posts and permanent policing within favela territories (Menezes, 2015). At the height of the program, (only) thirty-eight UPP posts were installed, most of which near tourist areas. UPPs were frequently presented as the answer to urban segregation, but, unfortunately, the project ended relatively quickly after the last Sports Mega Event had ended. In February 2019, the *Assembleia Legislativa do Rio de Janeiro* formally voted to end the UPP program.

The pacification era (re)produced state spectacles (Hansen & Steputat, 2001) with particular styles, which have become part of a repertoire for governmental intervention.²⁹ Among the prominent examples of state spectacles that at once suggest absence and presence of the state, are the photos taken at the height of an illustrious military operation in *Complexo do Alemão* in 2010. The complex of favelas in the peripheral northern zone of the city (*zone norte*) was commonly portrayed as the hotbed of the infamous red command (*comando vermelho*), one of several large criminal organizations in the city that control parts of the city’s drug trade. The military operation was one of the prominent security interventions during the pacification era. In the course of the day of the operation, audiences were updated about the advancement of security forces into the complex up until the moment they had supposedly occupied the entire complex. A photo that featured in several news outlets demonstrates state police officers of the *Coordenadoria de Recursos Especiais* who have taken position at the cable car station at one of the highest points of the favela where they had planted the Brazilian national flag.³⁰

Not much unlike the photo taken in *Jacarezinho*, which I mentioned in the introduction of this article, this photo is reminiscent of international war photos and arguably belongs to a genre of propaganda pictures aimed to assure publics that territories have been (re)captured by the nation-state and/or nationalized. Such a visual statement contributes to the misrepresentation of favela spaces as lying outside domestic territory (to reconfirm, the flag of the Brazilian republic normally is not raised on top of the cable car station). Meanwhile, governmental discourses literally spoke of the retaking of territories as if the state had lost them. Sergio Cabral, state governor at the time literally said about the police/military operation: “This is the moment to retake territories, to

²⁸ See: *O novo território sem lei do tráfico de drogas no Rio*. <https://veja.abril.com.br/brasil/o-novo-territorio-sem-lei-do-traffic-de-drogas-no-rio>.

²⁹ The concept of state spectacles presupposes a non-essentialist understanding of the state in the tradition of Abrams (1988) and Bourdieu (2014), emphasizing that displays of state omnipotence are intrinsically linked to the production of its power.

³⁰ This particular photo was published by the Brazilian newspaper *O Globo* and features in the *O Globo Digital Archive*: <https://oglobo.globo.com/rio/policia-invade-complexo-do-alemao-2919504>.

affirm order and the State of democratic rights".³¹ Strikingly, the posture of both police officers reveals the effort to convince audiences that danger is still emanating from the surrounding neighborhood, highlighting that order is still precarious, never fully abolishing the void and the fiction of extra-territoriality. Several comparable photos were published by major daily journals such as the renowned *Folha de São Paulo*, *O Globo*, *Gazeta do Povo*.³²

Similar performative practices occurred in the years after this particular operation. To name but a few examples, *BOPE* performed operations in the favelas Rocinha³³ (2011) and Cerro-Corá³⁴ (2013), and in 2014, military and police forces performed an operation in the *complexo da Maré*.³⁵ In all these (and other) instances, the ostentatious display of the Brazilian federal flag accompanied discourses that highlighted how these territories were now occupied (*ocupado*) as if they formerly belonged to a foreign state.

As I explained above, these and other operations that took place between 2008 and 2016 were part of the broader governmental UPP project. After the ending of the UPP program, the ostentatious planting of the Brazilian flag occurred much less and for a while, state forces did not employ discourses that highlighted 'occupation' (until the 'new' governmental program *Cidade Integrada* emerged in 2022). This does not mean that there were no more large-scale police operations, however. After Witzel's inauguration and before Fachin's decree, on February 8, 2019, 13 young men were killed by the hands of police officers in *morro do fallet* (and 2 more in the nearby *morro das prazeres*).³⁶ Police officers claimed that they were killed in a (*confronto*) but nine of these youngsters were killed while they were hiding in a house in the favela. According to several parents, they were factually executed and some even tortured.³⁷ The military police, the civil police, and the public prosecutor (*ministério público*) all started investigations into the police operation but even before they had started, governor Witzel stated: "This was a legitimate police action. Our military police acted to defend decent citizens (*cidadão do bem*). We are not going to allow any longer, any *bandido* with heavy caliber weapons, rifles, pistols, grenades to attack our society."³⁸

Not long after his speech, governor Witzel was accused of the embezzlement of public money and he was forced to step down, after which the vice governor Claudio Castro took his place. Whereas the new governor did not employ the same tone and style as his predecessor, his launching of the *Cidade Integrada* program shows clearly that there is a repertoire of discourses and images at hand to be employed to legitimize the state's operations. The name of the program – *Cidade Integrada* (Integrated City) – suggests that there is something to be integrated and,

³¹ https://www.bbc.com/portuguese/noticias/2010/11/101127_rio_cabral_t_rafico_jc.

³² See the online articles with photos in the following online news outlets: <http://www1.folha.uol.com.br/paywall/login.shtml?https://www1.folha.uol.com.br/cotidiano/2010/11/837458-bandeira-do-brasil-e-hasteada-por-policiais-no-complexo-do-alemao-no-rio.shtml> and <https://oglobo.globo.com/rio/policia-invade-complexo-do-alemao-2919504> and <https://www.gazetadopovo.com.br/vida-e-cidadania/bope-retoma-buscas-no-alemao-com-240-home-ns-06d60yevz723t1l8ufdhy76mm/>.

³³ <https://www.forte.jor.br/2011/11/13/bandeira-do-brasil-tremula-na-rocinha/>.

³⁴ <https://g1.globo.com/rio-de-janeiro/noticia/2013/04/apos-ocupacao-bandeira-e-hasteada-no-alto-da-favela-cerro-cora-no-rio.html>.

³⁵ <https://oglobo.globo.com/rio/complexo-da-mare-ocupado-no-rio-12034256>.

³⁶ <https://www.bbc.com/portuguese/brasil-47220856>.

³⁷ For an overview of violent police operations in Rio de Janeiro between 2019 and 2022 see: https://wikifavelas.com.br/index.php/Chacinas_no_Rio_de_Janeiro_entre_2019_e_2022.

³⁸ <https://g1.globo.com/rj/rio-de-janeiro/noticia/2019/10/11/inquerito-da-pm-sobre-15-mortos-no-fallet-conclui-que-nao-houve-crime-ou-transgressao-por-parte-dos-policiais.ghtml>.

despite its future-oriented, positive tone, also reproduces the idea that the city is currently fragmented. From a socio-economic and spatial perspective that is certainly the case, but transposing this description of fragmentation to a political-judicial level should be done with much caution, because it can legitimize extra-judicial violence under the pretext of the exception. When interviewed about the *Cidade Integrada* program, in November 2021, the secretary of the civil police, Allan Turnowski stated: "We know that some territories will display more communal resistance, but we will have to work to restore the trust of the people living in these places, it is a fight between good and evil."³⁹

The peculiar mixing of self-critical statements that confirm that work is needed to restore trust on the one hand with statements that picture police work in absolute, transcendental terms, on the other, is not coincidental (see also Machado and Oosterbaan, forthcoming). Picturing resistance as (absolute) evil, leaves open a possibility to legitimize extraordinary violent state operations that arguably do not restore the trust of the people living in the urban areas pictured as external. Looking only at what happened in *Jacarezinho* in the past ten years, it is highly unlikely that inhabitants feel liberated when 1200 police officers enter their neighborhood with their guns out. Calling it a *retomada* (retaking) of territory and an occupation clearly shows how the pacification era boosted particular ways of speaking about and displaying the absent presence of the state.

It is important to add that absence-of-the-state talk is not only employed by state actors and politicians to legitimize violent police operations or other kinds of extra-legal operations, but such talk can also be employed by favela residents to critique absence of the kind state action they generally *do* desire. During the global covid-19 pandemic, favela inhabitants in Rio de Janeiro suffered a widespread neglect of state measures to mitigate the dreadful effects of covid-19 and favela inhabitants self-organized collective (health) care as much as they could (Fleury, & Menezes, 2020).⁴⁰ Pointing out absence of state institutions is not necessarily detrimental to rights and the security of favela inhabitants, but, as I have argued, frightful pitfalls emerge, when pleas for state presence result in extra-legal state violence.

4. Conclusion

Police operations in *Jacarezinho*, Rio de Janeiro, during the past 10 years provide examples of the actions of Rio de Janeiro state security forces that breach laws and decrees in the name of the exception. While much has been written about the *necropolitics* of the Brazilian state (for a critique, see Rodrigues, 2021) and about the metaphor of war (see specifically Leite, 2012; 2014) that is employed to legitimize police operations, I have argued that absence-of-the-law-talk and absence-of-the-state display form powerful additional elements in the hands of governors and politicians to attempt to legitimize police actions. Display of state absence was particularly visible during the so-called pacification era, and one of its major techniques was the ritualized raising of the Brazilian federal flag after police operations. The absence-of-the-law-talk, frequently operated in tandem with the absence-of-the-state display. By no means suggesting that these two mediatized interventions form the only or even the most important mechanisms, I have argued that they are important because they demonstrate the possible drawbacks of pointing to absence. Critical voices often claim that the state is absent to demand the proper functioning of state actors and institutions in marginalized urban areas. Ironically and perversely, state actors performatively embrace this idea of state absence to suspend the rights of favela inhabitants and to act violently in specific urban areas. The examples show that even when

³⁹ <https://www.metropoles.com/colunas/guilherme-amado/pm-do-rio-estima-que-pacificacao-no-jacarezinho-levara-tres-meses>.

⁴⁰ See for example a discussion posted by Oxfam Brasil: *Coronavirus e a vida nas periferias*. <https://www.youtube.com/watch?v=AadvSrYao4Y&t=442s>.

so-called exceptional police operations are curtailed by the judicial authorities, police forces can still argue that their operations should be considered necessary because of *exceptionally* exceptional circumstances.

CRedit authorship contribution statement

Martijn Oosterbaan: Resources, Validation, Formal analysis, Conceptualization, Methodology, Data curation, Writing – original draft, Visualization, Investigation, Supervision, Writing – review & editing, Project administration, Funding acquisition.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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