

SEÇÃO LIVRE

 <http://dx.doi.org/10.15448/1980-864X.2016.1.21808>

From control to social reform: the Latin-American social question in the Latin-American scientific congresses (1898-1908)*

*Do controle à reforma social: a questão social nos
congressos científicos na América Latina (1898-1908)*

*Del control a la reforma social: la cuestión social en los
congresos científicos Latinoamericanos (1898-1908)*

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Abstract: This article focuses on the circulation of ideas on social policies in Latin America through the discussions in the Latin-American scientific congresses. The main argument is that, although Latin-American scholars relied on European narratives to frame the social problems that affected the region, the policy solutions they found were not based on the direct importation of foreign models. Either by emphasising criminality or the need for social reform, scholars sought to address the social question through regional mechanisms which were the outgrowth of regional processes of knowledge transfer.

Keywords: Latin America; social question; criminology; social policy; scientific congresses

Resumo: Este artigo estuda a circulação de ideias de política social na América Latina através das discussões nos congressos científicos latino-americanos. O principal argumento é que, embora os estudiosos latino-americanos se baseassem em narrativas europeias para enquadrar os problemas sociais que afetavam a região, as soluções políticas a que chegavam não eram baseadas na importação direta de modelos

* Research for this article was possible by a grant from the Chilean National Commission for Scientific and Technological Research (CONICYT) as part of the project CONICYT-PAI 82130006.

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Estudos Ibero-Americanos, Porto Alegre, v. 42, n. 1, p. 283-307, jan.-abr. 2016



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estrangeiros. Seja enfatizando a criminalidade ou a necessidade de reforma social, os estudiosos procuravam abordar a questão social através de mecanismos regionais que foram o resultado de processos regionais de transferência de conhecimento.

Palavras-chave: América Latina; questão social; criminologia; política social; congressos científicos

Resumen: En este artículo se estudia la circulación de las ideas de política social en América Latina a través de las discusiones en los congresos científicos latinoamericanos. El principal argumento es que, aunque los intelectuales latinoamericanos se basaron en narrativas europeas para enmarcar los problemas sociales que afectaban a la región, las soluciones políticas a las que llegaron a no se basaron en la importación directa de modelos extranjeros. Sea enfatizando la criminalidad o la necesidad de la reforma social, los intelectuales trataron de abordar la cuestión social a través de mecanismos regionales que eran la consecuencia de procesos regionales de transferencia de conocimiento.

Palabras clave: América Latina; cuestión social; criminología; política social; congresos científicos

Introduction

The global circulation of social policy ideas has recently become a central theme for scholars interested in the historical development of the welfare state (MOSES and DAUNTON, 2014; RODGERS, 2014). And while this global perspective has paved the way for questioning the straightforwardness of the emphasis on diffusion and foreign policy modeling (COLLIER and MESSICK, 1975; KUHNLE 1996), these new perspectives have remained scarce when it comes to studying the circulation of policy ideas in Latin America. Rather, much of the research on Latin America has tended to follow European narratives on the stages of implementation of policy initiatives, thus characterizing the processes in the region, as with many other themes (BENTON, 2004), in terms of its shortcomings when compared to European developments. Research in the region has reinforced this idea by focusing primarily on the introduction and expansion of social policy, which began relatively late and was only partial when compared with Europe. Some have characterized Latin-American welfare systems as constructing ‘states without citizens’ or ‘malaise states’ (FLEURY, 1997). Likewise, transnational research has focused on the influence of global actors, particularly the International Labour Office, which only strengthened its presence in Latin America towards the 1930s with the creation of regional offices, and began to have direct influence in the design and implementation of social policy in the region in the 1940s (SEEKINGS,

2010, p. 160. See also HERRERA and HERRERA GONZALES, 2013). In all, Latin America is often characterized as a region that belatedly arrived to the discussions that were taking place to respond to the so-called ‘social question’.

Studying Latin-American social politics requires revising the relation to industrialization which has served to frame the social question in the economies of the North Atlantic. Since the leading theories on social policy development presuppose some kind of industrial development, research in Latin America has largely concentrated on the social legislation that coincided with the onset of the process of State-led industrialization through import substitution (ISI) which began in the 1920s and 30s (HUBER and STEPHENS, 2011; MALLOY, 1979; MESA-LARGO, 1978). Even if this approach may adequately reflect the onset of major legislative initiatives, it is less appropriate when dealing with the circulation of policy ideas that preceded industrialization. As we will see, Latin America actively participated in the debates on policy and social legislation which were taking place in the late nineteenth-century, even though the region’s particular circumstances differed from those of the industrialized nations. Already in the last decades of the late nineteenth century, Latin-American intellectuals began to recognize that social problems such as infant mortality, the depopulation of the countryside, and increasing income insecurity were caused by the introduction of the railway and the growth of commerce (ORREGO LUCO, 1961). Rather than industrialization, Latin America’s entrance into the world economy in the 1880s, and the rapid transformations which ensued, triggered the processes of social dislocation that, though not being identical those experienced in Manchester or Chicago, offered a parallel scenario in which global narratives became available to address the local problems associated with modern work relations.

By looking into the papers presented in the Latin-American Scientific Congresses, held between 1898 and 1908, this article seeks to shed light into the ways in which Latin-American scholars conceived and sought to solve the social question. We argue that, although Latin-American scholars mobilized European narratives to represent the social question, the solutions they provided were not a mere transplantation of foreign models. Rather Latin-American scholars actively and creatively explored alternatives to deal with the perceived social ills of the time, learning from the experience of the industrialized nations, but fundamentally by recurring to locally and regionally produced knowledge. The Latin-American Scientific Congresses illustrate that

distinct approaches to the global discourses on social policy ultimately emerged in places such as Buenos Aires, Montevideo, Rio de Janeiro, and Santiago.

International Collaboration and the Latin-American Scientific Congresses

The countries of Latin America have enjoyed a long tradition in the celebration of international conferences which can be traced to the Independence, and centered on the idea of strengthening their common defense against external threats. Between 1810 and 1879 several Latin-American congresses sought to solve contingent diplomatic issues and reinforce Bolívar's idea of a great confederation of the American continent. The American Congress of Legal Scholars celebrated in Lima in the summer of 1878-1879 was the first international conference in the region that did not seek to advance the defensive unity of the continent. Rather, it sought to harmonize its institutions and strengthen commerce by studying ways to unify the laws of the continent, but its work was eventually interrupted by the fracture in relations between Chile and Bolivia. The objectives of this congress were resumed in the Congress on Private Law held in Montevideo in 1888 which was attended by representatives of Argentina, Bolivia, Brazil, Chile, Paraguay, Peru, and Uruguay. The first Pan-American Congress in 1889 would signal the beginning of a new period, through the establishment of constant diplomatic relations between the United States and the states of Latin America, especially concentrating on a legal and economic union based on customs provisions (DONOSO GARCÉS, 1916, p. 8).

A second phase of international exchange was characterized by the strengthening of transnational relations among intellectuals, scientists, and organizations of civil society. The improvements in communications, brought about by the telegraph, railways, navigation, and the post, consequently led to an increase in the scientific congresses in the late-nineteenth and early-twentieth centuries. The number of congresses expanded rapidly from 10 between 1850 and 1854 to almost 100 between 1870 and 1874. Between the years 1904 and 1911 the number of congresses had again grown tenfold reaching almost one thousand congresses (RASMUSSEN, 1990, p. 121). The republics of the Americas also increased their international academic collaboration through student exchange, international co-operation agreements, publications exchange, delegations sent to study technical and legal

advances between countries, and the celebration of scientific encounters (SUPPO, 2003). It was in this context that the Latin-American Congresses took place.

The Latin-American Scientific Congresses began by initiative of the Argentinean Scientific Society, which decided to celebrate its twenty-fifth anniversary in 1898 by hosting an event that could congregate the scientists of the region. Strictly speaking, there were only four Latin-American Scientific Congresses: Buenos Aires (1898), Montevideo (1901), Rio de Janeiro (1905), and Santiago (1908). The Santiago Congress was the fourth Latin-American Congress and became the first Pan-American Scientific Congress after an invitation was extended to the United States by the organizing committee. Participation in the Latin-American Scientific Congresses grew with each encounter, increasing from 552 participants from 13 countries in 1898 to more than 2000 participants from 20 countries in 1908 (FERNÓS, 2003, p. 8; HOLMES, 1909, p. 443; SAGASTI and PAVEZ, 1989, p. 195). These encounters were attended by distinguished scholars of the continent. Among others, the Argentinean intellectual, José Ingenieros, who participated in the Congresses of Buenos Aires and Montevideo; Valentín Letelier, who became president of the University of Chile, attended the Montevideo Congress in 1901; the drafter of the Brazilian Civil Code, Clovis Beviláqua, participated in the Congress of Rio de Janeiro of 1905; and Hiram Bingham, a historian from the United States who became a celebrity after publicizing the existence of Machu Picchu, attended the Santiago Congress in 1908.

Each Congress lasted around two weeks and the time was not only used to share scientific knowledge but also to establish and nurture academic networks. Given the vast number of disciplines represented and the breadth of subjects treated in the program, it was recognized that the main purpose of the Scientific Congresses was “the opportunity of meeting others who are interested in the same lines [of inquiry]” and “make new friends among men whose interests are chiefly intellectual” (BINGHAM, 1911, p. 184). Social activities that were held around the Congresses helped nurture these networks. The governments and notable citizens of host countries, as well as the embassies in each country, took the opportunity to entertain the delegates with dinners, receptions, balls, and trips to the *haciendas* located in the outskirts of the city. Additionally, there were guided visits to universities, galleries, hospitals, factories, and laboratories, which served to demonstrate the technical advances of the host countries (HOLMES, 1909, p. 447).

The Congresses included all disciplines of knowledge. The Congress of 1908, which had the most comprehensive program, dedicated nine sections to mathematics, natural sciences, physical sciences, engineering, medicine and hygiene, anthropology, jurisprudence and social sciences, pedagogy, and agriculture and animal industry (HOLMES, 1909, p. 442). Throughout the period, the Congresses showed a growing trend towards the social sciences. Already in the Congress of Montevideo in 1901, the number of papers on social sciences grew to represent almost half of the 202 papers presented. In the following Congresses the representation of the social sciences continued to grow to the detriment of the basic sciences (FERNÓS, 2003, p. 9-10). This trend reflected the popular interest on political and social issues which, being “topics on which every man has ideas which he is not afraid to express” (BINGHAM, 1911, p. 184), lend themselves to heated and lively discussion. The social question thus became a central theme of scientific discussion in the region.

The Social Question as Control: Criminology and Identification

In the late-nineteenth century, the problem of social order and the political threat of anarchism became a major concern for most Western states, and led to the renewal of efforts towards international police cooperation. The International Conference of Rome for the Social Defense against Anarchists celebrated in 1898 and attended by representatives and police forces of 21 European states including all major powers, established specific penalties on membership in anarchist organizations, the possession of explosives, the distribution of anarchist propaganda, and providing assistance to anarchists. It was also agreed that European countries would seek to establish special organisms charged with the surveillance of anarchist individuals. The Rome Conference was followed by a similar encounter in 1904 in St. Petersburg, where the representatives of ten European countries agreed on a secret protocol on police collaboration against anarchism. It was only in the first Congress of International Criminal Police, celebrated in Monaco in 1914, in which important progress was made in improving police collaboration among European countries and laid the foundations of the current Interpol (DEFLEM, 2002, p. 68, 102).

The efforts towards police collaboration, consequently, increased the need to establish standardized methods for identifying criminals which

could be easily communicated between police bureaus across national borders. The leading system of identification towards the late-nineteenth century was the *bertillonage*, an anthropometric identification system designed by Alphonse Bertillon, an employee at the prefecture of Paris, which combined existing police files with standardized measurement of physical details. The system included standardized photographs and body measurements, the recording of distinctive traits, such as scars and tattoos, and the *portrait parlé* (GINZBURG, 1980, p. 25-26). Despite being cumbersome in its application, the *bertillonage* had the advantage of translating criminal identification into numerical information which could easily be communicated across nations by telephone or telegraph (DEFLEM, 2005, p. 278). It was also in line with the leading trends of the nineteenth century, dominated by the Italian school of positivist criminology, which unlike classical criminology shifted the focus from the legal definition of crime towards the observation of crime and the individual criminal (PAVARINI, 2002, p 48).

Latin America similarly perceived criminality and anarchism as transnational threats that arose as consequences of massive migration from Europe and the porosity of the regions' borders. Anarchists and criminals, by sea or land, took advantage of the deficiencies in border controls, which provided high degrees of mobility and enabled them to escape conviction in one land and begin new lives without previous records in new ones (GALEANO, 2009)¹. Immigration and freedom of movement were thus the main issues in framing the social question as a transnational problem, and drew attention to the inexistence and unsuitability of existing legal and institutional mechanisms to deal with the large migrant mass which was required to sustain the continent's economic growth.

The question was to find mechanisms that could root out the criminal elements without stopping immigration altogether. One such mechanism was Argentina's Alien Residence Act of 1902, which allowed the deportation of foreigners as well as the prohibition to enter the country of any individual who had been convicted of a crime or was persecuted by a foreign court. This law became an important precedent for similar measures throughout Latin America (MUÑOZ and PLAZA, 2013, p. 115-116). Similarly, international treaties sought to strengthen the coordination of the nations of the continent. A Treaty on Extradition and Protection against Anarchism signed by seventeen countries in

¹ For more on this in Argentina and Chile, see Ayala 2010.

the Second Pan-American Conference, celebrated in Mexico in spring and summer of 1901-1902, established specific guidelines for the extradition of anarchists and established that political asylum could not be granted to crimes considered to be of anarchist nature (YAÑEZ, 2011).

Much like the broader political discussions which took place both in Europe and Latin America, the intellectuals represented in the Latin American Scientific Congresses initially viewed the social question as a matter of criminality. However, more than issues regarding national and international law, the debates focused on the practical questions of identification and border control. The Latin American Scientific Congresses thus became a forum in which specialists discussed and presented recent developments on criminology, identification, and the prison system. Although these issues were all present in the preparations which led to the first version of the Congress, to be held in 1898 in Buenos Aires, where the issues of migration and the prevention and sanction of crime in Latin America were proposed as topics for discussion in the invitations sent out to the participant countries², it was in the Congresses of 1901 in Montevideo and 1905 in Rio de Janeiro that more specific attention was placed on policing the individual criminal.

The most consequential discussions centered on the question of identification and the increasing problems of the *bertillonage*, still widely considered the most effective method of criminal identification. The system, however, had begun to fall into discredit not only due to its inefficiency but also because it was not an effective method for conclusively identifying a person. Among its main problems, the *bertillonage*'s measurements did not create a register of unique characteristics for an individual; at most it provided approximations which could rule out certain individuals. Furthermore, many of the measurements lacked in permanency, since a correct anthropometric assessment could only be made after a person had finished growing. Throughout the Congresses, Bertillon's system was defended by the chief of the Bureau of Identification and Anthropometry of the Montevideo Police, Alfredo Giribaldi, who presented a paper on "Identity and filiation" in the 1901 Congress.

² *Primera Sesión del Congreso Científico Latino-Americano del 10 al 20 de abril de 1898. Bases y programa, temas propuestos, lista general de miembros, comunicaciones anunciadas por secciones, programa general de sesiones, visitas, excursiones etc*, Buenos Aires: Imprenta de Pablo E. Coni e Hijos, 1898, p. 19-20.

Alongside the *bertillonage*, the Latin-American Scientific Congresses popularized a fingerprint system which had been regularly used in Buenos Aires since 1891 and was developed by the chief of the Identification Bureau of the Buenos Aires Police, Juan Vucetich. Under the title “A new system of identification”, Vucetich presented his system in the Congresses of 1901, when the *bertillonage* was under intense scrutiny and had become the subject of dispute within divisions of the police in different Latin-American countries (FESSLER, 2015, p. 13-15). Interestingly, Vucetich’s use of fingerprints predated European developments, where their forensic use was introduced by Scotland Yard in 1901 by Edward Henry, drawing on the work of Francis Galton, and in France in 1902 when Bertillon himself added their use to complement his system (CAPLAN, 1990, p. 109-114). The reception of Vucetich’s ideas in the Latin American Congresses was positive, but their introduction was seen more as a supplement to the existing anthropometric system. The section of Social and Legal Sciences agreed to introduce the fingerprint identification system as a complement to the *bertillonage* in the identification of criminals and corpses³. In order to stimulate and facilitate the exchange of criminal’s files among information and identification bureaus in Latin America the 1901 Congress also approved conclusions regarding the creation of national or provincial criminal archives with corresponding anthropometric filiation⁴.

In the 1905 meeting in Rio de Janeiro, Vucetich’s system gained further influence. There, before the congregated audience, he offered a demonstration of the quickness and effectiveness of his fingerprint system:

The president [of the section of Social and Legal Sciences] names a commission composed of the doctors Villela dos Santos and Eliezer Tavares to select, among the inmates of the House of Detention, one male and one female, in order to proceed with an experiment of identification through the fingerprint process. Both inmates introduced into the session hall, Mr. Vucetich makes the digital impressions and passes them along to Mr. Felix Pacheco, who, then, provides the respective classification and retrieves from the cabinet the two files therein archived; immediately verifying the perfect identification of the individuals, the auditorium bursts into applause and cheers (DOS SANTOS, 1908, p. 27).

³ *Segunda reunión del Congreso Científico Latinoamericano celebrada en Montevideo del 20 al 31 de marzo de 1901. Organización y resultados generales del Congreso*, Montevideo: Tipografía y encuadernación Al Libro Inglés, 1901, p. 146-7.

⁴ *Segunda reunión del Congreso Científico Latinoamericano*, p. 133.

The advantages of Vucetich's system when compared with Bertillon's became evident to the members of the audience. For some, it proved not only to be quick and efficient, but was also considered a method that was more attune to the 'civilized culture'. Unlike Bertillon's method of photography and measurements, the fingerprint system was quick and non-intrusive, and did not employ materials that could eventually transmit diseases. Brazilian scholar Manuel Alvaro de Souza sa Vianna referred to these qualities by highlighting the "moral advantages" of Vucetich's method and presented

the reasons for which he had convinced himself that this method was superior to the anthropometric, not only because it produced an absolute certainty in its results, but also because it respects individual rights and modesty, without offending the most noble sentiments of men and without the inherent risks of photography and the other degrading, difficult, fallible, and uncertain processes of the Bertillon anthropometric method (DOS SANTOS, 1908, p. 27).

By 1908, Vucetich's influence had grown considerably. The Congress included three papers presented by Vucetich himself, and his system was the subject of three papers presented by Argentinean scholars, which applied the fingerprint system in the treatment of syphilis and to commercial and administrative law. These papers highlighted how the uses of the fingerprint system had expanded beyond its forensic application (POIRER, 1915, p. 257-258). A further application of the system was its establishment as the standard identification method. The 1908 Congress issued recommendations to implement and coordinate Vucetich's system throughout Latin America, and its use was suggested not only for forensic purposes but also for establishing personal identity in civil contracts. A further agreement established that, due to its degrading character, photography should be restricted to cases in which it was absolutely necessary to the 'defense of society'.

By the time of these recommendations Vucetich's fingerprint system had been recognized as an accurate system of identification by the Paris Academy of Science, and was reflected upon by Latin American scholars as a case that challenged the assumption of the region's dependency on European knowledge (POIRER, 1915, p. 196). Enthusiastic remarks stated that Vucetich's system had placed Latin America on the same foot as Europe, and made it an "honorable conquest of Latin American civilization and mentality" (DOS SANTOS, 1908, p. 26).

The proper implementation of identification, additionally, required the development of national police institutions, and the unification of standards for surveillance and control within the continent⁵. Police bureaus, thus, became the crucial institutions for the coordination of cross-border movements through the control of the border, the handling of extraditions, and through the exchange of bulletins of criminal information⁶. Further, given the complexity of reforming and unifying laws among the countries of the region, police bureaus could adapt to the needs of the moment mainly through administrative procedures (GALEANO, 2009, p. 10). It was necessary to bring those scarcely professional and poorly organized bodies up to date, by removing tasks related to urban lighting and transit order, and assure that their attention was placed on controlling criminality.

The idea of a meeting of the police forces of the region to unify procedures was promoted in the Latin-American Congresses (CRUZ, 1908; DE FARÍA, 1908; VUCETICH, 1908). This did not mean, however, a unification of the bodies, but an increase of coordination to combat criminality and anarchism.

Each police institution has to be the link in a chain of public security in some way joined with the others; the chain can be formed with very different pieces, according to organization and means, but the fact that criminality in South America can be enclosed by it will be a honorable and useful process for everyone (GALEANO, 2009, p. 9).

The Congresses thus sought to organize the police bureaus of the continent under scientific principles and to provide scientific instruments to enhance their performance. Among the conclusions reached in Rio de Janeiro it is worth mentioning one that recommended the creation of four intercontinental cabinets to share fingerprint information – three in America (North, Central, South), and one in Europe – which were to be created and administered by the different police forces (BRAZIL, 1909, p. 129). A Police Congress held in October of 1905 in Buenos Aires, where many of the issues of the Rio Congress were discussed in depth, was attended by the police bureaus of Buenos Aires, La Plata, Montevideo, Rio de Janeiro, and Santiago. Some resolutions

⁵ *El Congreso científico americano. Acuerdos celebrados en Buenos Aires, Montevideo y Rio de Janeiro*, Santiago: Imprenta y Encuadernación Barcelona, 1908, p. 63.

⁶ *Segunda reunión del Congreso Científico Latinoamericano*, p. 137.

of this Congress were the types of criminals that merited information exchange across national borders, establishing that persistent offenders, aiders and abettors, human traffickers, instigators to subvert the social order, and working-class agitators would all be considered (DEFLEM, 2002, p. 102; GALEANO, 2009, p. 11). The exchange of information would be carried out through a file sheet that contained fingerprints, legal and personal information, as well as a morphological description with a frontal and profile photograph (GALEANO, p. 10-14).

Reforming Society: Towards a Latin-American Social Agenda

The social tensions that were revealed in growing worker unrest in turn of the century Latin America were another major theme throughout the Scientific Congresses. The generalization of strikes, growing poverty, increasing work hours, and declining wages were seen as problems that ‘South America’ had in common with the “civilized world” (GAMBOA, 1911, p. 71; MAYER, 1911, p. 71). In a sense, the social question was viewed not as a national or regional problem, but had a global dimension. The accumulation of capital and industrial development had created societies torn between opposing forces: one created by the concentration of wealth; the other born out of the conglomeration of workers. The twentieth century was thus witnessing the consequences of the “war of labor against capital” (MARTINEZ, 1909, p. 151).

However, towards the 1908 Congress in Santiago, the early emphasis on rooting out anarchist ‘agitators’ which infiltrated working-class organizations and were blamed for worker unrest was replaced by an analysis which framed the social question as a consequence of the unequal legal and economic structures of late-nineteenth century Latin America. The papers in this conference stressed that criminology’s focus on identification and correction of the criminal individual only revealed that the ruling elites had assumed “the petty disciplinary spirit which characterizes the old aristocracies” (MAYER, 1911, p. 83). This approach was particularly criticized by Dora Mayer, a Peruvian publicist and the only woman participant in the section on jurisprudence and social sciences, whose particular libertarian-democratic ideas not only sought to correct the inequalities produced in the economic struggle, but also rejected any illegitimate expansion of the powers of the state. She argued that any growth in the policing powers was

tantamount to treating every citizen as a criminal, thus usurping them of their basic civil and political liberties. It was also impractical since controls on immigration could also have the unintended consequence of producing graver problems than those it sought to solve (MAYER, 1911, p. 69, 85). The solution of the social question would require deeper reforms than improvements in policing techniques and institutions.

Since change was considered inevitable and only a matter of time, the dilemma was not a choice between accepting reform and embracing the status quo, but rather it was a decision about what the catalyst for reform would be: science or war (PORTUGAL, 1911, p. 135). Scientific thought was thus seen as holding the key to overcoming the social tensions that burdened Latin-American societies. While legal and political institutions had become stagnant, technical developments and the advances in physical and applied sciences provided clear evidence of progress (ERRÁZURIZ TAGLE, 1911, p. 258). The inevitability of social evolution had become evident even to hardened liberal intellectuals, such as the 76-year old Chilean politician Marcial Martínez, who in his paper delivered to the Congress likened the impulse towards reform to the development of aviation: “A few years ago [it] was considered a dream, and today we appreciate it as a triumphant fact” (MARTINEZ, 1909, p. 17).

The section on jurisprudence and social sciences of the 1908 Congress was dominated by papers that placed the idea of social reform in the foreground. The social sciences had to study the problems of the working class, learn about their aspirations, and seek “practical and adequate remedies, and monitor the efficacy of the adopted measures” (EDWARDS, 1911, p. 144). These measures could no longer be the outcome of case to case analysis, but rather had to rely on information provided by competent bodies charged with the design and implementation of reform, such as Social Reform Institutes, and National Labor Bureaus, which would provide social legislation “more experimental criteria” based on the practical knowledge of a country’s needs and similar experiences in other nations (EDWARDS, 1911, p. 144).

By emphasizing the importance of experience, social science was taking the place of doctrines in the definition of what constituted legitimate State actions. This positivist shift implied the critique that antiquated ideas exerted excessive influence on key institutions and policy decisions. American constitutions, codes, and legislation,

which by the mid-nineteenth century had been at the forefront of legal development, had not been adjusted to conditions of the early-twentieth century, thus becoming antiquated artifacts (CASTELLANOS, 1911, p. 104). Their foundations, based on the European teachings of political economy and natural law, were considered absolutist, abstract, outdated, and unresponsive to the economic and social conditions of the time. The “obsolete” principles of laissez-faire political economy were no longer considered to lead to freedom, but rather created a “false liberty which justified all kinds of injustices and inequalities” (MIRÓ QUEZADA, 1911, p. 200). The implementation of European ideas had been pernicious to the continent’s developments, since introducing theories from ‘old countries’ in the new republics was a mistake that had “regrettable consequences and [led to] painful disappointments” (DE FERRARI, 1911, p. 157)⁷.

The rejection of nineteenth-century European doctrines derived from the observation that the social question was a consequence of institutional shortcomings. The social tensions that were at the core of the Latin-American social question were attributed to the inexistence of a legal framework to regulate capital-labor relations. Unregulated capitalism unleashed the conflicting power of capital and labor which, on the one hand, produced the pauperization of the working class, and carried a threat to the social and economic order, on the other (MANZANILLA, 1911a, p. 87). Latin-American legal codes, written in the first half of the nineteenth century, made no mentions of the working classes, and thus instead of being governed by laws, workers were submitted to the unforgiving nature of the market. Salaries, for example, were determined according to the laws of supply and demand and, due to the high variation of inflation, it could not be known if workers were adequately paid in relation to the cost of living (DE FERRARI, 1911; GAMBOA, 1911, p. 158).

Further, the problem with the inexistence of laws to protect workers was not the absence of State intervention, but the fact that the existing legal frameworks created legal biases by which the power of the State was wielded disproportionately to protect property owners. This was especially evident in contract relations, where existing laws did not recognize the special status of work and workers, who “due to their misery and need to put food on the table, [were] forced by circumstance to make concessions to capital” (MAYER, 1911, p. 71). By resting on

⁷ On this also Gamboa, 1911, p. 71.

such inequalities, contract relations ultimately granted rights to owners while workers were not guaranteed legal rights of their own. Under such conditions, it was clear that the contract relation did not create rights, and instead constituted “a false law” (PORTUGAL, 1911, p. 136). Ultimately, by subjecting workers to the laws of the market, existing law served to create “a privileged class [...] of capitalists, which makes of workers their victims” (MIRÓ QUEZADA, 1911, p. 183-184).

It may be important to indicate that these authors were not fringe intellectuals in their respective countries. At the time of the 1908 Congress Manuel Pío Portugal was a judge of the Supreme Court of La Libertad, the highest court of the Peruvian region of Trujillo, while Rafael Edwards Salas was a priest in the Archbishopric of Santiago, and became Auxiliary Bishop of Santiago in 1921. In 1908, José Matías Manzanilla was a law professor at the Universidad Nacional de San Marcos, Peru’s leading university, and a member of the lower house of the Peruvian Parliament. Later he occupied leading positions in Peruvian society, among others becoming university president between 1927 and 1930, and Minister of Foreign Relations in 1914, and 1932-1933. Luis Miró Quezada was also a member of the Peruvian parliament at the time of the Santiago Congress, and became mayor of Lima between 1916 and 1918. Both Manzanilla and Miró Quezada are considered precursors of Peruvian labor legislation (VALDÉS, 2004, p. 513-518).

Despite its particular circumstances and economic development, the social question in Latin America was very much framed in the same terms as it was in Europe and the United States. At a time when industrialization was scarce, the central theme of the antagonism of capital and labor as a consequence of industrialization was a discursive construct that did not necessarily reflect local circumstances. This fact, however, was not lost on the intellectuals that participated in the 1908 Congress. Jorge Errázuriz Tagle, for example, indicated that though the social question derived from “antinomies of civilization”, these problems had different characteristics in the nations of America, “especially in those from Central and South America”, related mostly to a lack of “economic preparation” and unsuitability to the “modern exigencies of our current civilization” (ERRÁZURIZ TAGLE, 1911, p. 259). Among the issues he highlighted were the youth of political institutions, the lack of an educated population, the scarcity of industrialization, racial problems, backwards-thinking administrators, entrepreneurs, and land owners, and the ostentatiousness of national elites. Other authors, understanding

that the social question was a matter almost directly associated with industrialization, considered it to be more intense in United States and Europe, and only beginning to manifest itself in some countries of Latin America (MAYER, 1911, p. 72; MIRÓ QUEZADA, 1911, p. 207). The Latin-American working class was also considered different from that of Europe, insofar as they did not work in large factories, power plants, or shipyards; they did not have access to the cultural facilities of large cities, such as museums, libraries, and galleries; and they lacked sanitary housing, and access to cheap and abundant food provided by “advanced cities” (DE FERRARI, 1911, p. 155).

Moreover, given their democratic self-representation, the Americans had a particular responsibility in addressing the social question. The countries of America were bound by a common birth as independent nations, came into being as democratic republics, and offered the world the example of having the “most, most stable and largest political democracies” (EDWARDS, 1911, p. 143). Due to the influence of democracy – America’s gift to Europe – the continent had an ethical responsibility to expand the reach of democracy to all classes (MAYER, 1911, p. 57-61), “transforming these political democracies into true social democracies in which the enlightenment and wellbeing of the working masses, being the most numerous of citizens and being the foundation of national prosperity, are guaranteed” (EDWARDS, 1911, p. 143). Edwards Salas considered that a political democracy not complemented with social democracy was as cruel as the punishment Zeus had reserved for Tantalus: a promise of abundance which, at the same time, was perpetually denied. In virtue of their democratic tradition, the countries of America had a shared interest in improving the civic culture and economic wellbeing of their popular classes, thus making the solution of the ‘working-class problem’ “an American problem” (MIRÓ QUEZADA, 1911, p. 222).

Thus, similarly to the social reformers in the countries of the North Atlantic, Latin-American intellectuals placed the working class at the center of their social policy discussions (RODGERS, 1998, p. 210). Social reformers in Europe understood that the solution to the unregulated market had to involve insurance schemes or legislation that reduced the risks of labor and improved working conditions. In the late-nineteenth century, the proposals for reform differed across nations between private and public initiatives, but drew heavily on the existing working-class organizations. In all, the measures adopted in Europe were chiefly devised to provide security by securing income:

minimum-wage laws would guarantee that wages could not be offered below a certain minimum; laws that regulated working hours would guarantee that workers did not suffer cuts in their salaries for working fewer hours; and insurance schemes guaranteed income when workers were unfit to work.

In the Latin-American Scientific Congresses, the imagined solutions to the problems of unregulated labor were not economic but legal. This did not mean simply passing labor legislation in the aforementioned sense, but also entailed a complete restructuring of the normative basis that informed existing law (DE FERRARI, 1911, p. 159). Legislative initiatives, however, were proposed as a way of responding to the unattended needs of the working class, and many authors stressed European social legislation as an example of the measures that could be introduced in Latin America, such as mandatory Sunday rest, eight-hour workdays, and the expansion of disability pensions to the entire population (MAYER, 1911, p. 76-77; MIRÓ QUEZADA, 1911, p. 201). Additionally, the Peruvian delegates were proud to present their recently approved work-accidents law as an example of advanced labor legislation. This law was based on the ‘inherent risk doctrine’ which replaced the old doctrine based on responsibility and blame, and made accident compensation a part of the costs of production. The fourth Scientific Congress praised the Peruvian government on this “truly democratic deed, which protects the rights of workers in what refers to labor accidents and, in consequence, emits a vote of applause” (MANZANILLA, 1911a, p. 91).

More importantly, however, the Latin-American authors stressed the need to revise the principles which underpinned existing law. The main idea was that the principles of liberty and equality could not be the foundation of laws if they produced relations of subjugation and unequal outcomes. This pragmatic shift in law meant that laws could no longer be judged by their correspondence with pre-established natural principles, but had to be evaluated according to their consequences. In this sense, Luis Miró Quezada argued that it had become evident “that true equality does not consist of protecting everyone equally, but in protecting each person according to their particular condition” (MIRÓ QUEZADA, 1911, p. 200). This meant that workers, for example, had to be especially protected in their relation with employers. The Peruvian law on occupational accidents was thus well-regarded not only because it spared workers lengthy and costly trials to prove the employer’s responsibility for compensation, but fundamentally because

it destroyed conventional rules and renewed the understanding of law (MANZANILLA, 1911b, p. 92-93). The reevaluation of legal principles ultimately meant that the continent's civil codes had to be reformed in order to assure their consistency "with the legal concept of modern society [...] partly modifying and partly expanding its dispositions so as to guarantee the rights of the working classes" (MARTINEZ, 1911, p. 126). Being where legal relationships such as property and contract are created, shifting the principles of the civil code from the postulates of individualism to those of social solidarity entailed a transformation of all social relations.

The emphasis on private law can be related to the structure of the Latin-American university system. It has been recognized that national and continental variance in approaches to the social question is influenced by the dominant academic discourses in a country (WITTOCK AND WAGNER, 1996). Unlike most of the European nations, Latin American universities did not have specialized studies in economy or the social sciences. Rather, these disciplines were taught in law faculties and were practiced mainly by legal scholars (BASTÍAS SAAVEDRA, 2015; GARFIAS, 2009; QUESADA, 1907; WOLKMER, 2003). Most of the social science debates carried out in the continent, though influenced by sociology and economy, were more reflective of the legal than the 'social economy' discussions of the time. Jhering rather than Charles Booth or the Webb's was more influential in framing the social question in Latin America. It would not be until the 1920s and 1930s, when the continent's law faculties were formed, that strictly economic perspectives came to the fore.

Legal reform in America could not be addressed on a national level, but required implementation on a global or, at least, regional scale. First, since the conflict of capital and labor affected all states, its solution had to be global (MIRÓ QUEZADA, 1911, p. 179). Second, since it would elevate production costs and place excessive burdens on the countries that implemented it, social legislation could not limit itself to the territorial borders of the nation-state, but had to be international (EDWARDS, 1911, p. 144). Third, it was thought that the principle of 'justice', which was at the base of labor legislation, was expansive and could not be contained within national borders: "Labor law, thus tends to universalism from a philosophical standpoint, and to internationalism in what refers to its scope of action" (MIRÓ QUEZADA, 1911, p. 222). The trend was towards "cosmopolitan legislation" and "international labor law" since the measures designed to develop and create prosperity

in one place could produce the same effects in other places as well: “The result of this civilizing movement or current will be a universal social legislation” (MARTINEZ, 1911, p. 20). Luis Miró Quezada proposed the creation of an international American labor law, which would be at once feasible and beneficial for the nations of the continent. Each nation would be required to study the laws applicable to their territories, and strive to generalize them to the rest of the continent. This would have several consequences, such as providing welfare to the working classes, harmonizing the interests of workers and capitalists, greater expedience in the application of laws, and the “development of a spirit of solidarity among the peoples of America” (MIRÓ QUEZADA, 1911, p. 223).

The conclusions of the 1908 Congress drew on these ideas and proposed a series of measures which sought to create inputs for the creation of labor legislation. On the one hand, the creation of labor bureaus was seen as a crucial measure to produce data which could inform the legislative process (EDWARDS, 1911, p. 145; ERRÁZURIZ, 1911, p. 262). These offices would, however, not work in isolation but it was necessary to establish the systematic sharing of information and legislative proposals across national borders. For this purpose, Rafael Edwards Salas proposed the creation of a central office in Washington as an annex to the Bureau of American Republics, while Luis Miró Quezada recommended the creation of an International Labor Office of the American Republics (1911, p. 223-224). The Congress also voted a motion which stated that it was “necessary to sanction laws on the labor contract, or to perfect those in existence, so as to increase the protection of the worker” (MANZANILLA, 1911b, p. 101), and emitted a vote of applause and encouragement “to the movement of opinion of the American peoples to reform laws on employer responsibility for occupational accidents, and to establish them on the doctrine of inherent risk” (MANZANILLA, 1911a, p. 91).

Conclusions

This article has addressed the transnational dimensions of the social question and how it was framed by Latin-American scholars in the turn of the century. The Latin-American Scientific Congresses are useful for understanding how regional scientific networks dealt with the social issues of the time. As we have seen, the perception of social problems focused on the transnational issues of criminality and labor relations, but the solutions differed across the period. From a stark focus on border

control to prevent the free movement of criminals and political agitators, the discussions in the fourth Latin-American Congress focused on legal reform to ease the tensions arising from capital-labor relations. This development, however, does not mean that the issues of policing receded, but signals that alternative narratives and solutions came to the fore.

These discussions also illustrate how Latin-American scholars participated in the global debates on the social question. Although the social tensions of the time were often described in a similar way to the European debates, they revealed perspectives that were clearly ‘American’. While Latin-American states and police officials, much like their European counterparts, sought to strengthen surveillance and control mechanisms as a way to deal with the problems of unwanted migrants and anarchism, the solutions provided in the Latin-American Scientific Congresses not only provided spaces for the exchange of knowledge, but also provided a venue in which policy ideas were discussed. The active and creative participation of Latin-American scholars is illustrated by the scope of the solutions they provided. As the idea of the intercontinental identification cabinets suggests, Latin Americans were not only wanted to solve their regional problems, but actively looked for policy solutions that included all the nations of the ‘civilized world’. There was some self-awareness in the fact that the implementation of such an idea would mean the transfer from Latin America to Europe of the identification techniques developed in Buenos Aires by Juan Vucetich. Ultimately, both cases illustrate that – at least in their self-representation – Latin-American scholars were not merely passive receptors of foreign knowledge.

Additionally, the structure of local institutions was important in shaping both in the perceptions of and the solutions to the social question. The fact that the social sciences and economics were taught in the law faculties in the universities of the region played an important role in framing the social agenda. Rather than assuming the ‘social economy’ perspectives and solutions based on the provision of welfare which characterized the debates in the politics in the North Atlantic, the Latin-American scholars represented in the Congresses emphasized the need to reform the civil codes of the region, seeking to shift the basis of all legal relations from the principles of individualism to those of social solidarity. It is interesting to note, that though the State had a role to play in this, such as through the creation of labor statistics bureaus and social legislation, the thrust of the social agenda was placed on the

transformation of private law. Though this was not a theme exclusive to Latin America, being part of important legal debates on both sides of the Atlantic at the time, it is worth noting that these issues were one of the main themes of Latin-American debate until the 1920s and 1930s, when social reform became a constitutional issue.

Finally, the debates in the Latin-American scientific congresses are illustrative of the fact that more research is necessary to understand how the circulation of knowledge between Europe and the Americas actually took place. As the debates on fingerprint identification, the ideas of continental police bureaus, and the proposals to create an American Labor Office show, Latin-American polities were not mere imitators or importers of foreign ideas, but were active participants in the global discussions of the time.

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Received: September 04, 2015

Accepted: November 01, 2015