

LIQUIDATION OF PUBLIC LANDS IN BRAZIL: TERRITORIAL CONTEXTS, PRETEXTS AND LIABILITIES IN LIGHT OF LAW NO. 13,465/20171

A LIQUIDAÇÃO DAS TERRAS PÚBLICAS NO BRASIL: CONTEXTOS,
PRETEXTOS E PASSIVOS TERRITORIAIS EM FACE DA LEI 13.465/2017

LA LIQUIDACIÓN DE LAS TIERRAS PÚBLICAS EN BRASIL:
CONTEXTOS TERRITORIALES, PRETEXTOS Y

PASIVOS TERRITORIALES EN FUNCIÓN DE LA LEY 13.465/2017

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Abstract

The profound changes to the constitution of private property in Brazil imposed by Law no. 13,465/2017, calls for reflections on its characteristics, its implications, and the processes that preceded it. Sanctioned one day before the House of Representatives Committee's opinion was voted, this would have blocked the Federal Supreme Court's authorization to investigate Michel Temer's, President of the Republic, crimes. This measure reveals the context of class opportunities that large landowners were able to mobilize in their own interest. For this, two concomitant structural conquests analyzed in this work are attributed: the attack of Brazil's land settlement policy and its legacy, by determining the compulsory emancipation of any settlements that are more than 15 years old, and the extension of the definitive act of territorial reordering, the property title, to large invaders of public lands, called land grabbers (grileiros), who acquire exclusive rights to purchase the land from the state at extremely low prices. Positioning judicial recognition of land invasion through the expedient formalization of land titles as the culmination of a persistent process that deepens in this millennium, one examines the determinations and implications of renouncing the primacy of public interest in favor of the capacity to plunder in accordance to the class asset perspective that finds its heyday in Brazil.

Keywords: Land grabbing, land regularization (regularization of public lands stolen), agrarian reform, territorial liabilities.

Resumo

As profundas modificações sobre a constituição da propriedade privada no Brasil impostas pela Lei 13.465/2017 demandam reflexões sobre suas características, suas implicações e os processos que a antecederam. Sancionada um dia antes de ser votado o parecer da Comissão da Câmara dos Deputados que bloquearia a autorização para o Supremo Tribunal Federal investigar crimes de Michel Temer, Presidente da República, essa medida revela o contexto das oportunidades de classe que os ruralistas conseguiram angariar para si. A isso se atribui duas conquistas estruturais concomitantes aqui analisadas: o ataque ao legado da política de assentamentos no Brasil, mediante a determinação de emancipação compulsória de qualquer um deles implantados há mais de 15 anos; e a premiação aos grandes invasores de terras públicas, denominados grileiros, do definitivo ato do reordenamento territorial, o título de propriedade, mediante exclusividade de comprá-las do Estado a preços irrisórios. Ao problematizar a chancela jurídica da invasão de terras por meio da célere titulação como culminância de um processo persistente, porém aprofundado neste milênio, perscruta-se determinações e implicações da renúncia à primazia do interesse difuso em favor da capacidade de rapina segundo a perspectiva do trunfo de classe em seu apogeu no país.

Palavras-chave: Grilagem, regularização fundiária, reforma agrária, passivos territoriais.

Resumen

Los cambios profundos en la constitución de la propiedad privada en Brasil impuestas por la Ley 13.465/2017 requieren reflexiones sobre sus características, sus implicaciones y los procesos que la precedieron. Sancionado un día antes de la Comisión en la Cámara de Representantes bloquear la autorización del Supremo Tribunal Federal para investigar los crímenes de Michel Temer, Presidente de la República. Esa medida revela el contexto de oportunidades de clase que los grandes terratenientes consiguieron movilizar en su propio interés. A eso se atribuye dos conquistas estructurales concomitantes aquí analizadas: el ataque al legado de la política de asentamientos en Brasil, a través de la determinación de emancipación compulsoria de cualquier uno de ellos, implantados hace más de 15 años; y, al mismo tiempo, la extensión del derecho de propiedad para tierras públicas invadidas mediante autorización de exclusividad para comprar a precios extremadamente bajos. Al problematizar la legalización de la invasión a través de la obtención rápida del títulos de propiedad de tierras como fin de un proceso persistente que, sin embargo, se agudiza en este milenio, se estudian determinaciones e implicaciones de la renuncia a la primacía del interés confuso a favor del saqueo según la perspectiva del triunfo de clases privilegiadas en el país.

Palabras clave: Acaparamiento de tierras, ordenamiento agrario inconstitucional, reforma agraria, pasivos territoriales.

Introduction

On 23 December 2016, Brazilian president Michel Temer sent to Congress Provisional Measure No. 759 with a requirement for urgency. As a summary proceeding, it was conducted without legal formalities and avoided being submitted to technical committees that might have assessed its constitutionality and minimum legal relevance, the latter requirements being typical of ordinary laws.

Over the course of four months, the provisional measure was submitted to voting sessions in the House of Representatives and later sent to the Senate with 732 amendments, subsequently resulting in a report which produced Conversion Bill [Projeto de Lei de Conversão – PLV] No. 12, passed on 4 May 2017. It was sanctioned by the presidency on 11 July as Law No. 13,465, revoking or partly altering the content of no less than twenty laws, one provisional measure, and four decree-laws.

Unusual celerity and major amendments made to the text initially proposed by the president reinforced its original objectives: to liquidate the legacy of Brazil's settlement policy while squandering the national heritage of public lands by increasing opportunities for land-grabbing. The latter constitutes a criminal offence through which public property may be converted into capitalism's noblest and most indestructible mobilizable asset: land ownership titles.

Primitive accumulation, a concept identified by Marx (1974) and renewed over the course of the permanent process of production of capital,

would here merit a separate debate in view of its density translated into the extent of the territory affected and into the ensuing possibility of extraordinary production of capitalized land income.

The president's justification for the provisional measure was urgency in solving a problem which stemmed from the very coalition of forces that had obstructed the National Programme of Land Reform as well as a wide spectrum of public policies which this particular audience had access to. The instrument at hand was Lawsuit No. 517/2016-0, filed by the Federal Court of Accounts [Tribunal de Contas da União – TCU], which was motivated by alleged irregularities on the part of both the National Institute of Colonization and Agrarian Reform [Instituto Nacional de Colonização e Reforma Agrária – Incra] and settlers. The legal fragility of both parties and of the lawsuit's content is addressed by Technical Note No. 01/2017, issued by the Attorney General's Office [Procuradoria-Geral da República – PGR] and drafted by the task force on public lands and expropriation of the Federal Public Ministry's Chamber of Coordination and Review, a group responsible for providing subsidies for the inspection of public land management and occupation at national level (Brasil, 2017b).

The establishment of *mechanisms to improve the efficiency of transfer of ownership procedures at national level*, as is stated in the legal summary, is nothing more than the demolition of constitutional eternity clauses grounded on the principle of equality for all citizens in the face of the law as well as on the social role of land – this notion is true to the qualitative distinction proposed by Marés (2003) concerning the class-related nature of the expression “social role of ownership” [*função social da propriedade*] in Brazil's constitutional text. For better or for worse, such an express safeguard has served as the basis for several diagnoses, interpretations, and land plans now shattered by the legal change, among them the Land Law of 1850, which sets criteria for establishing private ownership in Brazil.

The redesign of class interdiction for accessing urban and rural land is such that it is not yet clear how it will be enforced, an outlook which only time will be able to shed light on. Nevertheless, an analysis of the issue need not be avoided, even if only as an indication for the future: that national collectiveness must never renounce its commitment to the Constitution and to daily vigilance of its Houses of Law.

The non-conciliation of interests in contracts that govern a class society is uniquely illustrated in the evidence here presented: it may not be enough for the latifundia to gain ground – as it indeed has – in view of the simple fact that peasantry, particularly the recipients of land reform and constitutional land regulation, may, despite its vulnerability, continue to impose its disturbing presence while exposing other economic and civilizational possibilities for Brazil.

The Land Law, or Law No. 8,629/1993, which regulated the principles of the 1988 Constitution regarding family property classification, had maintained – albeit with distortions – the criterion of viability correlated with the minimum area of one economic farming unit as previously established by the Land Statute (Law No. 4,504/1964). According to Talaska (2016), the simple fact that the law was sanctioned in 1993 may be viewed as positive, considering the various defeats inflicted on social movements by ruralist groups, a scenario addressed by the constitutional chapter on agrarian order. One may conclude that it was the momentary defeat suffered by the oligarchies amidst Fernando Collor de Melo's impeachment process that explains such a fact.

Even so, the sanctioning of the Land Law involved a major setback: the express acknowledgement of only two property categories, small and medium, with 1- 4 and 4-15 fiscal modules, respectively. This confirms the ripples that shook class hegemony were not enough to annul the victorious balance set out in the constitutional text, for both minifundium and latifundium disappeared from the normative lexis – a strategy which would prove useful against the political agenda of land reform.

The new draft brought forth by Temer's law removes this subtlety entirely in that it no longer attempts to eliminate minifundiarization, but instead to abolish the fiscal module criterion for categorizing viable rural properties. This could be a minor detail were it not for the fact that the fiscal module is the parameter which defines the minimum extent of rural land deemed sufficient for a family to work on and to enjoy social progress – which is, in fact, what enables a rural property to be vested of such a title.

Therefore, it is now considered possible to live off agriculture with less land than before, a notion which allows such a vast country like Brazil to undergo an even more profound minifundiarization. This is the reason behind eliminating fiscal modules when classifying small properties;

they have been replaced by the minimum parcel fraction [Fração Mínima de Parcelamento – FMP], even though the latter is applicable only to properties devoted to horticulture, an activity which, by its very nature, may be carried out in small land lots.

Such an aim is linked to a diametrically opposed measure, for the new law leaves unpunished and exponentially rewards those who invade large parcels of public land. The latter are now equated with small lots of land reform, whose beneficiaries only warrant such a status because of their profound poverty, tradition of peasantry, and, quite often, following prolonged struggles for physical and social integrity which are typical of landless camps. In practice, the law establishes equal treatment for land-grabbers and settlers alike, with due legal grounding provided by the Incra directive No. 199/2017, which updates the table of undeveloped land values [Tabela de Valores da Terra Nua] concerning federal stretches of land and determines non-distinction in order for a person to be considered eligible for the Concession of Real Right to Use [Concessão do Direito Real de Uso – CDRU]. It is through this procedure that public land becomes private, guaranteeing the issuance of ownership titles.

The discretionary conduct of representatives of the notoriously latifundia-based Brazilian state explains this, judging from the criteria adopted by TCU via Sentence No. 775/2016. Grounded on allegations of fraud linked to the National Program of Land Reform, including a supposed illicit enrichment of no less than 578,000 family beneficiaries, the document drafted in April 2016 determines the indiscriminate suspension of: I) applications of new beneficiaries; II) settlements for newly selected beneficiaries; III) due land reform credit payments; IV) access to public policies and programmes such as Garantia Safra, Bolsa Verde, National Programme of Land Reform Education [Programa Nacional de Educação na Reforma Agrária – Pronera], Food Acquisition Programme [Programa de Aquisição de Alimentos], Technical Assistance and Rural Extension Programme [Programa de Assistência Técnica e Extensão Rural], and My House, My Rural Life Programme [Programa Minha Casa Minha Vida Rural], among others. The TCU Sentence No. 000.517/2016-0, which would later temporarily suspend its predecessor, speaks for itself:

It is inadmissible to offer land to individuals who do not fit into the PNRA's requirements, i.e. to offer land from the agrarian reform to wealthy people, who benefit from other considerable sources of

income and do not actually rely on the land for survival or as an essential or major activity. The appointed evidence will, in due course, be subject to verification by Incra [...]. A new blockade will automatically follow the injunction's suspension period. [...] beneficiaries are not to be removed from the body of evidence without detailed analysis and verification. Evidence will continue to be investigated by Incra. (p. 32-33, my translation).

Acts typified as criminal offences for the land reform audience, e.g. offering land to wealthy individuals and to those who do not use it for essential activities, are permitted to invaders, given that regularizable land extent can measure up to 2,500 hectares. Proof of peaceful and undisturbed possession may involve not only the indiscriminate use of other people's work to confirm direct exploitation of federal lands, but also the management of business transactions by third parties which may even include wood exploitation – in other words, deforestation.

Therefore, the social function principle as a legitimating factor of ownership gives way to wide-ranging invasions as control over land becomes separated from its *sine qua non*: the opportunity to make one's own living. Taking centre stage instead is the notion of ownership as a means to exploit other people's work in order to appropriate forest resources and the land that houses them.

And to think that the term "invasion" has been invariably used to refer to acts carried out by workers who effectively occupy the land, turning infertile ground into the place they toil on to provide food for their families and for society, albeit scarcely! This sums up the notion of direct exploitation, notwithstanding the linguistic engineering of the new law, which punishes the landless to ratify wealthy people's right to enrich even more. This paper aims to analyse the conditioning factors and implications of this legal text within a typical case of national heritage liquidation.

Mechanisms of public land transfers to private parties amid a reinvention of class privileges

Even though common sense views land reform as a mere donation of land to opportunists, in fact it constitutes a concession of use policy; land remains public until the state understands that concession recipients

show effective economic emancipation, which is when a given settlement is assigned a “consolidated” status. As soon as this takes place, every settler must pay a given amount for his/her respective lot based on the undeveloped land values set by the reference table previously mentioned. This is precisely what the Concession of Real Right to Use stands for.

Such a form of land planning required the modification of a clause from the 1850 Land Law, which established auction sales as the only alternative for transferring public lands to private persons. Constitutional support to land reform in these terms led to this mandatory mechanism being replaced by beneficiaries’ exclusive right to buy lands assigned to them by the state at much lower reference prices than the market average. This land planning policy is, hence, coherent with the principle of equality that, in the name of precedence of the social role of land, admits differential treatment for legally equal but economically unequal individuals.

According to constitutional criteria, this prerogative is extended to all those who have acquired public lands of up to 50 hectares and exploit them directly within a family farming regime, both being indissociable features of ownership. In this lies the essence and legitimacy of land regularization.

The first attempt at jeopardizing this norm took place in 2009: Law No. 11,952 established as squatters those who took possession of up to 1,500 hectares of public lands in the Legal Amazon while leaving out the direct exploitation requirement, given that such stretches of land would make it impracticable. Immediately after the law was sanctioned by president Luís Inácio Lula da Silva, the PGR filed Direct Action of Unconstitutionality [Ação Direta de Inconstitucionalidade – ADI] No. 4269/2009, but its ineffectiveness can be confirmed by the change in its original text to promote an even more profound swindle of public lands.

Henceforth, the exclusive right of purchase has been extended to areas invaded prior to 22 July 2008, following the application of the same table of values as that assigned to land reform settlers and other individuals linked to legitimate land regularization.

Paradoxically, the law determines court enforcement on any land reform settler who, after being assigned a stretch of land by the state, fails to provide payment for it up to fifteen years after the settlement is put into effect. On the other hand, it sanctions the right of ownership to invaders

who control stretches of land at the expense of the law, hence establishing the benefit of legal untouchability for fictitious properties whose area size may exceed fifty times that determined by the Constitution. As if this were not enough, given the absence of legal prescription, the law allows for additional lots in continuous land-grabbed areas.

Land-grabbing is, therefore, a promising resource laid out to endemic corruption agents, a phenomenon nurtured by the intersection of political immunity and economic power. This is what may account for the fact that land regularization is conducted under identical conditions for squatters and settlers alike. The most perverse attack on social function as a legitimating principle guiding the transfer of public to private property lies in blackmailing those with no purchasing power through compulsive acquisition as well as granting permissiveness to those who have plenty of it. Not even the formerly legal criterion which assigned to the state the task of carrying out investments in minimum infrastructure, as a prior condition of onerous land transfer to settlers, resisted such a favourable environment for expropriation.

What has been set in motion is not only the state's exemption from any responsibilities regarding settlement policy, but also a possibility of trading small land fractions which were only able to establish themselves via a reshaping of land planning as a public policy. The state's response to the judicial security invoked by the market will be legally bound ten years after the onerous transfer, when all stretches of land distributed by agrarian reform may be regularly put up for sale. This is the risk social movements had attempted to repel through a historic struggle for exclusive vesting of the right of use within land reform. The right of exchange triumphed instead.

This measure's territorial liabilities come forth through the already existing link between hunger, which is poverty's most extreme effect, and the deprivation of peasantry, expressed in denying people access to enough land for a family to work on and live in with dignity and well-being. The countryside's already severe asymmetries are thus potentialised, judging from formerly valid territorial planning parameters, such as those set by article 4 of the Land Statute (Law No. 4,504/1964):

For the effects of this Law, the following concepts are thus defined:

II - “Family Property”, i.e. the rural property that, in being directly and personally exploited by a farmer and his family, absorbs their entire workforce, hence ensuring their subsistence as well as social and economic progress, with a maximum area established for each region and class of exploitation, and eventually work with the help of third parties;

III - “Rural Module”, the area determined by the previous subsection;

IV - “Minifundium”, the rural property whose area and possibilities are inferior to those of a family property. (my translation)

The rural module was devised as a criterion to be applied to properties on an individual basis, in accordance with variables regarding geography, family composition, and soil use. Such a degree of precision, however, has proved administratively unfeasible, particularly as far as taxation is concerned. For this reason, the rural module was eventually replaced by the fiscal module with Law No. 6,746/1979, a medium-size unit of a given municipality’s rural modules.

The social project conceived as lenient with latifundia imposes minimal management of minifundiarization, judging from the content of Law No. 11,446/2007, which stemmed from a 1997 Incra directive that modified the Land Statute so as to enable land reform parcelling to overlook the concept of fiscal module. Hence the division of the Brazilian territory into nine Typical Module Zones [Zonas Típicas de Módulo – ZTM] was envisaged, applying the specificities of horticulture for ownership purposes to settlement lots in general. In fact, this activity sets the limiting criterion for FMP.

In such terms, the status of a legally valid rural property, including a registered title deed, may be acquired provided the owner performs intensive work activities, such as those of horticulture. However, the FMP has legitimized a settlement policy guided by a particular land planning orientation whose starting point is its own refutation, as may be inferred from article 4 of Law No. 4,504/1964. The article typifies family property as

[...] the rural property that, in being directly and personally exploited by a farmer and his family, absorbs their entire workforce, hence ensuring their subsistence as well as social and economic

progress, with a maximum area established for each region and class of exploitation, and eventually work with the help of third parties. (my translation)

In short, limits to economic and social progress must be explained in light of land structure, even though technical factors instruct the general consensus around which public policies are devised and implemented. Ignored by policy guidelines, the accessibility factor finds no pardon in Geography: horticulture forces the observance of location.

Contrary to the model just outlined, one must concede that in agriculture location is a determining factor of differential income, the only variable capable of promoting minimum equality in relation to farming units with better stretches of land. In this sense, the present analysis reveals the paradox surrounding the separation between land planning and actual production in the Brazilian territory, characterized by voids in infrastructure and urban networks; such voids compete with abstractions that even Johann Heinrich Von Thünen's isolated state theory, first published almost two centuries ago, was capable of overcoming, by showing how limited the land factor is outside circles immediately surrounding relevant markets. This analysis does not suggest, however, that it is enough to address the problem following an Euclidian view of distance as an absolute factor, given that, in the days of an empire of goods, the need for circulation is brought to the fore.

In reality, the insufficiency and precariousness of country roads are all too revealing of a land planning strategy that overlooks territorial assets which cannot be separated from short-range exchanges. Going beyond the cause-effect relationship, Santos (2006) has provided enough evidence to show that certain issues – i.e. spatial organization – amount to instances of roughness according to the conveniences of hegemonic actors.

Local markets are the product of hegemonised and “invisibilised” individuals, to use Santos' concepts, which does not mean a corresponding irrelevance in economic terms (Altieri, 2012; Oliveira, 2003; Rosset, 2006 and others). Table 1 is the best expression of the inadequacy of land planning to peasantry's economic feasibility, considering that such attributes are unshakeable obstacles.

Table 1 - Minimum extent of rural properties in accordance with the Typical Module Zone and predominant soil use

Typical Module Zone (ZTM)	Horticultural activities (ha)	Permanent cropland (ha)	Temporary cropland (ha)	Cattle raising areas (ha)	Forest cover (ha)
A1	2	10	13	30	45
A2	2	13	16	40	60
A3	3	15	20	50	60
B1	3	16	20	50	80
B2	3	20	25	60	85
B3	4	25	30	70	90
C1	4	30	35	90	110
C2	5	35	45	110	115
D	5	40	50	110	120

Source: Landau et al., 2013, p. 17.

The FMP parameters are sufficiently revealing as to the reasons why small land portions jeopardize peasantry's territorially virtuous potential, even considering its modest land-related demands which stem from the logic that the land enables them to carry out their own work. Even though productive diversification is most suitable to the objective conditions at hand, it has been gradually hampered by monocultures which forge distinct and often counterproductive territorial dynamics. However, from the perspective of accumulation, this seems to be the only option to capitalist agriculture, with employment reduction being the ultimate aim of those who require external workforce. Hence the preference for capital-intensive activities which rely heavily on dead labour retained by the technology used in machines and input.

The race to expand domains as a means to compensate the low proportional valuing of production scale expansion partly explains what Almeida (2010) has called agro-strategies to address the coalition of interests lying at the heart of the unparalleled appropriation of public lands in Brazil. However, it should be noted that productive ends are symbolic in view of the mobilizing purpose of such an escalation: only land monopoly assigns its agents with the prerogative of deciding when and where to make vital land available to all people without exception. The criterion for such a task is a satisfactory rate of capitalized land income. Martins (2011) has confirmed this by identifying the singularity of Brazil's rentier capitalism.

In this lies the main reason for the dramatic land interdiction revealed by the National System of Rural Registry [Sistema Nacional de Cadastro Rural]: 65.3% of properties in Brazil totalled less than one fiscal module in 2011 (INCRA, 2011). Even though fiscal module areas per municipality range from 5 to 110 hectares depending on distinct physical and territorial features, another database confirms this finding: according to the latest census, 52.8% of agricultural units in Brazil have an average area of 2.85 hectares (IBGE, 2017).

It should be noted that this scenario does not necessarily concern rural properties, in that the Brazilian Institute for Geography and Statistics [Instituto Brasileiro de Geografia e Estatística – IBGE] focuses on temporary economic units instead of on a domain's permanent legal status. An establishment will always constitute a land fraction exploited under a single management system, whether family-based or corporate, involving rental, partnership, and cession contracts, among others, as well as owned homes, which make up most cases.

Therefore, nothing in Law No. 13,465/2017 conveys even the slightest indication of a possible rupture with this concentrationist order – quite the opposite. This does not mean, however, that only a few have protested against its devastating march, expressed through environmental dilapidation and loss of lives. The novelty here is the intensification of such hegemony, whose fiercest trait is thus described by Mitidiero Junior (2017, p. 7, my translation):

Since 1985 there had never been so many conflicts involving violent acts as in 2016, with 1,079 occurrences. With regard to the finding that personifies the most tragic side of rural conflicts, i.e. the number of homicides, 61 homicides were recorded in 2016 (five every month, on average), the highest rate since 2003 (73 homicides) and the second highest in the last 25 years.

The escalation of land conflicts and the ensuing death toll coincides with the slow demise of the rule of law, expressed through the legal setbacks produced since the start of the millennium, of which Law No. 13,465/2017 is the most vigorous so far. During its drafting, which took just over six months to conclude, 38 people were killed in land conflicts, some of which involved public agents – for instance, the mass killing at Santa Lúcia Farm in Pau d'Arco, Pará state, was carried out by local military police and justified by a trespass warrant.

In summary, one needs to ask why, in a country with just over five million rural properties and more than 638 million hectares of rural land stock – excluding bodies of water, urban areas, and environmental conservation and indigenous reserves (IBGE, 2009) –, the justice system is so tolerant with looters of land that is vital to peasants, to whom there may be nothing left to do except attempt to dodge poverty at the price of facing the barrel of a gun.

Final considerations

Social accomplishments may only last if a governmental policy restrains the power of brute force or of economic dominance and the state's mediation fosters a renegotiation of class interests. This paper has outlined certain contradictions in this regard, all of which would lead to more setbacks than would be possible to understand and even address within the limits of such a text. Nevertheless, they are the inevitable result of the alliances that the Workers' Party has ensured with rentiers, both conventional and emergent, in the name of a governability that beneficiaries greatly enriched by public funds would strike at the first opportunity. As shown by Paulino (2014), this period has witnessed the rise in strategies to render latifundia invisible through a forged image of economic abundance associated with what has been conventionally named agribusiness, as if the latter were synonymous with capitalist agriculture, which is not the case.

The conceptual metamorphosis, in being used for political purposes, has helped the productive chain be confused with the agricultural/cattle-raising sector, more specifically with the rural corporate sector involved with large-scale farming. Agribusiness is, therefore, widely represented as the corollary of technical superiority, productive efficiency, and environmental responsibility on the part of big landowners.

Class-based perspective as a strategy for the continuing evocation of socially desirable attributes has gradually excluded land reform from Brazil's political agenda, running parallel to the evolvment of constitutional changes that, as soon as they are put into effect, will strongly affect the territories of indigenous and other traditional populations, as well as public areas for environmental conservation (Almeida, 2010).

All of this has ensued from the functionality of the parliamentary “coup” in 2016. Ranking among the evidence of the score to be settled on ever-increasing exclusion and violence is Provisional Measure No. 759, the focus of this paper, later turned into Law No. 13,465/2017. In addressing this legal instrument, however, the present analysis bypassed Provisional Measure No. 726, passed by the Senate on 26 May 2017.

This provisional measure, whose swift processing and content echo those of Provisional Measure No. 759, established a 37% reduction of the conservational unit of Jamanxim National Forest, in Pará state, as well as a 20% reduction of São Joaquim National Park, the second most popular attraction in Santa Catarina state and home to endangered species like the cougar and the maned wolf. Not even the president’s integral veto on 19 June will lead to the closing of the legal matter, given that this decision was motivated by objections regarding content and appreciation. According to a statement made by the Minister for the Environment, the provisional measure will return to parliament under the status of “constitutional urgency” (Uribe; Maisonnave; Watanabe, 2017).

Be it as it may, Law No. 13,465/2017 currently represents the most flagrant violation of Brazil’s Constitution, in that it promotes ample legalization of land-grabbing in public lands. The right to ownership via acquisition without procurement and at low prices will be extended to all public lands of up to 2,500 hectares that are invaded, albeit treated as property. As previously mentioned, the constitutional text sets the maximum limit at 50 hectares, but the path towards change had already been laid out back in 2009, with land grabs of up to 1,500 hectares being titled in the Legal Amazon. Not even a Direct Action of Unconstitutionality is capable of imposing itself on the priorities of a judiciary overwhelmed by various demands, including those related to land-grabbing. The ruralist parliamentary group was, therefore, at ease to increase by 1,000 hectares the regularizable fraction of a society’s most basic heritage: public domain lands.

Such impudence in dealing with public property was potentialised by the table of undeveloped land values, passed via Incra directive No. 199 on 30 March 2017 (INCRA, 2017). Recommendation No. 01/2017, drafted by the Federal Public Ministry (Brasil, 2017c), has identified a correlation between the directive and Provisional Measure No. 759 towards promoting illegal enrichment, parallel to the demolition of land

justice principles which every land planning policy is submitted to via constitutional enforcement. According to the attorney who coordinates PGR's Grupo Terras (Brasil, 2017c, p. 8), there has been an express violation of the principle of isonomy which brings detriments to agrarian reform beneficiaries through the manipulation of land conditions and prices for land regularization.

Particular attention has been given by PGR to cities like Sinop and Primavera do Leste, in Mato Grosso state, due to the drastic reduction of values which allowed lands to be regularized by less than a hundredth of the market value. The attorney has recommended the non-application of Law No. 13,465/2017 under penalty of administrative and legal action against those responsible, for, in his words,

[...] expanding frontier areas will lead to an increment of agrarian conflicts (with a consequent rise in the number of associated deaths), deforestation (which may affect the aims celebrated in the Paris Agreement), and an increase in the number of occurrences that show complete disregard for the law. (Brasil, 2017c, p. 15).

The legal entanglement will certainly not be enough to deter the true invaders of land, who have reaped additional benefits since the parliamentary “coup” that removed the Workers’ Party from office. Notwithstanding, Luís Inácio Lula da Silva is viewed as a singular and crucial ally in this process, in that his government’s policy was directed at attacking the capacity for social control which had been arduously built over the previous fifty years, employing repression, co-optations, and small concessions, all duly described by Singer (2012).

However, at the heart of the rentier logic with which capitalism operates, increasing in fifty times the regularizable limit of public lands is one of many acts of demolition of Brazil’s project for minimum social justice. Another example is the extinction of the Ministry of Land Development, a leftover thrown to the peasantry movement for seventeen years through a resilient, though unequal, struggle against the latifundia-oriented national state.

It is important to acknowledge that, as is true for science and certain segments of organized civil society, there is no unanimous compliance in favour of future looters, only superiority in the ability to make money in order to buy votes, sentences, and lives, as can be seen on a daily basis. For now, the government, as well as the latifundia-based and intensely

investigated parliament (on corruption charges), are too occupied in ensuring that their allies receive, as soon as possible, all the spoils of this infant democracy.

Nota

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