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In our contemporary world, the diffusion of contents via mainstream media is such that the same topics are presented more or less according to a unique perspective. Not only all the main journals, sites and communication tools mention the same subject at the same time, but the vocabulary and the “dimension” of the issue (its importance, the questions involved) is quite homogeneous. Piracy is, in this case, a child of our epoch, being not only a very diffused theme but also being exposed as an “international issue”, typical of “globalized times” (Larner and Walters, 2002). It seems, however, that, although the wide exposure of the main public to “piracy” creates a sense of familiarity vis-à-vis the topic, there are some deeper attributes of the case that aren’t explored. Piracy is constantly presented as a harmful activity, which could ruin the bases of the system upon which we live. Would that really be the case? What are the points involved in this phenomenon? The present text aims to develop some distinctions between the abstract elements of a “piracy” concept, and socioeconomic elements – distinctions that, even though they seem very useful, are not usually made. By proceeding this way, we wish to illuminate how the arguments against “piracy” are built and to expand other repercussions of the theme, since it seems to us a good entrance door to understand some organizational principles of our contemporary society¹.

PIRACY: COMING FROM A LONG WAY

If our world is marked by social “diseases”, piracy would not be one of them, but rather a “syndrome”: a group of symptoms that, together, constitute a specific frame. In fact, it is quite striking that no precise definition of piracy is shared by the different areas that work upon it, be it on a legal sphere or not. A simple look at the mainstream media position towards it will be enough to understand: what the common knowledge does absorb is a perception of a “wide

¹ By “contemporary society”, we understand not a unique social global organization, but a strong connected ensemble of societies that maintain perennial cultural and material exchanges between each other. As we will show, the intense delocalization of work nets is a very important point to the subsistence of piracy, making of it a very historically situated phenomenon.

menace”, something to be “fought” and articulated to the “digital” tools now available, thus being a very special *criminal* category. This perception is indeed reinforced when one knows that “piracy” belongs to the “international crime” condition since 1958, as noted on the *Convention on the High Seas*, produced during the *United Nations Conference on the Law of the Sea* (Domingues Duran, 2011, p.14)². The virtual capacities lead us to different ways to deal with knowledge and digital properties, being the Napster case, in 1997, the first big one under these principles.

Basically, when one talks about “piracy”, some points emerge as a constant: (intellectual) property rights, the international organization of work, the dynamics between national frontiers and the importance of consumption at the end of the capitalist productive chain. All these levels are present in the physical form of piracy (very close to informal ways of commerce) and the virtual one; we will nevertheless focus only on the physical form.

Let us note since this point that in fact the distinction between the “concept” of piracy and its “socioeconomic version” is important exactly because the analogy between sea robbers and the actual transgressions, understood as crimes in a very broad way today, is not evident. Even if the sea, the commercial and the digital piracies do share some attributes, they do not touch at the same weak points of society. The first movement to be done is thus backwards: going back to the first constructions of what was piracy and moving towards the actual time and how the perception of the phenomenon changed. This is particularly important since the sea piracy still exists today, along the other two, and, if the term is applied carelessly, we will find ourselves with as many piracies as the number of transgressions existing today. The second point that makes this conceptual distinction important is that each and every piracy is widely presented as a crime, and this mobilizes a huge juridical apparatus, even though the social perception of some activities does not follow it exactly. At this point, the comprehension of the socioeconomic system behind each piracy case is important, since the number of people engaged and the kind of questions behind them differ. That’s why we will only expand the “commercial piracy” case here.

The concept of “piracy” lacks a widely accepted definition nowadays, but its origins are quite consensual: the greek already spoke of “peiratos” as a very specific category, strongly

² It is necessary to note, however, that in this case the piracy treated still is the oceanic one. Nevertheless, the date of this publishing already stresses that the “international” dimension of the piracy as a crime is not new and that juridical discussions already stated that it must be fought in a supra national way by this time. It may be exactly because of this supra national quality of the problem that the term “piracy” has been imported to other crimes/transgressions, considered analogical to this first one.

knitted to the war rules of the time³. Some other vocabulary was adopted to similar practices of robbery on the sea, but pirates were perceived as the “enemy of all” (Heller-Roazen, 2009). This instituted a new division between public and private enemies – a division that had a deeper development within the constitution of national States, which meant the establishment of frontiers and the acceptance of international rules of combat according to sovereignty principles (Heller-Roazen, 2009, p.96; Spruyt, 1996). We thus watch to the emergence of the monopoly of force by the State (including the military one), a centralization of political powers in some strategic figures (e. g., the King) and “an important shift from literal bonds to abstract ties” (Becker *apud* Spruyt, 1996, p.75), that makes market exchanges and credit possible.

Before, piracy referred to a specific kind of sea robbery that had no sides on, and made of any one a potential victim – the point was the pirate as an outsider, more than the pirate as a robber, since violence over shores was widely practiced by seamen in general. This was the menace of the “enemy of all”: an enemy that was always outside the network, since he was constantly against everybody. The rise of a new public contract limited the warfare rules and their possibilities; they should occur, from the end of the Middle Ages on, in function of the State principles. It was mandatory to any nation with territorial preoccupations to build a Marine, for example – and official texts from XVth and XVIth inform us of the ambiguity of the categories of “piracy” and “corsair” while the political equilibrium had not yet been reached (Domingues Duran, 2011, p.49 and sq.). Upon this new context, juridical changes on understanding a “war” state interfered on the understanding what was the role of piracy on the game – it is then recognized as a criminal category, and not just a menacing one. In fact, it is then inserted on the social network as a *crime*, when before it had systematically been refused to belong at all.

Comprehending the emergence of a new *crime* means the construction of a juridical logic, and the punishing methods that go along. We then have a double historical side of piracy: not only the concept itself is historically situated, but the juridical perception of it is historically situated as well. It jumps from a collective problem, on the Greek time, to a international law and public issue on the Modern times. Without the emergency of public spaces to exchange information, piracy would be unable to adopt the vague form it has today, basing itself on anything widely available – be it fashion advertising or online contents – nor

³ Heller-Roazen mentions another greek word, “leistes”, apparently interchangeable with “peiratos”, at least at Homeric times. See pp. 34-35 on *The Enemy of All* to a wider philological explanation.

escape the diverse control tools, exactly because it skips the “State level”. Piracy seems to be either local or global, and no legal rule can limit it in an efficient way.

However, this legal change does not explain yet why the figure of the pirate is transposed from water attacks to the commercial case, to keep our analysis in a restrained frame. Concept analysts do point that the pirate figure is forgotten after Modern times, to be rediscovered later, and even that XIXth century thinkers predict the end of sea piracy with the development of Nation-States and other forms of transportation (the airplane in particular) (Domingues Duran, 2011; Heller-Roazen, 2009). We are certainly dealing with a very caricatural figure, marked by fictional descriptions, from J. M. Barrie’s Captain Hook, in *Peter Pan*, to Stevenson’s Long John Silver, in *The Treasure Island*. If the pirates are the villains, they also have their own kind of charm, and make the adventure go further, even if the legal sphere forbids it. It does not seem an aleatory choice to make rude seamen and a very precise kind of production chain to converge. What could be, then, the role of piracy in our socioeconomic system?

HOOKING CONSUMERS, KIDNAPPING THE SYSTEM

When we consider piracy as a “system”, or “belonging to a system”, we simply mean that this phenomenon (or its commercial version) can be divided into levels that must compose a whole chain at the end of the day. Basing ourselves on the “commodity chain” notion as exposed by Immanuel Wallerstein, capitalist production must consider a linear division of work and also an equilibrium between the different parts of work, to avoid an under or overproduction crisis (Wallerstein and Hopkins, 2000; Marques Pereira and Théret, 1997). As Wallerstein and Hopkins define, commodity chains are “a network of labour and production processes whose end result is a finished commodity”.

What we are calling here “commercial piracy” refers simply to the side of the market based upon informal transactions and, most of times, counterfeit products that are recognized as “pirates” by the main consumers (or potential consumers). This makes a bridge between the conceptual frames necessary to understand the upstanding paradox: while piracy, as a concept, inherits largely from a discussion on menace, particular rules, globalization, humanity as a unique victim of precise actions that harm the group and the social contracts, and not only the individual, it also stands upon a socioeconomic system where it is transposed to a cultural category. Apart from the legal definition, piracy is also recognized, modified,

classified, bought, sold, used, disdained, and so on. This kind of cultural day-by-day “mashing” of the term is only possible under a specific socioeconomic system: from the XIXth on, the possibility of a high-quality reproduction is made real with technological development (Benjamin, 1969). This turns artistic copies much easier than ever before, and institutes a necessity of turnover of trending (as Oscar Wilde used to say, “fashion is a form of ugliness so intolerable that we ought to change it every six months”).

Moreover, the capitalist principle of making production costs each time lower to raise the profit margins (Marx, 1977; Polanyi, 1971) reaches a radical level of delocalization today; we then assist to a geographical expansion of the productive chain, divided in producing and assembling the different parts of the commodity, to then export it to the final sale location. It is then very usual to build in China, assemble in USA and then buy in Brazil. This alters the geopolitical hierarchy between productive countries and import-export relations (e.g. the maquiladoras on the Mexico-USA frontier). Work dynamics also adapt to these new forms of lowering the production costs, widely via informality.

Informality, a concept first suggested by the IWO during the 70s, meant to take a look at the people outside the formal work bonds. This was during a period when economic analysis still considered viable to insert this parcel of the population (usually coming from developing countries) into the formal employ system. Nowadays, “informality” means much more than that, because the variety of work conditions has grown widely. Economic and sociological researches concluded upon the practical impossibility to reach a full-employment rate and thus “informal bonds” are widely used to make a living⁴. On the other hand, informality does not just apply on the dynamic of the commerce, but also on its physical shape; the local markets of any metropolis witness that. While a particular architectural shape maintains a “dignity”, the aspect of being improvised, built with a mix of materials, or the profile of the merchants guide our classification directly (Geertz, 1978)⁵. Not surprisingly, these specific markets offer to the distracted walker a strong sensation of being a labyrinth and that information is, by far, the most difficult thing to get there.

Only some of the objects available at the market are labelled as “pirate”: usually, the connection of counterfeit and informal types of market result on such a “recognition” by the

⁴ See the work of Adalberto Cardoso to an excellent approach of the Brazilian case.

⁵ Henri Lefebvre observes, in a sharp way, that “one must note that *architecture* follows and translates the new conception of city. The urban space becomes the site of meeting between things and people, of exchange” (Lefebvre, 1970, p.19, our translation, stress by the author). And therefore that the new architecture molds the new urban space, where new practices are kept and the market gets a centrality on the disposition of the city’s dynamics.

customer (Mizukami et al., 2012). It is then the selling-buying process that is particularly interesting to understand what is the “real perception deal”, since that, after the product is bought, a new private relation begins between the owner and the possession (even when the knowledge of the origin of the product restrains the person from using it). We come again a public issue since it is the object exposure as a certain kind of commodity, sold under a certain type of market, that leads to a conclusion on its labelling by the consumer.

Of course, the quality of the reproduction plays an important role at this time. Another kind of public issue is wearing the product in everyday life – take, for example, the Louis Vuitton bags, widely copied throughout the globe. Just as the ambiguity of piracy of the Greek times, the ambiguity of material classifications is never solved after the product is bought. We have a double trajectory of classifications: first, the consumer dealing with the shopping situation; then, the owner-product as a team on everyday life. Sometimes, the simple habits lead an external agent to conclude without even taking a look at the object: it is too dislocated on the scene to be understood as “true”. To keep ourselves to the Louis Vuitton example, how could a bag worn on the bus, by a lady that didn’t have the “true look”, be a “true one”? The informant that watched the scene declared simply that she “didn’t have to look at the bag to know that it was a fake one”.

Piracy then goes a level up, and is a reference to people, on day-by-day, to cheaper opportunities and social classification, be it of markets, buying experiences or of the selves that walk in the city. According to a wide research in Brazil run by the Commerce Federation of the Rio de Janeiro State (Fecomércio, 2010), practically 50% of the Brazilian population had bought a “pirate” product⁶ between 2006 and 2010, and the main motives to not buying one were the poor quality and the lack of warranty. The juridical and public repression on counterfeit is thus not followed by a consumer comprehension of buying “pirate” as a transgression. However, internally, the mass offer of the same products, associated with the price discrepancy of counterfeit and “original” items in some cases (such as that of Louis Vuitton), open the possibility of feeling as a pirate yourself – not relatively to public transgression, but as incapable of wearing the product bought, or instead to revealing constantly the item’s classification as “fake” because of the use made of it. A “luxury” bag, for

⁶ In this case, a pirate product is a counterfeit one, being sold via informal markets, that is, without any fiscalization of the origins of the product, and probably without any public tax payment from the seller either. In Brazil, taxes are included in the commodity’s final price and must not be calculated apart. Each state has, moreover, autonomy enough to decide the amount to be taxed in each category of product, which makes prices to float considerably to a region to another and also helps to make the main consumer unable to calculate how much he or she is really (or should really be) spending on taxes.

example, conflicts with non-luxury habits, such as simply taking the bus. On this internal level, the pirate ruins the illusion created by a good replica, that one chose an object according to the rules of the market (that is, following the price and the notion of “exclusivity” of some products) and steals one’s own authenticity.

CONCLUSION

By establishing piracy as a crime, or an action that must be stopped and punished, what we see is the long-term constitution of a “marginal shore” (*épaves*, in French) inside of the contemporary penal system: a system that has the main objective to bite the ensemble, making national frontiers obsolete and guiding the hearts and minds to consider the same actions as infractions. Piracy can only be a crime, and the pirate a villain, in this regime of mobilization against virtual menaces, because the piracy issue is the infraction, just as the fact that any of us can be the infractor. When considering it as a capitalist phenomenon, piracy is consisted of its own rules (ignoring the supra national issues, and even the national ones), a specific group of actors that recognizes and interacts with each other and the appropriation of external contents to reproduce itself.

However, the paradox is such that the expansion of the commodity chains along the globe (from China to Brazil, going through Morocco, or even considering cheap main d’oeuvre emigration, as the Bolivian population in São Paulo) obliges one to consider the local aspects of each point of the chain. Although the pirate menace is inserted in the commodity chain itself, the notion of what is “pirate” will change according to local principle vis à vis the markets where the products arrive, the buying experience and the wearing horizon of each item. Big metropolis in developing countries, strongly marked by informality as working alternative, and as a composer of particular concrete markets, seem to be a privileged zone to this kind of consumption. This microscopic level of analysis informs us of a local use of “pirate”, much less connected to juridical propositions and more knitted to the authenticity of someone that buys and uses a “pirate” item. This seems to be an explanation of why most “pirate” products are copies from very exposed items: be it CDs or bags, it must necessarily “please the consumer”, and also guarantee some ambiguity exactly by flowing the streets: the massification keeps the trends anonymous, and what’s less piratical than being on fashion? Nevertheless, the internal impacts of the experience may restrain some people from wearing the item, or their public exposition turns it impossible to maintain the “illusion of

authenticity”. If piracy is a menace to humanity, it also profits from the fact that there is some strong productive pressure to keep a homogeneity, be it on behaviour, clothing or day-by-day habits of this same humanity. As a “globalized issue”, piracy is a good entry to understand better a unification of proceedings under capitalism (parallel production eventually converges to the “formal” one, especially on the case of replicas, or of smuggling), and also a trend of governmentality tools, by the building of desires, the understanding of what is luxury, of how to differentiate oneself among the multitude, and especially on feelings and relating to material acquisitions.

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