Doi: 10.5212/Rev.Hist.Reg.v.30.23748

The Department of Agriculture and three requests for land in Sergipe between 1887 and 1889

A Diretoria da Agricultura e três solicitações de terras sergipanas que tramitaram na Diretoria da Agricultura entre 1887 e 1889

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Abstract

We analyze three applications for the purchase of land in the Province of Sergipe processed by the Department of Agriculture of the Ministry of Agriculture, Commerce and Public Works (MACOP). We aim to challenge the theses on the failure of the Land Law of 1850 and other generalized readings of 19th-century agrarian legislation. The decision to use land purchase applications seeks to move beyond historiographical narratives that pointed to the unsuccessfulness of imperial land tenure norms. These analyses often compared the higher incidence of public land alienation in the United States to that in the Empire of Brazil. Our research, on the other hand, adopts a qualitative approach to the study of these land purchase requests in Brazil. We identified how ministerial agents circumvented legal prohibitions to serve the interests of rural oligarchs. Thus, we question the interpretations of historians who suggest that the imperial political elite advocated for the regularization of the land structure, but that such transformations were vetoed by the landowners. On the contrary, we conclude that the relationship between these groups was more complex. We agree with historians who view the Land Law of 1850 as part of a broader process of property transformation.

Keywords: Department of Agriculture; Agrarian legislation; Land Law of 1850.

Introduction

This study analyzes the process of land purchase applications submitted by three rural oligarchs in the Province of Sergipe, north of Brazil, during the late 1880s. The applications under consideration demanded lands in Vila

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Cristina, a region located in the southern part of the Province. Established as a village in 1882, the locality was named in honor of Teresa Cristina Maria, Empress and wife of Dom Pedro II. We will shed light on issues related to the application of 19th-century land tenure laws. Thus, we narrow the scope of our analysis without losing sight of the broader discussion about the history of property in Brazil. We will approach the debates about the Land Law of 1850 and the land tenure policies of the Imperial State.

This research analyzes the processes of land purchase requests, as well as other processes handled by the second section of the Department of Agriculture between 1873 and 1889. The starting year of the timeframe of our study corresponds to the final structure reform implemented in this department during the Imperial Period. The endpoint is linked to the political transformation brought about by the Proclamation of the Brazilian Republic. This ministerial section was in charge of matters related to the agrarian structures and the application of the Land Law of 1850, among other issues.

To analyze these cases, we conducted a review of 45 land purchase application processes found in the ministerial records from the archives of the National Archives and the Rui Barbosa House Foundation. The analysis aimed to identify patterns in the processing of these applications, in the arguments used by the applicants, and in the criteria adopted by ministerial agents to evaluate the submissions. Subsequently, we categorized the process by province, delving deeper into each specific context and reducing the scale to address gaps in the primary sources, allowing for a more detailed examination of each case.

José de Souza Martins pointed to the Land Law as the starting point of private property in Brazil.[1] According to him, the law prohibited the acquisition of land through possession, allowing only purchases. This forced freed individuals to continue working for their former masters. Without access to land, they remained dependent. Lígia Osório offered an updated interpretation, arguing that the Land Law was part of a political proposal for the gradual emancipation from slavery.[2] The legislation provided for the demarcation and subsequent sale of untitled lands to raise funds for financing immigration[3]. Therefore, Osório (2008) regarded the law as a part

[1] MARTINS, José de Souza. *O Cativeiro da Terra*. São Paulo: Editora Ciências Humanas, 1979.

[2] SILVA, Ligia Osório. *Terras devolutas e latifúndio*. Campinas: Editora da Unicamp, 2008. p. 139.

[3] SILVA, Ibid., p. 141.

of a supposed "[...] transition of process from slave labor to free labor."[4] Emília Viotti considered the Law of 1850 as part of a conflict between modern and traditional economic agents.[5] She concluded that the imperial agrarian policy was unsuccessful by comparing agrarian policies in Brazil and the United States. Few lands were sold in Brazil, and the revenue generated was insufficient to fund the regular arrival of immigrants. José Murilo de Carvalho[6] also emphasized the failure of 19th-century agrarian legislation. He argued that the Land Law represented an attempt by the political elite to regularize land tenure. However, these reforms were blocked effectively by rural oligarchs in practice.

Márcia Motta emphasized the need to analyze the application of the Land Law of 1850 in each locality of the Empire. She connected this analysis to land tenure conflicts and the different interpretations of the legislation.[7] Motta challenged generalizing readings of the law and proposed detailed analyses of the legislation. Following this approach, Cristiano Christillino identified the political use of the Land Law of 1850 by the Imperial Government to obtain support from the elite of Rio Grande do Sul.[8] State agents implemented the legislation in ways that allowed this elite to falsify property ownership. For this reason, he contested Carvalho's thesis about the veto of the barons. Flávia Paula Darossi observed a similar political use of the Land Law in Santa Catarina, as Christillino[9] had observed in Rio Grande do Sul. Márcio Both also refuted the theses regarding the failure of the Land Law of 1850 and the notion that the legislation marked the beginning of private property in Brazil.[10] For Both, this legislation was part of a broader process of affirming private property. This process began with the Pombaline Reforms and was not concluded during the Empire. However, he made it clear that stating this

[4] SILVA, Ibid., p. 141.

[5] COSTA, Emília Viotti da. *Da monarquia a República: momentos decisivos.* São Paulo: Grijalbo, 1977.

[6] CARVALHO, José Murilo de. A Modernização frustrada: A política de terras no Império. *Revista Brasileira de História. São Paulo,* n. 1, p. 39-57, 1981.

[7] MOTTA, Márcia Maria Menendes. *Nas fronteiras do poder: conflito e direito à terra no Brasil do século XIX*. Niterói: Eduff, 1998. p. 230.

[8] CHRISTILLINO, Cristiano Luís. *Litígios ao sul do Império: a Lei de Terras e a consolidação da política da Coroa no Rio Grande do Sul (1850-1880)*. Tese (Doutorado em História) – Departamento de História, UFF, Niterói, 2010.

[9] DAROSSI, Flávia. A Lei de Terras em Santa Catarina e a política fundiária Imperial: a força do poder local pela Câmara Municipal de Lages e a Sociedade Lageana para Exportar Erva-Mate. *Revista história, histórias*. Volume 6, número 12, 136-154, agosto/dezembro, 2018.

[10] SILVA, Marcio Antônio Both da. Lei de Terras de 1850: lições sobre os efeitos e os resultados de não se condenar "uma quinta parte da atual população agrícola". *Revista Brasileira de História*. São Paulo, 2015. p. 87-107.

is insufficient to understand the Law of 1850; rather, it is necessary to analyze the clashes that took place during its application.

This study follows the path laid out by this second group of historians. We are dealing with land purchase applications. The lower incidence of land sales in Brazil compared to the United States is not sufficient for analysis. It is necessary to examine qualitatively these applications and understand how agrarian laws were interpreted and applied. This approach allows for a broader understanding of the imperial land tenure policy. It is not ineffective to propose generalizing conclusions about the application of agrarian legislation in a territory as vast as the Empire. Asserting that the law either failed or independently created private property would not be appropriate, even for a kingdom or country with a small territory. These readings were only possible due to the concentration of history departments in the Southeast of Brazil. However, the expansion of public universities across the country and the production of regional monographs have reduced this type of reading. In the 1980s, studies began to explore new social actors and their historical consciousness. University expansion deepened this movement towards readings that sought to explore the entirety of Brazil's territory.

In this context, we will analyze three land purchase applications in Sergipe. Our goal is to expand our knowledge of 19th-century land tenure policies. Thus, we aim to construct a mosaic of interpretations regarding the application of agrarian laws. We will not limit ourselves to a microanalysis. Instead, we will narrow the scope to position ourselves within a broader historiographical debate. We will argue that some interpretations of the Land Law of 1850 are insufficient. Our approach aligns with recent studies on the topic, for these studies, the theses of the ineffectiveness of the norm and the initial marker of private property in 1850 are not sufficient for understanding 19th-century agrarian policy.

The process

On September 21, 1887, the attorney Raphael Archanjo Moura Mattos requested the provincial government lands located in Vila Cristina, Sergipe, to Joaquim Amâncio Monte Alegre, Militão Machado dos Reis, and José Rodrigues da Silveira.[11] Joaquim Amâncio Monte Alegre demanded "the purchase of

[11] REIS, Militão Machado. Reclamação sobre preço de terras devolutas em Sergipe. In: Coleção Machado de Assis. Acervo da Fundação Casa de Rui Barbosa, 1888-1889. P 31, 33 e 38. http://www.docvirt.com/DocReader.net/DocReader.aspx?bib=MachadoAssis

100 hectares of untitled lands belonging to the State in a place called 'Cana Brava', in Vila Cristina, formerly Chapada, in the district of Santa Luzia, judicial district of Estância."[12] He stated that the lands were adjacent "to the south, east, and west to lands with legitimized claims, and to the north to State lands."[13] The applicant argued that he was "the owner and possessor of various holdings, some of which have already been purchased at public auction."[14] He also noted that he produced sugar on the lands he already occupied. By announcing his ownership of purchased and cultivated lands, he sought to convince public agents of his ability to cultivate the requested areas. This was a compelling argument since the Land Law of 1850, the Decree of 1873, and the officials of the Department of Agriculture required such capacity for approving requests to purchase untitled lands. Joaquim Amâncio also claimed to have previously requested these lands, but his application was denied "because the Legislative Chambers were debating a bill to reform the Land Laws."[15] Finally, he invoked equality, citing the approval of purchase of lands in the state of São Paulo.

The request put forth by Militão Machado dos Reis was analogous to that presented by Monte Alegre. The two requests were identical in terms of the quantity of land requested, the location of the plots, and the argument of equality. Militão Reis' petition, however, differed in that it did not specify the boundaries of the land. He also did not claim prior possession of neighboring areas or demonstrated his capacity for cultivation. In similar cases from different provinces, it was common for applicants to prove their ability to produce in the territory. This was an important argument, but was neglected by Militão Reis in his initial petition. On the other hand, not mentioning the confrontations was not uncommon in applications in other localities. Concerns over the demarcation of land boundaries had been growing since the Pombaline Reforms. Declaring neighboring lands and specifying dimensions could provoke conflicts with neighbors. These conflicts revealed a broader transition from a pluralistic conception of property -where multiple parties held territorial rights- to a monistic and individualistic conception.[16] This shift involved determining which parties would have their rights legitimized at the expense of others and inserting oneself into a local power dynamic regarding

[12] REIS, Ibid., p.31.

[13] REIS, Ibid., p.31.

[14] REIS, Ibid., p.31.

[15] REIS, Ibid., p.32.

[16] CONGOST, Rosa. *Tierras, leyes, historia: estudios sobre "La gran obra de la propiedad"*. Crítica: Barcelona, 2007.

property rights. Not declaring boundaries could also be a strategy. Such omission left open the possibility of illegally expanding holdings, exploiting gaps in territorial oversight.[17]

Finally, the application submitted on behalf of José Rodrigues da Silveira requested "[...] the purchase of 100 hectares of untitled lands belonging to the State in a place called 'Baixa Funda or Zabelê', in the municipality of Vila Cristina, formerly known Chapada, in the district of Santa Luzia, judicial district of Estância [...]."[18] The applicant stated that the boundaries of the requested land included, among other confiners, "[...] the private lands of Christovão José de Andrade and the property of the supplicant's sugar mill [...]."[19] By declaring the border of the requested area, he sought to demonstrate that he also owned neighboring lands, a key factor for securing preference in the purchase of untitled lands. Article 15 of the Land Law of 1850 determined: "Owners of cultivated and grazing lands [...] shall have preference in purchasing untitled lands adjacent to them, provided they demonstrate [...] that they possess the necessary means to use them." By mentioning his sugar mill, José Rodrigues also exposed his ability to cultivate the requested lands. This argument aligned with the Circular Notice of July 19, 1873 which emphasized: "land grants for sale shall not be authorized except to individuals who intend to effectively cultivate them and only in proportions suited to their available resources". The arguments presented by José Rodrigues adhered to the existing legislation and matched the expectations of the officials at the Department of Agriculture.[20]

The criterion of the ability to cultivate the lands was part of a long-term possessive mentality. This mentality traced back to the requirements established by the royal decrees of the "sesmarias" system. On the other hand,

[17] According to Márcia Motta, at this moment there was an "order established precisely by the disorder of the country's land structure, which allowed landowners to continue invading vacant lands through the back doors of their enormous farms" . (MOTTA, Márcia Menendes. *Teixeira de Freitas: da posse e do direito de possuir.IN:* Revista da Faculdade de Direito de Campos. Ano VI, n. 7, dezembro, 2005.)

[18] REIS, Ibid., p.33.

[19] REIS, Ibid., p.33.

[20] The criterion of the ability to cultivate the requested land was the most emphasized in the processes of the Department of Agriculture. It appeared in 23 out of the 45 land requisition processes found in the sources of the National Archive and the Rui Barbosa House Foundation. The possession of adjacent lands was present in 17 cases. The compliance of the requested area with the requirements set by law was noted in 11 cases. The intention to carry out improvements appeared in 9 instances. Lastly, participation as a volunteer for the nation was cited as an argument in 3 cases. From these numbers, it is possible to infer the significance of the cultivation capacity criterion for the success of a purchase request. The agents of the Department of Agriculture tended to prioritize this criterion when evaluating requisitions.

the emphasis on the ability to cultivate the land was not foreign to liberalism. It was related to the Pombaline Reforms and the Iberian Enlightenment's concern with legitimizing the domains of the true cultivators. This requirement was consistent with the ideas of John Locke's in "The Second Treatise of Civil Government."[21] Locke argued that human labor was the basis for the individualization of land ownership.[22] From his perspective, humans were naturally free, and thus, entitled to own their labor. Therefore, they would have the prerogative to appropriate the land they cultivated, as long as they could enjoy the fruits of their harvest.

The three Sergipe rural oligarchs did not declare their possessions in the process initiated in 1887. However, they had already occupied the territories they intended to acquire from the State. These landowners sought to use the possibility of purchasing untitled lands, as provided by the Law of 1850, to legitimize their irregular possessions. This strategy became evident in the report of November 7, 1887, written by the inspector João Baptista da Silva Gouvêa. He stated: "According to Law nº 601, dated September 18, 1850, the acquisition of untitled lands by any title other than purchase was prohibited."[23] Gouvêa also referred to other legislation to propose the approval: "However, the Law of September 27, 1860 authorized the government, either by lease or sell, not only of the lands but also of fields for cattle ranching, on the condition that the concessionaires pay the respective price once they are measured and demarcated [...]."[24] The inspector mentioned, without transcribing the text of the law, Articles 7, 8, and 22 of this law. These provisions dealt with three situations: coastal lands with alluvial deposits or marshy areas near settlements; lands from Jesuit Missions or abandoned indigenous villages; and frontier areas in the Amazon or those designated for animal husbandry. The lands requested by three Sergipe oligarchs did not fall under these categories. Nevertheless, the inspector cited these provisions to exempt them from land invasions. He also highlighted, ambiguously, that these landowners had already occupied the lands long before formalizing their request:

> The petitioners Joaquim Amâncio Monte Alegre, Militão Machado dos Reis, and José Rodrigues da Silveira, residents of the Santa Luzia district, having possessed for many years the lands in question, with no other title than their occupation

[21] LOCKE, John. *O Segundo Tratado sobre o Governo Civil.* Vozes: Petrópolis, 1994.

[22] LOCKE, Ibid., p.42-48.

[23] REIS, Ibid., p.8.

[24] REIS, Ibid., p.8.

> and maintaining themselves there peacefully and quietly with effective cultivation and habitual residence, needed to legitimize their holdings according to Articles 5 and 6 of the aforementioned law number 601, which correspond to Articles 24, 37, and 44 of Regulation number 1318 of January 30, 1854. Now, however, they request the Imperial Government to purchase the lands they occupy.[25]

The official of the General Inspection of Public Lands highlighted that the petitioners sought to legalize irregular possessions. He mentioned that the supplicants had already occupied the land before formalizing their requests. However, he characterized the relationship of the Sergipe rural oligarchs as occupation, not invasion. Invasion was a crime under Article XX of the Land Law of 1850. Article 2 of this law defined: "Those who take possession of untitled or private lands, and cut down trees or set fire to it, shall be required to vacate the land, losing any improvements made, and shall also suffer a prison sentence of two to six months' imprisonment [...]." The inspector emphasized that the petitioners occupied the land "gently and peacefully with cultivation."[26] Thus, he sought to exempt the petitioners' possessions from punishment. The legislation, due to its open wording,[27] allowed for varied interpretations. Characterizing control over the land as occupation or invasion depended on the social perspective of those involved. Márcia Motta has already pointed out that the label of invader was often attributed to poor free men.[28] The legal analyst, despite recognizing that the petitioners occupied the land before applying for it, relied on legal arguments to demonstrate that this occupation was gentle and peaceful, and not an invasion. Thus, he circumvented the law to avoid condemning the actions of the three Sergipe oligarchs. In negotiating legal interpretations, the inspector articulated a power strategy that avoided punishment and sought to ensure the support of these landowners for the Imperial State.[29]

[25] REIS, Ibid., p.8.

[26] REIS, Ibid., p.8.

[27] Hart proposed the concept of the "open texture" of legislation. In his view, legal norms contain uncertainties, areas of obscurity, and ambiguities. Thus, there is room for interpreters to exercise creativity. See: HART, Herbert L. A. *O Conceito do Direito*. Lisboa: Fundação Calouste Gulbenkian, 2007.

[28] MOTTA, Márcia. Posseiros no Oitocentos e a Construção do Mito Invasor no Brasil (1822-1850) IN: ZARTH, Paulo; MOTTA, Márcia (orgs.). *Formas de resistência camponesa: visibilidade e diversidade de conflitos ao longo da história.* São Paulo: Editora da UNESP, 2008. p. 100.

[29] According to Foucault, the punishments prescribed by legal norms are applied according to a political economy of the power to punish, that is, to minimize the political costs for those enforcing them. In his view, the law operated by managing crimes differentially. In this sense, punishments are not fully

Despite the inspector recognizing the attempt to legalize the illegal, he did not use it as a reason to recommend denial. Rather, he stated: "By relying on the clarifications of trustworthy individuals and other indirect means available to me, I declare to Your Excellency that I find it reasonable that the price per square foot of the land in question should not be less than two reais."[30] It can be inferred that the administrative institutions in charge of implementing the agrarian legislation in that context shared characteristics similar to those attributed by anthropologist James Holston to 20th-century law. Holston conducted an ethnography of land fraud on the outskirts of São Paulo between 1969 and 1972. He observed that the Brazilian legal system did not aim to resolve conflicts.[31] For the anthropologist, Brazilian agrarian legislation was "confusing, indecisive, and dysfunctional."[32] According to him, it produced "[...] procedures and irresolvable confusion."[33] This legal framework, Holston argues, set "the terms through which land grabbing is consistently legalized."[34] The norms and irresolutions of the legal field created space for social agents, especially the most/more powerful, to legalize their illegal appropriations.[35] For Holston, "the irresolutions orchestrated by the law itself encouraged land invasions, since they also created trust in their legalization."[36] Thus, the law ensured "the maintenance of privilege for those who have extralegal powers to manipulate politics, bureaucracy, and history itself."[37]

In the case under analysis, Inspector João Baptista da Silva Gouvêa favored the legalization of the petitioners' irregular occupations. His actions contradict the dichotomy between the political elite and the economic elite proposed by José Murilo de Carvalho in his analysis of the Land Law of 1850.[38] According to Carvalho, this legal framework was formulated by the

applied but are instead adjusted based on the interactions of parties involved in power dynamics. For more on this, see: FOUCAULT, Michel. *Vigiar e Punir: Nascimento da prisão*. Petrópolis: Vozes, 1987. p 76.

[30] REIS, Ibid., p.9.

[31] HOLSTON, James. Legalizando o ilegal: propriedade e usurpação no Brasil. **Revista Brasileira de Ciências Sociais**. n. 21, fevereiro de 1993. P 1.

[32] HOULSTON, Ibid., p.1.

[33] HOULSTON, Ibid., p.1.

[34] HOULSTON, Ibid., p.1.

[35] HOULSTON, Ibid., p.20.

[36] HOULSTON, Ibid., p.19.

[37] HOULSTON, Ibid., p.19.

[38] CARVALHO, José Murilo de. Modernização frustrada: a política de terras do Império. *Revista Brasileira de História*, São Paulo: Anpuh, v.1, n.1, p. 39-57, mar. 1981; CARVALHO, José Murilo. *A Construção da ordem*:

bureaucracy, while rural potentates were responsible for undermining the reform proposals embedded in its provisions. In this instance, we observe a public official circumventing the aforementioned agrarian law. Through interpretative maneuvers, he sought to ensure the legalization of the irregular holdings of three prominent Sergipe figures.

Although the inspector asserted that the occupations were conducted peacefully and without dispute, he admitted to lacking direct knowledge of the lands mentioned in the process. He wrote in his report: "[...] not having a thorough understanding of the boundaries, the situation, or the nature of the lands being requested, as it is impossible for me to have close knowledge of the untitled lands within the district under my fiscal jurisdiction."[39] For this reason, he classified his own "judgment" of the case as "[...] somewhat shallow and incomplete [...]."[40] Despite his limited understanding of the lands, the inspector characterized the irregular occupations as peaceful and undisputed, avoiding any questioning of the possession by the three Sergipe oligarchs. In light of this lack of knowledge regarding the territory in question, he recommended appointing a municipal judge to gather the necessary information about the lands with the aim of approving the case. The inspector stated:

> It is important to determine whether the lands are suitable for cultivation or livestock grazing; whether the possessors, through the state of their farming or livestock operation, have the means to make use of them; whether a railway planned for this province will pass through them; whether a settlement has been established on them; whether they are needed for colonization or public infrastructure; whether they contain forests with timber of economic value; and, finally, to evaluate any public utility or other considerations that Your Excellency's prudent judgment deems pertinent.[41]

The inquiries requested by the inspector were in accordance with the legislation. The law of the time treated agricultural lands and grazing lands differently. Lands designated for grazing, for instance, were regulated by Clause 22 of Article 11 of Law nº 1,114 of 1860. The cultivation capacity of each petitioner was an important legal criterion for the government when

A *elite política imperial & Teatro das sombras*. Rio de Janeiro: Civilização Brasileira, 1980.

[39] REIS, Ibid., p.9.

[40] REIS, Ibid., p.9.

[41] REIS, Ibid., p.9-10.

assessing the approval of requests to purchase untitled lands. Article 15 of the Land Law of 1850, for example, also reinforced this requirement. Article 12 of the same law prohibited the alienation of lands intended for colonization or railway construction. Meanwhile, hardwood forests were to be protected under the legal provisions.[42] The inspector stated that the municipal judge could conduct other investigations deemed necessary. However, it is worth noting how João Baptista da Silva Gouvêa emphasized that his colleague's actions had limits, asserting that he would assess how far he could go.

The inspector argued, as justification for the approval, that the petitioners had "[...] for many years, possessed the lands in question without any title other than their occupation, residing there peacefully and without dispute, with effective cultivation and habitual residence [...]."[43] He also emphasized that the petitioners needed "[...] to legitimize their possessions, which are in conditions to be legitimized, under the terms of Articles 5 and 6 of the aforementioned Law nº 601 [...]."[44] Article 5 established: "Peaceful and uncontested possessions, acquired through primary occupation or from the first occupant, which are cultivated or show signs of cultivation, and which serve as the habitual residence of the respective possessor or their representative, shall be legitimized." Article 6, in turn, prohibited validation in cases where there was no "[...] effective cultivation and habitual residence." However, neither provision clearly defined what constituted peaceful and uncontested possession. This lack of definition created an open texture for interpretation by the authorities vested with "the authority to interpret the law."[45] Thus, the notion of peaceful and uncontested possession involved interpreting social reality within legal parameters. Applying the law depended on subjective evaluations interacting with legal disputes, local agrarian conflicts, and broader socio-political and cultural struggles.

[42] RODRIGUES, Pedro Parga. A Interrelação entre o tema da destruição de recursos naturais e a questão agrária nos relatórios da Exposição Nacional de 1861 IN: MACHADO, Marina; MARTINS, Mônica; MARTINS, William (orgs.). Propriedade em debate: modernização, recursos naturais e propriedade intelectual no Brasil. Guarapuava: Ed. Da Unicentro, 2018. P. 35-54.

[43] REIS, Ibid., p.9.

[44] REIS, Ibid., p.9.

[45] The term "the authority to interpret the law" was coined by sociologist Pierre Bordieu. According to him, symbolic exchanges do not occur in a vacuum; they are not merely discourses. On the contrary, some individuals are heard more than others due to their prestige within their fields. In his view, within the field of law, there is a struggle for the monopoly over the right to state the law, that is, for the symbolic capital associated with the perception that the speaker of a given discourse is capable of defining how legal norms should be applied and/or interpreted.

The report from the Public Lands Inspectorate contributed to the legalization of the irregular possessions of three prominent landowners from Sergipe. The author of the three purchase requests found in the archives of the Department of Agriculture, the National Archives, and Rui Barbosa House Foundation requested areas they were already occupying. Similar requests were found in Amazonas.[46] In other provinces, it was more common for petitioners to request the purchase of lands adjacent to those they already occupied. In Manaus, however, requests for lands already occupied by the petitioners predominated. The case of the Sergipe lands, however, presents a peculiarity. In 1887, Joaquim Amâncio Monte Alegre, Militão Machado dos Reis, and José Rodrigues da Silveira declared in their petitions a desire to purchase lands adjacent to their own, concealing that they were already occupying the desired areas. Following the report from Inspector João Baptista da Silva Gouvêa, their attorney had to revise their argument. He began to claim that the petitioners had already possessed the lands before the initial request. In this sense, the report influenced the transformation of these prominent landowners' requests. In the initial 1887 document, they omitted their irregular possession of the intended areas. After the inspector's revelation, they could no longer omit this information. It became more strategic to use possession as an argument to gain priority in the purchase.

On October 20, 1888, the attorney for the three petitioners requested the Ministry of Agriculture, Commerce, and Public Works (MACOP) to reduce the price of the untitled lands. On August 14, 1888, the minister had ordered the provincial presidency to sell the requested lands for 40 réis per square foot of land (4.84 square meters). The three prominent figures disagreed with this amount and requested a reduction even before the measurement and demarcation of the lands. Militão Machado dos Reis argued that the lands he sought were "[...] rugged and uncultivated [...]."[47] He also declared that "[...] the agriculture of this province is going through a downturn due to the crisis that has manifested itself in recent times, either because of a shortage of labor or a lack of resources [...]."[48] With this, Reis indirectly referenced the abolition of slavery, suggesting that the lack of labor, resulting from the end of enslavement, had caused the decline of provincial agriculture. Militão once again appealed to the principle of equality, stating that the "[...]

[46] RODRIGUES, Pedro Parga. A Diretoria da Agricultura sob a chefia de Machado Assis: Os processos de solicitação de compra de propriedade no Amazonas (1887-1889). *Revista Maracanan*, p. 83-103, 2020. P. 85.

[47] REIS, Ibid., p.1.

[48] REIS, Ibid., p.2.

highest estimate never exceeded, in previous sales conducted by the treasury of other lands, 2 reais per square foot of land, in accordance with paragraph 2 of Article 14 of the Decree of September 19, 1852 [...]."[49] For these reasons, he offered the government 4 réis for every 4.84 square meters, arguing that this amount was "[...] twice the value determined by paragraph 2 of Article 14 of the cited decree [...]" . He further declared that it was "[...] impossible to carry out the purchase sought by the petitioner and other applicants at such a high price [...]."[50] Finally, he claimed to believe that "[...] there had been a mistake in the price ordered [...]" previously.[51]

Notably, in this second process, Militão Machado dos Reis declared that he had "[...] possessed improvements on the land for many years."[52] In the first request, where he sought to purchase the lands, he did not mention possessing the desired areas. Now, in requesting a price reduction, Militão claimed to have even made improvements on the land over a long period. This pattern was repeated in the case of Joaquim Amâncio Monte Alegre. Monte Alegre's request for a price reduction was almost identical to that of Militão Machado dos Reis. Even the declaration about improvements on the land, included in the price reduction request, had not been mentioned in the 1887 purchase application. In the original application, Monte Alegre merely stated that he sought areas contiguous to his own lands. The three petitioners were already occupying the desired lands before paying for them or conducting the measurement and demarcation. Two months after the authorization for the alienation of the areas and before the six-month period allocated for measurement, they requested a price adjustment. Additionally, they used their occupation of these areas as an argument to gain priority in purchasing the lands.

On March 21, 1889, the petitioners initiated new proceedings with the presidencies of their provinces. In these requests, they once again challenged the prices, reiterating the arguments made in the 1888 petition and adding new ones. Militão Machado dos Reis Claimed that the decision to sell the lands for 40 réis per square foot of land was based on "poorly founded"[53] information provided by the municipal judge of that jurisdiction. He emphasized that the attorney made the mistake of accepting this valu. He further declared

[49] REIS, Ibid., p.1.

[50] REIS, Ibid., p.2.

[51] REIS, Ibid., p.2.

[52] REIS, Ibid., p.2.

[53] REIS, Ibid., p.4.

that "[...] the information from the Treasury Department and the surveyor appointed by His Excellency the President of the Province demonstrate that these lands can be sold at a lower price [...] considering their nature."[54] Militão also stated that he had previously requested "[...] devolute lands adjacent to Joaquim Amâncio Monte Alegre's sugar production property, where the petitioner maintains his plantation [...]."[55] However, the fact that they were already occupying the lands was omitted initially when they requested the imperial government's authorization for the sale. They sought to regularize occupations carried out in violation of the Land Law of 1850 by purchasing these areas. Aware of the illegality of their occupation, Militão chose, in 1887, not to highlight that he was already irregularly occupying the desired lands. Although the Law of 1850 prohibited occupations after its promulgation, large landholders often managed to legalize their occupations by purchasing state lands. In 1889, Militão used his irregular occupation as an argument, asserting that "[...] the petitioner has the right of preference for having established his plantation there."[56] Thus, he omitted the illegal occupation in his initial request. However, during the course of the process, after the opinion of the General Inspectorate of Lands and Colonization, he began to declare the occupation of the areas as a justification for obtaining preference in the purchase.

The same applies to the proceedings initiated by Joaquim Amâncio Monte Alegre in 1889. He stated that, in 1887, he "requested from the State the purchase of the devolute lands located within his sugar production properties."[57] He made it clear that he already possessed the lands before applying for their purchase and also used his occupation of the areas as an argument to claim preference. His reasoning followed the same line as that of his fellow petitioner. However, he added that the plantations in the province where the lands were located where in a "[...] state of decline [...]" as they were "[...] struggling with serious difficulties, including drought [...]."[58]

In 1889, José Rodrigues da Silveira also stated that in 1887 he had requested lands "[...] located within his sugar production property [...]."[59] Like Joaquim Amâncio Monte Alegre, he demonstrated that his land request

[54] REIS, Ibid., p.5.

[55] REIS, Ibid., p.4.

[56] REIS, Ibid., p.5.

[57] REIS, Ibid., p.46.

[58] REIS, Ibid., p.47.

[59] REIS, Ibid., p.50.

aimed to legalize his irregular occupations. The inclusion of this fact during the proceedings was also part of a discursive strategy. In his initial petition, he declared: "let them be sold to the petitioner at the assessed price, as the petitioner has the right of preference due to their location within his sugar production property."[60] His reasoning generally followed the same line as his fellow petitioners.

On June 22, 1889, the General Inspectorate of Lands and Colonization issued an opinion on the case, presented by Francisco de Barros e Accioli. He stated that the surveyor Francisco Lourenço assessed the requested lands as follows: "[...] at 2 réis per 4.84m² for those claimed by Joaquim Amâncio Monte Alegre; at 1 real per 4.84m² for those requested by Militão Machado dos Reis; and at ½ real per 4.84 m² for those sought by José Rodrigues da Silveira."[61] Accioly justified the differences in land prices based on the proportion of barren land and/or the soil quality. The most expensive land was deemed "[...] suitable for any type of cultivation [...]."[62] The land with an intermediate value was described as having "[...] one inferior portion and the rest unsuitable for farming [...]."[63] Finally, the cheapest land was deemed "[...] barren, unusable, and only suitable for cattle grazing."[64] Accioli also emphasized that "[...] the petitioners occupy the lands in question peacefully and without contest, with effective cultivation and habitual residence, needing to legitimize their possessions, which comply with the law [...]."[65] The inspector further noted that his department "[...] due to a copying error, indicated a price of 40 réis for the sale in question, which is indeed excessive, as it originally intended to propose a price of 4 réis, based on the provided information."[66]

On July 17, 1889, the Department of Agriculture reviewed the case. In his report, the official Francisco de Paula Ramos described the matter and provided a retrospective of the positions taken by other government bodies. This practice was common in solution proposals drafted by the department. He stated that the surveyor Francisco Lourenço suggested prices of "½, 1 and 2 réis per 4.84 m²,"[67] varying according to the quality of the land owned

[60] REIS, Ibid., p.51.

[61] REIS, Ibid., p.24.

[62] REIS, Ibid., p.24-25.

[63] REIS, Ibid., p.25.

[64] REIS, Ibid., p.25.

[65] REIS, Ibid., p.25.

[66] REIS, Ibid., p.25.

[67] REIS, Ibid., p.22.

by each petitioner. The Treasury Department reported that "[...] the price of 40 réis proposed in its letter dated February 28 of the previous year, was due to a copying error, as it intended to propose 'a price of 4 réis, based on the information provided'."[68] The municipal judge of Santa Luzia, in turn, asserted that it would be appropriate "[...] to reduce the price to 4 réis, which is already advantageous, for the lands ordered to be sold to the petitioners [...]."[69] After outlining the opinions of other state agencies and authorities, the Department of Agriculture official submitted a proposal for approval to the Minister of Agriculture, Commerce, and Public Works. His superior, João Capistrano do Amaral and Alfredo Augusto da Rocha, concerned with the proposed resolution of the case.

Conclusion

The applicant's requests were granted, as they acquired the desired lands and obtained price reductions. It is noteworthy that in the cases involving the three rural potentates, agents from the Ministry of Agriculture, Commerce, and Public Works (MACOP) authorized the sale of lands already occupied by Joaquim Amâncio Monte Alegre, Militão Machado dos Reis, and José Rodrigues da Silveira. The Land Law of 1850 established penalties such as "[...] eviction, [...] loss of improvements, and [...] imprisonment for two to six months [...]". However, state officials avoided enforcing these penalties, legalizing the applicants' illegal occupations through the sale of the aforementioned lands.

This decision was not exceptional. Similar cases occurred in land purchase requests in Amazonas. Márcio Both identified a similar situation in the 1886 report of General Inspection of Lands and Colonization of Espírito Santo.[70] In this document, Inspector Francisco de Barros e Accioli de Vasconcelos lamented the extent of irregularly occupied lands: "to grasp the magnitude of the land invasion in this province, it suffices to say that the intruders were effectively punished, as they should be, surely one-fifth of the current agricultural population would be condemned."[71] The inspector

[68] REIS, Ibid., p.23.

[69] REIS, Ibid., p.23.

[70] SILVA, Marcio Antônio Both da. Lei de Terras de 1850: lições sobre os efeitos e os resultados de não se condenar "uma quinta parte da atual população agrícola". *Revista Brasileira de História*. São Paulo, 2015. p. 15.

[71] PRADO, Antônio da Silva. *Relatório Apresentado à Assembleia Geral na primeira sessão da vigésima legislatura pelo Ministro e Secretário dos Negócios da Agricultura, Comércio e Obras Públicas.* Rio de Janeiro: Imprensa Nacional, 1886. Apud: SILVA, *idem*, 2015. p. 14.

explained that the State sought to address the problem: "It was precisely for this reason that Notice nº 35 of October 1873 was issued, instructing engineer Deolindo José Vieira Maciel to measure lands occupied by intruders who wished to legitimize their possessions through purchase."[72] However, in his view, the government's approach exacerbated the situation: "[...] emboldened by the guarantee of purchasing criminal possessions, these were considered legitimate and expanded even further."[73]

In this regard, the baron's veto thesis proposed by José Murilo de Carvalho, appears to be untenable in the light of the way the state dealt with irregular occupations. It was not uncommon for government agents to relax the penalties set forth in legislation in order to address the practice of squatting, particularly when the squatter in question was a landowner or rural authority figure. Thus, the dichotomy between a political elite aiming to reform the land structure and barons obstructing this transformation overlooks the role of many state agents. These agents participated in a process of legalizing irregular possessions, during which agrarian legislation itself was made more flexible. Ministerial notices and processes reveal a much less dichotomous relationship between the political elite and rural oligarchs.

Therefore, as Márcio Both asserts, claiming that the Land Law of 1850 was a failure or marked the beginning of absolute property in the country reveals little about this legislation and other agrarian laws of the 19th-century.[74] By attributing responsibility to the proclaimed baron's veto, as José Murilo de Carvalho did, or by comparing the volume of land sales in 19th-century Brazil and the United States, as Emília Viotti da Costa did, historiography has created obstacles to a more detailed study of the application of agrarian laws. The fact is that land purchase requests existed in various provinces, with varying frequency depending on the region. These requests can and should be analyzed qualitatively. A review of the documents frequently reveals an agrarian policy that operated to legalize the illegalities committed by 19th-century rural oligarchs. The thesis of lanc captivity, advocated by José de Souza Martins, which argues that the Land Law of 1850 ended land acquisition through possession and established private property, is similarly untenable. The cases analyzed demonstrate individuals occupying lands and subsequently legalizing them through purchase. As Both argues, the Land

[72] PRADO, Ibid., 1886. Apud: SILVA, Ibid., 2015, p.14.

[73] PRADO, Ibid., 1886. Apud: SILVA, Ibid., 2015, p.14.

[74] SILVA, Ibid., p.87-107.

Law of 1850 was part of a broader process of establishing private property, without being the starting point or the final transformative moment. This process began with the Pombaline Reforms in the 18th-century and was not completed during the Empire.

Acknowledgements

The author would like to thank the Academic Writing Center at the State University of Ponta Grossa for the assistance with English language translation and developmental editing.

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Article received for publication on 01/08/2024 and approved on 26/11/2024.