

## Federalism and confederate stances in the political speech of independent Brazil: the concepts in the writings of Frei Caneca

Federalismo e posturas confederativas no discurso político do Brasil independente: as concepções dos escritos de Frei Caneca

DOI: <http://dx.doi.org/10.1590/2236-463320171506>

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**Abstract:** This study analyses the understanding of federation and confederation that can be seized from the writings of Frei Caneca, produced during the independence process of Brazil and the beginning of the First Reign. These terms were used interchangeably in the period and spanned with the same intensity different political notions that were juxtaposed at the time, involving the sovereignty of a developing national state and the emphases on how provincial autonomy was considered. *The Federalist Papers*, a classical work for the notional understanding of the liberal state's formation in its federative dimension, will be used as a theoretical counterpoint to this debate.

**Resumo:** No presente artigo problematizam-se os entendimentos de federação e confederação que se podem apreender nos escritos de Frei Caneca, elaborados durante o processo de Independência do Brasil e início do Primeiro Reinado. Nesse período esses termos se empregavam de modo indistinto e abrangiam num mesmo diapasão diferenciadas concepções políticas que então se contrapunham, envolvendo a soberania do estado nacional em formação e as ênfases no modo de se pensar a autonomia provincial. Como contraponto teórico para esse debate, utilizam-se *Os Artigos Federalistas*, obra clássica para a compreensão conceitual da formação do estado liberal em sua dimensão federativa.

**Keywords:** Liberalism – provinces – federation – confederation

**Palavras-chave:** Liberalismo – províncias – federação – confederação

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### **Assessments on liberalism in independent Brazil and the political conflict in Pernambuco**

In the political projects introduced to build the Brazilian State in the course of the Independence process and beginning of the 1<sup>st</sup> Reign, the proposals developed by the so-called "radical liberals" acquired high visibility and, although they could be found in different parts of the developing country, they presented a highlighted performance, as is well known, in Rio de Janeiro – where they fought vigorously and consistently against the development of the proposals coming from the developing center of power – and in the province of Pernambuco, where, after losing hegemonic political stance achieved during the independence process, they excelled in the beginning of the First Reign in opposition to Rio de Janeiro, being established between June and September 1824 as a revolutionary power in the Confederation of the Equator.

Considering the background of the transition from a colonial condition within the Former Regime context to the creation of a Liberal State, the proposal of such sectors were viewed favorably by a critic historiography with respect to the more traditional analysis, with a unilateral emphasis to the winning projects as the only viable for the creation of the State in Brazil. With respect to Pernambuco, Varnhagen, for example, although being sorry for the shootings resulting from the Confederation of the Equator, considered its smashing as a "civilizing mission". Criticizing similar stances, Barbosa Lima Sobrinho<sup>2</sup> believed that there was a "bad will" on the part of the traditional historiography with the projects and actions developed in Pernambuco.

From the point of view of the historiography as opposed to the vision of the Court, the Confederation of the Equator and the liberal projects engaged in it would have broadly matched to a liberal consistency, in contrast to what was happening in Rio de Janeiro, where the proposals finally implemented were analyzed as resulting from

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<sup>1</sup> VARNHAGEN, Francisco Adolfo de (Visconde de Porto Seguro). *História da Independência do Brasil*. 3<sup>a</sup>. ed.: São Paulo: Melhoramentos, 1957. p.314.

<sup>2</sup> LIMA SOBRINHO, Alexandre José Barbosa. *Pernambuco da Independência à Confederação do Equador*. Recife: Conselho Estadual de Cultura/Secretaria de Educação e Cultura, 1979. p.20.

absolutist concepts or, at most, in line with the formation of a very authoritative state, not only because of its practice, but also because of its structural concepts. In this respect, the "radical liberals" were widely considered as having a federative ideal, and the Revolution of 1824 had been seen, by an author who showed the political groups from Pernambuco "as a late radicalization of a moderate federalist proposal"<sup>3</sup>. In turn, Lucia and Guilherme Pereira Neves, in a newer work, considered the stances of what they considered as "democratic dimension" of the constitutional formulations as being closer to the classical liberalism, involving radical liberals from Rio de Janeiro and Pernambuco<sup>4</sup>.

However, this polarization between liberalism, on the one hand, and absolutism/authoritarian state on the other, goes through important reviews in the attempt of deeply understanding the political dynamics of the creation of a State in Brazil, in its conceptual basis<sup>5</sup>. The previous formulations are questioned with the intention to notice the compatibility between the classical liberalism and the State implemented during the 1<sup>st</sup> Reign. Despite the constitutional granting, the addition of the Reserve Power and slavery, we may see that, a political dimension arose in the Brazilian Imperial State, within the range of possibilities opened by the liberal formulations underway in France, England and in the Ibero-American Atlantic<sup>6</sup>.

Emphatically, Cyril Lynch reaffirmed the considerations made by José Murilo de Carvalho: "In comparison with similar ones, the Constitution from March 25th, 1824 was probably the most liberal monarchical-constitutional charter of its time"<sup>7</sup>. It is worth reminding that a similar assessment was made by João Armitage when analyzing the Constitution issued in 1824: "In general, the Constitution is as satisfying as the one

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<sup>3</sup> CARVALHO, Marcus J. M. de. Cavalcantis e cavalgados: a formação das alianças políticas em Pernambuco, 1817-1824. *Revista Brasileira de História*, v. 18, n. 36. São Paulo, 1998. p.332.

<sup>4</sup> NEVES, Lúcia M. Bastos Pereira das; NEVES, Guilherme Pereira das. Constituição. In: FERES JÚNIOR, João (org.). *Léxico da história dos conceitos políticos do Brasil*. Belo Horizonte: UFMG, 2009, p.73-4.

<sup>5</sup> In this regard, see: MARSON, Izabel Andrade; OLIVEIRA, Cecília H.L. de S. (orgs.) Introdução. In: *Monarquia, liberalismo e negócios no Brasil: 1780-1860*. São Paulo: EDUSP, 2013. p.9-33.

<sup>6</sup> In this regard, see: LYNCH, Christian Edward Cyril. O discurso político monarquiano e a recepção do conceito de poder moderador no Brasil (1822-1824). *Dados. Revista de Ciências Sociais*. Rio de Janeiro, v. 48, n. 3, 2005. p. 611- 653; FERNÁNDEZ SEBASTIÁN, Javier. Liberalismos nacientes en el Atlántico Iberoamericano: "liberal" como concepto y como identidad política, 1750-1850. In: \_\_\_\_\_ (org.) *Diccionario político y social del mundo ibero-americano: la era de las revoluciones, 1750-1850*. Madrid: Fundación Carolina Sociedad Estatal de Conmemoraciones Culturales; Centro de Estudios Políticos y Constitucionales, 2009. p.695-731.

<sup>7</sup> LYNCH, Christian Edward Cyril. Op. Cit., p.638.

created by the last Assembly: and, in accordance with the promise of the Emperor, many of its provisions are even more liberal"<sup>8</sup>.

Concerning those historiographical perspectives, we may also question the evaluation of the conceptions adopted by the "radical liberals", or – in the words of Marco Morel, "exalted"<sup>9</sup> – in relation to the political spectrum found in Brazil during the Independence. It is important to stress that, both for Pernambuco and for Brazil as a whole, the broader context where were discussed different projects coming to light during that period was linked to constitutionalism, therefore, it was not about the contrast between liberal and absolutist stances. Conceptions of state with an effectively absolutist content were the minority, and are not an important reference when considering the broader context of the concepts presented. As explained by Denis Bernardes: "to paraphrase José Bonifácio, we may state that, except for the *pés de chumbo*, everyone wanted Brazil to be represented as a free nation, but each political dimension assumed it was established in a different manner"<sup>10</sup>.

For the author mentioned above, it was established an "indissociability between the Independence process and the constitutional debate"<sup>11</sup>. According to his point of view, not even the dissolution of the Constituent Assembly and the granting of the 1824 Charter could reverse "the overwhelming wave of constitutionalism" of that period, and there was no attitude that could be classified as Former Regime<sup>12</sup>.

Taking the political action in provincial dimension, in Pernambuco, after the Porto Revolution, happened a vigorous combat against the Governor Luís do Rego, a Portuguese General representing the absolutist reformism, taking over the presidency of the Province after the Pernambuco Revolt in 1817, who has been kept in power, formed and chaired the Governing Board, created as a result of new liberal dictates coming from Lisbon since the Porto Revolution. As opposed to the continuity of the governor, a dissident Board was established in the city of Goiania in August 1821, and after armed battles and negotiations, in October 1821, Luís do Rego was removed from the post, with the

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<sup>8</sup> ARMITAGE, João. *História do Brasil: desde o período da chegada da família de Bragança, em 1808, até a abdicação de D. Pedro I, em 1831*, compilada à vista dos documentos públicos e outras fontes originais formando uma continuação da História do Brasil de Southey. Belo Horizonte: Ed. Itatiaia/ São Paulo: Ed. da Universidade de São Paulo, 1981. p.88.

<sup>9</sup> Expression used in *Cipriano Barata na Sentinela da Liberdade*. Salvador: Academia de Letras da Bahia; Assembleia Legislativa do Estado da Bahia, 2001.

<sup>10</sup> BERNARDES, Denis Antônio de Mendonça. A idéia do pacto e o constitucionalismo em Frei Caneca. *Estudos Avançados*, 11, 29, 1997. p.156.

<sup>11</sup> Loc.cit.

<sup>12</sup> Loc.cit.

validation, at the Olinda Cathedral, and the establishment, in Recife, of an elected Board representing the local forces.

The performance of this Board, chaired by the marketer Gervásio Pires Ferreira, lasting up to September 1822, was subject to conflicting interpretations about its relationship with Rio de Janeiro, with respect to its centripetal and centrifugal positions. According to Varnhagen, the President developed a widely nativist attitude, opposing to the orientations coming from Rio Janeiro. Although he formally acceded to the "I shall stay day", he boasted of keeping "the province segregated" from the governance of D. Pedro, so the election of two prosecutors to represent Pernambuco during the Prosecutors Council did not happen<sup>13</sup>. With the analysis in the opposite direction, with a very positive evaluation of the Board performance, according to Pereira da Costa, the deposition of Gervásio Pires - in September 16th, 1822, by a military sedition - occurred due to suggestions of the Ministry of Rio de Janeiro, when improperly intervening in the local government, consolidating its authoritative/absolutist face<sup>14</sup>.

In turn, Barbosa Lima Sobrinho extensively considered the attitudes of Gervásio Pires consistent with a sense of unity, but diverging from the arbitrary measures of the government of Rio de Janeiro<sup>15</sup>. Similarly, according to the evaluation of Denis Bernardes and Cabral de Mello, there would have been no vacillation, but, instead, consistency in the Board behavior<sup>16</sup>. To some extent, his attitudes had only been demonstrated later due to internal democratic and decisive procedures; according to Bernardes, within the context of that period in Brazil, the Board "was the one which best represented the great administrative innovation brought by the Luso-Brazilian constitutionalism: the emergence of a local political and administrative power..."<sup>17</sup>.

The autonomy issue was strongly emphasized by both authors. According to Cabral, there was the "main objective to assure the autonomy of Pernambuco regarding Lisbon

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<sup>13</sup> VARNHAGEN, Francisco Adolfo de. Op. Cit., p.296-300. The establishment of this Council soon after the "I shall stay day", with decree in February 16th, 1822, was a legal-institutional measure representing the first step for a political centralization towards the formation of an independent and uniform Brazil, but this raised the fear of a potential favoring of "despotic" attitudes of D. Pedro, mainly in the Northeast, and also the fear of the authoritarianism of the ministry led by José Bonifácio.

<sup>14</sup> COSTA, F.A.Pereira da. *Anais Pernambucanos*. V. VIII, 1818-1823. Recife: Arquivo Público Estadual, 1962. p.134-137.

<sup>15</sup> LIMA SOBRINHO, Alexandre José Barbosa. Op. Cit., p.20-86.

<sup>16</sup> BERNARDES, Denis Antônio de Mendonça. *O patriotismo constitucional: Pernambuco, 1820-1822*. São Paulo: Hucitec; Fapesp, 2006; MELLO, Evaldo Cabral de. *A outra independência: o federalismo pernambucano de 1817 a 1824*. São Paulo: Ed. 34, 2004. p.65-112.

<sup>17</sup> BERNARDES, Denis Antônio de Mendonça. *O patriotismo constitucional...Op. Cit.*, p. 421.

and Rio de Janeiro" (emphasis added by the author)<sup>18</sup>. Therefore, the establishment of the Prosecutors Council would have aroused fear of potential favoring of "despotic" attitudes of D. Pedro, and also of the authoritarianism of the ministry led by José Bonifácio. The sense of autonomy was also highlighted by Marcus Carvalho, who stressed, however, the oscillation of the leader between the political centers in dispute<sup>19</sup>.

Nonetheless, regardless the occurrence of relatively centripetal or centrifugal stances, since the establishment of the Board chaired by Gervásio Pires, the liberal spectrum was clarified in Pernambuco, and thenceforth an intense press activity was developed and persisted after the deposition of this Board, in September, 1822, when a more favorable administration took place in Rio de Janeiro<sup>20</sup>. On one side, with the vast majority of the local press, important newspapers appeared in the Province, with a vivid opposition to the manner in which the political center was being established in Rio de Janeiro, such as *Segarrega*, *O Marimbondo* and *A Gazeta Pernambucana*, *Sentinella da Liberdade na Guarita de Pernambuco* and *Escudo da Liberdade do Brazil*, led by former revolutionaries from the Revolution of 1817 and/or representatives of the Courts constituted by the Port Revolution in 1820<sup>21</sup>.

On the other side, in July 1822, was founded in Recife, *O Conciliador Nacional*, edited by the Friar Miguel do Sacramento Lopes Gama, professor of Rhetoric of the Olinda

<sup>18</sup> MELLO, Evaldo Cabral de. *A outra independência...*Op. Cit., p.80.

<sup>19</sup> CARVALHO, Marcus J. M. de. Op. Cit., p.331-365.

<sup>20</sup> MELLO, Evaldo Cabral de (org.). *Frei Joaquim do Amor Divino Caneca*. São Paulo: Editora 34, 2001. p.28ss.

<sup>21</sup> In December, 1821, the *Segarrega* newspaper was released, edited by Filipe Mena Calado da Fonseca, a Portuguese taking part in the Revolt of Pernambuco and the Goiânia Board, that was, according to Cabral de Mello, a "gervasist organ" (*A outra independência...*,p.77). In turn, in 1822 appeared: in July, *O Marimbondo* – founded by the priest José Marinho Falcão Padilha, royal teacher of rhetoric and poetry of the Pernambucano Lyceum – and, in September, *A Gazeta Pernambucana*, founded by the priest Venâncio Henriques de Rezende – separatist republican who was a part of the General Constituent Assembly and, subsequently, the Confederation of the Equator, considered as Gervásio Pires "right arm man". When he went to Rio de Janeiro to take over the role of constituent, the gazette started to be headed by Cipriano Barata who, in turn, in April 1823, just before the initial meeting of the Constituent Assembly, founded his first newspaper, *Sentinella da Liberdade na Guarita de Pernambuco*. Later in July, 1823, the journal *Escudo da Liberdade do Brazil* was released, initially prepared by the priest Francisco Agostinho Gomes, who had been a representative of the Lisbon Court, being part of the group refusing to take the oath to the Constitution proclaimed in this forum. After that it was led by the Captain João Mendes Viana. In addition, during Christmas in 1823, the first issue of *Typhis Pernambucan* was released, prepared by the Friar Joaquim do Amor Divino Caneca, in collision course with the central government, which revoked the Constituent Assembly. In turn, in coordination with people in Recife, in Bahia they edited *O Liberal*, a journal which headquarters moved to Recife in the beginning of 1824. Its editor, Father João Batista da Fonseca, also restored in this moment the publication of *Sentinella da Liberdade*, which was suspended by the repression over Cipriano Barata towards the end of 1823. A noble man between radical liberals, born in this city, received orders in Bahia and studied in Coimbra, took part of the movements in 1817 and 1824. (LEME, Marisa Saenz. Soberania, centralização, federação e confederação no discurso jornalístico da Independência: a visão de "O Conciliador Nacional". *Revista do Instituto Histórico e Geográfico Brasileiro*, a. 169, n. 440, jul./set. 2008. p. 29-62.)

Seminar. Considered as "one of the most rational characters of that time"<sup>22</sup>, he adopted an unitary line, developing it in a programmatic and doctrinal manner<sup>23</sup>, which led the journal to be widely fought by the others. Lopes da Gama was well-respected by his opponents and, as expressed in one of them<sup>24</sup>, all the political segments fighting in Pernambuco "were liberal".

The way they fought in this province, among other topics, the conception of order and hierarchy, sovereignty and military matters is very indicative of the split in the liberal sphere, regarding, besides the most circumstantial and immediate disputes, the organization of the independent state in Brazil. In these terms, we must try to forecast the conceptual opinions presented at that moment, besides the natural exacerbation of the language used in the heat of the political disputes.

To that end, this text evaluates the conceptions of Frei Caneca in relation to the sovereignty of the evolving state in the independent Brazil. Born in Recife on August 20th, 1779, with the name Joaquim da Silva Rabelo, entitled Frei Joaquim do Amor Divino when ordered as Carmelite (1801) – to which he added the alias Caneca – took part in the final moments of the Revolt of Pernambuco in 1817. After being arrested in Bahia, amnestied in 1821, he went back to Recife and afterwards he became one of the leaders of the Confederation of the Equator, a movement that, as is well known, happened on July 2nd, 1824, gathering, from Pernambuco, a considerable part of the provinces of the current Northeast against the Empire, adopting a republican government. In the intellectual field, he began his trajectory with literary and grammatical writings, and after that he became an important politic publicist.

Considering his main works, the first one with clear political intentions was *Dissertação sobre o que se deve entender por pátria do cidadão, e deveres deste para com a mesma pátria*, created in the first days of 1822, in a moment that, as opposed to the absolutists, portions of the Brazilian and Portuguese elites joined together with constitutionalist ideals. Subsequently, when explaining the political division between the independence supporters, with the end of the Board chaired by Gervásio Pires, in

<sup>22</sup> SODRÉ, Nelson Werneck. *História da Imprensa no Brasil*. Rio de Janeiro: Civilização Brasileira, 1966. p. 84.

<sup>23</sup> With a favorable orientation to Rio de Janeiro, during the period in question only one journal was registered in Pernambuco, *Relator Verdadeiro*, with ten issues published between December 13th, 1821 and May 25th, 1822, ending shortly before the creation of *O Conciliador Nacional*. NASCIMENTO, Luiz do. *História da Imprensa em Pernambuco (1821-1954)*. V. IV, Periódicos do Recife – 1821-1850. Recife: Universidade Federal de Pernambuco, 1969, p.28.

<sup>24</sup> *O Liberal*, n.3, 17-10-1823. It was a journal presenting "radical" conceptions about the decentralization of the state ( LEME, Marisa Saenz. Op. Cit., p.38).

September 1822, Frei Caneca clearly showed his side, representing the "gervasists"/autonomist instances, against the "unitary". From March 1823, he started the series of ten *Letters from Pítia to Damião* – indicating the friendly relationship between two Pythagorean philosophers from Saracusa – where, mixed with the evaluation of the political confrontation in Pernambuco, the criticism to the court politics stood out, focused on attacking the ministry of D. Pedro I.

With the news in Pernambuco of the Constituent Assembly dissolution, Frei Caneca started to edit the journal *Typhis Pernambucano*, up to August 1824. With a total of 29 issues, the journal gradually laid the theoretical and programmatic foundations for the outbreak of the Confederation of the Equator. It is worth highlighting, however, that the standing for the autonomist stances by Frei Caneca did not imply an attack to D. Pedro I, even after the dissolution of the Assembly, attributed to "scams of the Portuguese ministry", which was "absolutist" and had "humps". The dissolution with the Emperor was embodied days before the Pernambuco break in relation to the Empire and the beginning of the revolutionary movement, with the dissenting vote to the oath of the granted Constitution, pronounced on June 6th, 1824 in front of the Board of Recife<sup>25</sup>.

Aiming to seize the opinions of Frei Caneca about the nature of the state being established, in its federative and/or confederative elements, this article initially expresses the conceptions about basic liberal opinions – in relation to the people, citizenship, ownership – to evaluate, next, issues regarding the autonomy of the provinces in view of the central power being formed in Rio de Janeiro and the formulations about military and tax controls<sup>26</sup>. Those opinions were compared to the elaborations presented about the same topics in the *Federalist Papers*<sup>27</sup>.

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<sup>25</sup> Although he did not held official positions in the Boards he supported, Frei Caneca, as a "member of the literary group" in Recife, he won important votes during speeches in front of the City Chamber Senate and the Province Grand Council formed with the outbreak of the Confederation of the Equator, "indicating action guidelines for the tense moments of political confrontation between the end of 1823 and the first half of 1824". LEME, Marisa Saenz. Frei Caneca (1779-1825). Obras Políticas e Literárias. In: PRADO, Maria Emilia (org.). *Obras políticas do Brasil Imperial*. Rio de Janeiro: Editora Revan, 2012. p.113.

<sup>26</sup> The research about the writings of Frei Caneca was made basically with *As Obras Políticas e Litterarias de Frei Joaquim do Amor Divino Caneca*, published in Recife, between 1875 and 1876, by Typographia Mercantil, being collected and organized by the Commendator Antonio Joaquim de Mello (1794-1873) who, in his youth, lived with Frei Caneca. In a complementary way, the texts organized by Evaldo Cabral de Mello in *Frei Joaquim do Amor Divino Caneca* were used. From the first collection, we can mention: the lecture "na solemnidade da aclamação de D. Pedro d'Alcântara em primeiro imperador do Brazil mandada celebrar pelo Senado da cidade do Recife a 8 de dezembro de 1823, na Matriz do Corpo Santo, com assitencia da Junta Provisória, Relação, Clero, Nobrez e Povo", p.235-250; "O Caçador atirando à Arara Pernambucana em que se transformou o rei dos ratos José Fernandes Gama", p.263-287; from the Letters from Pítia to Damião (ten in total, started in March 17th, 1823) we can mention: I – "Analyse dos cinco primeiros números do



## People, pleb and citizenship in Frei Caneca formulations

Despite a broadly "democratic" image of Frei Caneca, because - unlike the other political movements from that time - he radically integrated the people in his actions and conceptions, it is paramount to highlight that he did not present the tendencies often related to him. We can notice that in his recurring references to "people", where he commended the individual owners, emphatically calling them "noble citizens", discarding the other strata of society as an "inconstant and unthinking populace"<sup>28</sup>.

Frei Caneca's speech regarding the "people" - clearly according to the classical liberal ideology, where citizenship was based on the ownership protection - was compatible with the references concerning the topics made by Lopes da Gama in his texts defending the centralism. According to this Benedictine, the existence of a well-defined social hierarchy would be crucial for the liberal institution, because, if the understanding of "sovereign people" would mean the possibility of a continuous reversion of the established order, we would witness the "anarchy", understood as "misunderstandings of the pleb"<sup>29</sup>. In turn, according to Glacyra Leite,

The Frei Caneca postulates concerned specially to the political level. With respect to the more drastic changes on the form of organization of the society, his formulations were not significantly different from the reality of that time. For him, the defense of the right to ownership overlapped the defense of the right to freedom. Therefore, the thinking of Frei Caneca involved a theory of understanding of reality that was often contradictory. He supported freedom for every man, but he overlapped this with the ownership right<sup>30</sup>.

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*Diário do Governo*, redigidos pelo Padre Quintella", p.291-300; II - "Sobre a pastoral do cabido de Olinda de 04 de março de 1823" p. 301- 310; III - "Sobre os projetos despóticos do Ministério do Rio de Janeiro", p.311-327; IV "Sobre o espirito anti-constitucional, revolucionario e anarchico do *Regulador Brasileiro*", p.329-351; VII - "Sobre a doutrina anti-constitucional e perigosa de *O Conciliador Nacional* n.34", p.363-374; from *O Typhis Pernambucano* (December 25th, 1823 to August 05th, 1824) we can mention the issues from February 19th, 1824 , p.470-474, and June 10th, 1824, p. 558-565. From the second collection, we can mention "Voto sobre o juramento do projeto de Constituição oferecido por D. Pedro I", presented on June 6th, 1823, p.557-566.

<sup>27</sup> Published simultaneously in four New York newspapers, under the alias *Publius*, between October 1787 and March 1788, the articles were collected in a book in the same year, and became a classical work for the theoretical understanding of the creation of the liberal state in its federative dimension. MADISON, James; HAMILTON, Alexander; JAY, John. *Os Artigos Federalistas 1787-1789*. Apresentação de Isaac Kramnick. Rio de Janeiro: Nova Fronteira, 1993.

<sup>28</sup> CANECA, Frei. *O Caçador atirando à Arara Pernambucana em que se transformou o rei dos ratos José Fernandes Gama*. In: MELLO, Antonio Joaquim de (org.). Recife: Typ.Mercantil, 1875-76. p.263-287.

<sup>29</sup> *O Conciliador Nacional*. Recife:Tip. Nacional, n.1, 04-07-1822. Arquivo Público do Estado de Pernambuco. Recife, Brasil, Seção de Obras Raras.

<sup>30</sup> LEITE, Glacyra Lazzari. *Pernambuco 1824: a Confederação do Equador*. Recife: Fundação Joaquim Nabuco/editora Massangana, 1989. p.120.

With a similar meaning, Marco Morel stated:

The structure of the Brazilian exalted liberals was not so different from the moderate liberals and some Caramurus... Even if we accept their conception about "popular", they would not necessarily be the "People", although they presented themselves as representatives of this "popular sovereignty"<sup>31</sup>.

During a lecture given to acclaim D. Pedro I – with the dissolution of the Constituent and Legislative Assembly of the Provinces of Brazil, although the announcement was not made in Pernambuco – Frei Caneca supported the "Constitutional Empire" as follows: "Between the monarchy and the democratic government, it unites the advantages of both forms, and sends away the disadvantages of both. Controls the despotism and holds the anger of the voluble and indiscreet people"<sup>32</sup>.

The understanding above is close to the manner that, in the *Federalist Papers*, the "representative republic" was supported against the ills of the "monarchy" – where the executive power was exaggerated in the hands of an "hereditary monarch" – and the dangers of "democracy", which was largely understood as the exacerbation of the legislative powers in the hands of the people:

In a democracy, where a large number of people personally perform legislative functions, being continually exposed – because of their inability to regularly deliberate and take measures by mutual agreement – to ambitious intrigues of the executive magistrates, with reasons to be afraid that, during a favorable emergency, the tyranny could arise from the same source<sup>33</sup>.

Moreover, in the seventh letter from Pitia to Damião, Frei Caneca presented his concept of democracy, highlighting that the opposition to the aristocratic government did not imply social equality. On the contrary, he stated:

In pure *democracies* there are classes, there are distinctions arising from industry and ownership; and *as those classes are natural* they may not be destroyed by any form of government, and men may not be leveled in such relations... In every *democracy*, whether ancient ones or modern ones, although every citizen is equal before the law, irrespectively of lineage, talents, virtues, merits; nonetheless *the authorities and even the people always valued the wise men rather than the ignorant; the owner, who enriches the State, rather than the idle, who consumes the fruit of the work of others...* (my emphasis)<sup>34</sup>.

<sup>31</sup> MOREL, Marco. *Cipriano Barata na Sentinela...* Op. Cit., p.240.

<sup>32</sup> "Na solemnidade da aclamação de D. Pedro d'Alcantara em primeiro imperador do Brazil mandada celebrar pelo Senado da cidade do Recife a 8 de dezembro de 1823". In: MELLO, 1875-6, Op. Cit., p.247.

<sup>33</sup> MADISON, James; HAMILTON, Alexander; JAY, John. Op. Cit., p.339.

<sup>34</sup> "Sobre a doutrina anti-constitucional e perigosa do Conciliador Nacional" n. 34". In: MELLO, 1875-76. Op. Cit., p.368.

With the upcoming of the outbreak of the Confederation of the Equator, he insisted in the "natural" difference between the social classes and individuals, classifying them basically in three categories: good and bad citizens and, above them, the ones in condition to rule:

Nature did not give the same talents to all, not even in the same level; and also, the nature did not share equally the same conveniences and means so that they could develop their talents and profit from it. For that reason, not all have the same rights to the same things. Every citizen needs to acquire Christian, moral and civil virtues and the ones without it are bad citizens. But also, when having those virtues, you do not have the right to aspire to the jobs requiring more talent, more sublime virtues... It is not because a citizen is a good family man, faithful husband, loyal friend and saves his assets, that he is able to rule the country... This commitment requires improved skills, that do not belong to everyone<sup>35</sup>.

We may also note that it is recurring, in several passages of *Artigos Federalistas*, derogatory terms in relation to the effectively popular mass.

As we can historically see, if compared to "centralist", or "unitary", in the words of Evaldo Cabral de Mello, the political movements led by "radical liberals" or "exalted liberals" tended to effectively incorporate a wider spectrum of the socioeconomic segments – mostly of poorer or impoverished proprietary segments – without, however, integrating consistently the mass of dispossessed people, or condemning slavery<sup>36</sup>. We may also note that, during the formation of the United States of America, as opposed to the "federalists", the support to the Articles of Confederation also mobilized a poorer population, mainly composed of smallholders<sup>37</sup>. Nonetheless, such differences did not imply differing conceptual understandings in relation to the word "people", which was not effectively represented by the popular mass, distinct of the "pleb"<sup>38</sup>.

<sup>35</sup> *O Typhis Pernambucano*, 19 de fevereiro de 1824. In: MELLO, 1875-6. Op. Cit., p. 470.

<sup>36</sup> For this issue in contexts which are similar to the one mentioned in this article, see: OLIVEIRA, Cecília Helena de Salles. *A astúcia liberal: relações de mercado e projetos políticos no Rio de Janeiro (1820-1824)*. Bragança Paulista: EDUSF/ ÍCONE, 1999; MOREL, Marco. *Cipriano Barata na Sentinela ...Op. Cit.* MARSON, Isabel. *O Império do Progresso: a revolução praieira em Pernambuco (1842-1855)*. São Paulo: Brasiliense, 1987; CARVALHO, Marcus J. M. Os nomes da *Revolução: lideranças populares na Insurreição Praieira*, Recife, 1848-1849. *Revista Brasileira de História*. São Paulo: ANPUH/Humanitas, v. 23, n. 45, 2003, p. 209-238. In turn, an interesting view about how the liberals would rate the "people" can be found at: PEREIRA, Luisa Rauter. *Povo/ povos*. In: FERES JÚNIOR (org.). *Léxico...Op. Cit.*, p.203-224.

<sup>37</sup> ROBERTSON, Andrew W. "Look on This Picture...And on This!" Nationalism, Localism, and Partisan Image of Otherness in the United States, 1787-1820. *The American Historical Review*, v. 106, n. 4 (oct. 2001), p. 1262-1280.

<sup>38</sup> PEREIRA, Luisa Rauter: *Povo/Povos*, Op. Cit..

### Provincial Sovereignty and Legislative Powers during the 1823 Constituent Assembly

According to the above, we can see that Frei Caneca's opinions regarding people, pleb and citizenship happened in a conceptual field which was common to different liberal speeches. In the examples mentioned, both concerning the "unitary" Lopes da Gama and what was presented in *Artigos Federalistas*. However, Frei Caneca considered the "cause of Brazil" to be very different, deemed as "constitutional", of the "Rio de Janeiro system"<sup>39</sup>, qualified as "absolutist", criticizing in the same standard, the ones called "planners", that is, the ones who defended the project elaborated by the Commission of Constitution in the Constituent Assembly.

It should also be noted that the works of the Constituent and Legislative Assembly of the Provinces of Brazil - with election called on June 3rd, 1822, and gathered on May 3rd, 1823 - were organized in the form of commissions, chosen among the deputies, for the elaboration of proposals to be voted on in plenary<sup>40</sup>. By the very nature of the main object of the Assembly, the Commission of Constitution had an essential role; in turn, the Constituent Assembly was formed by the adhesion of the provinces and, when the representatives of those provinces met, they created the pact which resulted in the Brazilian National State, with the resulting Constitution as founding text, based on the conceptions of a "civic" nation<sup>41</sup>. Therefore, it was about founding a nation from a pact between the ones who would compose it<sup>42</sup>, even if it was only imagined<sup>43</sup>.

Although, according to Frei Caneca, the portion of the province representatives who supported the project elaborated by the Commission of Constitution - coming mainly from Minas Gerais and São Paulo - was in articulation with the Executive and was, therefore, also considered as "absolutist".

The Friar stated that "each and every citizen may advocate the cause for Brazil"<sup>44</sup>, it is important to evaluate what was the difference, in its key points, among the defenders of the "cause of Brazil" and the "planners", as well as trying to know who/which

<sup>39</sup> Second Letter from Pítia to Damião, "Sobre a pastoral do cabido de Olinda de 04 de março de 1823". In: MELLO, 1875-76. Op. Cit., p.301- 310.

<sup>40</sup> RODRIGUES, José Honório. *A assembleia constituinte de 1823*. Petrópolis: Vozes, 1974.

<sup>41</sup> CATROGA, Fernando. Pátria, Nação. In: NAXARA, Márcia; CAMILOTTI, Virginia (orgs.) *Conceitos e linguagens, construções identitárias*. São Paulo: Intermeios, 2013.

<sup>42</sup> HOBBSAWM, Eric. *Nações e nacionalismos desde 1780: programa, mito, realidade*. Rio de Janeiro: Paz e Terra, 1990.

<sup>43</sup> ANDERSON, Benedict. *Comunidades imaginadas: reflexões sobre a origem e a difusão do nacionalismo*. São Paulo: Companhia das Letras, 2008.

<sup>44</sup> Third Letter from Pítia to Damião, "Sobre os projetos despoticos do Ministerio do Rio de Janeiro". In MELLO, 1875-6. Op.Cit., p.311-327.

population segments were included in "each and every", once he has shown his contempt for the "populace", and considered that not necessarily all "virtuous" citizens were able to rule.

During the conceptual analysis involved in this discussion, the way of thinking the provincial autonomy has a crucial role. Acutely stressed by different authors who, in historically seminal works analyzed the thinking of Frei Caneca, the provincial autonomy defended by him was considered as consistent with the federative proposals. Such evaluation was linked to the reaction of the Carmelite against the authoritarianism and the arbitrariness of the Court – mainly illustrated in the persecution to the opponents and repression to the press activities – stressing, conceptually, the defense of the legislative power before the executive, against the power of veto of the Emperor and against the existence of two Chambers. For Denis Bernardes, the vision of Frei Caneca about provincial autonomy closed one of the fundamental links of his political thinking<sup>45</sup>. Similarly, Amador Gil considered that Frei Caneca defended, as Cipriano Barata, a "project of constitution of a liberal and representative state... where the government would take the federative form"<sup>46</sup>. In turn, according to Glacyra Leite, in 1824, there was the desire of "a non-absolutist Empire, which [...] would be responsible for the economic development and for the greatness of the Brazilian nation"<sup>47</sup>.

In the introduction to the work he organized with the writings of the Carmelite, Evaldo Cabral de Mello indicated the emphasis given by him to the provinces, in a state conception with a "confederative" nature. Nonetheless, the imminent historian did not intend to deepen political-conceptual understanding of the assertive.<sup>48</sup> He was aligned to the perspective mentioned before, of the liberal consistency of the "radicals", with a federative constitutional project for Brazil, according to the analysis made in a subsequent work.<sup>49</sup>

However, it may be observed that distinguishing "federation" and "confederation" was the fruit of a lengthy socio political and cultural process, which went on until mid-

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<sup>45</sup> BERNARDES, Denis Antônio de Mendonça. O papel de Frei Caneca na Independência do Brasil. In: ANDRADE, Manuel; FERNANDES, Eliane Moury; CAVALCANTI, Sandra (orgs.). *A formação histórica da nacionalidade: Brasil: 1701-1824*. Recife: Fundação Joaquim Nabuco/Editora Massangana, 2000. p.214-15.

<sup>46</sup> GIL, Antonio Carlos Amador. *Projetos de Estado no alvorecer do Império. Sentinela da Liberdade e Typhis Pernambucano: a formulação de um projeto de construção do Estado*. Vitória: IHGES, 2002. p.157.

<sup>47</sup> LEITE, Glacyra Lazzari. Op. Cit., p.116.

<sup>48</sup> MELLO, Evaldo Cabral de (org.). *Frei Joaquim do Amor Divino Caneca*. Op. Cit., p. 11-46.

<sup>49</sup> MELLO, Evaldo Cabral de. *A outra independência...* Op. Cit.

19th century, not only in Brazil, but also throughout America, in the republics originating from the disaggregation of the Hispanic Americas and in the United States. With regard to the first ones, according to Curiel.

la irrupción en el escenario político del concepto federación está marcada por el uso, intercambiable y simultáneo, del sintagma confederación como equivalente de federación y viceversa. Va a ser en el transcurso del debate político y a través de la construcción de las experiencias políticas del periodo cuando aparecen los rasgos incipientes de distinción semántica entre uno y otro<sup>50</sup>.

In turn, in the United States, where the concept of federalism was elaborated for the first time, the term "confederation" was used to designate the new system.<sup>51</sup> Likewise, in Brazil, during the First Reign and the Independence, it was clear that the discursive resources to the term "federation" covered up disparate understandings in relation to the formation of the state:

In the Brazilian political debate, the perception that federation and confederation were terms referred to different political contents was slowly established over the 19th century, from the understanding about the innovation of the North-American political arrangement, deployed with the Philadelphia Convention in 1789. Previously, both concepts were used as synonyms. From 1834, the differences between them clearly emerge.<sup>52</sup>

The contemporary concept of federalism emerged as "the division of governing power between the national and states governments", and that naturally left room for ambiguous interpretations about the specification of such powers, given that "conflicts over federalism have been a recurrent feature of U.S. history".<sup>53</sup> Nonetheless, theoretically and gradually, in a pragmatic manner, that country considered the supremacy of the "Union", to ensure its sovereignty over the states, although they benefited from a series of their own powers. This is what was originally configured in the formulations of *Artigos Federalistas*, a work considered as "the most important American contribution to political theory".<sup>54</sup>

<sup>50</sup> CURIEL, Carole Leal. De los muchos, uno: el federalismo en el espacio iberoamericano. In: FERNÁNDEZ SEBASTIÁN, Javier (org.). *Diccionario político y social del mundo ibero-americano*, Op. Cit..

<sup>51</sup> COSER, Ivo. O conceito de Federalismo e a ideia de interesse no Brasil do Século XIX. *Dados*, v. 51, 2008, p. 944.

<sup>52</sup> Idem. Federal/Federalismo. In: FERES JÚNIOR, João (org.). *Léxico da história dos conceitos políticos do Brasil*, Op. Cit., p. 92.

<sup>53</sup> TUSHNET, Mark. Federalism. In: BOYER, Paul S. (ed. in chief). *The Oxford Companion to United States History*. New York: Oxford University Press, 2001, p.258.

<sup>54</sup> Loc. Cit.

In order to think over the concepts of state disseminated in Brazil during the Independence and the First Reign, underlying the term "federalist", apart from the immediate political confrontation, it is paramount to assess the consequences of the provincial autonomy, an essential theme with regard to the federative and/or confederative conceptions in the historicity of the formation of the liberal state. In the case of Brazil, according to Ivo Coser, "to analyze the historical course of the concepts allows us to rethink the role of liberalism in the imperial thinking."<sup>55</sup>

In this debate, it is important to observe the level in which such autonomy was considered, if in an absolute mode or if mediated by a central sovereign power. This article advocates that the manner in which Frei Caneca raised the issue indicated conceptions of confederative character, where the state is considered as an egalitarian "union" of the parties - states, provinces - forming it, without the need of a sovereign center to which they are bound.<sup>56</sup> Although this was made clear in the texts written after the dissolution of the Constituent Assembly, it was presented before.

Considering the provinces to be "independent of one another", he substantially observed, in *O Typhis Pernambucano*, almost on the verge of the outbreak of the 1824 movement, the situation of the provinces in the moment of the Independence of Brazil:

Brazil only because of its separation from Portugal and proclamation of independence, was *independent*, not only on the whole, but in each of its parts and provinces; which are independent of one another... Brazil is *sovereign*, not only on the whole, but in each of its parts and provinces... A province did not have the right to force another province to do anything, no matter how small or weak it is, they should obey one another, no matter how big and potent. Therefore, each one could [...] follow the form of government considered more suitable to their circumstances...<sup>57</sup>

Due to the stances above, the Friar believed that, in the moment of the independence, the provinces could have different system of governance:

When those individuals from the *Ipiranga site*, with their exalted enthusiasm, acclaimed S.M.I., and were copied by the ardent people from Rio de Janeiro, Bahia could be constituted as a *republic*; Alagoas, Pernambuco, Paraíba, Rio Grande, Ceará and Piauí *federations* Sergipe; Maranhão and Pará *constitutional monarchies*; Rio Grande do Sul *despotic state*<sup>58</sup>.

<sup>55</sup> COSER, Ivo. O debate entre centralizadores e federalistas no século XIX: a trama dos conceitos. *Revista Brasileira de Ciências Sociais*, n. 76 (Impresso), 2011, p. 192.

<sup>56</sup> LEVI, Lucio. Confederação. In: BOBBIO, Norberto; MATTEUCCI, Nicola; PASQUINO, Gianfranco (orgs.) *Dicionário de política*, v. 1. Brasília: Editora da Universidade de Brasília, 1991. p. 218 ss.

<sup>57</sup> *O Typhis Pernambucano*. Recife: Tip. de Miranda & Cia, n. 21, 10 de junho de 1824. In MELLO, 1875-6. Op. Cit., p.559.

<sup>58</sup> Loc. cit.

This variation was resulting of what he considered as the formal political situation in Brazil: "We are *independent*, but not *established*. We did not form an imperial society, except for the name". In this condition "even a joint decision, made by the majority of the provinces, could not compel a minority". Frei Caneca made clear his conception of country/state in formation as a "society" to which you may or not adhere to individually, such as with a recreational club or business association:

In a society being established, the majority may not compel the minority: "...when men, being invited to form a society, are in debate... even if the majority agree about something, the remainder, who... do not fit may withdraw, and are not compelled to accept the opinion of the majority, because they are not members of that society."<sup>59</sup>

We may consider that the formulations above would have resulted from the reaction to the dissolution of the Constituent Assembly. However, with the works of this Assembly in progress, about two months after its opening, the Carmelite considered that the dissenting provinces could declare their separation, "...and the Constitution is not as it should be, which, unfortunately, already exists..."<sup>60</sup>.

In this dimension, he exposed the possibility of a split before the dissolution of the Assembly: the people from Pernambuco wanted to "be happy in a constitutional empire" instead of choosing the republic, but, when this alignment was not confirmed, "it will happen between Pernambuco and the south the same thing that S.M.I.C. told his father in a Letter dated September 22nd, last year, that would happen between Brazil and Portugal, that is, Pernambuco will be enslaved, but not their people"<sup>61</sup>.

According to this, irrespectively of the act of force occurred in that November, the continuance of Pernambuco in that developing Brazil would depend on the type of State to be institutionalized, grounded by a conception of independence, in the light of a developing "society".

Naturally, those stances were sharpened when D. Pedro I terminated the Constituent Assembly. With regard to his ongoing fight against the "planners" and, as a result, the possibilities of breaking suggested by Pernambuco, the Friar considered the Assembly creation the "the only bond attaching the provinces of the Empire". With the

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<sup>59</sup> Loc. cit.

<sup>60</sup> "O Caçador atirando à Arara Pernambucana em que se transformou o rei dos ratos José Fernandes Gama". In: MELLO, 1875-6. Op. Cit., p.267.

<sup>61</sup> Loc. cit.



dissolution of the Assembly, Frei Caneca believed that the conditions of Union have ended, and each province came back to its original independence.

As we know, the project of Constitution elaborated by a Council of State created and appointed for this purpose, comprising expressive elements of the wholesale trade in Rio de Janeiro should be vowed by the City Councils all over the country<sup>62</sup>. During an assembly of the Recife City Council convoked for this purpose - composed by new members, after the termination of the previous Council - Frei Caneca voted against this vow. In his criticisms to the project, the provinces issue was highlighted, and the Carmelite considered that "even for the minor decision, they depend entirely of the ministry and the Emperor"<sup>63</sup>.

It is important to highlight, however, that the regulations of the government of the provinces and their Councils of the Presidency were made by the Constituent and Legislative Assembly of the Provinces of Brazil, shortly before its dissolution, by the Law of 10-20-1823, giving a "new form to the government of the provinces, creating, for each one of them, a president and a council", which was elective and with quite important decision-making powers<sup>64</sup>. Therefore, notwithstanding the controversy among the constituents, who were partially opposed to the promulgation of such law<sup>65</sup>, the nomination of the president of the province by the central government was a measure taken by the forum which, in the words of the Carmelite, "should fill in the first condition of the union" of the Brazilian provinces<sup>66</sup>. But, resuming: before the dissolution of the Assembly, Frei Caneca was already opposed to it, attacking the deputies, who he called "planners", accusing their connection to the "ministry" and even threatening the disconnection of Pernambuco from this forum.

The way Frei Caneca exposed the provincial autonomy issue, still with the Constituent assembled, and his analysis about the legislation approved by it also refers to a discussion between the constituting powers of the liberal state. In the original creation of the federative liberal state in the United States of America, the interdependence among

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<sup>62</sup> SOUZA, Iara Lis Carvalho. *Pátria Coroada: o Brasil como Corpo Político Autônomo (1780-1831)*. São Paulo: Editora UNESP, 1998.

<sup>63</sup> *O Typhis Pernambucano*, n. cit. In: MELLO, 1875-6. Op. Cit., p.561.

<sup>64</sup> LEME, Marisa Saenz. São Paulo no I Império: poderes locais e governo central. In: OLIVEIRA, C. H.; PRADO, M. L. C.; JANOTTI, M.L. de Monaco (orgs.) *A história na política, a política na história*. São Paulo: Alameda, 2006. p.59-80.

<sup>65</sup> BERBEL, Márcia; FERREIRA, Paula Botafogo C. Soberanias em questão: apropriações portuguesas de um debate iniciado em Cádiz. In: BERBEL, Márcia; OLIVEIRA, Cecília Helena de Salles (orgs.). *A experiência constitucional de Cádiz: Espanha, Portugal e Brasil*. São Paulo: Alameda, 2012, p.169-200.

<sup>66</sup> *O Typhis Pernambucano*. In: MELLO, 1875-6. Op. Cit., p.560.

the powers was suggested, indicating the need of control among them, due to the danger posed by the absolutization of the power of one of them separately, including the legislative power, which "necessarily prevails in a republican government". This would be considered as an "inconvenience", and the "remedy" would be "split" this power into "different branches". At the same time, the "debility" of the executive power was considered and they were trying to find out ways to "strengthen" it, even considering the power of veto of the executive over the acts of the legislative.

As an answer to the objections made to the proposal of constitution by their "most reputable opponents", that it would violate the "precept" of the "independence and distinction" among the powers, Madison discussed this in several articles<sup>67</sup>, presenting the danger that, according to him, the absolutization of the independence would bring for the principle itself, because its effectiveness would lie in the balance among the parts. Considering the issue as impossible to be solved because of "external" factors, as the popular pressure – whose greater proximity to the members of the legislative would distort such power in relation to the others – the publicist concluded:

So to whom we should finally appeal, in practice, to keep the necessary division of powers among the several branches of the government, as established in the Constitution? The only answer is that, once all those external measures appear to be inappropriate, the situation shall be resolved by creating the internal structure of the government in a way that the several constituent parts may be, by their mutual relations, instruments to keep them into the proper place<sup>68</sup>.

About the provincial autonomy, Frei Caneca indicates that, besides the defense of a great preponderance of the legislative over the executive, the condemnation of the possible existence of a Congress with sovereign powers in relation to the provinces. Such conceptions were very disparate from the proposal of the ones who, for the first time, theorize about the organization of a Federal Republic, covering a large area of the territory. Although his allegations, within the dimensions presented, may be interpreted as a result of the political confrontation of that moment – and not as conceptual foundations – the confederative form he thought about the provincial autonomy becomes explicit when evaluating his stances about the fiscal and military controls between the provinces and the central government.

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<sup>67</sup> MADISON, James; HAMILTON, Alexander; JAY, John. Op.cit., chaps. XLVII-LI, p.331-353.

<sup>68</sup> Ibidem, p.349.

## Provincial Sovereignty and Tax and Violence Monopolies

Basically interacting with the provincial autonomy, the essential formulations of Frei Caneca thinking with respect to the institutionalization of the state, were related to the form he conceived what was called tax and violence monopolies, theoretically mentioned as fundamental for the establishment of the modern state, not only in its absolutist version, but also the liberal one<sup>69</sup>. In this perspective, in the course of the year of 1823, during a Constituent Assembly called to give legal force to the Brazilian state, he was against the establishment of such monopolies.

His conception was clearly close to the confederative forms which, as we know, are historically reproduced in different political formations. During the period under consideration, the Articles of Confederation were clearly presented in the first constitution of the former thirteen British colonies, and, after denominating the Confederation "United States of America", it was explicit that each state should keep their sovereignty, freedom and independence, and the power, jurisdiction and right which was not expressly delegated to the United States should be assembled at the Congress.

In this scenario, the "congressed assembled together" would be the only deliberation forum which would be superior to the states, and the powers effectively delegated to them concerned the creation of a single currency, the judgment of disputes among states and foreign affairs. The states were prohibited to make direct treaties with foreign countries or to wage war. However, although with limited armed resources, the military forces and financial resources would be controlled locally. And the taxes to be sent to the Congress would be raised in emergency, mainly in the event of war.

In a discussion with *O Conciliador Nacional*, Frei Caneca described, flatteringly, what was happening in the United States during the third decade of the 19th century, that would be "a *federation* with many republics, which are independent of one another..." (emphasis added by the author)<sup>70</sup>.

In relation to the tax monopoly - although it is a theme quantitatively less explored by Frei Caneca - his stances against it are clear. When criticizing what he considered as "despotic projects" of the Ministry of Rio de Janeiro, the taxes were at the

<sup>69</sup> In this regard, see: ARDANT, Gabriel. Financial policy and economic infrastructure of modern states and nation. In: TILLY, Charles (ed.). *The formation of national states in Western Europe*. Princeton, New Jersey: Princeton University Press, 1975; ELIAS, Norbert. *O processo civilizador*. Vol. II. Formação do Estado e Civilização. Rio de Janeiro: Zahar, 1993.

<sup>70</sup> Seventh Letter from Pitia to Damião. "Sobre a doutrina anti-constitucional e perigosa do Conciliador Nacional" n. 34". In: MELLO, 1875-6. Op. Cit., p. 372.

heart of his complaints. He opposed to the requests to cover immediate expenses of the Court in Rio de Janeiro, because he did not agree with it. But, mainly, he opposed to the central state having a regular income source coming from taxes, what would not happen in the same manner as before, during the Former Regime, but with the creation of a new collection form, which would be a liberal *tax state*<sup>71</sup>.

Regarding immediate expenses, he opposed to the requirement of the Court, that Pernambuco should send to Rio de Janeiro "more than two million overdue, that did not go to that city because should go to Portugal, where the king has been". Complaining about the financial situation in the Province and considering such requirements as a "scheme of the ministry to undermine Pernambuco", Frei Caneca listed the combination of factors which financially undermined the Province, with expenses made in connection with the demands from Rio de Janeiro from 1817 on. Expenses which borne the public and private services:

The bigger houses declined with the sequestration for the real farm, with the robbery of the sequestering ministers, with the money spent in Bahia by the prisoners who were there, with the retardation of the agriculture and the disruption of the business; the outward migration of many people to foreign countries, the restraint of the commerce, the subscriptions and donations for public works explored by Luís do Rego... the departures and returns of the brigades of Rio de Janeiro and Bahia; the expeditions to Bahia, the outward migration of many Europeans, who took what belonged to them and what did not; the boarding and shipment of battalions from Simões and Algarve<sup>72</sup>.

In this scenario, he asks: "Does the ministry want us to keep still, as we were in the times of the King of Portugal?" and protests: "...should we forget about the needs of the ones who make money, so that we can offer the lazy ones in Rio de Janeiro, so that they can spend 17 thousand old reais!"<sup>73</sup>.

Within the dimensions exposed by Frei Caneca, we can see the procedures of the absolutist court, during the process of "interiorization of the metropolis"<sup>74</sup> where the deployment of the Portuguese Court in Rio de Janeiro resulted in a levy on the other Brazilian provinces, greatly perceived through the fiscal burden, which was one of the key factors for the outbreak of the revolution in Pernambuco during 1817. Such procedures

<sup>71</sup> COSTA, Wilma Peres. Do Domínio à Nação, impasses da fiscalidade no processo de Independência. In: JANCSÓ, István (org.). *Brasil: formação do Estado e da nação*. São Paulo: HUCITEC, 2003. p.143-194.

<sup>72</sup> Third Letter from Pitia to Damião. "Sobre os projetos despóticos do Rio de Janeiro". In: MELLO, 1875-6. Op. Cit., p. 318.

<sup>73</sup> Loc.cit.

<sup>74</sup> DIAS, Maria Odila da Silva. A interiorização da metrópole. In: MOTA, Carlos Guilherme. *1822: dimensões*. 2ª. ed.: São Paulo: Perspectiva, 1986. p.160-184. Texto republicado em *A interiorização da metrópole e outros estudos*. São Paulo: Alameda, 2005, p.7-37.

were equally rejected by São Paulo in the beginning of the Empire, regarding its historical connection with the political center established in Rio de Janeiro and support to the dissolution of the Constituent Assembly <sup>75</sup>.

However, the key issue for the achievement of the tax monopoly was another one. It involves the financial regularity that may ensure the autonomy of an action of the central state <sup>76</sup>. Irrespectively of the criticism to the value which the govern wanted to establish as a regular contribution (thirty five thousand old reais monthly), considered too heavy, Frei Caneca was clearly against such autonomy, and defended, in the contrary, the autonomy of the provinces. They should contribute to the central government only in the "occasions" where they had to return \_ according to "their share, proportionally to their finances" – with the "...expenses of Rio de Janeiro, which are directed to the benefit and safety of the whole nation" <sup>77</sup>. The contribution should be given only by the provinces which "perceive the benefit". He was peremptorily against the regularity of the taxes:

*One should never pay monthly, annually or triennially as a tax, since we are not Turks, whose Emperor is the lord and owner of the works and properties of their vassals. Each one of us is the lord and owner of what we have and what we acquire with our jobs; the part of it, which is yours, that you give to the national treasury through tributes and taxes, you offer this for the public needs of our province; and when those do not absorb everything we offer, the excess belongs to no one, not even another province, it belongs to this one, and shall stay in its safe, and be dedicated to be used when there were extraordinary causes, not sending to anywhere else" <sup>78</sup>(emphasis mine).*

As noted in the quotation above, he was against the regularity of tax collection nationwide, which would be "despotic", resulting from an "Ottoman system" introduced by the ministry. Once again, he mixed, in such formulations, the centrality imposed for the liberal state with the one of the despotism, whether it be in respect of the western absolutism, whether the theocratic means of the eastern states.

As a theoretical basis for his stances, he used the abbots Mably and Raynal. He highlighted the Mably quote "Every kind of public tax [...] upsets the people, and it may never exist any public tax that do not partially prejudice freedom or the ownership of the citizens". He also used the Raynal reference that "the tribute and the tax is the proof of

<sup>75</sup> LEME, Marisa Saenz. Dinâmicas centrípetas e centrífugas na formação do Estado monárquico no Brasil: o papel do Conselho Geral da Província de São Paulo. *Revista Brasileira de História*, v. 28, n. 55, jan./jun. 2008. p.197-215.

<sup>76</sup> ARDANT, Gabriel, Op.Cit.; ELIAS, Norbert, Op.Cit.

<sup>77</sup> Third Letter from Pítia to Damião. "Sobre os projetos despóticos do Ministério do Rio de Janeiro". In: MELLO, 1875-6. Op. Cit., p. 319-20.

<sup>78</sup> Loc. Cit.

despotism, or what will lead, sooner or later, to it; the imposition of taxes was the most important usurpation made by the sovereigns, with terrible consequences"<sup>79</sup>.

Nonetheless, the tax centrality not only could, but it should occur at the provincial level. That is, in the province it may occur a centrality, where the government would have financial autonomy over "who earns the money", "the lord and owner of what they have and acquired with their jobs" who, in the conception of individual and property of the liberalism, would be the "citizens". But why not "vassals" in the "Ottoman system"? We may also remember that the provincial finances were established – with much resistance – from a centrality applied by the provinces over the municipalities, where, after all, it is the place where the wealth is effectively generated.

Touching the subject, we may notice the priority given by Frei Caneca to the provincial government over the municipalities, when, before the dissolution of the Constituent Assembly, he deplored the fact that the decree from June 3rd, 1822, "convoking the constituent and legislative courts of Brazil" had been sent to "the councils, and not to the province government"<sup>80</sup>.

What, in a national level, to him, would be "despotic", would be actually legitimate in the provincial level. To complete his reasoning about taxation, it is clear, in this dimension, the institutional framework of a confederative state: "When each one of the provinces of the Empire has a full treasure, the entire Empire will be rich and respectable!"

The thinking of Frei Caneca reproduced what was indicated by Ivo Coser, who called this a "federalist/confederalist strand"<sup>81</sup> of the 1823 Constituent Assembly, in which was made "an analysis of the relations of the provinces with the constitutional agreement, starting from an idea of the natural law, replacing the individuals image in their natural state by the provinces".<sup>82</sup>

Note, however, that the defense of a financial sovereignty of the central state, with the regular acquisition of resources characteristic of the *tax state*, was a central topic of *Artigos Federalistas*.

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<sup>79</sup> Loc Cit.

<sup>80</sup> First letter from Pitia to Damião. "Análise dos cinco primeiros números do *Diário do Governo*, redigidos pelo Padre Quintella. In: MELLO, 1875-6. Op. Cit., p.294).

<sup>81</sup> COSER, Ivo. *Visconde do Uruguai: centralização e federalismo no Brasil 1823-1866*. Belo Horizonte: Editora da UFMG; Rio de Janeiro: IUPERJ, 2008, p.39.

<sup>82</sup> Idem. O debate entre centralizadores e federalistas ... Op. Cit., p. 193.

A nation may not exist for long time without revenue. Deprived of its mainstay, it has to sacrifice its independence and accept the degraded condition of being a province. This is an extreme point to which no government will go on its own. Therefore, the revenue may be obtained<sup>83</sup>.

In the same scenario, financial and military autonomy were coordinated. In such a period of uncertainty about the metropolitan reactions and also the internal reaction with regard to independence – with the ongoing war in Bahia –, the Friar considered it to be a confrontation that would happen at the provincial level. Thus, the Pernambuco treasury could not be burdened with the tax demands of the Court, because "firstly, where would we get money from to pay the current expenses, which are very large, with the creation of new bodies and warfare arrangements... we are at open warfare with Portugal and may not rest"<sup>84</sup>.

Irrespectively of the circumstantial matter – where the provinces would really have to contribute to war, if this persisted – Frei Caneca was boldly against the regular establishment of what has been defined as "violence monopoly" by a part of the central state.

Based on pertinent considerations about the difficulties of Rio de Janeiro to assist the provinces militarily in times of need, Frei Caneca accused the imperial convocation of 600 men per province to form the naval artillery of being "despotic", radically pleading that "each province should have its own naval artillery, proportional to their needs, and not depending on Rio". It was implicit that the recruitment of men in the provinces could be legitimate if there was an effective threat to Rio de Janeiro, so he questioned about the moment of the convocation: "... what are they going to do in Rio de Janeiro? Is Rio at war with any powerful state?"<sup>85</sup>.

Another central dimension of his opposition to the ministerial projects involved the concentration of military power in Rio de Janeiro over the provinces. He denied that the Court was developing a large-scale military force, a measure proposed by the "ministry" which "tagline" would be "undermine the provinces, whilst gathering every force in Rio, so that they could send expeditions everywhere, and subjugate Brazil with the same Brazilians"<sup>86</sup>.

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<sup>83</sup> MADISON, James; HAMILTON, Alexander; JAY, John. Op. Cit., p. 150.

<sup>84</sup> Third Letter from Pítia to Damião. "Sobre os projetos despóticos do Rio de Janeiro". In: MELLO, 1875-6. Op. Cit., p. 320.

<sup>85</sup> Ibidem, p. 321.

<sup>86</sup> Loc. cit.

Frei Caneca was strongly opposed to the constitutional propositions that the Emperor should have "The Armed Forces at his disposal" <sup>87</sup>. During his complaints about the project of constitution under oath by the Councils, among other topics, he aimed for the power of the Emperor to declare "peace and war", without the consent of the Assembly, disposing "as he pleases of the Armed Forces, either the Army and the Navy" <sup>88</sup>. In the text "voto sobre o juramento do projeto de Constituição oferecido por D. Pedro I", made on June 6th, 1824, he stated:

The private attributions of the executive power to use, as it seemed convenient to the security and protection of the Empire, the Army and the Navy (Art. 148) is the proof of the despotism and the source of the oppression in the nation, and the means used by the despots to enslave Asia and Europe, according to the ancient and modern history <sup>89</sup>.

With respect to the establishment of the U.S. federal state, the achievement and implementation of the violence monopoly on the part of the national state was, in the beginning of the publication of the articles, alternately referred to the "Congress" which should approve the new constitution, or to the "Union" the "Union Government", to the "Federal Government". However, the form in which, in *Artigos Federalistas* the establishment of a regular use of the Army and the Navy had been defended – which, as it was necessary a fast decision-making in the light of an enemy attack, normally sudden and off guard, they should keep during the time of peace – had the implicit assumption that the executive power would have broad-ranging autonomy to declare peace and war, having the "army and the navy". At the end of the dispute of the press, the authors of *Artigos*, clarified that, in defense of the new constitution to be voted:

The President of the United States shall be the "commander-in-chief" of the U.S. Army and Navy... Among all the tasks and responsibilities of the government, the leading the war is the one peculiarly demanding qualities that distinguish the exercise of power by one single person. Leading the war involves the guiding the common force; and the power of guiding and employing the common force is a usual and essential part of the definition of executive authority<sup>90</sup>.

According to the stances of Frei Caneca – which were contrary to the use of the armed forces by the central executive power – the issue would have another connotation,

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<sup>87</sup> Fourth Letter from Pítia to Damião. "Sobre o espírito anticonstitucional, revolucionário e anárquico do Regulador Brasileiro". In: MELLO, 1875-6. Op. Cit., p. 335.

<sup>88</sup> Voto sobre o juramento do projeto de Constituição oferecido por D. Pedro I. In: MELLO, 2001. Op. Cit., p. 561.

<sup>89</sup> *Ibidem*, p. 563.

<sup>90</sup> MADISON, James; HAMILTON, Alexander; JAY, John. Op. Cit., p. 462ss.



if viewed from the provinces. About the possibility of recruiting six hundred men from Pernambuco, damaging the economical activities of the province, he inquires? "...why should not them be used by *our* Navy and Naval Artillery?"

It is really significant for the understanding of the independent power of the states, the form in which, in *Artigos da Confederação*, they tried to ensure, through the militias, what would establish the violence monopoly within the territory. According to the Article VI, it was defined that each state should have a disciplined warfare, adequately armed, ready to be deployed, and for this purpose they should keep a center regularly established.

Considering the previous state constitutions in general, in *Artigos Federalistas*, Hamilton emphasized: "Even the constitutions which, in other aspects, associated the first magistrate to a council, had pretty much focused the military authority only to him".<sup>91</sup>

According to Frei Caneca, in line with the formulations of *Artigos da Confederação*, we can notice, with regards to the violence monopoly, the reproduction of the same reasoning presented in relation to what was called "tax monopoly". What was considered despotic at the national level, would be legitimate, if necessary, in the province.

In accordance with Ivo Coser – author of pioneer studies about the historicity of the concept of "federalism" in Brazil – a significant part of the constituents in 1823, mainly where today is the Northeast and also Rio de Janeiro, presented proposals which, given the synonym in the linguistic context, were covered by him as a whole within the designation of "federalists/confederalists". But within it there were two strands, one referred to as "full federalism" – "the confederative model" – and the other referred to as "mitigated federalism"<sup>92</sup>.

In the first, "the starting point of the constitutional agreement are the provinces – *we, the provinces*, as wanted by the opponents to the federalists in the North-American context".<sup>93</sup> In the second, there would be autonomy for the provinces, "without implying the loss of or threat to the national unity".<sup>94</sup> A formulation explicitly indicated in the stances of the São Paulo state representative Nicolau Pereira dos Campos Vergueiro, according to whom "the constitutional arrangement should grant freedom to the

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<sup>91</sup> Loc. cit.

<sup>92</sup> COSER, Ivo. O debate entre centralizadores e federalistas ... Op. Cit., p. 193.

<sup>93</sup> Idem. *Visconde do Uruguai*..Op.Cit., p. 40-41.

<sup>94</sup> Idem. O debate entre centralizadores e federalistas ... Op. Cit., p. 193.

provinces, however, without being considered as sovereign". For the author, Vergueiro went "close to the innovations made by the North-American federalists – the strengthening of the central power –, yet, without demonstrating that he knew such innovations".<sup>95</sup>

Against this background, the conceptions of Frei Caneca and the revolutionaries of 1824 would have matched the "full federalism", and the author believed that

the dissolution of the Constituent Assembly by D. Pedro I and the defeat of the federalist amendments are at the root of the separatist movement unleashed in Pernambuco with the name of Confederation of the Equator, proclaimed on July 2nd, 1824. This movement intended to establish a Federal Republic gathering, besides Pernambuco, the nearby provinces of Ceará and Paraíba and also Rio Grande do Norte.<sup>96</sup>

When trying to identify the type of state outlined with the linguistic terms used that time – embracing the perspective of sovereignty highlighted by Elias,<sup>97</sup> and being exposed in *Artigos Federalistas* – the way Frei Caneca made the provincial autonomy absolute, mainly when thinking about the issue of the military and financial controls, clearly indicates the confederative direction.

According to his comments, it was not only the defense of a provincial autonomy applicable to a federative system, as conceived in the American Constitution enacted in 1789. Neither it was at stake the exacerbation of political discourses in the face of the radicalization resulting from the termination of the Constituent Assembly. Conceptual opinions exposed in the beginning of the First Reign were defined before that, when a liberal-constitutional running proposal could be seen, with the convocation of the Constituent and Legislative General Assembly of the Provinces of Brazil.

During the historical construction of the liberal state, also in its federative form, the formation of a sovereign central core above its parties was decisive, for what had become fundamental and was theoretically established as tax and violence monopolies. In this scenario, it can be observed that, although rhetorically self-referred as "federative", actually the political unity thought to Brazil was actually confederative, according to the conceptions exposed by Frei Caneca.

Nevertheless they are placed in the liberal field, the confederative formulations had to be overcome, in the historical example of the United States Constitution, to make possible the emergence of a classic form of the modern liberal state, in its federative

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<sup>95</sup> Idem. *Visconde do Uruguai*. Op.Cit., p. 45.

<sup>96</sup> Idem. *Federal/Federalismo*. Op. Cit., p. 103.

<sup>97</sup> ELIAS, Norbert. Op. Cit.

modality. This, among other factors, resulted in the reestablishment, in new formats, of the tax and armed controls established in the Former European Regime. If deployed, the proposals made by Frei Caneca would have significant consequences for the first establishment of an independent state in Brazil, very different from the federative liberal state of the American Constitution approved in the Philadelphia Constitutional Convention in 1787.

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**Data de recebimento do Artigo: 07/03/2016**

**Data de aceite do Artigo: 25/06/2016**

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