

The Creation and Failure of a Bill

Sá da Bandeira and the Attempt to Regulate
Portuguese Emigration to Brazil (1835-1843)

Criação e fracasso de um projeto

Sá da Bandeira e a tentativa de regulamentar
a emigração portuguesa para o Brasil (1835-1843)

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ABSTRACT This paper reviews the factors that led to the drafting, partial transformation into an ordinance, and the final rejection of the first bill regulating Portuguese emigration to Brazil by Sá da Bandeira. The research begins in 1835 with the emergence of the expression ‘white slave traffic’; and finishes in 1843 with the rejection of the draft bill in Parliament. This work contextualizes the interpretation of emigration by Bandeira and other state agents within Brazil’s transition from slavery to free labor. Such an approach raises questions about the thesis that sees the concern with white slavery as rhetoric to legitimate the adoption of restrictive measures on freedom to emigrate. Highlighting the disputes within the state around the draft bill, this paper shows how emigration became a concept whose multiplicity of experiences prevented a consensus about which policy to follow.

KEYWORDS Portugal, emigration, white slavery

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RESUMO Este artigo analisa os fatores que levaram à elaboração, à parcial adoção e ao fracasso do primeiro projeto de lei que visava regulamentar a emigração portuguesa para o Brasil, proposto e defendido por Sá da Bandeira. O período estudado se inicia em 1835, quando do surgimento da expressão “tráfico de escravatura branca” e se encerra em 1843, quando o projeto foi recusado no Parlamento. A leitura que Bandeira e outros agentes estatais fizeram da emigração é contextualizada no âmbito da transição do trabalho escravo para o livre no Brasil. Tal abordagem leva a um questionamento da tese que vê na preocupação com a escravatura branca uma retórica que legitimava a adoção de medidas restritivas da liberdade de emigrar. Evidenciando as disputas em torno do projeto travadas no interior do Estado, a pesquisa mostra como a emigração se transformou num conceito cuja multiplicidade de experiências impossibilitou um consenso acerca da ação política a seguir. **PALAVRAS-CHAVE** Portugal, emigração, escravatura branca

This article intends to analyze the first attempt to create a legal code in Portugal to restrict emigration and improve the conditions of transport for emigrants. The period studied begins in 1835 and runs until 1843. In 1835, at the end of the Civil War which opposed absolutists and liberals, a new emigratory flow called attention in some parts of the country: the departure of individuals contracted by Brazilian colonization companies, which were looking for replacements for slave labor in Brazil. Given the constitutional impossibility of prohibiting emigration, some very timid (and inefficient) measures were tried to prevent the departure of labor to the former colony and to restrict the action of the *engajadores* (those who hired the labor), considered responsible for the false promises of easy enrichment made to the Azorean peasants.

While an impoverished population, little interested in joining the ranks of the Portuguese army, headed to Brazil, news about the working conditions and the contracts signed in the former colony reached Portugal. These reports showed the subaltern position assumed by Portuguese subjects in the recently independent country and caused

indignation among some members of the Portuguese political elite, such as Viscount Sá da Bandeira. When he joined the *Ministério Setembrista* and became Secretary of Foreign Affairs, the Viscount inserted emigration (then seen as white slavery) in a vast project which involved the end of the slave trade and encouraging white settlement in Portugal's African colonies. Sá da Bandeira actively contributed to the bill which aimed to restrict emigration to Brazil and fought for five years to have it passed in Parliament. Despite having served as the basis for the drafting of the Edict of 19 August 1842, the Bill was considered unconstitutional when discussed in the *Câmara dos Pares* (the Portuguese upper house) in 1843 and was not debated again.

The analysis of the bill, the circumstances in which it was proposed, and the conflicts involved until its final defeat shed new light on the historiography of Portuguese emigration legislation. Numerous papers have focused on this theme, recognizing the conditioning role which laws and the obligation of obtaining a passport exercised on the emigratory flow, above all from the second half of the nineteenth century onwards. The legislative *corpus* has been interpreted as part of the structures which compose emigration. However, the process between the preparation of a new legislative proposal, the disputes resulting in its passing or rejection, as well as the conditions which favor the signing of new decrees have been neglected. This neglect hides the adaptations incurred in the original bills as a form of hiding diverse interests, as well as the transformations in the concepts of 'emigration' and 'emigrant' during the debates and the layers of significance and experience added to them.

The little attention given to the process of preparing laws aimed at regulating the emigratory flow is due to the understanding, widely diffused in the historiography on Portuguese emigration policy, that the state acted in accordance with the interests of the large landholders. Considering the Portuguese state either as a rational subject or as a space dominated by a social layer, Miriam Halpern Pereira's interpretation sees the legislation as "strongly limiting emigration" (Pereira, 2002, p.80) due to the "strong influence of the agrarian bourgeoisie and the landholding class in the Portuguese economic and political structure"

(Pereira, 2002, p.80). This agrarian bourgeoisie was interested in restricting emigration as a form of guaranteeing the excess labor which safeguarded the low pay policy.

The direct submission of emigration policy to the economic interests of a social class fails to explain why determined bills — such as the one which will be analyzed here — ran into obstacles to be passed, even though they were in agreement with rural landholders' desire to hinder emigration.

Even the papers which consider the dissonance existing within the state in relation to emigration end up reproducing a distance between the debates and the measures adopted, as if the latter had not emerged from the former or had not been affected by them. This is the case of the studies carried out by historians such as Isilda Monteiro and Fernanda Paula Maia. In her analysis of the passport concession policy, Monteiro clarifies the contradiction between the prohibitive nature of the legislation and the facility with which people emigrated through the recognition of the action of civil governors, whose remuneration came from fees paid by emigrants to obtain the document. However, at the same time that she identifies in the individuals who make up the state the source of this contradiction, she maintains the 'legislator' as a distant entity who aimed to repress emigration due to the influence of the agrarian bourgeoisie (Monteiro, 2011).

In turn, Maia's work valorized parliament as an important space of debates in nineteenth century Portugal and sought to understand the control mechanisms of parliamentary speeches (Maia, 2002). Analyzing in detail the speeches by the different deputies, she identified how emigration entered Parliament. Despite paying attention to the nuances of the confrontation between different points of view, the impact of these conflicts over the legislation actually passed (or rejected) is ignored. The emphasis falls on the association of emigration "with a new system for hiring slaves" (Maia, 2007, p.52) and how this approximation was instrumentalized by deputies in the first half of the nineteenth century, which avoided dealing with the country's real problems in settling its population.

The analysis centered on parliamentary debates and restricted to the national frontiers of Portugal ends up removing the question of white slavery from the much broader context in which it was inserted and transforms it into a rhetoric distinct from reality (Maia, 2007, p.52). This rhetoric justifies the concern of the “Portuguese state in controlling in a rigorous manner the departure of its citizens” (Maia, 2007, p.55).

A similar perspective is adopted by Victor Pereira, for whom white slave traffic is a discourse used to hide other interests and to “legitimize government initiatives that restricted departures” (Pereira, 2019, p.2). Since prohibiting emigration was not an alternative for the government due to the freedom to emigrate guaranteed in the 1826 Constitution, the measures adopted were justified, according to him, by the supposed need to protect emigrants who would replace African slaves in Brazil. In this way the interests of the agrarian bourgeoisie in restricting the emigratory flow could be met without going against the principle of freedom of circulation.

Studying the bill proposed and defended by Sá da Bandeira between 1838 and 1843 requires a contextualization of the debate about white slave traffic which motivated the legal initiative. The investigation of the factors which contributed to emigration entering Parliament — and other governmental agencies — through the association with slavery has to be attentive to the transnational nature of the emigratory phenomenon. It is thus important to look to the transition process from slave to wage labor in Brazil in a non-linear form and to understand the grey zones existing beyond the slavery-freedom binomial. Understanding the condition in which the debate gained strength and being attentive to the fact that the similarities to black slave trade mentioned by Sá da Bandeira (and others) were insufficient to have measures to restrict emigration passes implies the refusal of a single explanation which submits legislation to the interests of a social class.

This paper thus considers the state as “a polyphonic space in which different groups relate and express themselves” (Bohoslavsky; Soprano, 2010, p.15). Starting from the understanding of the state as a *locus* of dispute in which individuals with different perspectives towards emigration act, this article seeks to capture the diverse (and divergent) positions on

the theme, putting in evidence the difficulty of arriving at a consensus about the best form of dealing with the phenomenon. Dissensus and the impossibility of passing a legal code aimed at to hindering emigration and protecting emigrants contradict the idea that the 'political elite' acted in benefit of the agrarian elite, interested in the end of emigration.

A kaleidoscopic perspective, attentive to the various positions on the question, is fundamental to understand the solutions found and leads to another methodological consequence: the polysemy of the concept of 'emigration.' At the moment which the theme of the departure of Portuguese individuals to Brazil gained relevance, the word 'emigration,' previously associated with the flight from absolutism, became a synonym of white slavery. However, to the extent that solutions were proposed to the problem new voices enter the debate, present other points of view, and confer other experiences on the concept. The multiple layers of significance superimposed on the same word hinder consensus or make it impossible.

Considering that "without common concepts" there is no "unity of political action" (Koselleck, 2006, p.98), it is important to avoid simplistic conclusions. This is the case of the one Fernando de Sousa arrived at. After reporting the discussion which led to the defeat of Sá da Bandeira's bill, de Sousa concluded: "during 1835-1843, neither the government nor Parliament sought to stop emigration" (Sousa, 2009, p.39). In addition to yet another generalization which ignores the divergence of opinions within state agencies, this conclusion lacks an answer to the questions: which emigration was it not intended to stop? And those who defended the establishment of barriers to stop people departing, defended these for what emigration?

This article thus proposes to: (i) analyze the context in which the expression 'white slave traffic' was used to refer to the emigratory flow; (ii) clarify the factors which led Sá da Bandeira to defend a bill about the question; (iii) understand the conditions which allowed the publication of the Edict of 19 August 1842 and the reasons for the reactions against it; (iv) perceive how it was sought to contemporize all these divergences; (v) leave clear the transformation in the concept of emigration, which impeded the consensus necessary for the bill to pass.

WHITE SLAVE TRAFFIC AND THE FIRST GOVERNMENTAL MEASURES

In the years which immediately followed the proclamation of independence of Brazil, the flow of Portuguese towards the former colony does not seem to have been seen as a problem. In Article 145, Paragraph 5, of the 1826 *Carta Outorgada* (in other words the Constitution) D. Pedro, then Emperor of Brazil, guaranteed the freedom of any Portuguese to leave the country once they did not break any police regulations. It cannot be said with certainty what was D. Pedro's intention in granting these guarantees to the population, but as Victor Pereira (2019, p.7) has suggested, it can be presumed that they were an inheritance of the 1824 Constitution, granted in Brazil by the same monarch, in which Article 179, Paragraph 6, contains an identical text, which was also in accordance with the liberal principles in vogue at the time.

In the troubled decade of the 1820s, unlike what was preached in the *Carta*, the revolutionary context and the scenario of imminent civil war, led to increased control over the mobility of individuals (Alves, 1994, p.126-128) and when used during the war years the word 'emigration' became a synonym of exile for the liberals opposed to absolutism. It was only at the end of the war that another movement of Portuguese to Brazil began to call attention: the departure of Portuguese subjects, above all from the Azores, distinct both from the exile of the liberals and the traditional mobility of Portuguese between the metropole and the colony (Maia, 2011). They were contracted workers (*engajados*) who went to Brazil where they did undervalued work, showing the change in the social position of the Portuguese in Brazilian society (Alves, 1994, p.128). From the second half of the 1830s onwards, emigration gained a new layer of meaning, becoming synonymous with 'white slavery'.

The impact of this emigratory flow and the way it was associated with slavery can be better understood by considering the labor question in Brazil in the same period. The Brazilian diplomatic debt with Britain forced D. Pedro I to commit himself to ending the slave trade three years after the 1826 convention was ratified by the British government.

Upon the abdication of the emperor from the Brazilian throne, the Regency government was responsible for fulfilling the promise made to the British. In November 1831, the Feijó Law was passed. Even though this was considered as just being for show it “actually intended to end the transatlantic trade” (Marquese; Parron, 2011, p.103), as shown by the increase in the number of enslaved Africans brought to Brazil in the previous years.

During the Regency period, Brazil experienced a new moment of colonization efforts in the country and the (long term) replacement of slave labor, albeit without the support of the central government. According to José Juán, the colonizing paradigm of the period can be summarized in the following form: “the government should concentrate on public administration and let private companies do the colonization work” (Meléndez, 2014, p.46). Between 1835 and 1836 two colonizing companies were founded in Brazil: the Colonization Promotion Society in Rio de Janeiro and the Colonizing Society of Bahia.

The former had the mission of “promoting the immigration of useful colonists” through the payment of the transport of immigrants when they arrived in Rio de Janeiro port and providing them with “employment or occupation appropriate to their capabilities and skills, supporting them in their needs.”¹ Miguel Calmon intended to introduce, through the Colonizing Society of Bahia, free labor in the province as a form of improving industry and agriculture, preventing the “dire need for Africans”² and ending the “even more dire existence of so many barbarians in this blessed country.”³ These companies established labor contracts between interested Brazilian and the recently arrived *engajados* at the port (who were forbidden from disembarking without the authorization of the ship’s representatives), usually “under the

1 Estatutos da Sociedade Promotora da Colonização do Rio de Janeiro. Rio de Janeiro, 1836, p.1.

2 ALMEIDA, Miguel Calmon du Pin e. Memória sobre o estabelecimento d’uma companhia de colonização nesta província. Bahia: Typ. Do Diário de G. J. Bezerra, 1835.

3 ALMEIDA, Miguel Calmon du Pin e. Memória sobre o estabelecimento d’uma companhia de colonização nesta província, p.3.

bond ‘of their own person, their goods, and of their heirs’” (Alencastro, 1998, p.36).

This labor, which like Africa slaves was de-territorialized, had been born and grown outside the national territory (Gonçalves, 2017) and had moved in a spontaneous form. However, the distinction between slave and free labor is less watertight than might be seen at first sight (Gonçalves, 2017). In the case of Brazil in the transition from slave to wage labor, ‘free’ workers were far from necessarily independent and paid, since labor arrangements combined “various degrees of ‘freedom’ and financial compensation for work with elements of physical and monetary coercion, compulsory and contracted work, and also forms analogous to slave, such as debt slavery” (Gonçalves, 2017, p.314). Isolated, foreign workers found themselves “facing the almost absolute power of the plantation owners” (Alencastro, 1998, p.39).

The situation of the emigrants resembled the enslaved African populations in yet another aspect: transport. Fleeing from bad living conditions and military recruitment, many Portuguese were transported to Brazil, possibly in ships previously used in the African slave trade which, due to the draconian measures stipulated in the Feijó Law, had started to transport *engajados* and to sell their ‘*passes*’ in Brazilian ports.⁴ The superimposition of the transport of Africans and Azorean colonists and the complementarity of the two activities was noted by Luiz Felipe de Alencastro, who identified the dual activities of the brothers João and Antônio Severino d’Avelar who, having been arrested in Brazil for transporting slaves, transported Azoreans to Bahia in 1838. He also mentions the case of the company Vergueiro & Cia which in 1843 bought three ships, two of which were used in the black slave trade, while the third transported Portuguese and Germans to work in São

4 It is important to note that traveling in overcrowded ships also used for transporting African slaves was not the only way for Portuguese to reach Brazil. According to ALVES (1994), most was done by vessels owned by Porto merchants, the majority of which carried duly documented passengers in a compatible number with the ship’s capacity. However, it is evident that the scandals about the overcrowded ships leaving the Azores attracted much more attention, meaning that at this time little or nothing is spoken about emigration from Porto.

Paulo (Alencastro, 1998, p.37). These examples show that the slave traders, like Brazilian planters, were preparing for the end of the trade, at the same time that they took advantage of moments of reduced surveillance to continue the activity.

These examples also show that the then Portuguese member of parliament Bernardo Costa Cabral was not completely wrong when he stated in the *Cortes Constituintes*, that “the societies or companies which not being able to take black slaves from the coasts of Africa” then did this with the “whites from the Azores.”⁵ This was not the first time that the expression white slavery was used in the Portuguese parliament. A year previously, Passos Manuel⁶ had mentioned a memorandum received from Bahia which reported the treatment given to Azoreans during the passage to Brazil and after arriving in the former colony. He also lamented the replacement of the black slave trade with white slave traffic.⁷

Although there could have been exaggerations in the reports which reached Portugal, as has been seen, there are reasons to believe that the reality was not so distinct from what was alleged. Although the precariousness of labor was not exclusive to Brazil (and was certainly present in Portugal), it can be assumed that the concern raised by some Portuguese politicians about the working conditions found in Brazil was not mere rhetoric to legitimate coercive measures towards emigration. For the rulers of a country which had just lost its principal colony — and which needed to be reconstructed as a nation —, it would be inadmissible for Portuguese subjects to do the same work as African slaves and worse: to be transported in the same form. Moreover, the defense of measures opposed to this ‘shame’ was in agreement with the nationalism which conditioned the parliamentary discourse of the time (Maia, 2002).

For this reason, the concern with the departure of Portuguese subjects, with the working conditions in the destination country and with

5 *Diário das Cortes Extraordinárias e Constituintes da Nação Portuguesa*, n. 48, 05 fev. 1836, p.71.

6 *Diário da Câmara dos Senhores Deputados da Nação Portuguesa*, n. 27, 05 fev. 1836, p.349.

7 In relation to the manner in which emigration entered the Portuguese parliament in the years following the independence of Brazil, see: MAIA, 2002.

the activities of colonizing companies led the *Ministro do Reino*, (the prime minister) to take measures, even before anything had been proposed by the legislature. In October 1835, an Edict was issued congratulating the Bishopric of Funchal for recommending that parish priests discourage emigration carried out by “foreign speculators” whose actions were responsible for considerably reducing “the numbers of the useful and laboring classes.”⁸

The Edict recommended the continuity of the initiative, so that parish priests would destroy “in the spirit of the people the illusory hopes that cause so many unfortunates to leave the Patria, to which they could have been useful, to perish in remote and inhospitable countries.”⁹ It did not impose any restrictions on the departure of Portuguese subjects, but was aimed at discouraging emigration — which did not infringe the 1826 Constitution. In relation to the Edict, the clarity with which the motivations for its issuing are stated should be noted. The ‘laboring classes,’ understood as passive and incapable of deciding their own future, were being deceived by the *engajadores* responsible for the reduction of available labor. This vision of the working classes was also in accordance with the liberal doctrine which inspired the Constitution.¹⁰

Months later, the Edict of 16 May 1836 was issued, also by the *Ministro do Reino*. The association between emigration and slavery is evident in it, as well as concern with foreign colonizing companies. It argues that “different speculators and even Foreign Societies are employed in encouraging the emigration of the inhabitants of the Azores Island both

8 Portaria de 07 de outubro de 1835, Coleção Geral da Legislação Portuguesa, 2º semestre de 1835, p.453.

9 Portaria de 07 de outubro 1835, Coleção Geral da Legislação Portuguesa, 2º semestre de 1835, p.453.

10 The distinction between active and passive citizenship was crucial in nineteenth century liberal doctrine to accommodate the differences in participation levels allowed to different individuals. Property owners were recognized as having the rationality necessary for full participation in public life, while non-property owners were not seen as having the right to political action, being reserved only civil rights. Seen as being passive, they had to adapt to the will of the active majority and wait to be rescued from their ignorance by those with access to the state. In relation to this, see: HESPANHA, 2004; NOGUEIRA, 2009 and RAMOS, 2004.

to Brazil and to the Antilles and other countries where the abolition of the slave trade, and recently the emancipation of slaves, has made the importation of new colonists necessary to fill the absence of the slaves.”¹¹

These agents were bringing “the misfortunates who believed in them to a desperate situation” in which “finding themselves completely abandoned and lacking the means to leave, they were subjected to such an unhappy destiny as that of the slaves they would replace.” For this reason it was determined that the Mayor of the Eastern Province of the Azores should use “the most constant efforts to prevent, by all legitimate means, such terrible emigration,” ensuring the “exact observance of all the laws, ordinances, and regulations related to passports and other requirements to leave the Kingdom [of Portugal].”¹²

No obstacles were to be created to the freedom to emigrate, rather surveillance at seaports would be increased, especially during the presence of suspicious vessels. Here it should be noted that the Edict was aimed at the repression of emigration that took place outside the regulations mentioned in the Constitution, which resulted in the overcrowding of ships guaranteeing greater profits to the transporters.

As can be seen, the 1836 Edict did not refer to the reduction of the available labor, which did not signify that this concern was absent. However, the references to slavery and *engajadores* showed the suspicion caused by agents of colonizing societies created in Brazil upon the prohibition of the slave trade.

SÁ DA BANDEIRA: EMIGRATION AND THE COLONIAL PROJECT

It is in this context of pressure for the end of the African slave trade, the search for alternative sources of labor in countries overdependent on slaves, and the perception by some deputies and members

11 Portaria de 16 de maio de 1836. Coleção Geral da Legislação Portuguesa, 1º semestre de 1836, p.159-160.

12 Portaria de 16 de maio de 1836. Coleção Geral da Legislação Portuguesa, 1º semestre de 1836, p.159-160.

of government that Portuguese could be the target of slave traders in search of new sources of income that the first important bill was drafted in Portugal with the aim of hindering emigration and assuring better transport and working conditions for emigrants.

Concerns with the replacement of slaves by Portuguese subjects were raised by an important public figure in nineteenth century Portuguese liberalism: Viscount Sá da Bandeira. The analysis of the legal initiatives defended and the colonial project idealized by the Viscount showed that themes linked to the slave trade, the colonization of Africa and emigration were intertwined. The bill proposed and defended by Sá da Bandeira¹³ should be read in light of this entanglement of questions (Alves, 1994; Sousa, 2009) and the admittedly ambiguous efforts he made to put an end both to the slave trade and slavery in the colonies (Alexandre, 1995; Marques, 1999; 2001).

A convinced abolitionist, Sá da Bandeira believed that the end of the African slave trade in Portuguese dominions was a fundamental step both “towards the social improvement” of the natives, and the encouragement of the “cultivation of land,” which would not be incentivized while capital continued to flow to the slave trade, “much more lucrative than any other industry.”¹⁴ It was therefore necessary to end African slavery in order to carry out an effective colonization project of Portuguese territories in Africa.

Faced with pro-slavery resistance in both the colonies and the metropole, Sá sought to gain time and postpone the signing of the treaty

13 Bill no. 22, dated 31 janeiro de 1838, was signed by four deputies from a special parliamentary commission, but not by Sá da Bandeira, then Secretary of Foreign Affairs. In the words of Sá da Bandeira, given in the session on 16 August 1842, in the *Câmara dos Pares do Reino*, the bill (which in 1842 was submitted to that chamber as Bill no. 5) was drafted based on a proposal he had submitted to the *Cortes* in 1837, for which reason he was taking it to be his. Actually, in AHP, along with the bill, there can be found consular correspondence addressed to the Viscount as Secretary of Foreign Affairs, certainly sent on by him to the *Cortes* as a way of making deputies sensitive to the question and providing raw material for the drafting of the bill.

14 Report published in *Arquivo das Colônias*, vol. 1, p.13-18. Citado por ALEXANDRE, 1991, p.304.

with Great Britain (Marques, 1999, p.206). According to João Pedro Marques, Sá da Bandeira's strategy was to convince the British of the Portuguese spontaneity in abolishing the slave trade through the signing of the Decree of 10 December 1836.¹⁵ At the same time, the Viscount needed to protect himself from internal accusations that he was obeying English orders, since the debate was marked by nationalistic outcries (Marques, 1995). Resistance to English pressure guaranteed Sá da Bandeira a political position which would allow him to gradually implement the African project. However, this position would not be sustainable if he were thought to be more concerned with the black slave trade than the white slavery suffered by the Portuguese in Brazil.

It is in light of these circumstances — and strategies — that the emigration restriction bill should be read. When he took the office of Minister of Foreign Affairs in 1837, Sá da Bandeira could not ignore the reports about the living and transport conditions faced by Portuguese going to Brazil, which mobilized public opinion more than the question of the black slave trade (Marques, 1999, p.429) and could be interpreted as an undesired consequence of abolitionism. Moreover, if the lives of emigrants in Brazil was so harsh, and Africa needed whites to colonize it, hindering emigration to the former colony could be a way of taking advantage of the migratory flow and making the African project feasible.

Based on the official letters written by the Portuguese consul in Pernambuco, Sá da Bandeira sought to find out about the actions of labor *engajadores* in Portugal and propose legislation which could show his efforts to end the trafficking of both blacks and Portuguese. From Pernambuco, Joaquim Baptista Moreira asked the government to take measures to bring an end of the “scandalous trafficking” of “useful people” which was done from the Azores and Porto introducing Portuguese subjects around the Empire in a ‘humble’ manner.¹⁶ For this, the

15 For an analysis of the debate about the intentions of Sá da Bandeira upon signing this decree, see: MARQUES, 1999, pp.14-15 and p.206.

16 These are the terms used by Joaquim Baptista Moreira, Vice-Consul of Portugal in Pernambuco, in an official letter sent to the then Secretary of Foreign Affairs, Viscount Sá da

consul spared no words in his description of those transported found themselves obliged to “rent their services in Brazil” through contracts which were nothing more than “reducing a free person to slavery for a determined time.” At the same time the consul in Rio de Janeiro, João Baptista Moreira, stated on 31 January 1837 that most of the emigrants had left Portugal due to “the misleading promises of those who had contracted them,”¹⁷ for which reason there were in the “greatest misery” in the destination country.¹⁸

In possession of this information, Sá da Bandeira gave the administrator general of the district of Lisbon the task of sending “a person of greatest trust”¹⁹ to the address published in *Diário dos Pobres*, where the contracting (*engajamento*) of colonists for Rio de Janeiro took place.

Bandeira, on 18 February 1837. Document annexed to Bill no. 022. AHP, Secção VI, cx. 136, maço 5, capa 28, doc. 2.

17 Ofício n. 09, de João Batista Moreira para o Visconde de Sá da Bandeira, 31 jan. 1837. Documento anexo à Proposta de Lei n. 022. AHP, Secção VI, cx. 136, maço 5, capa 28, doc. 2.

18 It is important to highlight that the affirmations of one consul cannot be generalized to the entire consular corps — there are great disparities in the reports and opinions of consuls in different regions, and even between consuls who held the same post at different times. These differences are due to the different agendas followed by each of them. Joaquim Baptista Moreira, for example, showed himself to be more sensitive to the complaints of the Portuguese community in Pernambuco, concerned with the deterioration of its image and social position due to the arrival a lower class countrymen. João Batista Moreira, on the other hand, showed himself at certain moment to be sympathetic to the interests of the captains and shipowners who transported Portuguese to the former colony, although at other moments he endorsed the negative position which had become hegemonic in Portugal, adapting his discourse in function of the minister to whom he was writing. Strong suspicions of using the prestigious position of consul to their own benefit fell on both, for which reason they were removed. Joaquim Baptista Moreira was accused of appropriating the estates of Portuguese subjects who had died in Brazil — an accusation which, if true, explains his efforts to win the trust of this community and to give voice to its anxieties to end emigration. Meanwhile João Baptista, as well as accusation of facilitating the transfer of Portuguese flags to Brazilian *tumbeiros* (coffin ships), was also accused of covering up for ship captains and profiting from the transport of passenger ships from Portugal outside the letter of the law — which also explains his benevolent vision, at many moments, of emigration. See: LEITE, 1994, p.206-210 and CRUZ, 1987.

19 Ofício de Sá da Bandeira ao Administrador Geral Interino do Distrito de Lisboa, 13 dez. 1837. Documento anexo à Proposta de Lei n. 022. Arquivo Histórico Parlamentar, Secção VI, cx. 136, maço 5, capa 28, doc. 2.

In a letter dated 21 December 1837,²⁰ the administrator reported the information discovered, ranging from the oral conditions of the contracts, the value to be paid by those contracted for expenses with passports and passage after being contracted in Brazil and lack of knowledge about the activities to be carried out there.

Shortly afterwards, Sá da Bandeira proposed that a bill be drafted to regulate (and reduce) the departure of Portuguese subjects and to guarantee better conditions for the transport of emigrants. The already mentioned consular reports and the discoveries of the administrator general of Lisbon were sent to Parliament, where a special commission drafted Bill no. 22, whose preamble state that its objective was “to put an end to the shameful traffic and emigration which in a scandalous affront to the law and to morality is occurring in the Kingdom and in the insular provinces”²¹ and to end what was said to be a new type of slavery of Portuguese subjects. The measures aimed to reduce emigration and discourage those who had transported slaves from transporting Portuguese subjects, or at least forcing them to improve the conditions of the journey.

Article 1 of the bill stipulated the prohibition of the granting of passports to a foreign country to petitioners who could not prove that they were not subject to military service. The measure was the only one considered acceptable “for the end that it was desired to obtain” by Councilor Lourenço de Oliveira, in the evaluation of the bill which he sent to Sá da Bandeira. As the other measures were “in accordance with the principles of humanity,” would be “very prejudicial,”²² since emigration was already significant with all the troubles of the journey, it would be even greater if these inconveniences ended.

20 Ofício do Administrador Geral Interino do Distrito de Lisboa ao Visconde de Sá da Bandeira, 21 dez. 1837. Documento anexo à Proposta de Lei n. 022. AHP, Secção VI, cx. 136, maço 5, capa 28, doc. 2.

21 Projeto n. 022, 31 jan. 1838. AHP, Secção VI, cx. 136, maço 5, capa 28, doc. 2.

22 Carta do Conselheiro Lourenço de Oliveira para o Visconde de Sá da Bandeira, 21 out. 1838. AHP, Secção VI, cx. 136, maço 5, capa 28, doc. 2.

He was referring to the measures which aimed to improve transport conditions, as stipulated in Article 2, which established a limit of two people on board for every five tons the ship weighed, including the crew. In turn, articles 3 and 4 determined the quantity of provisions and water per passenger per week of the voyage, which were to be inspected by the Port Captain (Art. 5). Article 8 prohibited ships carrying a third or more of their passengers from sailing if without a doctor or surgeon on board, as well as the necessary instruments and medicines.

Other articles regulated passenger rights. According to Article 12, the captain would be obliged to pay a fine in the case of a delayed departure, while Article 13 stated that passengers had to be provided for after until 48 hours after arrival in the port of destination. Article 16 stipulated that the captain of the ship had to pay a surety which would be returned 18 months after the return of the ship, if it were proved that the legal dispositions had been properly complied with. Finally, Article 17 made it obligatory that Portuguese consular agents be informed of the contracts and agreements signed with the transported passengers, while Article 18 gave money to the government for the repatriation of colonists.

Bill no. 22 was mentioned in the 1838 *Cortes Constituintes* on a number of occasions, including by one of its signatories, Baron Ribeira de Sabrosa, who asked for the report of the special commission to be discussed, since there were ships “following the same traffic with whites that at other times was done on the African coast with blacks.”²³ However, the discussed was postponed more than once — first because it was decided to debate the electoral law and second because the Congress gave preference to the *foros* law — so it never occurred.

In the following years, new political convulsions agitated the country and other problems held the attention of Parliament, specifically the discussion about the Luso-British treaty for the end of slavery. As a result, the bill was left aside, despite numerous requests made by Sá da

23 *Diário das Cortes Geraes, Extraordinárias e Constituintes da Nação Portuguesa*, n. 44, 23 fev. 1838, p.195.

Bandeira.²⁴ It was necessary to wait for the signing of the Luso-British Treaty of 1842 for the bill to be resurrected, this time in the Costa Cabral administration.

THE EDICT OF 19 AUGUST 1842 AND REACTIONS TO THE CONTROLLING OF EMIGRATION

The bill was only resurrected after the signing of the Luso-British Treaty on 3 July 1842, reinforced by the Decree of 25 July 1842,²⁵ which prohibited the black slave trade, during the period known as *Cabralismo*. The proximity of these two dates and the signing of the Edict of 19 August 1842, aimed at prohibiting white slave traffic, cannot be considered to be a mere coincidence of dates. The fear — mentioned by Costa Cabral in the Chamber of Deputies in 1837 — that the transport of Azorean colonists to Brazil would replace the African slave trade certainly explains the publication of the Edict less than a month after the new decree prohibiting the black slave trade.

After a new reading of Bill no. 22 by Sá da Bandeira in the 16 August session of the *Câmara dos Pares do Reino*,²⁶ the Minister of the Navy and Overseas Territories, António José Maria Campêlo, announced the

24 On 26 February 1839, during a session in the *Câmara dos Senadores*, Sá da Bandeira (then President of the Council of Ministers) defended the restriction of emigration through legal means which did not infringe liberty of movement, as well as the change of destination of these emigrants, who instead should go to the African colonies. The following day, questioned about the measures taken by the government to end emigration, Sá da Bandeira remembered and defended the bill presented to the Constitutional Court the previous year, which according to the Minister proposed indirect means to make the transporting of large numbers of passengers more difficult, improve traveling conditions, and direct emigration to Africa. In 1840, now a senator, he recognized some reduction in emigration, but asked the government to consider the bill previously presented to the *Cortes*, as a form of regulating emigration, which in his view victimized Portuguese and led them to be sold in Brazilian ports like black Africans. See: *Diário da Câmara dos Senadores* n. 28, de 26 fev. 1839; n. 29 de 27 fev. 1839 and n. 18, de 21 jul. 1840.

25 The decree determined the application of the penalties stipulated in the Decree of 10 Dec. 1836.

26 *Diário da Câmara dos Pares do Reino*, n. 17, 16 ago. 1842, p.173.

publication of a government Edict based on the bill. However, the “Edict causing the restriction of white slave traffic”²⁷ did not tackle the question of the concession of passports to individuals who could not prove that they were dispensed from the army. In other words, the measure considered to be the only one prohibitive of emigration was not included. Probably the reasons for this are related to the attributions of the Ministry of the Navy as it could not legislate on the concession of passports. The Edict was thus less directed at emigration — and emigrants and the respective formalities to be followed — and more at the transporters seen as responsible for white slave traffic.

Subjected to the dispositions stipulated in the Edict were ship captains who admitted on board more than 24 Portuguese passengers, who also could only be transported if they presented a passport issued by the relevant authorities. A limit of two passengers for every five tons of weight was established for the ships which left Portuguese ports headed towards countries located to a latitude of 30° south. The rest of the Edict’s dispositions were related to guaranteeing good treatment to passengers, such as sufficient food, water, and medicine for the voyage and provisions in the case of delays.

Once signed, the Edict was greeted with a chorus of voices, some calling for certain stipulations to be annulled while others considered it insufficient — which shows the diversity of questions linked to the subject and the impossibility of arguing for the existence of a homogenous and unanimous posture in the heart of the Portuguese political and economic elite of that time.

In the first group was the Commercial Association of Porto (ACP) which on 18 November 1842 sent the Queen a complaint about the measures, in the eyes of the Porto traders, threatened the right to free domicile contained in the Constitution. This reaction shows the local importance of an emigratory current from Porto to Brazil, whose roots went back to the Brazilian colonial period and was less related

27 Portaria de 19 de agosto de 1842, *Coleção Geral da Legislação Portuguesa*, 2º semestre de 1842, p.321.

to the replacement of slave labor. The differences between *Portuense* (and *Minhota*) emigration and *engajamento* in the insular ports were emphasized by ACP, who asked that not all emigratory movement be confused with white slave traffic.²⁸ ACP was worried about the impact of the stipulated measures on Portuguese shipping — responsible for the transport of emigrants from Porto (Alves, 1994, p.134) and for trade with the former colony —, as well as the reduction of the emigratory current to Brazil from where Portuguese who had become rich returned and dynamized the *Minhota* economy.²⁹

Ceding to the pressure of the Porto traders, a new Edict was published on 9 December 1842³⁰ by the new Minister of the Navy, Joaquim José Falcão. In accordance with the new text, only ships transporting more than thirty passengers would be subject to the dispositions published on 19 August, with Article 11, related to the surety, also being suspended. In other words, ships which transported less than 30 passengers would not be subject to the designation ‘white slave traffic,’ being considered responsible for the transport of passengers or voluntary emigrants. It is important to note that in October 1842, José Falcão acknowledged the receipt of a letter from the Minister of Foreign Affairs in which the latter told him of “the requests which [the Ministry of Foreign Affairs] has received from the Commercial Association of Porto concerning the acceptance of the complaint which the same association had sent to this

28 There are differences between emigration from Minho and the Azores. According to ALVES (1994), most of the young men who left Porto did this in a manner than was planned by families and with a passport issued by the relevant authorities. Emigration from the Azores was significantly marked by illegality due to the lack of resources to pay for a passport and “the illiteracy and ignorance which drove the poorer classes away from the formalities of official entities.” Moreover, “the isolation of certain islands and locations” — which hindered access to state services — and the “actual insular context” which facilitated “embarkation” were other causes for the mostly clandestine nature of emigration from the Azores (PINTO, 2009, p.395).

29 Representação da Associação Comercial do Porto contra a legislação restritiva da emigração, 18 nov. 1842. In: ALVES, 1990.

30 Portaria de 9 de dezembro de 1842, *Coleção Geral da Legislação Portuguesa*, 2º semestre de 1842, p.423.

ministry” asking for the “revoking or alteration of Articles 6, 9, and 11 (the most essential) of the 19 August Edict.”³¹ However, disagreeing with the impact that these articles would have on the mercantile activity of Porto, the Minister of the Navy decided not to agree to what the Porto traders wanted. It was only after receiving a confidential letter from the Ministry of Foreign Affairs, dated 23 November³² (five days after the complaint had been sent to the Queen), that Falcão found himself forced to make some modification in the 19 August Edict.

Meanwhile, the Portuguese consul in Pernambuco who, as has been seen, fed the negative view of emigration, expected more severe measures capable of coercing the transporters. In his opinion:

All measures taken will be in vain until the captains or masters of vessels are forced to disembark passengers freely at ports upon arrival, without the shameful and notorious scandal of keeping them on board until they find services to compensate for the passage which should have been paid in the departure port [...], and it is through this facility of transport that this poor people have been terribly abused and deceived with broken promises.³³

In reply, the Minister of Foreign Affairs, José Joaquim Gomes de Castro, issued the Circular of 15 March 1843. This circular determined that consuls arrange the immediate disembarkation of Portuguese passengers who “for any pretext”³⁴ could be held onboard till they were

31 Ofício de 13 de outubro 1842, de Joaquim José Falcão ao Ministério dos Negócios Estrangeiros. DGArcq-TT-MNE-Correspondência Recebida do Ministério da Marinha, 1842-1843, cx. 384.

32 Ofício de 9 de dezembro 1842, de Joaquim José Falcão ao Ministérios dos Negócios Estrangeiros. DGArcq-TT-MNE-Correspondência Recebida do Ministério da Marinha, 1842-1843, cx. 384.

33 Ofício n. 31, de 30 de novembro 1842. De Joaquim Baptista Moreira a José Joaquim Gomes de Castro. DGArcq-TT-MNE-Correspondência Recebida-Consulado Geral de Pernambuco - cx. 310 (1842-1850).

34 Circular aos Cônsules do Brasil, 15 mar. 1843. DGArcq-TT-MNE-Correspondência Expedida-Despachos (1840-1846), liv. 56, p.114.

hired. Joaquim Baptista Moreira's suggestion was agreed to in the expectation of discouraging the transport of individuals who could not pay their own passage. However, the prohibition of embarkation of passengers who could not pay, also suggested by the consul in Pernambuco, was disregarded by the Minister. Probably this measure would have gone beyond the limits of the Ministry of Foreign Affairs jurisdiction, as well as possibly causing an even greater reaction from ACP. It was therefore necessary for the legislature to pass a law capable of considering the dissonant interests and resolving possible contradictions.

IN PARLIAMENT: ABSENCE OF A CONSENSUS

While the government tried to adopt measures that could balance different interests and positions on emigration, in the *Câmara dos Pares do Reino*, Sá da Bandeira continued to insist on the debating and passing of the bill drafted years previously. In the first half of 1843, he referred eight times to the bill which aimed to end emigration and the “shameful traffic that is going on.”³⁵ With this he intended to pressurize the Overseas Commission, responsible for analyzing the bill. Sá da Bandeira's insistent voice joined others, such as Viscount Lavradio, who called on members of the government to act.

Finally, on 24 June 1843, the Overseas Commission read a technical report on the bill. The Commission saw emigration as the result of a “system of deceits”³⁶ organized by “fraudulent speculators, who through fine promises” persuaded individuals “belonging to the rudest classes of society” to embark for foreign lands where they would be “in a condition little different from that of African slaves.”³⁷ For this reason it passed the bill with just a few modifications.

In the new bill drafted by the Commission, ships transporting more than thirty passengers would be subject to the legal determinations

35 *Diário da Câmara dos Pares do Reino*, n. 02, 03 jan. 1843, p.4.

36 Parecer da Comissão do Ultramar. *Diário do Governo*, n. 146, 24 jun. 1843, p.1073.

37 Parecer da Comissão do Ultramar. *Diário do Governo*, n. 146, 24 jun. 1843, p.1073.

— as had been stipulated in the Edict of 9 December 1842. However, the obligation for a surety, suspended at the request of ACP, was maintained in the new bill. Joaquim Baptista Moreira's suggestion was also incorporated, so that Article 15 stated that passengers should “pay the price of their passage before leaving the port where they embarked.”³⁸ Moreover, the new bill maintained the obligation for proof of exemption from military recruitment to receive a passport, and stipulated different values for passports depending on the destination of the passage — with those in which European ports or along the African coast were endorsed being cheaper.

The Commission also suggested that the government grant free transport to the African provinces to whoever wanted to go there and proposed that an inquiry be held to examine the causes which most influenced emigration. Accepting the proposal, Sá da Bandeira did not hesitate to ask that the *Juntas Gerais* of Portugal's districts be consulted and have to answer four questions related to the theme.³⁹

While the district *Juntas* were trying to satisfactorily answer this, the bill which Sá da Bandeira had defended for so long was finally put to a vote in a session of the *Câmara dos Pares do Reino* on 22 November 1843. No one spoke against its general terms, so the specificity of each of its articles was debated.

During the first debate, the granting of passports only to those exempt from recruitment to the army was unopposed. As Sá da Bandeira argued, as it was already included in police regulations it did not infringe the Constitution, rather it was aimed at assuring certain guarantees for

38 Projeto de Lei, *Diário do Governo*, n. 146, 24 jun. 1843, p.1075.

39 According to the responses to the inquiry, in the districts where there was emigration, its causes were associated with the lack of means of living (Porto, Viseu, Horta), the example of relatives and acquaintances who returned wealthy from Brazil (Viana do Castelo, Angra do Heroísmo), and military recruitment (Angra do Heroísmo). The action of the *engajadores* was little cited, with the *Junta* of Vila Real stating that “this evil” needed investigation. Other *juntas* stated that there did not exist emigration in their districts (e.g. Castelo Branco, Beja, and Leiria). Inquérito Parlamentar, *Ofícios dirigidos ao Ministro do Reino*, 1843, AHP, secção VI, cx. 2, n. 1. In relation to this inquiry, see: SOUSA, 2010.

emigrants. There was greater debate about the discrepancy stipulated in the bill between the costs of passports depending on the destination of the passenger. This difference was questioned by Costa Carvalho who, admitting he was against passports “which only served to embarrass small commerce,”⁴⁰ suggested the adoption of a single value. Sá da Bandeira’s response (which justified the difference by the intention of encouraging migration from the islands to mainland Portugal and also from Portugal to the African colonies) did not convince Silva Carvalho, but it was sufficient to guarantee that Paragraph 6 of Article 1 was passed. Shortly afterwards the session ended and the bill was put on the order of business for the next session.

On 24 November, when the debate was due to recommence, Viscount Laborim asked for it to be adjourned since he considered the bill unconstitutional. According to Laborim, the Chamber could not legislate against the stipulations of Article 145, Paragraph 5, of the 1826 Constitution. Furthermore, although emigration was a serious problem, for Laborim the proposed remedy was too radical.⁴¹ Viscount Fonte da Arcada agreed with the adjournment, noting that the police regulations (which authorized the limits imposed on emigration, without infringing the Constitution) were about to be altered. Marquis Ponte de Lima, in turn, considering emigration to be a remedy, was in favor of the adjournment since it seemed to him that emigrants were tricked into travelling and had the right to sell their services as they deemed best. As will be seen below, this opinion was shared at that moment by other governmental agents. Sá da Bandeira, as was to be expected, opposed the adjournment, arguing that it was shameful for a European national to consent to its subjects emigrating like slaves. Finally, with the consent of the Vice-President of the *Câmara dos Pares*, it was voted to adjourn the debate for an unlimited period, which in practice signified that the bill would not be debated.

40 *Diário da Câmara dos Pares do Reino*, n. 116, 22 nov. 1843, p.1689.

41 *Diário da Câmara dos Pares do Reino*, n. 117, 24 nov. 1843, p.1700.

It is difficult to know if reasons other than those presented led Viscount Laborim (and the other peers who accepted his proposal) to the reject the bill. The fact that he was from Porto and that he had been elected to the 1826-28 *Cortes* (parliament) by the province of Minho could indicate his sympathy for the interests of the Porto merchants. However, the coherence of his position should be noted, since his interventions in parliament were frequently to clarify subjects related to the internal regulations and constitutional questions (Mónica, 2004, vol. 3, pp.547-549).

Independent of Laborim's specific intentions, the adjournment of the debate can be interpreted in light of the speech given by the Vice-President of the Chamber for whom "at the present moment the bill has assumed a different nature from what it should have been given."⁴² This phrase (which was not elaborated on by its author) seems to indicate that the bill had assumed an aspect that restricted the freedom to emigrate — rather than being solely against white slave traffic. This is because during the five years that elapsed between the first version of the bill and its debating the expectations of political actions associated with 'emigration' (understood above all as a synonym of white slave traffic) was altered due to an expansion of the space of experience linked to the concept.

This expansion was due in the first place to the positive aspect of emigration from Minho (in contrast with the contracting that occurred in the Azores) highlighted in the ACP complaint and by Sá da Bandeira himself in the session of 26 April 1843.⁴³ Second, Azorean emigration itself was seen by some government agents as a solution to the problems of the islands.

On 18 April, Viscount Lavradio questioned the government referring to a letter sent from Pernambuco which denounced the treatment given to Portuguese in Brazil — a letter which according to Sousa (2009,

42 *Diário da Câmara dos Pares do Reino*, n. 117, 24 nov. 1843, p.1701.

43 *Diário da Câmara dos Pares do Reino*, n. 66, 26 abr. 1843, p.353

p.35), caused commotion and was responsible for restarting the debate and accelerating the Overseas Commission's report:

This letter is of great importance because denounced in it is the existence of white slave traffic; I mean of Portuguese subjects who are taken, either by violence or seduction, and brought to Brazil, where they are sold, whipped as disgracefully were in the past African slaves. It is notable that nowadays efforts are being made, which I wholeheartedly support, to end the African slave trade, and that a treaty was signed last year to achieve this; and today we consent that in the island, for us the only point of salvation, such an atrocious act can be practiced; and perhaps many of those same individuals who shed their blood in defense of the throne and the Queen, are today cutting sugarcane in Brazil and being whipped! As a result, I want the Minister to inform me about this, and equally what measures the government is undertaking to prevent this trafficking.⁴⁴

The Minister of Foreign Affairs, absent at the time of the reading of the letter, had the opportunity to respond ten days later, in the session of 26 Aril 1843. Agreeing that the contracting of Portuguese had become a business which needed regulating, he cautioned against what he called exaggerations in the association between emigration and white slavery. In his view, it was important to distinguish between contracting (*engajamento*) and the normal emigration which occurred in Minho, whose obstruction would cause serious harm to the province. Neither Viscount Lavradio nor Sá da Bandeira opposed this distinction. In fact, the former stated that he was not referring to emigration: "it was not emigration [that I wanted to talk about], because I think it is almost impossible, and even because individuals cannot be prevented by law from having the liberty to change country. I want to talk about the real trafficking that exists in our island."⁴⁵ Similarly, for Sá da Bandeira "emi-

44 *Diário da Câmara dos Pares do Reino*, n. 61, 18 abr. 1843, p.281.

45 *Diário da Câmara dos Pares do Reino*, n. 66, 26 abr. 1843, p.353

gration from the Province of Minho to Brazil is useful,” since “young men go there to people who are known to them, many get employment quickly as clerks in prosperous trading houses, and of these some return to their homeland.”⁴⁶

In the same year the distinction between emigration from Minho and from the islands was also made by Portuguese consuls in letters sent to the Minister of Foreign Affairs. Emigration from Minho was said to consist of young men who went to Rio de Janeiro to work with the traders and shop owners already established in the Brazilian capital.⁴⁷ These traders were the “happiest part of Your Majesty’s subjects” in Brazil. On the other hand, the Azoreans were those who “are the unhappiest of those who come here,” since they did not pay for the transport and are “rustic people lacking any good sense,”⁴⁸ as well as not knowing how to read or write, for which reason they only found employment in the countryside. Nevertheless, despite the unfavorable conditions in which the islanders arrived, the consuls recognized that “the working and economic genius” of this people assured them the “means in a short period to improve their position” and to return to the island with “the product of their economies.”⁴⁹

The recognition that Azoreans found better living conditions through emigration also appears in the response written by the *Junta Geral* of the Azorean district of Horta to the previously mentioned inquiry about the causes of the phenomenon. In this report it can be read that the action of speculators who proposed to transport Portuguese subjects was one of the causes of emigration, to which was added the “lack of means for food and the subsistence of individuals who own nothing.” However, the action of these speculators “does not afflict, rather it consoles

46 *Diário da Câmara dos Pares do Reino*, n. 66, 26 abr. 1843, p.353

47 Ofício n. 08 de João Baptista Moreira para José Joaquim Gomes de Castro, 12 out. 1843. DGarq-TT-MNE-Correspondência consular recebida – Rio de Janeiro, cx. 313.

48 Ofício n. 01 de Francisco João Meneses para José Joaquim Gomes de Castro, 31 jan. 1843. DGarq-TT-MNE-Correspondência consular recebida – Rio de Janeiro, cx. 313.

49 Ofício n. 08 de João Baptista Moreira para José Joaquim Gomes de Castro, 12 out. 1843. DGarq-TT-MNE-Correspondência consular recebida – Rio de Janeiro, cx. 313.

this *Junta* since there are no livelihoods nor licit entertainment for the individuals who will be transported, since there is very much of an accumulated and inert population.”⁵⁰

As can be perceived, when Sá da Bandeira managed to have his bill debated, the concept of ‘emigration’ had gained new layers of significance and was no longer only a synonym of ‘white slavery.’ Since the proposed legislation did not only affect the labor *engajadores* — or those accused of selling Portuguese subjects in Brazilian ports —, the bill was considered unconstitutional. It would be necessary to wait another twelve years for a new bill on emigration to be drafted.

This bill — whose detailed analysis is outside the scope of this paper — was drafted following the important repercussion of some events linked to the transport of emigrants to Brazil, at a moment when the demand for labor was rising due to the prohibition of the slave trade by the Eusébio de Queiroz Law. However, the passing of the *Carta de Lei* of 20 July 1855 depending on how it was presented in Parliament: not as a law opposed to emigration, but rather one repressing clandestine emigration. The distinction between free emigration and contracted (or *engajada*) emigration, as well as the difference between legal and clandestine emigration, was crucial to separate distinct experiences and prevent political action from affecting the one considered advantageous. The word ‘clandestine’ added to ‘emigration’ also prevented the bill from being accused of infringing the Constitution and having the same destiny as the bill insistently defended by Sá da Bandeira. Still a peer of the realm, the Viscount was in favor of the 1855 *Carta de Lei*, despite considering it incomplete, he knew that while it was not the ideal law, it was the possible one.⁵¹

50 “Resposta da Junta Geral do Distrito da Horta”, Inquérito de 1843, Ofícios Dirigidos ao Ministro do Reino, AHP, Seção VI, cx. 2, n. 1.

51 In the session of 13 July 1855, a tired Sá da Bandeira pondered: “The bill, being discussed in general, seems good to me; and although it is not complete, it should be passed, because passing it does not dispense the Government from appointing a commission to propose the provisions it still needs.” *Diário da Câmara dos Pares do Reino*, n. 135, de 13 jul. 1855, p.1031.

The analysis of the conditions which led to the emergence of the term ‘white slavery,’ as well as the way in which Sá da Bandeira received and interpreted this phenomenon in light of his colonial project, shows that the concern with the transport and living conditions faced by Portuguese in Brazil should not be seen as mere rhetoric. Although there were exaggerations in the descriptions, the questions linked to the transition from slavery to free labor in Brazil were not raised by the Portuguese ‘political elite’ as a form of masking their affiliation to the interests of the agrarian elite and thus guarantee the prohibition of emigration in spite of the Constitution. Despite the excesses described, the lack of support for the bill shows that the ‘political elite’ wanting to halt the departure of Portuguese subjects was composed of a few more individuals than just Bandeira.

This is the case of Costa Cabral and his Minister of the Navy who, concerned with the replacement of the black slave trade with the transport of Portuguese subjects, transformed part of Bill no. 22 in the Edict of 19 August 1842, just after signing the Luso-British Treaty to end the trade of enslaved Africans. The reaction generated by the Edict, in turn, provides glimpses of the different interests in dispute under the auspices of the state, which demonstrates the absence of a homogenous comprehension of the subject — and the impossibility of resorting to generic subjects such as the ‘political elite,’ ‘the state,’ or the ‘consular corps’ and ‘parliament.’ Finally, the difficulty in passing the bill when it was debated five years after being drafted shows how inadequate it had become in relation to the new layers of meaning imposed on the concept of emigration.

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