



Rights for Sale: A Genealogy of Labor Immunization in the Brazilian Judiciary — with Theoretical Reflections from Esposito and Nietzsche

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Abstract

This paper examines how the Brazilian Judiciary, historically regarded as a guardian of rights, has been gradually transforming the way such rights are understood and managed. Vacation and leave entitlements, once conceived as expressions of functional dignity, are increasingly relinquished voluntarily and converted into negotiable assets. Drawing on Roberto Esposito's immunitary paradigm and Friedrich Nietzsche's genealogy of morality, the study reflects on a shift from Hannah Arendt's "right to have rights" toward what may be formulated, in this reading, as the "right to sell one's own rights." When it becomes possible to sell a right, a new legal semantics emerges in which rest ceases to function as a limit and is instead treated as a resource. One chooses to remain productive, accrue tasks, and postpone rest, thereby integrating into an institutional mechanism that manages vitality through performance. In this context, the functional body, including both civil servants and judges in active service, not only propels the institutional machinery but becomes its own measure of value. Power becomes embodied, and Law, in this trajectory, approaches a politics of lived time. This logic, progressively normalized through repeated administrative practices, is currently under review by the Brazilian Federal Supreme Court in the debate concerning the compensation of unused vacation by civil servants and judges in active service. The study therefore proposes a genealogy attentive to everyday juridical inscriptions, in order to understand how rights are redefined within the very bodies that enact them. In light of Esposito and Nietzsche, the right to rest may be described as a biopotent possibility: not as a monetary equivalence to be compensated but as creation within lived time, opening a vocabulary in which Law preserves a margin of alterity in relation to calculation, and in which rest appears as an affirmation of life against its reduction to measure.

Keywords: biopolitics, immunitary paradigm, vacation monetization, Brazilian Judiciary, Nietzschean genealogy

1. Introduction

The recent history of Brazil's judiciary reveals a semantic shift in rights to rest, once an expression of functional dignity, toward a regime of patrimonial availability, in which what was once enjoyed becomes something to be sold. To interpret this movement as a conversion of rights, the article adopts Esposito's immunitary paradigm as its analytical key, a mode of governing life that preserves by subtraction, protecting through mechanisms that include negation and the administration of life inducing renunciations and delimitations within the common. Rather than offering a totalizing account, the analysis proceeds genealogically in Nietzsche's manner (Esposito, 2017, p. 196,), following concrete practices and their inscriptions.

Foucault describes how domination fixes itself through rituals that impose rights and obligations, materializing them in procedures (Foucault, 2017, p. 16,). In this scenario, immunitary rationality strains Arendt's formulation of the "right to have rights," understood as "the right of every individual to belong to humanity" (Arendt, 1989, p. 332,) and suggests a contemporary displacement that, in this reading, may be read as a "right to sell rights." The aim is to show how Law becomes inscribed and reinscribed in the very bodies that produce it, such as judges, as well as in those who sustain its functioning, namely civil servants, through formal sources that consolidate a prevailing grammar in which rest is transfigured into a managerial resource within an immunitary rationality.

Although the focus lies on the Brazilian Judiciary, this semantic shift is not an isolated phenomenon. Comparative public-law baselines reveal a shared rationality of governing time and bodies, even if its normative outcomes differ. In other jurisdictions, such rationality typically remains restricted to post-service compensation, whereas in Brazil it materializes more incisively by allowing the anticipatory conversion of rest into a negotiable asset.

As of October 19, 2025, Theme 635 (ARE 721.001/RJ) remained pending before the Brazilian Federal Supreme Court (Supremo Tribunal Federal (STF), 2025) under the mechanism of general repercussion, Brazil's nationwide framework for binding precedent review. Although presently framed in terms of active civil servants, the thesis to be fixed may guide analogous cases involving both civil servants and magistrates. Federal civil servants are governed by the general civil-service statute (Law 8.112/1990; Brazil, 1990, arts. 77–80), while state civil servants are subject to their respective statutory regimes. Judges and appellate judges follow a distinct legal framework, notably the Organic Law of the Judiciary (Lei Orgânica da Magistratura Nacional, LOMAN) (Brazil, 1979), along with regulatory policies issued by the National Council of Justice (Conselho Nacional de Justiça, CNJ) (CNJ, 2015). In the absence of a unified constitutional or statutory framework, state courts have authorized, through internal regulations, the sale of unused vacation in the form of anticipatory monetary compensation. The pending constitutional ruling will determine whether this practice constitutes an enforceable right for workers in active service or a discretionary administrative arrangement.

This article advances the hypothesis that a biopolitical operation is at work in Brazil's judiciary: rights to rest are being monetized as administrative and fiscal arrangements make cash conversion comparatively advantageous. Empirically, the analysis maps normative and managerial mechanisms, including the STF's review of Theme 635 (under repercussão geral), federal administrative guidance, the income-tax asymmetry between in-kind leave and indemnity, and performance targets, interpreted alongside *Justiça em Números* indicators as contextual proxies of the operative arrangement at issue. In this scenario, an institutional rationality affects both bodies and modes of life, producing effects that are simultaneously somatic and psychic within a logic of productivity. Conceptually, the analysis draws on Nietzsche (the inscription of duty through equivalence, debt, and embodied memory) and

Esposito (an immunitary paradigm in which protection entails subtracting a portion of life). From this standpoint, the renunciation of rest appears less as private conviction and more as a structured effect of predominant incentive that translates leave time into financial equivalence.

2. Theoretical–Methodological Framework: Body, Nietzschean Genealogy, and the Immunitary Paradigm

The inquiry is guided by a genealogical method in the Nietzschean sense as rendered by Foucault, a documentary practice grounded in the observation of materials, examines archives, norms, and techniques to see how power inscribes itself in bodies and routines. From this orientation, the analysis (i) establishes a documentary baseline that maps the legal grammar of rest in constitutional provisions and ordinary laws, read in parallel with the ongoing constitutional review before the STF (Theme 635, under *repercussão geral*), (ii) examines performance targets in the courts, in order to trace how calculation tends to displace fruition in everyday practice, and (iii) describes the operative arrangement that highlight fiscal and legal asymmetries between in-kind enjoyment and cash conversion (indemnity), which render non-enjoyment comparatively advantageous. Regarding the evidence base, the analysis uses CNJ's *Justiça em Números* annual reports and dashboards as contextual proxies of the operative arrangement at issue for the normative and managerial mapping, and employs comparative baselines (ILO (1970) Convention No. 132; EU Working Time Directive 2003/88/EC) to interpret these mechanisms and their institutional implications through a Nietzschean–Espositian genealogy.

Following Foucault, Nietzsche is mobilized here as a toolbox, that is, as a conceptual repertoire operated by genealogy for a “gray, meticulous, and patiently documentary analysis” (Foucault, 2017, p. 12,). In this register, the body appears as the “surface of inscription of events” and as that which is “entirely marked by history, as history ruins the body” (Foucault, 2017, p. 15,). Esposito reinforces this methodological path by affirming that biopolitics begins from concrete events; it is the genealogy of Nietzsche (Esposito, 2017, p. 196). The investigation, therefore, does not proceed from abstractions but follows administrative materials and practices, such as targets, vacation accruals, fiscal asymmetries between taking and converting leave, and productivity pressures under disciplinary risks, to show how rest, once conceived as a protective limit of the body, is transfigured into a managerial resource. Along this path, Nietzschean genealogy provides the grammar of calculation (creditor and debtor; injury and compensation) and of memory “seared” into the body (Nietzsche, 1998, pp. 50, 59–60), while Esposito offers the immunitary paradigm, protecting life by subtracting a portion of it, that is, including the right while displacing its exercise into calculation (Esposito, 2023, p. 135). Interpretation proceeds under this genealogical and documentary lens. Under this approach, the remunerated conversion of vacation time in the Brazilian judiciary offers a privileged field for the documental inscription of the administered body.

Finally, Deleuze's rhizome provides a way of expanding the legal problem into planes of consistency, where life appears prior to codification, opening multiple entryways (theatre/cinema; literature) into the same question: how the right to rest is captured by incentive-based governance, and how Law might reinscribe its corporeal telos (physical-psychic recomposition) in the face of the equivalential transformation that reduces it to currency (Deleuze & Guattari, 1995, pp. 31–33).

3. Central Dispositif: The Monetization of Vacation and Leave

3.1. Juridical-Administrative Semantics and the Economy of Time

Within the courts, the option to receive compensation coexists with mandates to take a minimum period of leave and with the administration of vacation or leave “accruals,” outlining the typical ambivalence of the immunitary paradigm, in which recognition of the right coexists with the displacement of its effectiveness into calculation and monetization. The possibility of selling rest, often more advantageous for tax purposes than taking it, establishes a structural incentive toward renunciation that becomes absorbed into the routines of targets and productivity.

In Brazil’s tax grammar, in-kind enjoyment of vacation carries a remunerative portion subject to income tax, whereas cash conversion of unused leave is treated as indemnity and thus non-taxable, because no net-worth increase occurs (Brazil, 1966, CTN, art. 43; Brazil’s Superior Court of Justice (Superior Tribunal de Justiça (STJ), 1995), Súmula 125; STJ (2009), Súmula 386; STJ, REsp 1.459.779/MA (STJ, 2014); Brazil, 2015, CPC, art. 927, III). Such asymmetry explains the practical traction of conversion over enjoyment and fosters the naturalization of non-fruition as a reasonable choice within target-driven routines.

From a service-management perspective, periods of absence reduce the available workforce for meeting performance targets, and under such regimes the cash conversion of unused leave becomes comparatively more attractive than in-kind enjoyment. Recent cycles reported by the CNJ are consistent with this pressure: national productivity rose 6.9% in 2023, and in 2024 the system posted record productivity with a net reduction of 3.5 million pending cases (–5.3%) despite 39.4 million new filings (+6.7%) (CNJ, 2023–2025). Read together, higher productivity, rising inflows, and a shrinking backlog cohere with the operative arrangement, increasing the relative attractiveness of conversion for service management. Although no nationwide dataset directly quantifies in-service cash conversions, *Justiça em Números* indicators operate here as contextual proxies.

3.2. The Debate Before the STF (Theme 635 / ARE 721.001-RJ) and the Bodily Inscription of the Right

The ongoing constitutional debate on cash conversion of vacation for active public servants exposes the friction between an indemnity grammar and the corporeal telos of annual leave. The matter is framed as Theme 635 (“conversion into pecuniary form of unused vacation for civil servants in active service”) in ARE 721.001/RJ, under repercussão geral (Brazil’s nationwide framework for binding constitutional guidance). As of October 19, 2025, the case remained pending before the Plenary of the STF. For retirees and in termination scenarios, the thesis already settled is that unused vacation (and analogous remunerative rights) may be converted into pecuniary indemnity, grounded in the strict liability of the State and the prohibition of unjust enrichment. Subsequently, embargos de declaração broadened the scope to address the issue for active servants as well.

In the rapporteur’s vote (Justice Gilmar Mendes), a three-part normative axis is delineated: (a) conversion of unused vacation for retirees or upon termination to avoid unjust enrichment by the Administration; (b) an administrative duty to ensure effective in-kind enjoyment of vacation for those in active service; and (c) accumulation beyond the legal limit only in exceptional cases of imperative need of service, without conversion for actives, with in-kind enjoyment to occur as soon as the impediment ceases. This approach re-centers the institute on its purpose of bodily and psychic recomposition, reserving indemnity to ex post reparation where fruition

is objectively impossible (retirement/termination), rather than as a routine time-management device.

In partial dissent, Justice Luís Roberto Barroso opposes an absolute ban on conversion for actives. While prioritizing in-kind enjoyment and discouraging accruals, he admits a narrowly exceptional pathway for active servants, on a reasoned administrative basis responsive to institutional constraints and eschewing automatism. In the concrete case, and concerning retirees and termination, he vote converges with the rapporteur; it diverges solely to preserve that narrow pathway for actives.

From the constitutional and statutory standpoint, the debate reconnects vacation to the Brazilian Constitution (Brazil, 1988, art. 7, XVII; Brazil, 1988, art. 39, §3) and to the Federal Civil Servants' Statute (Law 8.112/1990; Brazil, 1990, arts. 77–80): there is a right to enjoyment and a deadline for exercising it, with strict grounds for interruption. Recalling the STF's ADI 227/RJ and ADI 276/AL, which struck down local norms authorizing cash conversion on grounds of procedural initiative and excessive expenditure (STF, ADI 227/RJ; STF, ADI 276/AL), the reasoning holds that creating an in-service indemnity would shift budgetary discretion to the individual servant, inconsistently with strict legality and fiscal responsibility (Brazil, 1988, art. 37; Brazil, 1988, art. 165, §5). Hence the duty of active calendar management by the Administration, including the possibility of *ex officio* granting as legal deadlines approach.

The unjust-enrichment thesis operates against the Administration, since the State may not retain the economic value of vacation that cannot be enjoyed. For active servants, this rationale is ordinarily inapplicable because, even if postponed, vacation can still be taken, thereby fulfilling the purpose of the institute, and unjust enrichment becomes relevant only when fruition is definitively impossible, as in retirement or termination. In the rare situations in which the Administration itself prevents enjoyment due to imperative need of service, the rapporteur emphasizes the primacy of in-kind enjoyment, even beyond the statutory limit, by means of a reasoned order from the highest authority that expressly recognizes the exception, yet still without indemnity for actives. The rationale combines a teleological basis, linked to worker health and bodily recomposition, with budgetary prudence, since turning conversion into a routine for actives would produce fiscal risk and distort the architecture of the institute. Federal guidance, such as Instrução Normativa SGP/SEDGG/ME 12/2022, and legal opinions issued by the Advocacia-Geral da União (AGU) align with this orientation, prioritizing in-kind enjoyment and restricting indemnity to strictly delimited hypotheses.

By reserving conversion only for those who can no longer enjoy annual leave and by imposing on the Administration the active governance of enjoyment, the Court prevents the normalization of exception and reasserts in-kind enjoyment as the rule; financial equivalence remains residual and *ex post*. In genealogical terms, this orientation does not reduce rest to monetary equivalence and leaves outside calculation a bodily alterity that exceeds it.

In a comparative public-law perspective, jurisdictions converge in prohibiting the in-service monetization of vacation time, reserving any financial equivalent for termination or retirement. France authorizes an *indemnité compensatrice* only when the employment relationship ends (Code du travail, art. L3141-28) (France, 2025). Italy bars the monetization of the statutory minimum of four weeks except upon termination (D. Lgs. 66/2003, art. 10(2)) (Italy, 2003). Spain provides that paid annual leave “is not replaceable by financial compensation” (Estatuto de los Trabajadores, art. 38(3)) (Spain, 1980). Portugal is paradigmatic: vacation is *inalienable* and “its enjoyment cannot be replaced by any financial compensation” (Código do Trabalho, art. 237(3)) (Portugal, 2009), a construction extended to the public sector under the Lei Geral do Trabalho em Funções Públicas (art. 126) (Portugal, 2014). The United Kingdom likewise

restricts pay in lieu to termination (Working Time Regulations 1998, regs. 13–14) (United Kingdom, 1998). Japan imposes a duty to grant paid annual leave (Labour Standards Act, art. 39) (Japan, 1947), and official guidance specifies that “paid annual leave cannot be bought during employment” (MHLW, n.d.). In South Africa’s public sector, policy follows the Basic Conditions of Employment Act (South Africa, 1997), admitting payment only upon termination (DPSA, 2021). In Canada, payment is allowed upon termination, with narrowly circumscribed administrative cash-outs of excess balances under the Canada Labour Code and the Treasury Board Secretariat Policy (Canada, n.d.; Canada Treasury Board Secretariat, n.d.). In Mexico, vacation substitution with payment during employment is prohibited (Ley Federal del Trabajo, art. 79) (Mexico, n.d.), while in Argentina, proportional compensation is allowed only at termination (Ley de Contrato de Trabajo, art. 156) (Argentina, 1974).

In several jurisdictions, including Portugal and Japan, public employment is governed by general labor law, so the prohibition on in-service “sale” applies to all categories of public servants, reinforcing the cross-systemic consistency of this rule. In a biopolitical key, these normative arrangements institutionalize rest as a non-monetizable corporeal limit during public service, relegating financial equivalence to the margins of the employment bond.

4. From the “Right to Have Rights” to the “Right to Sell Rights”

In Hannah Arendt’s terms, the “right to have rights” rests on belonging to the common, where “the right of each individual to belong to humanity should be guaranteed by humanity itself” (Arendt, 1989, p. 332). The administrative practice that converts rest into cash alters this grammar, since, under the appearance of autonomy, it establishes a paradoxical “right to sell rights,” in which freedom is exercised through incentive-based governance shaped by productivity metrics. A bodily limit of recomposition, rest, becomes a managerial resource, and, when read as an argumentative hypothesis, this recoding reveals an institutionalized biopolitical rationality. Any correlation with performance regimes depends on the availability of public data, and thus, in theoretical terms, rest is being translated into financial equivalence.

Nietzsche’s genealogical grammar helps make this movement intelligible. In *On the Genealogy of Morals*, justice emerges as a calculus that stabilizes equivalences, since “everything has its price, everything can be paid for,” and the memory of duty is “seared” into the body (Nietzsche, 1998, p. 54,). When this semantic field is transposed to the lived time of work, rest is monetized and the body comes to bear the mark of the creditor–debtor equivalence, such that vacation becomes governed by calculability rather than bodily recomposition. In this reading, converting vacation into cash tends to signify the postponement of recomposition under performance indices that moralize productivity and devalue pause.

In Esposito, this rationality is explained through the immunitary paradigm, understood as an internal mechanism that preserves life by negating a part of it (Esposito, 2018, p. 82). The institution “vaccinates” itself against interruption by accepting a dose of negation, namely the renunciation of rest, so that functional continuity persists as an immanent effect of this arrangement and monetary conversion becomes an ordinary technique for governing time. The right formally subsists, yet its full exercise is displaced into the sphere of calculation, such that the body, dispossessed of pause, becomes a continuous means of production. Within this logic, the so-called choice between taking the leave or selling it tends to be induced and may operate as a form of inclusion that negates.

It is at this point that the constitutional arena acquires normative salience. By reaffirming in-kind enjoyment as the rule and conversion as an exception for agents in active service, the STF checks the transformation of rest into mere monetary equivalence and re-centers the telos of

the institute, namely the physical and psychic recomposition of the body. In a genealogical key, this represents a containment of the immunitary capture of repose by the logic of equivalence, reaffirming rest as a telos of bodily recomposition rather than a means for governing productivity, as grounded in the vote of Justice Gilmar Mendes in Theme 635 (ARE 721.001/RJ), particularly the principles of the rule of enjoyment, the exceptionality of conversion, and the prohibition of unjust enrichment.

In sum, the “right to have rights,” understood as belonging and bodily recomposition, is displaced through administrative incentives into a “right to sell rights,” oriented toward equivalence and the government of the body. Genealogical inquiry shows that this shift is not neutral: it inscribes itself in the civil-service body, monetizes lived time, and normalizes exception, so that boundary-setting and conceptual elaboration informed by Arendt, Nietzsche, and Esposito become conditions for reframing rest as a limit against total conversion into calculation (Arendt, 1989, p. 332; Nietzsche, 1998, p. 54; Esposito, 2023, p. 60).

5. Why This is Biopolitics—and Not “Just” Neoliberalism

The immediate reading of converting vacation and leave into money typically rests on autonomy: the agent “freely” forgoes rest in exchange for financial compensation. A genealogical lens, however, shifts attention from the isolated decision to the architecture of choice: on one side, tax asymmetry (in-kind enjoyment is taxed; cash conversion is treated as indemnity, with no financial withholding); on the other, target-driven management and, not infrequently, diffuse managerial pressures associated with delays. Under these conditions, non-enjoyment ceases to be exceptional and becomes expected conduct, so that “choice” effectively operates as induced choice.

Within this horizon, health ceases to be a merely clinical endpoint and becomes a surface of management, since what is increasingly governed are the conditions of attention, availability and affect, that is, the mental–organizational layer through which institutions secure continuity. In this register, the European *acquis* treats mental health and psychosocial risks as core OSH duties. The OSH Framework Directive 89/391/EEC requires risk assessment and preventive measures (European Union, 1989). The 2004 Framework Agreement on Work-Related Stress defines stress as “a state, which is accompanied by physical, psychological or social complaints or dysfunctions and which results from individuals feeling unable to bridge a gap with the requirements or expectations placed on them” (European Social Partners, 2004, cl. 3). The 2007 Framework Agreement on Harassment and Violence addresses bullying, sexual harassment and physical violence within organizational settings (European Social Partners, 2007). The European Commission’s COM (2023) 298 elevates mental health to parity with physical health and calls for workplace action that goes beyond the mere avoidance of long hours (European Commission, 2023). Read together, these instruments locate primary institutional risk at the mental–organizational level, understood as stress, exhaustion-related pressures and managerial climates of responsabilization, rather than solely at somatic endpoints. Domestically, CNJ Resolution 207/2015 (CNJ, 2015) explicitly includes mental health within its objectives, defining health as “a state of complete physical, mental and social well-being” and requiring programs to promote and preserve the mental health of judges and staff.

Seen from another angle, this arrangement can be read as a discreet form of thanatopolitics, understood as the immanent negation that accompanies the immunitary logic, since institutional continuity is purchased at the price of depletion, a quiet governance of living time that extends work by thinning out recovery. In this light, an immunitary reading clarifies how productivity governance can translate mental–organizational strain into “rational” non-fruiting,

normalizing conversion as the most administratively convenient path. Where neoliberal rationality articulates equivalence and competition, biopolitics shows how that rationality is written into bodies, not only through somatic wear but by organizing attention, tempo, and mood toward continuous availability.

This is where philosophical closure becomes decisive. Nietzsche supplies the grammar of the underlying movement, since justice stabilizes equivalences and “everything has its price, everything can be paid for,” and the memory of duty is seared into the body (Nietzsche, 1998, p. 54,). Transposed to the lived time of work, rest is translated into currency and the body becomes collateral for the creditor–debtor equivalence, so that wherever equivalence prevails, the corporeal limit tends to dissolve into calculation. In Esposito’s terms, the immunitary paradigm preserves life through negation, because a measured dose of negation, in this case the renunciation of rest, is administered to preserve institutional continuity, and on this reading the burden of continuity is transferred to the functional body (Esposito, 2023, p. 60). Under this lens, induced renunciation of rest appears less as private will and more as a patterned effect of incentives that convert fruition into financial equivalence.

6. Rhizome and the Politics of the Body (Theatre/Cinema and Literature)

Following Deleuze and Guattari, the rhizome operates here as a research procedure, understood as a set of conceptual plateaus with multiple entry points that return aesthetic and bodily intensities to the legal core of the problem (Deleuze & Guattari, 1995, pp. 31–33). The first entry is *Eles não usam black-tie* [*They Don’t Wear Black Tie*] (Hirszman, 1981). In the factory setting, the dilemma of whether to join the strike or refuse it does not appear as a purely private decision, because what seems like individual choice is shaped by an organizational machine that manages vulnerability. Tião, a young factory worker who hesitates to join the strike led by his father, Otávio, makes this explicit: “The strike scared me. A different kind of fear! Not fear of the strike! Fear of being a worker!” (Guarnieri, 2014, p. 106,). Adherence exposes workers to police repression, while refusal is conditioned by material precarity. What is governed is not rest or labor, but the condition of the working body functionalized for continuity, which becomes the medium through which it is maintained.

This logic makes it possible to return to the legal field. The option to enjoy vacation or sell it back to the State presents itself as a private choice, yet is modulated by a collective arrangement that, functioning as an internal mechanism of governance, encourages conversion through tax advantage and performance metrics. As Esposito notes, immunization is not an apparatus imposed on the community but an internal gear (Esposito, 2018, p. 82). Just as in *Eles não usam black-tie*, where the factory administers bodies to sustain its continuity, courts administer bodies to produce law, since jurisprudence in Brazil is a constitutive source of the legal order. The shift from the “right to have rights” to the “right to sell rights” operates as a structural effect, as the effect of a gear that secures continuity by governing vulnerability from within.

The trajectory of the Brazilian writer Lima Barreto becomes particularly eloquent for the problem analyzed here because, at the time of his two admissions to the National Hospital for the Insane in 1914 and 1920, he was already a retired civil servant and was nonetheless administratively reclassified as an “indigent.” This double position, simultaneously a “man of the State” and an internal outsider administered as a risk, exemplifies a rationality that includes by restricting, which may be read in immunitary terms, where the apparatus that enacts protection also reclassifies the subject and removes him from the sphere of participation (Esposito, 2018). In the autobiographical register, Barreto expresses this identity displacement as a destitution of status: “How was it that, in twenty-four hours, I ceased to be a state employee, with a dossier in society and a place in the budget, to become a destitute outcast,

thrown there like a misfit? Why did the State want me for free, eating at its expense, when it would be simpler to take my salary and at least give me a jacket?” (Barreto, 2017, p. 150,). The experience appears not only juridical but somatic: “I had lost all social protection, every right over my own body; I was like a cadaver in an anatomy amphitheater.” (Barreto, 2017, p. 209,). Barreto notes the hospital’s internal hierarchies, in which “some get a vault and others a shallow grave”. (Barreto, 2017, p. 73,). These fragments reinforce a differential valuation of life under the guise of care, within a logic that protects by subtracting.

The bridge to our object, the sale of vacation and leave, is not merely metaphorical. In both situations, the State reclassifies time and bodies through grammars of exception that gradually become routine. The label “indigent,” applied to a writer already known and also a retired civil servant, reveals the classificatory power of the apparatus that produces and reproduces inequalities (Lima Barreto, 1881–1922). In the contemporary setting, the label “indemnity,” applied to rest that is formally exceptional, tends to become autonomous as a management mechanism, transforming what once operated as a limit into an operational resource. Genealogically, this reflects the conversion of hospitality, understood as the right to have a place within the common, into conditional hospitality. Correlatively, it suggests a shift from the “right to have rights” to the “right to sell rights,” a form of autonomy governed by incentives. In a Nietzschean register, the grammar of equivalence, in which everything has its price, becomes inscribed into the body and monetizes time, so that rest appears as currency and the body as collateral, a reading consistent with Nietzsche’s analysis of debt and memory (Nietzsche, 1998).

Second, Lima Barreto figures the internal foreigner, making visible a regime of conditional hospitality in which protection becomes a mode of exclusion (Derrida & Dufourmantelle, 2003; Esposito, 2018). Read alongside *Eles não usam black-tie*, a similar mechanism becomes perceptible: the norm is inscribed into bodies, and what should operate as a limit is transformed into a technology of governance. In the strike, the exposed working body becomes the medium through which continuity is sustained, since the dilemma between adherence and refusal is organized by material precarity and the threat of repression; in internment, hospitality turns into exclusion through classificatory protection. Taken together, these rhizomatic entries do not merely illustrate law but demand lexical reworking, shifting from governance oriented toward sale and performance to conditions oriented toward fruition, and from monetary equivalence to lived time as an irreducible good.

Finally, Barreto’s own *escrivência* can be read as a form of counter-hospitality (Derrida, 2007). By reappropriating narrative (Schwarcz, 2017) and returning it to the public sphere, he unsettles the immunizing enclosure (Esposito, 2018) and opens a space for listening. Methodologically, this gesture informs the present analysis, which approaches the contemporary judiciary from the standpoint of bodies, particularly those of civil servants and judges, in order to understand how lived time is governed. This methodological implication becomes even more significant given that the author of this study is a tenured civil servant within the Brazilian Judiciary, currently serving at the Court of Justice of the State of Paraná.

7. Toward a Biopotent Horizon of Law

The genealogy of the concrete case and the STF’s recent examination of the matter urge consideration of a biopotent inflection of right, as a new lexicon for grasping the phenomenon that reaches us. For, “only a thinking of potency can free us from the monocultural illusion of one single world, one single economy, one single authority, one single law, etc.” (Matos & Collado, 2022, p. 35,). And, in Esposito’s vein, when he turns to Deleuze, this means shifting the focus from a politics of merely negative protection to the amplification of the potency to

live, namely to the capacity to create in life-time, to recombine forces, and to compose relations.

At the level of vocabulary, this involves replacing a grammar of deficit and exception with a language of creation, care, and composition. Rather than “institutionalized sale management,” it entails institutional recognition of the conditions for the fruition of the right; instead of “equivalent currency,” it means understanding lived time as an irreducible good. In this horizon, the STF’s ruling (Rel. Min. Gilmar Mendes) can be read as a semantic shift. By reserving cash conversion for those who can no longer enjoy and by requiring active governance of enjoyment for those in service, the Court, from the standpoint of alterity, acknowledges that vacation time enjoyed is also a matter of quality of life for the body that judges and works.

8. Conclusion

Presented and discussed at the 11th International Conference on Social Sciences, Humanities and Education (ICSHE 2025, Paris), this research examines how its juridical problem intersects with literature, theatre, and cinema in an interdisciplinary approach to a concrete case. The practice of selling vacation and leave within the judiciary constitutes a politics of lived time that converts rights to rest into managerial assets. Drawing on Esposito’s work, in which biopolitics begins from concrete events and the immunitary paradigm operates as an interpretive key, Nietzschean genealogy helps clarify the mechanism through which the *dispositif* includes the right while displacing its fruition toward indemnity. The rhizomatic connections, from *Eles não usam black-tie* to Lima Barreto, suggest that the administration of time, when applied to the body, appears as a recurrent organizational mechanism rather than an isolated occurrence. While the analysis points to a regular pattern across normative and managerial materials, its scope remains limited to the evidence currently accessible. In the absence of a consolidated nationwide series on in-service cash conversions, the CNJ’s *Justiça em Números* indicators function as contextual proxies for time compression (CNJ, 2023–2025). As new datasets become available, future research may explore tribunal-level records to estimate conversion rates, backlog–conversion correlations, and trends in health-related leave.

The STF, particularly in the vote of Justice Gilmar Mendes in Theme 635 (ARE 721.001), reaffirms that, for active civil servants, annual leave must be taken as time off, while cash conversion is reserved for retirement or termination. The Administration therefore bears a duty to plan and ensure rest, with temporary accrual tolerated only in exceptional cases arising from an imperative need of service. In such circumstances, a reasoned order issued by the highest authority is required, and the accrued leave must subsequently be enjoyed in kind as soon as the impediment ceases, rather than compensated by indemnity.

From this perspective, and in light of Esposito’s lexicon-oriented engagement with Deleuze (Esposito, 2017), it becomes possible to reconfigure juridical vocabulary so that rest is not reduced to a logic of deficit or monetary equivalence, but affirmed as creation in lived time. In a Nietzschean register, *amor fati* does not signify resignation but active affirmation, a “yes” to life, through which Law may regard rest as an expression of vitality rather than as a functional asset for institutional utility. The normative priority therefore shifts from financial conversion to effective enjoyment, opening a grammar in which Law is not only an instrument of calculation but a practice that preserves a margin of alterity, a space traversed by forces that exceed it, where rest appears as a force of life that resists being reduced to measure.

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