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From the sentence of Atouguia (1307) to the rule of Sousa Thomas for Brazil (1548): similarities and differences in the relations between the royal power and the feudal system in Portugal

**Da sentença de Atouguia (1307) ao regimento de Tomé de Sousa para o Brasil (1548):
semelhanças e novidades nas relações entre o poder régio e senhorial em Portugal**

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Abstract: The purpose of this short communication is to establish the similarities and differences between two periods and two processes of “senhorialização (aristocratization)” and “centralização do poder régio (centralization of royal power)” in disparate geographic territories: one, the already well-established European territory of the Portuguese Kingdom in the time of D. Dinis; the other, the vast and undefined space of the recently discovered Brazil in the time of King John III. The comparison is an insignificant (and even debatable) one, until we take into account the differences in centuries, the disparate geographic areas, and the fact that it arises from two unequal legal and political practices: a court ruling and a government ruling. Meanwhile, the text also analyzes the relevance of the expression *Idade Média brasileira – The Brazilian Middle Ages – (1520-1580)*, which was the title of one of the volumes of the well-known *História da Colonização Portuguesa do Brasil*, coordinated by Carlos Malheiro Dias and edited between 1921 to 1924 to commemorate the first centennial of the independence from the old colony, in Portugal and Brazil. Comparing the kinds of economic systems, the aristocracy models of society and the forms of articulation with the royal power, it is clear that there is a lack of economic and social research on that sad history, and that this is one of its main gaps. Finally, this paper calls for a critical reading of a monumental (albeit incomplete) work on the historiography of the Portuguese Expansion, relatively ostracized and forgotten, but which, paradoxically, is widely used and cited, not completely hiding the discretion with which it makes use of the wealth of documentation transcribed in its appendices and in some of its summaries.

Keywords: Royal centralization; feudal lordship; captaincy-donatary; *sesmaria*; letter of donation; charter; State transportation.

Resumo: Esta breve comunicação tem por objetivo estabelecer semelhanças e diferenças entre dois momentos e dois processos de “senhorialização” e “centralização do poder régio” em espaços geográficos muito distantes: um, no já bem definido território europeu do reino de Portugal, no tempo de D. Dinis; outro, no espaço imenso e indefinido do Brasil recém descoberto, na época de D. João III. A comparação é delicada (e mesmo discutível) se não se tiver em conta que são séculos diferentes, espaços geográficos díspares e decorre de textos de duas instâncias jurídicas e políticas desiguais: uma sentença judicial e um regimento de governo. Por outro lado, o texto visa avaliar até que ponto é pertinente a expressão *Idade Média brasileira (1521-1580)*, dada como título a um dos volumes da

conhecida *História da Colonização Portuguesa do Brasil*, coordenada por Carlos Malheiro Dias e editada entre 1921-1924 para comemorar em Portugal e no Brasil o primeiro centenário da independência da antiga colônia. Comparando os tipos de regime económico, os modelos de sociedade senhorial e as formas de articulação com o poder régio, chama-se a atenção para a falta de estudos de carácter económico e social de que aquela história enferma e que é uma das suas maiores lacunas. Finalmente, pretende-se fazer um apelo à leitura crítica de uma obra monumental (se bem que incompleta) da historiografia da Expansão portuguesa, relativamente ostracizada e esquecida, mas que, paradoxalmente, é bastante utilizada e citada não se ocultando totalmente a discrição com que se faz serventia da riqueza da documentação transcrita nos seus apêndices e de algumas das suas sínteses.

Palavras-chave: Centralização régia; senhorio feudal; capitania-donatária; sesmaria; carta de doação; foral; transporte do Estado.

The well-known History of Portuguese Colonization of Brazil, published in the early 1920s in a monumental commemorative edition to commemorate the centennial of the independence of the old Portuguese colony, gave its third volume the title of *A Idade Média Brasileira (1521-1580)* (MALHEIRO DIAS; VASCONCELOS; ROQUE GAMEIRO, 1924).¹ In effect, looking at the designations of a few of the longer chapters, like IV and VI, *A solução tradicional da colonização do Brasil, O regime feudal das donatárias*, it soon becomes clear that this is the perspective that underpins the whole volume.² For the collaborators of this collective work, it was understood that the Portuguese Middle Ages in Brazil extended from the time King John III (1521-1557) began his systemic colonization, up until the end of the Avis dynasty. One of them makes a more explicit reference: “The system of colonization through donataries proved to be an intelligent and fruitful adaptation of the Crown's assets, which were so frequent for us, and represented, to a certain point, an equivalent to feudal concessions”. Later, they warn: “By the time of the Brazilian donataries, the policy of centralization in the mother country was definitively consolidated” (MERÊA, 1924, p. 167 and 171, free translation).

My curiosity piqued over that term *Idade Média Brasileira* (Brazilian Middle Ages), and keen to discover how relevant the boldness of the title was – a historian recently called it mere *fantasia medieval* (RAMOS, 2000, p. 133) –, I began to search through “writings and images” collected in our documentation, this parallel to “State transport” for the tropical world on the other side of the Atlantic. I observed how, in the defense, settlement and administration of the territory, the route of the royal power would also have helped the feudal power and, in a gradual and calculated way, would also have controlled or reinforced it, later restricting and ultimately dismantling it. I dared to advance to a context and an investigation that, for me, would not fit into the concept or the strict chronology of our notion of medievalism.

For this purpose, I chose to observe two distinct periods: the episode of the process of monitoring by the Crown, of the fiefdom of Atouguia in the Portuguese province of Estremadura, not far from Lisbon, from its origins in the 12th century to the beginning of 14th century, when it was claimed, and by Court decision, passed to the Crown. My second choice was the monitoring, by the Central Administration, of the Brazilian captaincies during the first half of the 15th century, from their creation to the establishment of the General-Government that either abolished them, or gave them federative status, reducing their feudal powers and inspecting them, albeit in a way that demonstrated favoritism, and setting up the seat of government, i.e. its capital, in one of them.

It is clear to me that these are two parallel, but distant periods, which I believe can only be compared when we bear in mind that they occurred at different stages of the process of the “State metamorphosis”³ in Portugal, which passed from “feudal” to “modern” as the monarchy asserted its power as a public authority in face of the feudal power and council influences, although this did not occur in a linear way, and only came after great legislative innovations such as the *Lei Mental* and the Manueline reform of the charters, for example.

He certainly had a great deal to say regarding this “*Idade Média brasileira*”, which lasted a mere sixty years, from 1521 to 1580 (from the beginning of colonization proper, to the loss of independence).⁴ We shall begin by constructing the sources that were used by the collaborators of the *HCPB*; we shall focus on the historiography perspectives followed in Portugal in the early decades of the 20th Century by its numerous authors, and expressed here in a work that specifically aimed to be one of explicit celebration and exaltation.⁵ It is uncommon today to not find, in this history of colonization, any study of an economic or social nature. It is true that among us, there were not yet any studies published by the author Virgínia Rau about markets, *sesmarias*, mineral extraction, sugar trade, or the articles in which, regarding this and other themes, the *DHP* would describe the issues in detail.⁶ But João Lúcio de Azevedo had already prepared his investigation on the “economic organization” in Portuguese History, published in this period!⁷ To determine those similarities and ensure the fairness of the classification, I shall limit my analysis to three main points: the type of economic system that was developed here and there; the model of feudal society created; and the connection between the royal power that we find in both.

It is certain that in a more developed work, bearing in mind the definitions of “fiefdom” and “donatary”, we should also compare the geographical and political contexts of institution, the letters of donation and the charters, the categories of their recipients, the internal geography and means of communication, and the conditions necessary for investment and operation in each case.

1. The case of Atouguia: 14th century

On February 3, 1307, by sentence of the Court that met in Coimbra, ruling was passed on the dispute between King Dinis (1279-1325) and the heirs of Lady Joana Dias, last Lady of Atouguia, who had died six years earlier, in 1301.

The royal ruling came thereafter, and as the conclusion of an inquisition ordered by the monarch, due to questions that had been raised regarding the legitimacy of that fiefdom. He himself had chosen the inquisitors (João Soares, at that time known as Bishop Silves, and Estêvão Eanes, the king's chancellor) and Ombudsman had also been appointed. Afonso Eanes, the King's merchant, and Afonso Pais, school master of Lisbon, “that I gave as rightful appointment the name of Ombudsman!” (ANTT, 1946, p. 163-166).

It is noted that from that time, in this case the beginning of the 14th Century, the royal power boldly selected the instruments that would bring peace to its quarrels with the lordships. It is also noted that the judges of the monarchy were not at all impartial in legal disputes where the monarchy was an interested party, and for which there was no appeal. Perhaps that is why the heirs of Lady Joana Dias, when summonsed by the Court, did not attend; neither did they explain their absence, or send an attorney in their stead, to hear the sentence.⁸

The long text, published in Lisbon on September 8th of that year – from which the questionnaire of the interrogators appears to be missing, the names and responses of the respondents (could it have been cut off?), although it is intended as a text of flawless logic – ends up doing away with these requirements, repeatedly stating “Nosso Senhor el-Rei entende provar”; “Nosso senhor el-rei entende provar” ... Curiously, it bases itself only on the customary right of succession of the Francos, the original settlers of Atouguia who, in the 12th century, were ruled by King Guilherme de Cornibus as their *alcaide*, to whom King Afonso Henriques had made a donation of those lands, with great liberality, as the result of a previous pact made during the crusades of the *secundum consuetudines et libertates francorum honestissimas* (PACTO, 1958). “*Donamus igitur eam [illam hereditatem de Tauguia] vobis, iure hereditario, et successoribus vestris qui post vos fuerint [...] et fatiatis de ea quicquid vobis placuerit*”. The reason for the donation was also clear: “*pro bono servitio et adiutorio quod nobis fecistis vos et parentes vestri in captione de Ulixbona*”; i.e. D. Afonso Henriques donated to D. Guilherme an independent land, a fiefdom, in exchange for the assistance given to his men in the conquest of Lisbon (CARTA DE DOAÇÃO, 1958).

The same D. Guilherme, at a later but unknown date (1167?), granted simultaneous and different charters to the two groups of residents that he had brought with him, assigning to one group the name of Francos (they were probably from the North) and to the other, the name of *Gallici* and *Galleci* (Francs from the South, Galos – Galicians?).⁹ We only know these texts through the

confirmations given by King Sancho I:¹⁰ these are traditional regulations concerning obligations, fines and penalties of the residents, their relations with the council, and certain privileges, for example, the exemption from “relego” (rule prohibiting the selling of wine in the first three months, which was the period reserved for the king's merchants): “*relegatio vini nunquam in Tauguia fiat vel teneatur*”! But of course, there is nothing in these statutes to establish the rules of succession for the governing of fiefdoms. Through the charter of the Francos, we seen that the local inhabitants were a group of *mesnada* – armed soldiers of the Lord of the fiefdom – who were given neighboring land as their reward.

Was there any specificity in these feudal rights? The “pretor” was the head of the Francos, while the Galos were ruled by a vigário (visar or parson) [*vicedominus*], a figure hitherto unknown in Portugal. The lord of the fiefdom was not a lieutenant of the King, but a Lord in his own right, and could institute his own local traditions and customs. Unlike ours, these were very repressive, with severe punishments and heavy fines. Civil case law was intertwined with municipal law. The structure of the charters and the penal provisions were also very different,¹¹ more akin to the medieval type.

We know very little about the everyday life of Atouguia (called “da baleia”, since 1507) in the twelfth and thirteenth centuries, but there is nothing to indicate that it was very different from the common fiefdoms of the region that Maria Helena Cruz de Coelho studied in Baixo Mondego, in what are now considered classical works of Portuguese medieval historiography (CRUZ COELHO, 1989; CRUZ COELHO, 1990, p. 31-92). Atouguia was a relatively small territory; though fertile, it was not particularly wealthy, and there were no underground mineral riches to be explored. To the south of Cape Peniche, a maritime border, fishing was allowed and there were commercial fishing ports, though the dangers of piracy were still common in those centuries; it had good waterways, but the people survived mainly from agriculture and livestock. As was tradition, the economic regime was characterized by the division of large estates into two parts operated by different methods: the domain or fiefdom reserve (*terra indomnicata*) was farmed by the Lord through his servants and *corveias* – unpaid peasants from neighboring settlements, watched over by a master; and concessions or *mansos* – production areas granted to small farmers (*terra dominicata*) – working on an income or term basis. Over time “casais”, “quintas”, and “vilares”, would emerge here – different forms of smallholding cultivated by tenants or cottagers. The tendency was to be self-sufficient, through a varied subsistence agriculture and trade. Over the centuries, productivity increased through the introduction of new technologies and methods, which led to the opening of the market and greater circulation of money. In times of crisis, the lords tended to increase the *corveias* (unpaid labor) and *banalidades* (restrictions on benefits) of the dependents, as well as illegally altering land boundaries or encroaching on the boundaries of other fiefdoms and crown land, or showing a disregard for the rules

of succession of the fiefdom (MATTOSE, 1985, p. 135-144). The monarchs responded by ordering inquiries, court proceedings and confirmations, and by restricting powers and even confiscating lands.¹²

In 1307, the argument of the royal judges regarding the succession of the fiefdom of Atouguia went as follows: According to the customs of the Francos, the earliest settlers of Atouguia, when a nobleman died without leaving a legitimate heir, the lands passed to the King where that land was situated. So when the fiefdom of Atouguia came into the possession of Joana Dias, through the donation of D. Julião Pais, dean of the Cathedral of Coimbra and a relative, who in turn, had received it through a donation, but from someone who was not family member of D. Guilherme, none of Joana's heirs were entitled to possess the lands “*iure hereditario*”, which passed back to the Portuguese Crown! Moreover, they add, when residents of Atouguia elected their judges, it was the King who confirmed them, and it was also the King, as the lord whom established the *alcaide* and other judges to rule over the fiefdom. In contradiction to this ruling, A. Herculano notes that the last *alcaide* was Fernão Fernandes Cogominho, husband of Joana Dias (HERCULANO, 1996, p. 502), who died in 1277.

It is certainly curious how the court of King Dinis, King of Portugal, at the beginning of the fourteenth century, ruling over lands close to Lisbon, at a time when the population, having arrived a century and a half later, would surely have already merged with the local population and assimilated its customs, invokes, as the basis of his case law, an old Frankish foreign custom from the middle of the twelfth century in order to interpret a letter of donation drawn up in the chancellery of the donor, D. Afonso Henriques, King of Portugal. It is well known that the king allowed himself to be influenced by the feudal law, and by the customs of its institutions, which came to be enacted as law, forming the origins of case law in the royal Court. Conversely, without knowing when or why, for no proof is provided, the custom of the king assigning *alcaides* and judges had already been law for some time! It was a clear expansion of royal power.

It was a fiefdom, we claim, and as a feudal system, “The fiefdom system consists essentially of a dissemination of the right to self-sovereignty, in a fragmentation of the contents of such, and its distribution by various individuals with whose assets it may merge, being combined with the private rights and entering, with this, in the legal contract” (MERÊA 1929 p. 502), the shift of the balance of power between the lords and King was permanent: they frequently usurped rights, illegally altered the boundaries of lands, or increased taxes on the local inhabitants, making the inquisitions more frequent and the confirmations stricter as a consequence of the aforementioned actions, which in turn, helped to strengthen and centralize the royal power. King Dinis, as is well known, was one of the main figures in this process. But it was not yet complete, and would yet see advancements and setbacks (SANTOS SILVA, 1998).

In this case, we can therefore conclude that: by royal authority, the fiefdom of Atouguia was established and donated to D. Guilherme de Cornibus; by the royal authority of King Dinis, the fiefdom, created in 1148, would revert to the Crown at the end of its 159 years of existence, due to a failure to fulfill the succession rules of the Francos! The question remains as to how this case demonstrates the qualitative shift in royal authority at the end of a century and a half.

2. The case of Brazil: 14th century

In 1548, King João III (1521-1557) must have had a number of reasons to alter the royal authority over his lands in Brazil, which had been discovered half a century earlier. Through a letter given in Almeirim on January 7, 1549, the monarch made it known that:

vendo eu quanto cumpre a serviço de Deus e meu conservar e enobrecer as capitãncias e povoações que tenho nas minhas terras do Brasil, ordenei ora de mandar fazer uma fortaleza e uma povoação grande e forte na Baía de Todos os Santos [...] para daí se ministrar a justiça e prover nas cousas que cumprem ao meu serviço e aos negócios da minha fazenda (CHART, 1924, p. 334).

In other words, in the captaincy attributed to Francisco Pereira Coutinho, who was made the first lord since 1536, the King ordered, twelve years later, the building of a new town with a fortress. This town would become the seat of Tomé de Sousa, nobleman of his house, who was appointed to serve for three years as the captain of this captaincy and “general governor over all captaincies and lands of the coast of said Brazil, with a salary of 400,000 reals a year” (CARTA, 1924, p. 335).

Since 1500, the year of the Discovery, the Brazilian lands had been abandoned; in the first thirty years the “desvendamento e guarda da costa” were carried out (JOHNSON; NIZZA DA SILVA, 1992, p. 75), consisting of the geographical recognition, commercial exploration and military organization that are essential for the defense of settlers and traders. But¹³ since 1530, King John III had been watching these lands closely. In that year, through three successive charters, Martim Afonso de Sousa, a nobleman of the Royal Council, was appointed captain of a new fleet to be sent, and was given powers to govern and create notaries and bailiffs; he also had the power to grant *sesmarias*, i.e. land allotments. After his return from his profitable trip of sovereignty, he issued the first letters of donation in 1534, dividing Brazil into twelve known captaincies, with the lords being chosen by the King from amongst the men of middle nobility who had distinguished themselves through their military or maritime offices, or who were connected to the Court through positions of royal administration. King João III created a true institutional and economic “structure”, just as King Manuel I had done twenty-five years earlier with the trade with India (THEMUDO BARATA, 1993, p. 127-146).

Life in the Brazilian captaincies compared to that of the medieval lords in the mother country

Let us remember, once again, that the *HCPB*, Paulo Merêa, a historian of law, reports, as we have seen above, that “the system of colonization by donataries was an intelligent and fertile adaptation of the crown estate donations that were so frequent among us, and represented, to some extent, an equivalent to the feudal concessions” (MEREIA, 1924, p. 167).¹⁴

After adding that a “traditional solution in the settlement” was adopted there, as had been done in the Atlantic islands, he points out that it was obvious that the conditions in Brazil differed substantially from those encountered by the inhabitants of the islands, due to the presence of the Indigenous peoples, the greater exposure to foreign interference, and the extent of the territory – which led to various problems, and individuals whose behavior was contrary to the interests of colonization, going beyond the limits (more theoretical than real) of the captaincies. But given conditions of the time, and the objectives to be achieved, that was the most appropriate way to promote a rapid increase in colonization. However, the author does not delve too deeply into a concrete analysis of the internal, economic and social life of this phase of colonization, which would give us a clearer picture of what it was like.

As was the habit in Portugal, the legal framework that would serve to shape this life of the lords, or donataries in Brazil was provided by two founding documents: the letter of donation and the charter. Documents of the sixteenth century were written in Portuguese, and were much more extensive and detailed than those of the twelfth century. For example, in the *a carta régia de doação* of the captaincy of Pernambuco, presented to Duarte Coelho on March 10, 1534, we can see that it refers to a large donation of land (60 territorial leagues of coastline) and ownership of ten leagues. Note the legal peculiarity: there was no proper donation of territorial ownership of the captaincy; what was being granted was the benefit and usufruct of the land (WERNECK SODRÉ, 1963, p 68 and 100). And this also applied to the family of the first grantee, whose heirs should maintain the same title. The delegation of powers and responsibilities is vast, even more so than in the Atlantic islands, as here the risk was also greater. Liberal laws of succession were established, with exemption from the provisions of the *Lei Mental* in force in the mother country: in Brazil, both illegitimate and legitimate children were admitted, with the exclusion only of those born to members of the religious orders, and predicting the cases which the Crown could call back to itself. The privilege to set up a mill, to levy a repeat tax on income, 20% on sales of pau-brasil wood, and the right to sell 24 Indians per year, were also granted. Powers were delegated, including political (to found settlements), judicial

and administrative (to establish *alcadias*) and civilian powers (to appoint notaries). The captain-donatory was, with characteristics of the feudal lord, like a little king in his captaincy.

The *charter* of September 24th of that year, given by the king to the same Duarte Coelho, was a true mini-constitution for his territory; however, the donatary had the right to grant other charters internally (that of Olinda, for example) and to distribute *sesmarias*, i.e. land allotments. They were exempt from the rights of entry of their merchandise, such as goods paid for on their departure from the mother country; the entrance fee was only paid for foreign merchandise. Trading between foreigners and “gentio” (gentiles), as the ordinary, non-elite classes were known, was forbidden. One fifth of the precious metals and stones were reserved for the Crown, but the donatary received a tenth of this fifth; the Crown held the monopoly over pau-brasil wood and spices; the Order of Christ receive the tithe from the fisheries. Internal trade was exempted from fees by the donatary. It was also the responsibility of the donatary to inspect exports, receive fees for boats passing through their territory, and receive an annual pension paid by the notaries. It was the donataries' responsibility to organize the defense and the call to military service, and there was an exemption on fees for the import of firearms (WERNECK SODRÉ, 1963, p. 77-79).

Compared with what was important in the feudal system of the mother country, and even the Atlantic islands, it was in terms of economic and social history that the characteristics of this model of colonization moved away from the “traditional solution”, bringing with it three new and serious problems: here, land was not a concern; it was plentiful, virgin, and fertile, and could increase almost as fast as the ambitions of the colonizers: “time would reveal that the rainforest region [...] was one of the earth's paradise, where treasures lay slumbered that would only later awake from their enchanted spell” (MALHEIRO DIAS; VASCONCELOS; ROQUE GAMEIRO, 1924, p. X). The first major problem was how to operate or exploit, in such a vast space, all the manpower, the pioneering and exploratory work! The second problem was the huge risk of creating these enterprises without much protection or safety, given the frequent and uncontrollable attacks of Indians and pirates, both on land and on the coasts and at sea. The third great difficulty was the capital needed, to not only for investments in agriculture, but also transformative manufacturing: in Brazil, in fact, unlike the mother country, the production system was based essentially on monoculture farming and a small range of crops (sugar, tobacco and cotton); its transportation in large quantities, through non-existent trails; and, its preparation for the market, through transforming at the plantations and with an eye to profit, in a transatlantic economy that looked to overseas market, to Europe. There was also the difficulty of the lack of time, dead time, or non-productive time, related to the initial investment, before the project was able to settle into a normal rhythm – a period in which many faced financial ruin and gave up.

All these problems was completely foreign to the fiefdoms of the mother country, therefore, totally new solutions had to be devised. These were, in the words of some historians, “capitalist, mercantilist fiefdoms”.¹⁵ Internally, the burgeoning market depended on the degree of settlement of each captaincy. In the beginning, there was a closed economy with only small amounts of trade, which was closer to the autarchic tendency that had long dominated the feudal lords of the mother country. It was undoubtedly to remedy this situation that in the regiment that King John III, with through “strategic gradualism of action of the Crown”¹⁶ correcting and changing the initial model of colonization, would give to the first governor-general in 1548, makes it his responsibility to order the creation of fairs and markets, with frequency of at least once a week, in all the towns and villages, in order to increase trade between the settlers and the Indians.

While some of the Portuguese collaborators of the *HCPB* indicate that “there [in Brazil], in an environment of struggle and hard work, one is faced with the same Portuguese from the end of the Middle Ages” (CORTESÃO cited RAMOS, 2000, p. 138), “the same people – shepherds, fisherman and farmers from the green farmlands of Minho, [...] from the Beira hills” (MALHEIRO DIAS; VASCONCELOS; ROQUE GAMEIRO, 1924, p X) and another concludes that “the Portuguese noblemen in Brazil had been democratized by the social environment and in some cases by the crossing over” (OLIVEIRA LIMA, 1924, p 297) the society modeled on captaincies was also very different from those formed by the settlers from European medieval fiefdoms: while for the islands, deserted of people, it was necessary to carry transport all the inhabitants, here, the problem arose with the existence of the indigenous peoples, scattered along the coast in warring factions, enemies of each other, hostile to the new circumstances, and averse to the harshness of productive work. Some, imprisoned and enslaved, would end up in forced labor. The lack of white women led the settlers to have relations with Indian women, creating legal and moral irregularities in the constitution of families that the clergy readily criticized, but that paved the way for interracial relationships (the same would occur with the Africans later on), giving rise to miscegenation, a radical alteration of the population type, with the ethnic creation of the “*mameluco*”.¹⁷ Once it was realized that the Indians were very inept when it came to hard work, Black slaves were introduced, recruited from the coast of Guinea and imported in increasing numbers. “This is the colonization that will awaken the sleeping slavery” (WERNECK SODRÉ, 1963, p. 96). This point was clearly in opposition to the intentions of the lords of the mother country where, although it still existed, slavery was becoming less and less common. Thus, in Brazil, slaves became a more valuable asset to the lords than the land itself. Another social problem at this stage was related to the type of people that the king sent from the mother country to this colony, which often included murderers and outcasts, causing huge problems of subjugation to the authorities and disturbing the work and social life. The captain-donatary (if he

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ever came to reside in his captaincy, as did Duarte Coelho) and his family modeled this social and agricultural mercantile structure in a new form, becoming noblemen-knight-merchants. An experienced navigator, warrior and administrator of trade with the East, Duarte Coelho had settled in Pernambuco, feeding his desire to grow rich and transform his land into a *New Lusitania*.¹⁸

We know that this type of landowning colonizer soon ceased to exist. Fifteen years after the first donation letter, criticism, complaints and withdrawals were abundant. Martim Afonso de Sousa was the first disillusioned captain-donatory to donate his Brazilian captaincy “with affection”, to his cousin, D. António de Athayde, Treasurer of the King and future Count of Castanheira. Equally disillusioned was his brother, Pero Lopes, who had also exchanged Brazil for business in India. Pedro de Góis, returned to Lisbon “a ruined man”. Francisco Pereira Coutinho, in Baía, unable to quash internal rebellion, found himself trapped and having fled to another captaincy further south, later died at the hands of the Indians, who sacrificed him in a cannibalistic ritual.¹⁹ Vasco Fernandes Coutinho, donatory of Espírito Santo, another nobleman who was well known in India and Morocco, sold off everything he had left behind in the mother country in order to pay his debts. João de Barros was also ruined without ever having set foot in Brazil, through the compensation he was obliged to pay out to the families of the failed Maranhão expedition.²⁰ Setting aside many other cases of men who came to ruin, we shall focus on the problems that beset Duarte Coelho, the captain of the best success, who never gave up, but whose problems he constantly bemoaned to the king, in numerous letters, between 1542-1550. “Tive que conquistar a palma a terra que me foi doada às léguas”; “estou pobre e gastado de fazenda, endividado, a quem ninguém já empresta dinheiro”, due to the investments he had to make to set up the plantations and purchase slaves from Guinea, without seeing the expected return. As for the degenerates that the king had sent him in those three years, “só me têm feito mal” and “por amor de Deus não me envie mais tal peçonha. Até nos navios em que vêm cometem distúrbios. Tal gente não me mande para cá!” (CARTAS, 1924, p. 313-321).

Would it then be inappropriate to speak of the “feudal system of donataries”?²¹ This is a model in which, as a modern historian stated, “old ways and old mindsets dress and inform young activities, acting on geographical frames, previously unsuspected, from which they transpose the experience and the routine coming from behind” (MAGALHÃES GODINHO cited MECF, 1971, p. 476).

From the autonomous captaincies to the mixed model: the return of the royal authority

In 1548, given the low success of the system due to rivalries, personal ambitions and mistakes made by several donataries, as we have seen, John III changed his policy and decided to appoint a

governor-general to take up office in Baía. This was one of the most promising donataries, but as we have seen, its captain, Francisco Pereira Coutinho came to a tragic end.

Father Vicente do Salvador writes, in what is considered the earliest history of Brazil (BUARQUE DE HOLANDA, 1979, p. 21):

Depois que el-rei soube da morte de Francisco Pereira Coutinho e da fertilidade da terra da Baía, bons ares, boas águas e outras qualidades que tinha para ser povoada e juntamente estar no meio das outras capitánias, determinou povoá-la e fazer nela uma cidade que fosse como coração no meio do corpo, donde todas se socorressem e fossem governadas (VICENTE DO SALVADOR, 1627).

The monarch, in turn, clarified in the appointment letter of Sousa Thomas, the new relations that he would have with noble captain-donataries, and the objectives that presided over that change to the system of colonization: the limiting of the powers original granted was great, whether in defense, in the administration of justice, or in the economic affairs. The Governor-General, and the positions of *Ouvidor-mor*, *Provedor-mor* and *Provedores da Fazenda* were now granted great powers of inspection and control, relegating the donataries to an inaugural category of high overseas royal official, a typical characteristic of the modern state:

Tomé de Sousa, fidalgo da minha casa nas cousas de que o encarregar me saberá bem servir e tudo fará com o cuidado e diligência que dele se espera [...]. E o dito Tomé de Sousa jurará na Chancelaria aos santos evangelhos que bem e verdadeiramente me servirá [...] (CARTA, 1924 p. 334-335).

Given the importance of the sea of Baía, and its relatively central geographical location, it could monitor and support all the settlements throughout the Brazilian territory, making this a special captaincy from that point on. It became the capital; the seat of representation of the king, and all those subject to him.

The legal basis of the shift from this private nobleman, with exceptional conditions, to a royal nobleman, is observed, and compared with the case of Atouguia: in Baía there was disorder, leading to the death of the donatary; the heir of the deceased captain was compensated, but lost the captaincy;²² the King, dispensing with the court, took it upon himself to make it a royal captaincy incorporated into the Crown; he decided to populate it and install the seat of power there, to conduct the politics and business of *his* Farm and *his* Justice. The mixed model of colonization in the captaincies was inaugurated, through which they lost much of the autonomy that had characterized the first phase of their life as noblemen, and from the time almost 100 years ago, that in a notable work, was called (in my view wrongly), “a *Idade Média brasileira*”.²³

APPENDIX

TERMS AND PARAMETERS OF A COMPARISON

<p>MEDIEVAL FIEFDOMS [PORTUGAL]</p>	<p>DONATARIES-CAPTAINCIES [BRAZIL]</p>
<p>Definition: “A fiefdom system consists essentially of a dissemination of the right to self-sovereignty, in a fragmentation of the contents of such, and its distribution by various individuals with whose assets it may merge, being combined with the private rights and entering, with this, in the legal contract” (MERÊA, 1929, p. 502). “Donation by transfer of goods provided by the kings to a nobleman, as a reward, with the duty to settle uncultivated land; usually hereditary and endowed with <i>immunity</i>, i.e. tax exemption, not subject to royal officials, except in cases of ‘greater justice’”. Except for the fiefdoms of the Military Orders (commendations), the reserves or areas of honor were not continuous, but fragmented. The nobleman had his own jurisdiction, and enjoyed a certain freedom from military duties, such as the <i>hoste</i>, <i>fossado</i> and <i>peitas</i>. The captaincy had its own internal jurisdiction, customs, or <i>consuetudinária</i> (common law) (AHOM, 843 and 833).</p>	<p>Definition: the donataries were “large areas granted by the king in his ‘land of Brazil’ to an individual person, endowed with privileges and salaries, also delegating to them attributes of sovereignty as the right to form settlements, appoint officials, collect taxes, administer justice, etc.” (MECF, 1971, p. 849-850). “Special form of exploitation in which the feudal system – social structure of an agricultural type – was employed by a commercialized civilization and a new social type, the knight-merchant” (MAGALHÃES GODINHO cited MECF, 1971, p 473). “Intelligent and fruitful adaptation of donations of Crown assets, that were so common among us, and to a certain extent, represented the equivalent to the feudal concessions” (MERÊA, 1924, p. 167).</p>
<p>Location: situated within the kingdom, whether on the coast or not, in land that is more, or less known, with good environmental and climatic conditions, requiring settlement and sometimes, defense. They were situated with other captaincies, crown lands or councils.</p>	<p>Location: in the Atlantic (islands or Brazil), with huge areas of uncharted territory (geographical landforms as yet undiscovered), with maritime coast, inaccurately charged and dangerous borders (Indians and pirates). Adverse climate and natural environment conducive to diseases. Far away from the mother country, and with communication difficulties with it.</p>
<p>Owner: Resident lord, usually with his family; very interested in its occupation, colonization and exploitation.</p>	<p>Owner: lord or former senior royal official, often absent (some never visited) usually without family, often disinterested.</p>
<p>Conditions: the need for normal investments on defense and attracting settlers and labor, usually villains, free men, although some slaves. Intensive soil</p>	<p>Conditions: the need for large investments in defense and cultivation, lots of courage of the colonizer, lack of manpower; hesitation between Indians and Black</p>

MEDIEVAL FIEFDOMS [PORTUGAL]	DONATARIES-CAPTAINCIES [BRAZIL]
<p>cultivation. Consumer products and market.</p>	<p>slaves (plentiful later on). Extensive soil cultivation, usually directed at the market.</p>
<p>Letter of Donation to the new landowners (noblemen, Military and religious orders) with special privileges (not the land). Terms sometimes summarized. Sometimes the phrase <i>de juro e herdade</i> (income and inherited), others, <i>vitalícia</i> (for life), and others <i>enquanto for minha mercê</i> (upon my mercy) (<i>ad nutum</i>). Immunity in “honor”; reserved for the King “the highest justice”; right to appeal.</p> <p>The “<i>hereditate illa of Tauguia</i>” [1148?] is still in Latin; “<i>Fatiatis of quicquid and you placuerit</i>”; “<i>Pro bono et servitio adiutorio quod nobis fecistis you et vestri relatives in captione of Ulixbona</i>”.</p> <p>Although brief [16 lines] it is a royal decree, and carries a certain weight: confirmed by the Archbishop of Braga and the Bishop of Porto, and high court magnates.</p>	<p>Letter of Donation or mercy from the king to the noblemen (of the court, or senior officials who have already distinguished themselves in the East).</p> <p>The “donataries” were also “captains”, but there could be more than one in their donatary (the infant donatary D. Henrique Madeira created three captaincies). Very extensive and detailed document. In general, “<i>de juro e herdade</i>”, with jurisdiction of “<i>mero e misto império</i>” (civil and criminal). Sometimes without the right to appeal. Respect for settlers to whom the donatary granted <i>sesmarias</i> or land allotments, with sovereign rights over them (jurisdiction and captaincy): single burden of the “<i>sesmeiros</i>”: “God's Tithe”, the Order Of Christ (king).</p>
<p>Charter: ancient, often summary and customary, given to inhabitants, listing their duties and taxes. They suffered from the Manueline reform in the 16th century. But often, those of the 12th century remained effective, unchanged, in the 14th century! Atouguia had two simultaneous charters, having given one to the <i>Francos</i> and another to the <i>Gallici</i>.</p>	<p>Charter: new (Manueline reform), very extensive, dictated by the king or by the grantee; after the donation letter, specifying the regime of “captaincy” and “<i>sesmaria</i>”. As traditional charters, it fixed rights, forums, taxes and things in the respective land that should be paid to the king or the captaincy-grantee or the chief of the <i>sesmaria</i>. The internal.</p>
<p>Rules of succession: general and specific (e.g. Law of the Francos). Controlled by the king. Exclusion of illegitimate children. With the <i>Lei Mental</i> the rules became stricter (from the time of D. Duarte). There were no rules expressly set out in this case. All we know is that those referred to in the royal sentence applied, and that the royal inquisitor-judges (only they could intervene) decided it to be so. The Dias-Cogominho family, presumptive heirs, did not appear in court or react later.</p>	<p>Rules of succession accurate: hereditary, inalienable and indivisible, in the family, which brought them closer to the <i>morgadios</i> (arrangements giving the right of succession to a specific parcel of property associated with a title of nobility). Exemption from the <i>Lei Mental</i>. Acceptance of illegitimate children, except for those born to members of the religious orders (priests or nuns). Precedence of men over women, legitimate over the illegitimate, older over younger. Line of descendants, ascendants, cross relatives. If the donatary was convicted of a crime (except for “treason” to the Crown), the donatary passed the lands on to the person</p>

<p style="text-align: center;">MEDIEVAL FIEFDOMS [PORTUGAL]</p>	<p style="text-align: center;">DONATARIES-CAPTAINCIES [BRAZIL]</p>
	<p>to whom it was entitled (MERÊA, 1924, p. 175).</p>
<p>Limits and forms of control: The former were the terms of the donation itself. General appeals (D. Afonso IV), Inquisitions, confirmations, restriction of rights, annexations to the Crown. With D. Dinis (1317: “and you should know [...]”), D. Alfonso IV (re-defines jurisdictions 1343-1344) and D. Fernando (1375 regulates them). Long appeals, stricter control against encroachments. The biggest captaincies (counties, duchies) will appear in the 14th and 15th centuries.</p>	<p>Forms of control: Creation of the Governor-General: the company becomes official and public power is created, above private powers. Inspection Visits from the Governor General, General Ombudsman (<i>Ouvidor Geral</i>) and Chief Treasurer (<i>Provedor Mor da Fazenda</i> Rights of the captains restricted in relation to the situation of creation. Some complaints. The area of freedoms is still considerable (more so in Pernambuco, during the life of the first donatario, D. Duarte Coelho: 1534-1556).</p>
<p>Future: they were curtailed and subsequently incorporated into the Crown (in a non-linear way, as periods of increase were followed by periods of increase) and in the unity of the kingdom.</p>	<p>Future: the Crown came to annex some (Baia, Rio de Janeiro, Espirito Santo) until the Marquis of Pombal annexed those that still remained in the 18th century. They formed the basis of the Brazilian federal organization: from captaincies and provinces, and later on from these to federal states.</p>
<p>Institution: The “captaincy system” existed throughout the medieval Western world. Between us, this type of donation had predecessors in the Asturian monarchy, since the tenth century, and developed with the reconquest of territory from the Moors and later on with its settlement and colonization, but lasted beyond the Middle Ages. It too has evolved over the centuries, especially after the systematic inquisitions of D. Dinis.</p>	<p>Institution: created and rearranged in two phases: 1534-1549 and 1549-1759). VMG considers the Atlantic colonization as a result of the merger of the Italian, Catalan and French Mediterranean medieval forms in the uprising with administrative, economic and social institutions inherited from the Middle Ages and adapted to new requirements (MAGALHÃES GODINHO cited M.E.C.F, 1971, p. 473). Influence from the humanist Dr. Diogo de Gouveia (1532), former rector of the University of Paris (COUTO, 1995, p. 218).</p>
<p>Type of Lords: Military and religious orders, noblemen, knights both national and foreign (Crusaders), or members of the royal family, in return for military service in the Reconquest or other wars (e.g. Nuno Alvares Pereira). Foreign crusades such as that of D. Guilherme of Cornibus in Atouguia, through donation in 1148. Or the lords of Lourinhã, Azambuja and Villa Verde of the Francos (HERCULANO, 1996, p. 599-600; 609-610).</p>	<p>Type of lords: noblemen, but “de classe nova oriunda de mercadores, funcionários e elementos destacados no Oriente ou imiscuídos no trato das especiarias, providos já de uma certa experiência de organização colonial na Ásia” (M.E.C.F, 1971, p 473) and that sought, above all, to “awaken in a quick and intense way, the virgin land offered to their greed”, in the words of Sergio B. Holland who speaks of</p>

MEDIEVAL FIEFDOMS [PORTUGAL]	DONATARIES-CAPTAINCIES [BRAZIL]
	“predatory crop” (BUARQUE DE HOLANDA, 1979, p. 12-22).
<p>Economic system: the predominant economy was based on the soil, plantations divided in two parts: “domain” or reservation and concessions or <i>mansos</i> (production areas granted to farmers) (<i>land dominicata</i>) given to small farmers. The reserve was farmed by the landowner, through his servants and unpaid laborers from the owners of the <i>mansos</i> (and afterwards, <i>casais, vilares, quintas, de “caseiros”</i>). The lords also received various taxes and the “platitudes”.</p> <p>There were rich captaincies, others not so rich; some had rivers, streams, maritime borders, river ports or sea ports (such as Atouguia). Taxes on boats, fisheries, merchandise</p> <p>Abuse, fraud and usurpation of rights were commonplace (AHOM, p. 847).</p>	<p>Economic system: the captaincy-donataries were “capitalist landlords”, with a “commercial” economy that was based on agricultural production, but on a large scale, with the work of colonizers and Indian and Black slaves (sugar cane). The “<i>sesmarias</i>” were also divided up: “Great House” and “slave quarters” – in imitation of metropolitan landlords. The captain-donataries were entitled to a twentieth of the fisheries and pau-brazil wood; the riverboat taxes, the tithes over the property of the Crown, and other charges paid to the Order of Christ. Water mills, and marine engines belonged to them. Mines were explored, giving a fifth to the crown and a tenth of domestic trade and other captaincies (M.E.C.F, 1971, p. 475).</p>
<p>Formulas for validation of laws: After several traditional clauses comes: “<i>Facta carta, Era [...]</i>”; “<i>Ego Alphonsus rex una cum [...] in presentia testium manibus proprias roboramus</i>”. “<i>Ego Johannes archiepiscopus confirmo, ego Petrus episcopus conf. [...]</i>; <i>Fernandus testis, Alphonsus ts. [...]</i> <i>Albertus cancelarius notuit</i>” (signal “Portugal”).</p>	<p>Formulas for validation of laws: from the middle of the 15th century, between the writer (1. John Doe had made write) and the Registrar (2. John Doe) a third element appears (3. I John Doe made the person write and I subscribed by my hand) – is the “intermediate subscription”. In documents of the House (Puridade) and or Treasury: signal of higher royal control over asset management.</p> <p>Example: Tomé de Sousa Ruling (1548): 1. I sent you to deliver this letter signed by me and sealed with my lead seal; 2. Manuel da Costa has done so in Evora; 3. I Ferdinand d'Alvares, chief treasurer of the king, the Registrar of his Treasury subscribed to it.”</p>

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Notes

¹ It is noted that among its authors, there many well-known Portuguese historians and only one Brazilian: Luciano Pereira da Silva, Duarte Leite, Jaime, Paulo Merea, Pedro de Azevedo and Oliveira Lima.

² Chapters IV and VI are written by Paulo Merêa and Carlos Malheiro Dias, respectively.

³ The expression “State metamorphoses” is used by Gonçalves de Freitas (2012 p. 10).

⁴ See: Ramos (2000, p. 129-152).

⁵ The publication of the *HCPB* began in the form of periodic issues, in August 1921 to commemorate the first centennial of Brazilian independence. The aim was to create a “masterpiece” of an “apotheosis to the Portuguese race that had dominated the world”. Through the “documentary pamphlet” and correspondence from the Editor-in-Chief, Carlos Malheiros Dias, we know today that the work would end up being incomplete, as it was planned as five volumes that would cover the period from the discovery until the end of the 19th Century. Among other planned collaborators were Serafim Leite, Luís Gonzaga Cabral, Afrânio Peixoto, Gustavo Barroso, Rocha Martins, Luís Norton de Matos and the Viscount of Carnaxide. Some managed to complete their research, and their works were later published in independent editions. Themes such as the Jesuits, the Dutch conquest, the Pombaline reforms, the court in Brazil, the independence, the Empire and the culture of literacy were planned for inclusion. It is seen that certain themes went beyond the title of the work, which even so, was disproportionate: of the three volumes, two are about “The Discovery” (276+462 p.), and only one was about “The Colonization” (395 p.). In none of the planned volumes were chapters on economic history included, which to us is the main limitation of this monumental historical work. See Marcello Caetano (2006, p 165-175.); Filipe Nunes de Carvalho (1999, p. 97-196). With unpublished letters in the Appendix.

⁶ Classification by Borges de Macedo (1995, p. XL).

⁷ See Azevedo (1929, p. 393-444). The same author would later publish *Épocas de Portugal Econômico*, in 1929.

⁸ Lady Joana Dias (+1301) belonged to a wealthy and well-known family from Coimbra, and had been a lady-in-waiting to the Queen. She had been married to Fernando Fernandes Cogominho (+1277), Lord of Chaves, *alcaide* (chief authority) of Coimbra and Chief of the Royal Council. The six living children listed here were, among others, the actual heirs of the family: Nuno Fernandes Cogominho; Afonso Fernandes, treasurer of Lisbon; Gonçalo Fernandes, canon of Lisbon; Brother Martin Fernandes, OFM; the abbess of Santa Clara de Santarém; the abbess of the monastery of Guimarães Cells (Coimbra); Sancha Fernandes and Branca Fernandes, both nuns at the monastery of Coimbra. Only Nuno Fernandes was married, so his wife also appears as an heir; in the case of the two abbesses, their convent was also the heir. See my short article, *Uma Família entre as elites coimbrãs na segunda metade do século XIII* (MARTINS, 2002).

⁹ On the distinction between *Francos* and *Gallici* see Herculano (1996, p. 599, note 6).

¹⁰ The critical date of these confirmations is, according to its modern editors, 1186-1195. See (DOCUMENTS, 1979, p. 138-141).

¹¹ All these characteristics can be seen in: Alexandre Herculano (1996, p. 609-610).

¹² For an example of this, see Cruz Coelho (1990, p. 199-237).

¹³ “It was political reasons, not economic reasons, that turned D. João III to the bold entrepreneurship of colonization”, affirms C. Malheiro Dias (MALHEIRO DIAS; VASCONCELOS; ROQUE GAMEIRO, 1924, p. X).

¹⁴ Malheiro Dias, citing in his support Pero de Magalhães Gândavo, is more explicit in his description of the “establishment” of colonization: “In the early colonial period, the *poor* villagers were engaged, paradoxically, in enriching the opulent land. The whole of Brazil of the sixteenth century arrived in the holds of ships. The cane sugar, beef cattle, horses, sheep and pigs, cereals and wines, agricultural and mechanical appliances; everything was transported in the holds of the fleets”. And he further states: “colonizing meant, in the way it was done by the Portuguese, remaking and duplicating the homeland, transporting the materials of civilization, just as the snail carries its house” (MALHEIRO DIAS; VASCONCELOS; ROQUE GAMEIRO, 1924, p X and XVIII.).

¹⁵ The description is from M.E.C. F. (1971, p. 476).

¹⁶ The expression is from F. Nunes Carvalho (1999, p. 144).

¹⁷ The theme of miscegenation would later become a favorite subject of Brazilian anthropology and ethnography. See: (WEHLING; WEHLING, 1999, p. 227).

¹⁸ Duarte Coelho brought to Pernambuco his wife and a large number of relatives, including his brother, Jerónimo de Albuquerque, and a group of noblemen that included Filipe and Pedro Bandeira de Melo, João Gomes de Melo and António Bezerra. Vasco Fernandes de Lucena, who had left his wife and children in the mother country, brought the keeper of the royal warehouses and even a vicar, Father Pedro Figueira, and four chaplains. This would mark the beginnings of a strain that would later become famous in defense of Brazil and the restoration of independence from Portugal.

¹⁹ See the account of the death of *Rusticão* (nickname of Francisco Coutinho) in Capistrano de Abreu (1982, p. 72). A more detailed description of these rituals is given in a passage from Gabriel Soares de Sousa (1924, p. XXV).

²⁰ Quoted by Couto (1995, p. 228).

²¹ The designation is from Malheiro Dias (1924, p. 219-283).

²² Upon payment of compensation to the 400,000 reais given annually to the son and heir of that captain governor, Manuel Pereira Coutinho who lived on his Varatojo estate. His descendant, wife of the minister José de Seabra da Silva, was assigned by King José a compensation for the poor compensation of 1576, his son Manuel Coutinho Pereira de Seabra also receiving the title of 1st Viscount of Baía *de juro e herdade* (which meant the reigning monarch was obliged to renew the title for its rightful heir whenever a titleholder died) in 1796, in the reign of Queen Maria I! (MALHEIRO DIAS; VASCONCELOS; ROQUE GAMEIRO, 1924, p. 214).

²³ “*La notion de Moyen Age n'a de valeur qu'à l'intérieur de ce corps [...] la chrétienté latine*” (DUBY; LARDREAU, 1980, p. 146). But we do not agree with the radical affirmation of certain Brazilian historians, like Sérgio Buarque de Holanda, Caio Prado Júnior or Honorio Rodrigues, that the Brazil of Carlos Malheiro Dias never existed!

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