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Is ~~this (Brazilian)~~ Fascism? The Far-Right, the Third World and the Wrong Question

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Google ‘is Bolsonaro a fascist?’ and your screen will fill up so fast you might need to put your laptop in the fridge. The dozens, if not hundreds, of opinion pieces, reports and editorials you will find are coming in from all directions: [Fox News](#), [Foreign Policy](#) magazine, the Centre for the Analysis of the Radical Right ([CARR](#)), the [Socialist Workers Party](#), [Breitbart](#), the [Young Diplomats](#)...even the [Manchester School of Samba](#). Some of them contain analysis from leading scholars like the Argentinian historian [Federico Finchelstein](#). Others deliver the ramblings of obscure but aspiring ‘alt-right’ podcasters. Repeat this ‘is X a fascist?’ / ‘is this fascism?’ exercise in the context of any of the overtly xenophobic, militaristic, nationalistic, authoritarian and anti-egalitarian leaders or movements of the so-called ‘new right’ and thousands of similar efforts will appear.

The conclusions of the authors of all these interventions – in the Brazilian context and more widely – are extremely varied, as one might expect. What is striking, however, is not only the sheer number of them, but also three other aspects of the debate.

The first is just how much energy has been channelled, since 1945, into the task of identifying, understanding and defining ‘fascism’. Well before the arrival of social media combined with the dramatic electoral victories of figures like Jair Bolsonaro (among others) to make asking the ‘is this fascism?’ question such a popular pastime, this pursuit had spawned an entire academic sub-discipline, Comparative Fascism Studies, where a debate has been raging for decades as to how ‘generic’, ‘general’ or ‘universal’ fascism should be defined.¹

¹ Some of the key splits include: whether fascism was fundamentally conservative or revolutionary; whether or not it should be lumped in with other forms of ‘totalitarianism’; to what extent it rejected capitalism; and whether or not it is appropriate to think about fascism comparatively at all, among many others. See e.g. Roger

The second peculiar aspect of the 'is this fascism?' exercise is methodological. Whatever their background or context, those who engage in it all go about answering the question in almost exactly the same way: first invoking a definition of 'fascism', and then sizing the regime or movement in question (whether Bolsonaro's Brazil, Trump's *America*, India's BJP, Italy's erstwhile Lega/Movimento Cinque Stelle coalition or Sisi's Egypt) up against it. On the face of it, this hardly seems worth mentioning. The reasons for adopting this kind of approach have, after all, been articulated many times, by such figures as Leon Trotsky, Umberto Eco and numerous others. As the Brazilian historian Valério Arcary explained recently: fascism is 'such a serious danger that we must be unflappable in its definition', for 'those who do not know who they are fighting cannot win'.

In the Brazilian context, Arcary concludes, on the basis of his own ten-criterion definition, that Bolsonaro *is* 'a neo-fascist' but that 'the majority of his supporters are not'. The most urgent task is therefore to ensure that Brazil's new government does not 'become semi-fascist'. Yet the same approach can be used to reach very different conclusions. In the right-leaning British online magazine *Splked*, for example, Tim Black accuses those who would describe Bolsonaro using 'the f-word' (as *Splked's* editor, Brendan O'Neill, calls it) of 'crying wolf' and in doing so 'mak[ing] it difficult to see what a real fascist looks like'. For example, 'real' fascism 'champion[ed] the state over "Jewish" business interests and, especially, finance capital', according to Black; whereas Bolsonaro's 'broadly free-market capitalist outlook' is hostile to 'workers' rights'. 'Illiberal' and 'authoritarian' as it may be, therefore, Brazil's new regime is, as yet, 'not even close' to fascism.

This brings us to a third interesting element of the 'is X a fascist?' debate – namely the equivocal nature of the responses it generates. Substantively diverse as they certainly are, these responses all display a curious structural similarity, both in the Brazilian context and beyond. Whether veering towards 'yes' (like Arcary's) or 'no' (like Black's), they tend to be reluctant to come down hard either way, settling instead for something along the lines of 'almost', 'barely', 'not yet', and so on. Again, it is not hard to make sense of this ambivalence. After all, virtually every one of these commentators is using the same, very narrow range of case studies in order to generate their definitions of fascism. And where else would one turn, when embarking on the task of boiling fascism down to its 'generic' features,² other than to the 'original' fascism of Mussolini's Italy and/or to the Nazi variant that took root in

Griffin, *The Nature of Fascism* (Routledge, 1993); A. James Gregor, *Marxism, Fascism, and Totalitarianism: Chapters in the Intellectual History of Radicalism* (Stanford University Press, 2009); Alfred D. Low, *The Third Reich and the Holocaust in German Historiography: Toward the Historikerstreit of the Mid-1980s* (East European Monographs; distributed by Columbia University Press, 1994).

² See e.g. George L. Mosse, *The Fascist Revolution: Toward a General Theory of Fascism* (H. Fertig, 1999); Roger Griffin,

inter-war Germany? If that is the starting point, then it is obvious that Bolsonaro (not to mention Orbán, Le Pen, Putin, Sisi, Erdoğan, Salvini, Duterte, Sisi, Åkesson, etc) cannot 'be' fascist, in any 'real', ontological sense, when they are separated from these 'original' movements by up to a century, if not also by many thousands of miles.

The problem I would like to draw attention to, however, is that the 'is this fascism?' approach has consequences – consequences which extend beyond the correctness or otherwise of any particular response to the question in any particular context. These are the consequences, not of the *answer* to the 'is this fascism?' question, but instead of the reflex *to respond to* manifestations of extreme nationalism, racial supremacism, militaristic authoritarianism, mystical anti-egalitarianism (and so on) *by asking it*, rather than by responding in some other way. Crucially, moreover, these consequences – distributive in nature – are visited disproportionately on the peoples and territories of the Global South.³ Here, the reaction to Brazil's recent swing to the right offers a useful and (as [Fabia Veçoso](#) and [Luís Bogliolo](#) demonstrate in this symposium) deeply concerning case study through which to assess this reflex, and to make sense of the consequences – epistemological, normative and material – to which it gives rise.

Epistemological Consequences: 'Spaces [of Colour] on a Map'⁴

We have just seen how, according to the 'is this fascism?' approach, 'real' fascism is both European and historical. Bracketing, for a moment, the question of the contemporary far-right, one effect of this originalist approach (as we might call it) has been to exclude the Global South from the 'general' history of fascism – that is, from the project of identifying, understanding and defining fascism, and above all of *distinguishing* it from that-which-fascism-is-not.

At first glance, this exclusion might seem entirely justified. After all, the original fascist movements *did* emerge in Europe. Moreover, as Frantz Fanon, Aimée Césaire and others pointed out at the time, inter-war fascism was itself an outgrowth

³ I am using the terms 'Global South', 'Third World', 'colonised and formerly-colonised world' and 'non-European world' as equivalent terms here, to refer not only to the peoples and territories of 'post-colonial states', but also to Indigenous peoples, the descendants of slaves and indentured labourers, and other racial and ethnic minority communities within settler states, post-colonial states and elsewhere. By the term 'still-colonised world' I mean settler-states, including the US, the Latin American states and the former British dominions, as well as 'consensual' colonies and incorporated territories like the Falkland Islands, New Caledonia, Hawaii and Puerto Rico.

⁴ I borrow/paraphrase this title from Vasuki Nesiah, 'Placing International Law: White Spaces on a Map' (2003) 16:1 *Leiden Journal of International Law* 1.

of the European colonial project.⁵ Unfortunately, however, the openly militaristic, authoritarian, expansionist, xenophobic and hierarchical politics that were first distilled into 'fascism' in Italy and Germany did not stay there. On the contrary, affiliated movements emerged throughout Europe *and* the non-European world during the early twentieth century, often with imperial antecedents of their own. One of the most notable arose, of course, in Japan,⁶ which, together with Germany and Italy (its treaty partners from 1940), embarked in the 1930s on a truly cosmic project of 八紘一宇 (*Hakkō ichiu*)/*Lebensraum/spazio vitale*.⁷ But there are many other examples, ranging from Syria's *al-Hizb al-Suri al-Qawmi al-Ijtima'i* (Syrian Social Nationalist Party) to inter-war Indonesian anti-colonialism,⁸ to Brazil's *Integralismo* movement (now undergoing a conspicuous revival) and beyond.⁹

Many scholars have examined these movements, and others of a similar nature; yet when it comes to the 'general' history of fascism as a phenomenon, one struggles to find any mention of them.¹⁰ The journal *Fascism: Journal of Comparative Fascism Studies*, founded in 2010, for example, had featured not a single article or book review on non-European fascism until its most recent volume, published in

⁵ On this argument, made first by Frantz Fanon and Aimé Césaire in the 1950s, and later by Hannah Arendt, see the work of Robert Knox and others, discussed in the Introduction to the *Fascism and the International: The Far-Right, the Global South and the International Legal Order* Series.

⁶ See especially Urs Matthias Zachmann, 'Race and International Law in Japan's New Order in East Asia, 1938-1945', in Rotem Kowner & Walter Demel (eds.), *Race and Racism in Modern East Asia: Western and Eastern Constructions* (Brill, 2014) 453; Mohammad Shahabuddin, 'The "Standard of Civilization" in International Law: Intellectual Perspectives from Pre-War Japan' (2019) 32 *Leiden Journal of International Law* 13.

⁷ While the appalling suffering of Jewish, Slavic, Roma and other persecuted groups in occupied Europe, and of European, American and Australasian troops, should under no circumstances be underestimated, millions of non-Europeans suffered the brutality of inter-war fascism no less directly than did their European counterparts. They did so as imperial subjects in both Italian (from 1922) and French (after 1940) colonies such as Libya, Somaliland, Eritrea, Ethiopia, Algeria, Tunisia, Morocco, Vietnam, Cambodia, Laos and Guangzhouwan, Guadeloupe, Martinique, Saint Pierre and Miquelon, Saint Martin, Saint Barthélemy, French Guiana, Gabon, Senegal, Mali and elsewhere. And they did so also as conscripts into, or targets of, Axis armies (Rommel's *Deutsches Afrikakorps*, for instance) and Allied armies. And/or they did so as civilian populations in the war's many non-European arenas, including present-day Palestine, Israel, India, Pakistan, Bangladesh, Iraq, Syria, Lebanon, Egypt, Iran, China, Hong Kong, Madagascar, Thailand, Myanmar, Malaysia, Singapore, the Philippines, Indonesia, New Guinea, New Caledonia, Tahiti, French Polynesia, Vanuatu and elsewhere.

⁸ See especially Wilson's groundbreaking *Orang dan Partai Nazi di Indonesia: Kaum Pergerakan Menyambut Fasisme* [The Nazi Party and its supporters in Indonesia: How Indonesia's National Movements Welcomed Fascism] (Komunitas Bambu, 2008), and Vanessa Hearman, 'Anti-communism and the Promotion of a Return to Authoritarianism in Indonesia', presented at the 'Speeches Punctuated with Resounding Slaps': Law, Expansion, Hierarchy, Resistance' Workshop (Fascism and the International II), West Space, Melbourne, 24-26 May 2018.

⁹ See Cícero Krupp da Luz, 'The Everyday Legal Impact of Italian Fascism in Brazil during the 1920s, 30s and Early 40s' and Fabia Veçoso, João Henrique & Daniel Campos de Carvalho, 'The Portuguese and the Tropics: Opposing Decolonization, Promising Unity', presented at Fascism and the International II, Melbourne.

¹⁰ There are a very few exceptions to this, such as Stein Ugelvik Larsen, *Fascism Outside Europe: The European Impulse against Domestic Conditions in the Diffusion of Global Fascism* (Social Science Monographs; distributed by Columbia University Press, 2001).

2018, which includes articles on Indonesia,¹¹ 'Islamo-fascism',¹² and a double special issue on inter-war architecture featuring two non-European case studies (out of six): Argentina and Brazil. The special issue's editors, Roger Griffin and Rita Almeida de Carvalho, highlight their 'eclectic choice of national case studies' with the assertion that 'for too long comparative fascist studies have remained stubbornly Eurocentric and ignored the wider internationalist dimension of fascism and related authoritarianisms'.¹³ To illustrate, they mention a series of what they call 'failed movements clearly indebted to European fascism', including Chile's *Movimiento Nacional Socialista de Chile*, South Africa's *Ossewabrandwag*, the Indian Legion, China's Blueshirts and (though 'not technically fascist') Japan's 'totalitarian regime'. Conforming to a trope well-known to TWAAIL scholars, it seems that even when the colonised/formerly-colonised world is (exceptionally) called to mind in the context of an 'is this fascism?' investigation, it can only be encountered as a poor imitation of a European original, and as doomed, for this reason, to 'failure'.

Interestingly, the origins of this scholarly Eurocentrism date back much further than 2010; all the way back to 1966, when the influential *Journal of Contemporary History* was launched with a ground-breaking special issue on 'international fascism', published shortly afterwards as an edited collection.¹⁴ As the *Journal's* editors, Walter Laqueur and George L. Mosse (soon to become two of fascism's most celebrated historians) explained, the aim was to mitigate their discipline's fixation on Nazi Germany by 'giv[ing] space' to 'the rest of the story' of fascism.¹⁵ Although the special issue covered French, Italian, Russian, Austrian, Spanish and Norwegian fascism, it ignored the non-European world completely – and intentionally. For this circumvention was, Laqueur and Mosse insisted, a necessary response to the critique of Eurocentrism that the decolonisation movement had ushered in.¹⁶ 'After Eurocentrism the pendulum has swung to the other extreme, and current fashions have led to a neglect of contemporary Europe,' they explained – a 'void' the new *Journal* would 'fill'. Although the editors acknowledged that 'a discussion of fascism', for example, that did not 'draw on

¹¹ Yannick Lengkeek, 'Staged Glory: The Impact of Fascism on "Cooperative" Nationalist Circles in Late Colonial Indonesia, 1935–1942', *Fascism* 7, no. 1 (5 May 2018) 109.

¹² Tamir Bar-On, "'Islamofascism': Four Competing Discourses on the Islamism-Fascism Comparison", *Fascism* 7, no. 2 (17 October 2018) 241.

¹³ Roger Griffin and Rita Almeida de Carvalho, 'Editorial Introduction: Architectural Projections of a "New Order" in Interwar Dictatorships', *Fascism* 7, no. 1 (5 May 2018) 1.

¹⁴ Later published as an edited collection, Walter Laqueur & George L. Mosse (eds.), *International Fascism 1920-1945* (Harper Torchbooks, 1966).

¹⁵ George L. Mosse, 'Introduction: The Genesis of Fascism' (1966) 1 *Journal of Contemporary History* (1966) 14, at 14.

¹⁶ 'Editorial Note' (1966) 1 *Journal of Contemporary History* (1966) iii, at v.

fascist, proto- or semi-fascist movements outside would be incomplete', this was evidently a sacrifice they considered well worth making.¹⁷ The *Journal's* 'field of study and discussion' would, accordingly, be 'Europe in the twentieth century', or them a 'legitimate subject of study and debate requiring no special defence or explanation'.

Normative Consequences: 'In the Wake of Fascism'¹⁸

If we were now to leave the general history of fascism behind and fast-forward to the present day, this situation would appear to have changed quite radically. Far from being excluded from the process of knowing and understanding the phenomenon of the *new* far-right, the Global South's encounter with the contemporary fascism is (as suggested in the Series Introduction) being systematically folded into an explicitly 'universal' story of ongoing 'human rights and democratic challenges' (as the UN General Assembly put it recently in its recent Resolution 71/179 (2017) *Combating glorification of Nazism, neo-Nazism and other Practices that Contribute to Fueling Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*).

Yet this narrative shift – from 'real' fascism as an exclusively (and superlatively) European evil to the 'new right' as one variant of the general/international phenomenon of 'human rights violations' – brings with it a new set of problems for the Global South. For the General Assembly and other leading international institutions are not proposing to address such 'challenges' by means, say, of a radical redistribution of global wealth, power and pleasure. Instead, the lesson the 'international community' appears to be drawing from the global surge in support for the far-right is that 'the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant human rights instruments' – in short, the existing international legal order – must be shored up and defended. However obvious this point may be, it is worth recalling here that this call to arms is a call to defend precisely the same international legal order whose devastating effects on the Global South have been TWAIL scholarship's central preoccupation.

As such scholarship has been concerned to demonstrate, it was the opposition between 'civilised' European society (in the form of the 'self-governing' nation-state) and the supposedly barbaric Other of the non-European world (in the form of the so-called 'savage tribe') that, in the formative jurisprudence of the

¹⁷ Ibid.

¹⁸ I borrow/paraphrase this title from Nathaniel Berman, 'In the Wake of Empire' (1999) 14 *American University International Law Review* 14 (1999) 1521.

nineteenth-century, allowed the former to be presented as 'the model which all societies had to follow if they were to progress'.¹⁹ In fascism, however, supposedly the 'ultimate barbarism', the post-war international legal order obtained *another* Other against which to legitimate itself in this Hegelian manner. Makau wa Mutua, for example, has elaborated in relation to the international human rights regime how pervasively the non-European Other of fascism lurks around in the margins of its most important treaties, resolutions and declarations, operating as a constant, codified menace the effect of which is to position international law as the only 'bulwark against its reemergence'.²⁰ The same could also be said of the architecture of international criminal law, international humanitarian law, *jus ad bellum*, free trade, international 'development' and beyond – and of course of the 'self-governing' nation-state itself, international law's 'atomic' form.

This legitimising effect of the instinct to ask the 'is this fascism?' question is strengthened, once again, by the originalist approach upon which it rests. After all, if 'real' fascism belongs to the inter-war period, then any 'fascistic' traits which might now be re/emerging must be an anachronism – nothing more significant than a cluster of cobwebs that somehow evaded the feather-dusters. Chief among the post-war period's institutional feather-dusters has, of course, been the 'peace-loving', 'self-governing' (formally European) nation-state – precisely the same nation-state that TWAIL, Indigenous and other critical scholars have shown to be one of colonialism's most pernicious legacies.²¹

The normative consequences of the 'is this fascism?' approach, then, operate in a manner similar to Anthony Anghie's 'dynamic of difference'.²² Here, however, the Global South's relationship with 'violent nationalist ideologies based on racial and national prejudice' (to quote Resolution 71/179 again) – having first been excluded from the history of 'real' fascism and identified as either 'failed' or inauthentic – is being drawn, by the doctrines and institutions of international law, into the generic/universal sphere of 'civilisation' and 'progress'. In the bright light of this sphere, where all 'challenges' merit the same solution, the fine lines separating form from substance, and mimicry from authenticity, are impossible to make out.

¹⁹ Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP, 2004) 62.

²⁰ Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42:1 *Harvard International Law Journal* 201, at 211–212.

²¹ See e.g. Sundhya Pahuja, *Decolonising International Law Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011); Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, Indigenous Americas (University of Minnesota Press, 2014); Rose Parfitt, *The Process of International Legal Reproduction: Inequality, Historiography, Resistance* (Cambridge University Press, 2019).

²² Anghie (2004) 40ff.

Material Consequences: 'Incorporating the Peripheries'²³

Thirdly, asking the 'is this fascism?' question strengthens the international legal order's highly racialised channels of upwards redistribution in the context of a global 'new right' that is remarkably keen on capitalism. Here again, Brazil's recent experience offers a case in point. As one commentator, Paul Mason, has observed, for instance, Bolsonaro's key pledges – to 'crack open Brazil's relatively closed domestic economy like a piñata, showering global finance with opportunities to privatise the country's businesses and exploit its natural resources', 'suppress wages by attacking organised labour and slash welfare payments to the poor', and so on – form part of a much wider effort to 'reorder the neoliberal world by force' in the face of rising popular discontent. In short, those ('financial elites') who have benefitted most from neoliberalism have the most to lose from its curtailment, and the most to gain from the reinforcements of and/or limited adjustments to the neoliberal project that are now being championed by the new generation of far-right leaders.

The adjustments proposed by figures like Trump – primarily in the form of a highly selective protectionism – have naturally sent the representatives of the international trade and financial institutions figures into a panic, with the IMF's Director Christine Lagarde, for instance, warning against the dire consequences of 'self-inflicted wounds, such as restrictions, subsidies and other trade distortions that reduce competition and economic openness'. By contrast, the kind of 'ultraneoliberal' reinforcements proposed by the new Bolsonaro government have been welcomed by IMF officials, who have advised it to focus on 'reforms that do not require congressional approval' in order to protect the 'vigor' of its economic reform programme. Nonetheless, whatever the combination of adjustments and reinforcements might be, things – as ever – look different when viewed the South, where 'anomalies' such as subsidised US cotton and the EU's Common Agricultural Policy, not to mention the dubious implications of 'comparative advantage' for former colonies non-consensually 'developed' as primary product mono-producers, have always been difficult to reconcile with the language of freedom and equality.²⁴ Indeed from this perspective, one might argue that the only significant challenge posed by Bolsonaro, Trump and their colleagues to the global economic order which gave it birth is the candid brutality with which they seek to extend and

²³ I borrow/paraphrase this title from Antony Anghie, 'Finding the Peripheries: Sovereignty and Colonialism in Nineteenth Century International Law' (1999) 40 *Harvard International Law Journal* 1.

²⁴ On which see Luis Eslava, 'The Developmental State: Independence, Dependency and the History of the South' in Jochen von Bernstorff & Philipp Dann (eds.), *The Battle for International Law: South-North Perspectives on the Decolonization Era* (Oxford University Press, forthcoming 2020).

formalise such 'unfair' advantages and celebrate their always-racialised logic. For the peoples of the South, then – including Indigenous communities and the descendents of slaves and indentured labourers within settler states (like Brazil and the US) and elsewhere – the 'new right' is not 'neoliberalism's Frankenstein' (as Wendy Brown argues), but capitalism's apotheosis.

Here, again, the Bolsonaro regime's ongoing efforts to open up vast areas of constitutionally-protected Amazonian land to mining, logging and agribusiness illustrates just how thin the membrane between 'fascism' and 'liberalism' can be. If successful, these efforts will be disastrous not only for efforts to tackle 'climate change' but also for Brazil's Indigenous and *quilombola* (slave-descendent) communities and their hard-won constitutional rights in these territories. Bolsonaro has described these communities, respectively, as a 'handful of Indians' who 'smell, are uneducated and don't speak our language'; and as idle, overweight 'parasites' who 'no longer serve even to procreate'. Yet his government's accumulationist and manifestly discriminatory efforts to 'liberalise' access to its Amazonian 'resources' can also be, and are being, justified on liberal grounds. Bolsonaro has argued, for example, that Indigenous/*quilombola* individuals must be integrated into Brazilian society as 'human beings, as citizens' rather than being treated like 'animals in a zoo', and. As he explained to the World Economic Forum at Davos, the aim of these policies is to generate 'great business opportunities, not only for the good of Brazil, but for the good of the world at large'.

Of course, even if the distinction between the 'genocidal' policies of the far-right and the normal operation of the international legal order is primarily a question of whether their material effects are celebrated or denied, the power of words to inspire hatred and violence should not be underestimated. For example, that the Bolsonaro regime's *overt* racism, expansionism, militarism and anti-egalitarianism has dramatically accelerated deforestation in the Amazon by encouraging 'wildcat' miners and loggers not only to expand their activities but also to terrorise those who stand in their way has been widely accepted and condemned. This should not, however, distract from the reality that when figures like Michelle Bachelet, the UN's High Commissioner for Human Rights, describes the recent murder of the Indigenous leader Emyra Wajapi as 'a disturbing symptom of the growing problem of encroachment on indigenous land...by miners, loggers and farmers in Brazil', and Bolsonaro responds that '[t]here is no solid evidence...that Indian [sic] was murdered', what is in dispute is emphatically not the logic of commodification, competition and accumulation. The question is solely where the outer limits of its domain should lie.

On the most generous reading, then, the shared enthusiasm for competitive capital accumulation on the part of the leaders of the 'far-right' on the one hand, and stalwart 'liberal' defenders of the existing international order on the other, complicates the latter's efforts to argue – while pointing firmly to the former – that 'Fascism and Fascist policies pose the most virulent threat to international freedom, prosperity, and peace than at any time since World War II.'²⁵ A more cynical reading might attribute the enthusiasm with which financial markets and middle-class voters have greeted Bolsonaro and his colleagues not only to their pledge to reinvigorate the project of capitalist expansionism, but also to something else as well. For in celebrating its catastrophically violent, overtly racialised, flagrantly inegalitarian and entirely predictable effects, the leaders of the contemporary far-right offer themselves up to the international legal order as a convenient set of villains, upon whom the blame for those effects can now be pinned.

Conclusion: 'Why Redraw the Map of Fascism?'²⁶

In 'Black Fascism',²⁷ an article drawn from *Against Race: Imagining Political Culture beyond the Color Line*,²⁸ the British historian and political theorist Paul Gilroy elaborates some of the 'disturbing traces' of fascism that 'entered black Atlantic cultures in motion toward globalization' over the course of the twentieth century.²⁹ Marcus Garvey's claim, in 1937, on behalf of the UNIA (Universal Negro Improvement Association) – that '[w]e were the first Fascists...The black masses saw that in this extreme nationalism lay their only hope and readily supported it. Mussolini copied fascism from me' – is only one of the many illustrations Gilroy uses to make the point.³⁰

²⁵ Madeleine Albright, *Fascism: A Warning* (Harper, 2018) 247-248. The fascist movements of inter-war Europe are often portrayed – by right-wing pundits like Black (above) and Dinesh D'Souza in particular – as having been fundamentally anti-capitalist. Indeed Nazism is regularly described as having been 'a branch of socialism', notwithstanding its merciless hatred of socialism in all its forms. The persistence of this myth is, however, a notorious right-wing cliché, and a core part of what the anthropologist Kristen Ghodsee calls the 'two totalitarianisms' or 'double genocide' thesis, according to which: '1) any move towards redistribution and away from a completely free market is seen as communist; 2) anything communist inevitably leads to class murder; and 3) class murder is the moral equivalent of the Holocaust'. Ironically, in discrediting the left, this logic simultaneously legitimates the right, for 'if [communism and fascism] are morally equivalent, then the political and economic elite do no wrong by choosing the pole that accords with their own financial interests'. Kristen Ghodsee, 'A Tale of "Two Totalitarianisms": The Crisis of Capitalism and the Historical Memory of Communism' (2014) 4:2 *History of the Present* 134–135.

²⁶ I borrow/paraphrase this title from Makau wa Mutua, 'Why Redraw the Map of Africa: A Moral and Legal Inquiry' (1994) 16 *Michigan Journal of International Law* 1113.

²⁷ Paul Gilroy, 'Black Fascism' (2000) 81/82 *Transition* 70.

²⁸ Paul Gilroy, *Against Race: Imagining Political Culture beyond the Color Line* (Harvard University Press, 2000).

²⁹ *Ibid*, 8.

³⁰ Quoted in Gilroy (2000), 'Black Fascism', 70; 72.

Gilroy's argument is certainly not that Black nationalism has uniquely fascistic tendencies. It is, on the contrary, that 'if ultranationalism, fraternalism, and militarism can take hold, unidentified, among the descendants of slaves, they can enter anywhere'.³¹ For those attempting to make sense of the relationship between the far-right and the Global South, past and present, this is an important point. For it suggests – once again – that the search for 'a uniform, extrahistorical formula for fascism that would enable us to test for its presence or absence' as Gilroy puts it (or the 'is this fascism?' approach, as I have called it here) is as dangerous as it is epiphenomenological. Getting to grips with fascism remains a crucial task, according to Gilroy, not just because of the risks that 'past forms [might] recur' but also, and much more importantly, because of the reality that 'fascism is still somehow pending – that fascism remains latent in any attempt to organize social life according to raciological principles'.³²

In this context, the insights developed, over many years, by TWAIL scholars into the connection between certain kinds of (legal) language and certain kinds of (inter/national) violence place them in a unique position from which to side-step the intellectual trap which the 'is this fascism?' approach sets up, and confront the pattern of discrimination, accumulation and brutality now emerging in Brazil and elsewhere with a much more powerful series of questions. One, for example, might be: if fascism is (as Gilroy argues) latent in 'any attempt to organize social life according to raciological principles', then what role have international law, the 'self-governing' nation-state, and the formal right of self-determination played in the universalisation of raciology?

³¹ Gilroy (2000), *Against Race*, 8.

³² Gilroy (2000), 'Black Fascism', 89.