

Land Law in Imperial Brazil and the Indians of the Southern Plateau: the political and diplomatic struggle of Kaingang Vitorino Condá (1845-1870)

A Lei de Terras no Brasil Império e os índios do Planalto Meridional: a luta política e diplomática do Kaingang Vitorino Condá (1845-1870)

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RESUMO

O presente estudo tem por objetivo analisar a legislação de terras do Brasil Império com base na sua principal lei, a Lei de Terras – as condições em que foi forjada, bem como sua influência sobre as terras indígenas do Planalto Meridional. O foco da investigação é a luta do Kaingang Vitorino Condá por suas terras, a partir de seu encontro político com o Conde de Caxias em 1845, até sua morte em 1870. As ações políticas e diplomáticas dos povos originários, que atuavam dentro da legislação e fora dela, se não dominavam totalmente as estratégias jurídicas dos invasores de suas terras, tiravam proveito delas em suas possibilidades de interpretação, o que permitiu a permanência de linhas de ações com estabelecimento de um espaço onde foi possível criar as próximas gerações e afirmar a continuidade de seu povo.

Palavras-chave: Brasil Império; terras; Kaingang.

ABSTRACT

The aim of the study is to analyze land legislation in Imperial Brazil based on its principal law, the Land Law, the conditions in which it was forged, as well as its influence over the indigenous lands of the Southern Plateau. The focus of the investigation is the struggle of Kaingang Vitorino Condá for his lands, from his political meeting with the Earl of Caxias in 1845, until his death in 1870. Although the political and diplomatic actions of the first people, occurring both within the legislation and outside it, did not totally dominate the judicial strategies of the invaders of their land, took advantage of its possibilities of interpretation, which allowed the permanence of lines of action aimed at establishing a space where it was possible to raise the next generations and ensure the continuity of his people.

Keywords: Imperial Brazil; Land; Kaingang.

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In Imperial Brazil the first peoples from the Southern Plateau witnessed the advance of the Luso-Brazilian expansion in direction of their lands; along with this came the emergence of settlements and the reduction of their population to official villages. Despite facing a greater number of adversities found in frontier societies, the indigenous peoples used official government villages (*aldeamento*) and settlements as a strategy for maintaining their ethnic group and as such the permanence of ethnic frontiers. This strategy was part of the many struggles and frontiers in which these people were engaged (Almeida, 2010).

The investigation presented here will look at the struggles of the Indians of the Southern Plateau to maintain their ancestral lands, through the trajectory of their most important leader –Kaingang Vitorino Condá. Between the publication of the 1850 Land Law and the death of Vitorino Condá in 1870, it is sought to present an overview of land legislation in Imperial Brazil, its developments, and to discuss to what extent the indigenous populations of the Southern Plateau made use of this legislation and its breeches in an attempt to maintain land for the survival of their ethnic groups.

One of the battles fought by the Indians was over lands which were theirs. In the case of the 1850 Land Law, although the indigenous peoples may not have been aware of this the fact is that they fought for their right to land, as established by indigenous policy and its laws. One of the premises of the Land Law and its regulations was related to indigenous land, whose rights were to be guaranteed, as stipulated in the 1845 Missions Regulations (Cunha, 2002). At the limit of the possibilities thereby opened, there also transited the political struggles of Indians, in such a way that their leaders acted as interlocutors and often engaged in conversations and agreements with provincial presidents, or with other authorities from the imperial government, undoubtedly exercising diplomatic policies. In relation to the lands belonging to the Kaingang Indians of Vitorino Condá, they were gradually invaded, covering a large region which until the first half of the nineteenth century constituted the southern frontier of the province of São Paulo and which composed the west of the current states of Paraná and Santa Catarina. The original people, commanded by Vitorino Condá, were expelled from Guarapuava, took refuge in Palmas, from where they were once again expelled. One of Vitorino Condá's foes was one of those most interested in the pasture land around Palmas – Pedro de Siqueira Cortez. A process of justification was undertaken against Kaingang Vitorino Condá, who, with his people, took refuge in the west of the province of Santa Catarina,

near to the land along the banks of the Chapecó River, remaining there from 1850 onwards (Souza, 2012).

The first part of the article discusses land legislation in the Brazilian Empire and its relationship with the indigenous lands of the Southern Plateau, with an emphasis on those belonging to the Kaingang led by Vitorino Condá. After this the politics and diplomacy of Vitorino Condá are analyzed, as well as the way he used them, trying to manipulate the legislation of the Empire to safeguard the land of his people. Finally, some reflections are presented on the concrete conditions of the occupation of the southern lands and about the political and diplomatic fights in which the first peoples were involved. The sources used in the paper were found in the Public Archive of the State of São Paulo (Apesp), the National Archive, the Municipal Historical Archive of Guarapuava (AHMG), and the State Department of Public Archives of Paraná (DEAP-PR).²

THE EMPIRE AND THE INDIGENOUS LANDS OF THE SOUTHERN PLATEAU

From the beginning of the nineteenth century until 1822, the Portuguese government believed that lands that were still unoccupied, or empty, and as such vacant, belonged to the king, with indigenous lands were lands which could be possessed by war of conquest, belonging or passing to belong in this way to the dominion of *El Rey*. Those who occupied the land were subject to what was understood in 'Colonial Law' as *Uti Possidetis*, in other words, the useful possession of land. The king held dominion over all land and properties, as a result distributed in accordance with his will the right of possession, which was called *sesmaria* or the *sesmarial* regime of land. However, this land distribution regime ceased after 1822. From this moment onwards no further *sesmarias* were accepted, leading to a period when land occupation was carried out without any legislation regulating it. Moreover, in an Empire in which the will of *senhores*, the owners of plantations and *estâncias*, was determinant, this legal vacuum still fully met their aspirations (Machado, 2011).

The Empire was undergoing a period of war and territorial expansion inland and in direction of indigenous land, as well as for the control of the River Plate estuary. This territorial expansion propelled militarized occupation away from the coast and towards the highlands, and in direction of indigenous lands, in an extensive region between Campos Gerais, Campos de Guarapuava,

the West of Santa Catarina and Campos de Cima da Serra de São Pedro do Rio Grande do Sul. Now mere occupation was no longer of interest; new conditions and new techniques of distributing benefits and lands were needed. Those commanding the settlements which were being formed determined how land was distributed and pasture lands used. Some examples are known, such as that of Antonio da Rocha Loures, captain and commandant of Guarapuava who authorized various invasions, amongst them of the *sesmaria* of Atalaia (granted to the Indians for their government village or *aldeamento*) and that of Campo do Pinhão; Coronel Luciano Carneiro Lobo in the *freguesia* of Castro, and the invasions of the environs of Tibagi; the captain and commandant in Palmeira, Domingos Ignácio de Araújo, and Captain Pedro de Siqueira Cortez in Palmas, who usurped from the groups commanded by Kaingang Estevão do Nascimento Veri and Vitorino Condá the indigenous lands in Palmas and Chapecó and who easily legalized their possession, since they worked as accomplices of the state apparatus (Souza, 2014).

Furthermore, the vacuum in the legislation did not mean the absence of rules, but rather imposed the norm of the distribution of land by military commanders, according to the idea that the land belonged to the Empire and therefore to the Emperor. From what it appears the force of arms, in other words, military power, was what mediated all these actions. What determined whether possession was legal or illegal was the law of the strongest, a logic which was perpetuated in the terms of a rule at that time seen as natural and based on key principle: the natural owners of the land were those who conquered it, the strong and the mighty, who represented the forces of expansion of the imperial state. Land belonged to those able to cope with the invaders. It is clear that, in this state of affairs, the poor and helpless of the Empire who occupied the land, whose only strength was that of labor, lacking the resources to demonstrate their natural pseudo-legality, found themselves classified as invaders. Thus, this militarized political system consubstantiated in strength ended up determining who were the legal workers of the land. In any case, strength was on the side of the ranchers, who commanded local politics and justice; who identified themselves as brave *posseiros* (squatters) and pioneers of colonization, accomplices of the development of the province. The myth which was generated and remained was that the invader *posseiro* had only one face: that of the small *posseiro* (Motta, 2008).

In 1850, legislation was enacted to regulate the occupation and invasion of lands and end the legal landholding vacuum. The law adopted by the Empire had, amongst other functionalities, the purpose of determining whose were

the unoccupied lands, and in its first article, following its publication on 18 September 1850, acquisitions of vacant land were prohibited except by purchase. In the historiography and sociology this legislation is referred to as the Land Law, understanding it as a law whose basic aim was to protect the interests of the large landholders. It was not an inheritance of colonial times which induced the naturalization of the large landholders, “the existence of the *latifúndio* and large agricultural exploration do not constitute survivals from the past, but they were continually recreated during the nineteenth century” (Silva, 1996, p. 337). According to Lígia Osório Silva, the 1850 Law did not achieve its basic objectives: the demarcation of vacant land and the discrimination of public and private land, the first step for the implementation of a land policy. As a result its developments almost exclusively benefited large rural landholders (ibid.).

Based on the free labor policy which gained ground in the imperial sphere following the publication of the Eusébio de Queiroz Law of 4 September 1850 (the same month and year in which the Land Law was enacted), prohibiting the inter-Atlantic slave trade, the foundations for the colonization of vacant land were prepared, which by priority had to be created based on European immigration into Brazil. This group of laws enacted in September, the month of independence, was not published by coincidence at this time and year; 1850 was a type of foundation year, the beginning of a long period of government. These laws opened the space necessary for the advent of what is understood as the great migration, in which colonies of foreigners proliferated in the occupation of these so-called vacant lands, as stipulated in the Land Law.

From this perspective, according to the sociologist José de Souza Martins (1986), despite the possibility of conquering lands being legally available to free men, the ascension of free labor actually did not permit a regime of free land. The Land Law ended up creating, in the vacant lands, captive lands inaccessible to free men and women who only had their labor force. According to imperial legislation, the process of legitimation of possession was an open space for large landholders-*posseiros*, but it was a minefield for small *posseiros*, since the procedures and documentation, requirements and conditions which local government agencies imposed were beyond their possibilities.

Since the law benefitted the large plantation owners, why did they remain silent in the episode which José Murilo de Carvalho called the ‘veto of the barons’? (1996). Obviously, while the law benefitted them its non-existence would have been even better, as pointed out by Márcia Menendes Motta (2008) in studies of agrarian history. Thus the silence of the land barons. However,

recent work has shown that this silence was not absolute, at least in Rio Grande do Sul. According to Cristiano Luís Christillino (2011), the *estancieiros*, especially in the mountain, plateau, and missions regions, used to a large extent land legitimation processes to affirm their possession. The law was in favor of the plantation owners, however, its breeches allowed the possibility of the legalization of the possession of small landholders, *roceiros* (very small farmers), and laborers, once they maintained their habitual dwelling there and produced some effective agricultural crops. However, this poor helpless population, currently understood as *caboclos*, who only had their labor force in the regions of the plateau and mountains of the province of Santa Catarina, such as Campos Novos, Curitibaanos, and Lages, did not effectively participate in this exclusionary process. The lands which were given to foreign colonists were denied to and usurped from Indians, *mestiços* (people of mixed race), and the poor in general, who were trying to live on the Southern frontiers (Machado, 2011).

The 1854 Land Regulations (Decree 1318) did not change the scenario described above. The rules ordering the legitimation of the so-called vacant lands, occupied by peaceful possession or by *sesmaria*, were in practice a set of documents including everything from parochial registers to those of civil notary offices and bodies such as the General Division of Public Land (*Repartição Geral das Terras Públicas*), with its Public Land Offices and its Special Land Inspectorates. Involved in this structure were engineers, agricultural surveyors, notary officials, parish priests, something difficult for poor farmers, *roceiros*, and indigenous peoples to access (Machado, 2011).

In general the first peoples have also been seen by historians as populations who, following the 1850 Land Law and its 1854 regulations, suffered a more aggressive advance towards their land. According to María Verónica Secreto, the second half of the nineteenth century “witnessed the passing of communal indigenous lands to private property throughout Latin America due to liberal legislation” (Secreto, 2007, p. 18). With certain specificities, this advance on indigenous land in this epoch occurred in a similar manner throughout a large part of South American countries. The second half of the nineteenth century witnessed the Ranqueles, Mapuches, and Kaingang defending their land against an implacable advance of new and old colonizers – the old such as the *hispanocriollos* and the Luso-Brazilians; the new, colonies for European immigrants. In Argentina, Chile, and Brazil Indians fought for their land, in their own way Kaingang, Ranqueles, and Mapuches demanded what was theirs. In Argentina, on the Bonaerense frontiers, there was no continuous solution between the 1850s and 1870s to the occupation of indigenous lands,

which had intensified during the administration of Juan Manuel Rosas, at the same time in which through robberies of plantations – the so-called *malones* (Mandrini, 2012), whose principal aim was the theft of cattle – indigenous populations responded to invasions, negotiated the receipt of provisions and the right to remain where they were living (De Jong, 2011). In the Southern Brazilian Plateau, the Kaingang Vitorino Condá demanded the lands he had occupied for most of his life, an extensive region covering the west of the province of Santa Catarina and the Southwest of the province of Paraná.

What is intended from here on is to analyze some of Vitorino Condá's political and diplomatic mission and to reflect on how indigenous populations faced the problem of holding on to their lands. Moreover, the extent to which these struggles were based on the Land Law and its regulations, and on a more general policy of the Brazilian imperial government, will also be discussed.

THE POLITICAL AND DIPLOMATIC STRUGGLE OF KAINGANG VITORINO CONDÁ FOR HIS LANDS

Due to the incessant work of historians and anthropologists, in a vital inter-disciplinarity, it is known that the struggle of these first peoples went far beyond the idea of armed conflict or of wars in the traditional sense of the word (Almeida, 2013, p. 29). Boccara tells us that to construct the historicity of these peoples, it is necessary to analyze the many sources which circumscribe the theme in relation to local dynamics, the socio-political system, and the structures of the frontier world, with its many forms of dispute (Boccara, 2005). In this way the struggles were also positioned within various spheres, such as the judicial, political, or diplomatic (Ávila, 2011). Kaingang Vitorino Condá and his struggles were also within this context. He established alliances with the authorities of a large territory and had an influence over a large part of Kaingang leaders. To continue as a strong leader he repeatedly used strategic retreat. After his first retreat in the 1820s, he took refuge in the lands of Pinhão. In the 1830s, after the occupation of Pinhão by ranchers, Vitorino Condá fell back to Palmas. In the 1840s once again, with the advance on these lands, squeezed by the ambition of the ranchers, he fell back to an area close to the Chopin River and Chapecó, and in 1845 he would undergo a significant experience in his life trajectory, a long march towards the province of São Pedro, with the mission of making a '*picadão*' (a large trail) between Palmas and Cruz Alta,

the so-called “new trail of the [mule] troops of the South,” the road to the Missions regions.

In this task he would be accompanied, in a command function, by Francisco Ferreira da Rocha Loures. The two had grown up together in the *freguesia* of Guarapuava, one as the son of the commander of the militia company, and the principal commander in the region – Captain Antonio da Rocha Loures –, and the other as a settled Indian boy. To be successful the mission had to achieve a safe conduct through indigenous lands. All of the region from the fields of Palmas to the *vila* of Cruz Alta in the Province of São Pedro do Rio Grande do Sul was still inhabited by indigenous groups hostile by the settlers. This safe conduct, allowing the opening of a new trail, and a new stage through Goyo-En, in the so-called Campos de Nonohay, was something which only could be implemented with the help of Vitorino Condá, due to the prestige he had with his allies in this region:

Senhor Rocha Loures was the most suitable man for this enterprise: because having lived in his infancy in Guarapuava in the company of his father, Captain Antonio da Rocha Loures, effective commander of that place, he met there the Indian Condá, also as a boy, who after removing himself to the woods, became formidable and feared among his peers; and that childhood friendship meant that the Indian offered to accompany him on the expedition, whose danger was foreseen, and the security of the Indian made him treat the danger with scorn, thus he recognized the imperium which the Indian exercised over the other chiefs, who after presenting themselves with a hostile attitude in the lands of Nonohay, his voice vouching for his friend was enough to disarm them and they allowed his passage; for this and a little of the knowledge which Senhor Rocha had of the Indian language today these savages are less fierce and more peaceful; and His Excellency, the Earl of Caxias, then President of the Province of Rio Grande do Sul did not have any part in this, only hearing the report of Sr Rocha, took all possible measures to take advantage of what was presented to him, ordering the distribution among the Indians of clothes and tools suitable for their use, as well as many correct measures, so that nowadays they are accommodated and delivered to the instruction of missionaries; and for this reason those so frequent horrendous facts have ceased, which had filled with terror the traders of animals. (Bandeira, 1851, pp. 434-435)

The confirmation of this adventure appeared in a manuscript written by Francisco Ferreira da Rocha Loures (which I found unsigned in the

documentation about Palmas and Guarapuava in the Public Archive of São Paulo State), in which it is reported where the opening of the *picadão* began and ended, crossing the pass of Goyo-En, and departing from the *Vila* of Cruz Alta, until the meeting in Porto Alegre with the president of the province, the Earl of Caxias:

In an Edict of this Presidency dated 5 August 1844, I was ordered to open a trail leaving from the *freguesia* of Ponta Grossa, passing through the lands of Palmas in the direction of the *Villa* of Cruz Alta, connecting this Province with that of Rio Grande do Sul, with the sum of one *conto de reis* being given to me for this purpose. I accepted this task, and after three months I left the *Villa* of Cruz Alta for the trail, and from there I went to Porto Alegre, and due to the solicitations of the President of that Province I was able to obtain from His Excellency the Earl of Caxias one *conto* and two hundred thousand *reis* for this purpose, and on this occasion His Excellency gave me various objects to distribute among the Indians of Goyo-En, a commission of high risk which I had to fortune to carry out. (Aesp, 1849)

Furthermore, this long journey which in July 1845 made him leave Ponta Grossa for Porto Alegre, afterwards returning to Palmas, was at the time one of the most difficult tasks. It could take months or years and one's life was at risk in the attempt. One of these journeys certainly emphasized the ties of alliance between Condá and Francisco da Rocha Loures, who years later, after the creation of the province of Paraná, would hold the position of Director General of Indians. As a result of the political meeting with the Earl of Caxias, the *aldeamento* of Nonohay in the province of São Pedro would come under the responsibility of João Cypriano da Rocha Loures, brother of Francisco Ferreira da Rocha Loures, who accompanied Condá and Francisco on the adventure to Porto Alegre. Vitorino Condá would be named Captain of Indians. In contact with the leaders of the neighboring province of São Pedro, Vitorino Condá who then had dominion over a large indigenous population, lived for a decade in Nonohay, on the lands of the legendary leader of the old Nonohay, and after this period once again retreated to the lands near the Chapecó River.

This experience, in Porto Alegre, capital of the province, which implied dialogue with its president, the Earl of Caxias, was significant in the life of Kaingang Vitorino Condá, who thus opened his diplomatic relations with the governments of the Empire (Condá spoke Portuguese). Many of these

diplomatic discussions were linked to a vital question for his people: the lands which belonged to them.

In 1865, Condá took a lawsuit in Guarapuava against the invasion of his lands by ranchers (AHMG, 1865). At the end of May 1869, Vitorino Condá, then aged 64, made his final trip to the capital of the province, in order to present the president with a list of demands from this people, amongst which appeared a blacksmith, a teacher, and land to establish themselves on, since they were living on the land of others.³ Condá's journey to Curitiba was endorsed by the Director of Indians of Palmas, Captain Pedro Ribeiro de Souza, who, in correspondence, notified the journey and determined that they not be prevented from continuing to Curitiba.⁴ Reaching Curitiba two months later, with a group of thirty people, the reception by the government was at first what was usually done on these occasion: accommodation was provided and it was sought to ensure that they returned to their settlements as quickly as a possible. The President of the Province of Paraná did not act differently. In an official letter dated 27 July 1869, he informed the *Delegado* (head) of the Division of Public Lands and Colonization of the Province of Paraná, Candido Rodrigues Soares de Meirelles, of the arrival of the Indians from Condá, accompanied by a guide designated by the Director of Settlement of Palmas, Pedro Ribeiro de Souza, also asking for accommodation and requesting "that the *Delegado* make them return to Palmas as quick as possible."⁵

One form of political action by the first peoples, in light of the situations created by the no-indigenous invasion and occupation, was taking advantage of the duplicities in the legislation itself. Certainly this was involved, principally in the case of Vitorino Condá, who during his trajectory had won prestige and the respect of Indians and non-Indians. Condá, to the contrary of many indigenous who went to provincial capitals, spoke Portuguese, and not just him, but also many of his lieutenants. Added to this was the fact that they formed a contingent of more than three hundred Indians, counting on the Kaingang population in Palmas under the command of Veri, plus Condá's own group in Chapecó. He thus made the journey with a group of almost one hundred warriors, which, given the minuscule military forces operating in Palmas and Guarapuava, was a considerable threat. All of this gave Condá what the majority of leaders could not achieve: respect, attention and consent to his demands.⁶

Condá's journey to Curitiba mobilized authorities from various spheres, including the Director of Indians, the General Director of Indians, a Judge, the *Delegado* of the Division of Public Land, the President of the Province of

Paraná, and the Minister of Agriculture, Trade, and Public Works, as will be seen below. Contacts which, as can be imagined, did not always occurred without friction.

Initially, the president of the Province, Antonio Augusto da Fonseca, sent the bureaucratic recommendation that the journey of the *cacique* (chief) Vitorino Condá to Curitiba not be repeated, since this did not serve for catechism; however, this reluctance was restricted to the first days of Vitorino Condá's time in Curitiba. After his possible interviews with the government, from 29 July onwards the president of the Province sent off a series of official letters to diverse authorities.⁷ To the *Delegado* of the Division of Public Land and the Colonization of the Province of Paraná, Candido Rodrigues Soares de Meirelles, authorized the purchase of objects requested by *Cacique* Vitorino Condá, once a maximum of 200,000 réis be spent⁸ – a tiny quantity given the number of indigenous who turned up with Condá. Actually, the objects requested by Condá were not much more than gifts, such as glass baubles, some used clothes, and a few tools. In another document, on 31 July 1869 the Minister of Agriculture, Trade, and Public Works, Joaquim Antão Fernandes Leão, provided information about the situations of the Indians from Palmas led by *Cacique* Vitorino Condá. In this document it can be noted that the latter asked for his own lands, a blacksmith, and a teacher. It was requested that measures be taken “to create a settlement for these Indians.”⁹

From the 1860s onwards, after the implementation of the Land Law and its Regulations, the indigenous question was no longer under the wing of the Ministry of the Empire, as it was now connected to the Ministry of Agriculture, Commerce, and Public Works. Questions related to the catechism and civilization of the indigenous and military colonies were the charge of the fifth section of the Ministry, according to the decree published on 29 April 1868. The function, attributed to the offices of the Division of Public Land, of regulating the indigenous question was born with the 1850 Land Law. However, in relation to lands belonging to Indians it exercised little effect, since the only observation about the subject was in Article 12, which stated that the government would reserve among vacant lands those it deemed necessary for the colonization of the indigenous (Brasil, 1850). In other words, indigenous lands did not exist; all land without an owner belonged to the Brazilian empire; all land from the first peoples was seen as such. The Empire could decide how to distribute this as it deemed convenient to the Indians.

However, in 1854, the Regulatory Decree for the Land Law better defined the conditions to establish indigenous reserves:

Reserved Lands

Art. 72. Vacant lands will be reserved for colonization and the settlement of indigenous in districts where there exist savage hordes.

Art. 73. Inspectors and Agricultural Surveyors, when they receive reports of these hordes on vacant lands, which they have to measure, will seek to ascertain their gender and temperament, the probable number of souls which they contain, their facility, or difficulty, for their settlement in villages, and the means of obtaining this; as well as the extent of the land necessary for this.

Art. 74. In light of this information, the Director General will propose to the Imperial Government the reservation of the lands necessary for settlement, and all the measures to obtained.

Art. 75. The lands reserved for the colonization of Indigenous, and to them distributed, are destined for their enjoyment of this; and they cannot be alienated, while the Imperial Government, by special act, will not concede them the full enjoyment of this, or thus permit their state of civilization. (Brasil, 1854, p. 347)

The Law and its Regulations brought, for the indigenous populations, a series of difficulties to legally obtain their lands, since there existed, in its wake, a true legal trap, as the condition of the indigenous population was always left in interpretative doubt. While on the one hand, the Indians seen as tame or civilized were not permitted to access settlement lands, on the other hand, in the case of the wild Indians – the so-called ‘savage hordes’ – land was for ‘enjoyment,’ with its definitive ownership being conditioned upon a certain state of civilization.

Condá’s requests, as well as tools, a blacksmith, a teacher, cloths, gunpowder, and weapons, included the demarcation of part of his lands which had been usurped by ranchers (Souza, 2014). The request for a blacksmith was part of a context in which this type of professional was necessary and much required by all. A good blacksmith was responsible for the production of diverse instruments, from cartwheels, agricultural tools, and riding equipment, to the production of weapons, an important labor activity in society at the time, indigenous or not. The request for land and a schoolmaster was linked to the condition of ‘semi-tame’ of the Indians of Condá, which fitted into what the Land Regulations stipulated, since they were, according to this understanding, ‘savage hordes.’ As a result the advanced degree of civilization, which his men achieved, since they spoke Portuguese – or at least those who predicted and understood the laws of the Empire – also permitted them to enjoy full enjoyment of their lands – thus the strategy of asking for a teacher.

The struggles of the first peoples and the classifications, even at times academic, which distinguished them as tame, semi-tame, wild, or friendly Indians, represented a challenge for those who tried to analyze the construction and use of ethnic and national categories, since they were diluted among interest groups consisting of subjects and state bodies charged with administering and operating policies among the indigenous populations. According to Ingrid de Jong and Izabel Missagia, the struggles for these classifications and their meanings are not only an academic game but have been “part of the actual processes through which the populations have instrumented and negotiated their place in relation to the colonial and national states” (Missagia; De Jong, 2008, p. 12).

The capacity to maintain the land belonging to the indigenous peoples was distinct in the various regions of the Empire. It depended on local authorities, “who arbitrated whether the Indians were or were not sufficiently re-socialized” (‘civilized’). Also it depended on local circumstances and relations of power, through which “the Indians could have more or less power of influence, counting or not on allies” (Moreira; Almeida, 2012, p. 33). Within the theme of indigenous lands, the president also sent correspondence to Francisco Ferreira da Rocha Loures, Director General of the Indians in the Province of Paraná, asking for lands supposedly usurped, according to the Indians under the command of *Cacique* Vitorino Condá.¹⁰ The president of the province of Paraná sent another letter to Pedro Ribeiro de Souza, Director of Indians in Palmas, acknowledging the receipt of his letter about the arrival from Curitiba of the Indians under the command of Vitorino Condá. He also said that that he had already been informed by the imperial government about the latter’s complaints about the demarcation of lands, the request for a teacher and a blacksmith; but added the reprimand of always, stating that Indians should be prohibited from undertaking these journeys, since they did not benefit catechism, but rather reinforced their condition as wanderers.¹¹ In the report of his administration, during 1869, he described as follows Condá’s journey to Curitiba:

Indians from Palmas

There appeared in this capital *Cacique* Victorino Condá with 30 Indians, bringing a letter from the respective director Pedro Ribeiro de Souza, in which he demanded that they be given land, which they did not have, a blacksmith and a schoolmaster.

On the date of 31 July, I asked for detailed information about this from the Director General of Indians, who has still not given me this. At the same time I

wrote to the Ministry of Agriculture, asking for measures to be taken about the concession of land, without which the other requests could not be satisfied.

The creation of a school can be done by the Provincial Assembly independent of the intervention of the Governor General and I am convinced that the Assembly would duly meet the interests of the Province if it did this.

These Indians are the most advanced I have seen in the Province, though their state is still that of barbarity.

All the most important ones express themselves in Portuguese, which has not happened with the others who have come to this capital, during my administration.¹²

In response to the questions of the president of the province of Paraná, the Minister of Agriculture ordered that a qualified person be appointed to exercise the functions of a *Juiz Comissário* (supervisory judge) for the *freguesia* of Palmas, in order to measure and demarcate the land for the settlement of the Indians who accompanied Captain Vitorino Condá.¹³ The president of the province in turn appointed the engineer Antonio Pereira Rebouças Filho to the position of *Juiz Comissário* of the municipality of Guarapuava (Arquivo Nacional, 1869). He made recommendations that efforts be made to allow the aldeamento of Palmas prosper under the direction of Captain Pedro Ribeiro de Souza. He also ordered Captain Pedro Ribeiro to look nearby for a Brazilian or Portuguese priest to serve as a chaplain and teacher in the settlement.¹⁴

From what it appears Vitorino Condá's list of demands in relation to the demarcation of land and the sending of a teacher was being met. In relation to the blacksmith, Captain Pedro Ribeiro de Souza himself echoed Vitorino Condá's request, in a letter sent to the Director General of Indians of the Province, while the latter responded that before a blacksmith be sent it was necessary to organize the settlement and transfer it to a more appropriate place.¹⁵ In the Report of the President of the Province, Antonio Luis Affonso de Carvalho, dated at the beginning of 1870, the events of the mobilization and the struggle for the lands between Palmas and the Chapecó and Uruguai rivers, as a place for the Indians of Vitorino Condá to live, as well as the necessary demarcations of indigenous lands, were also described as follows:

Aldeamento of Palmas

To regularly establish the settlement of Palmas I recommended in the notice of 30 September last, sent to the respective Director Pedro Ribeiro de Souza and the Director General which, according to the *juiz comissário* appointed to the

municipality of Guarapuava, is based on the convenient choice of land to distribute to the Indians and the most correct means to use for their permanence. I also asked for information about the best manner of having a priest, and a teacher, and also a blacksmith there, which is much demanded.

Elsewhere, I deal with this group which could be used near an important *freguesia*.

To the *juiz commissario*, recently nominated I will once again recommend, that he comes to this place to choose, measure, and demarcate the necessary land. These Indians give very significant examples that they want to embrace civilized life. It is convenient that they create a school there. It is a help that the Province can provide and through which perhaps manage to call to the settlement some civilized residents, with whom the Indians will have relations, for this a number of 30 came here last year going to the capital, captained by the *Cacique* Vitorino Condá and they carried themselves well.¹⁶

According to the government, the Indians commanded by Vitorino Condá carried themselves well, they wanted to embrace civilized life and also deserved a school, a blacksmith; it was advisable therefore to demarcate land for their settlement. But the continuity of these enterprises ended up adrift, since Vitorino Condá died in Chapecó in 1870, at the age of 65. By coincidence, Condá died a year after the beginning of his last journey, on 25 May. His death was notified two months later to the president of the Province by Captain Pedro Ribeiro de Souza.¹⁷

Thus ended the history of the Indian Vitorino Condá, born in 1805; a man who at four years of age watched the arrival of the troops of occupation of the government of Dom João in the fields of Guarapuava, and also as a boy was led to the *aldeamento* in Atalaia, and as an adult transformed himself into a significant indigenous leader in Imperial Brazil. Following the death of Vitorino Condá, ranchers and *sitiantes* continued the project of the occupation, invasion, and usurpation of indigenous lands – carried out by the *fazendeiro* Joaquim José Gonçalves. The children of Vitorino Condá, afraid of losing their place of residence, went to the capital Curitiba to demand rights to the lands of their father. The government of the Province, in turn, informed in correspondence to Francisco Ferreira da Rocha Loures that he had already written to the Municipal Judge of Orphans of Guarapuava to guarantee “the right the children of the deceased *Cacique* Vitorino Condá had to the lands left to them by him, which Joaquim José Gonçalves wanted to take.”¹⁸ In addition to demanding their lands, the children of Condá, also sought the receipt of the

so-called 'presents' which were distributed by the government, a mechanism of gratification which helped the entrance of some things that were needed, fundamental for the maintenance of the group which remained in Chapecó. The government distributed these and paid for the stay of the group of Condá's children for the whole time they remained in the capital Curitiba, issuing orders to the *Delegado* of the Division of Public Lands to pay for the cost of feeding the 14 Indians from Palmas, as well as expenses with the purchase of gifts and tools.¹⁹ Once again this sequence of events was reported by the government as shown below:

The *Cacique* Victorino Condá, head of the tame Indians settled in Palmas, and to whom was granted the gratification of 30\$000 per month for the good services he carried out, died on 25 May last.

One of his children, accompanied by some companions from his tribe, came to this capital asking for measures to guarantee him the right to the land left by the said *cacique*, since an individual by the name of Joaquim Jose Gonçalves was trying to possess them.

The municipal judge of orphans of Guarapuava and the Brigadier Director General of Indians gave order that similar abuse not be consented to. The Indians returned satisfied to the settlement having received some gifts which they have asked for.²⁰

Now commanded by his children, Vitorino Condá's people remained on their father's land, which in turn was being used according to what was stipulated in the Land Law of the Empire. In the map below I found in the National Archives, produced in 1864 by John Henrique Elliot, a US citizen at the service of the Baron of Antonina, I indicate with a dashed white line some of Condá's movements, as well as the forests (green) and pasture (yellow) in the region, and some of the existing trails and roads, such as the 'Missions Road' – the current BR 386 (the trajectory presented only came to exist in 1845, with its effective opening by Vitorino Condá and the first born of Rocha Loures – Francisco Ferreira) and the 'Southern Trail' – the current BR 101 (red lines).

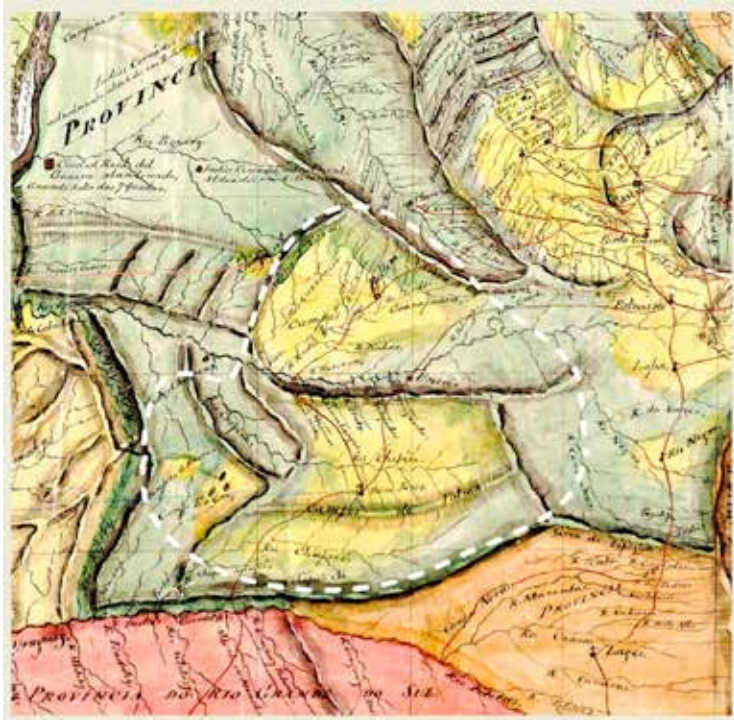


Figure 1 – Province of Paraná in the Empire. Source: Seção de Mapas do Arquivo Nacional, Rio de Janeiro, RJ. Série 776.2-9G. (Adapted from Spina, 2012).

FINAL CONSIDERATIONS

In Imperial Brazil, the *aldeamentos*, the reservation of vacant lands for the colonization of indigenous (as stipulated by the Land Law and its Regulations), and the legislation itself in a more general form, even faced with a process of spoliation and usurpation, were places with perspectives and for meetings which went beyond the dominion of invaders and occupiers in related to the subject first peoples. In this period in which the Land Law and its Regulations were enacted, once again the political and diplomatic actions of the first peoples were stressed, who acted within the legislation and outside it. Whilst they did not totally dominate the political and judicial strategies of the invaders of their lands, they did take advantage of the law and its possibilities of interpretation. It was the *aldeamentos* and the existing legislation which permitted in

many cases (or in almost all), the existence of lands which today belong to the Kaingang. The indigenous populations of the nineteenth century were not restricted to those who warred against the Empire – the so-called wild Indians, or to an extent independent –, but also encompassed a series of individuals and various communities which constituted society in this period (Moreira, 2010, p. 137). Through the *aldeamento* policies, some indigenous groups managed to survive and maintain their lands, despite all the actions, activities, and numerous expeditions and campaigns against these populations and all the intentions of hunting, imprisonment, and captivity. Village land was for the Indians a good of considerable value, whose function went beyond subsistence; for it there were disputes, conflicts, and negotiations (Almeida, 2011). The recognition of determined territorial spaces such as theirs, in some cases, demarcated political and diplomatic actions on the part of the indigenous populations of Southern Plateau and, thereby, reveals their protagonism in the History of Brazil.

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NOTES

¹ Doctorate in History, Universidade Federal de Santa Catarina (UFSC); Post-Doctorate from Universidade Estadual do Centro-Oeste (Unicentro).

² In addition to the sources cited, the reports of the President of the Province and laws enacted during the period were researched in the following sites: University of Chicago, Provincial Reporters, Center for Research Libraries, www.crl.uchicago.edu/content/provopen.htm/; *Coleção das Leis do Império*, Câmara Federal, www.2.camara.gov.br.

³ Correspondence from Pedro Ribeiro de Souza, Director of *Aldeamento* of Palmas, to the President of the Province, Antônio Augusto da Fonseca, on 25 May 1869. Fundo Administração Provincial, 307.10, pp. 322-323. Departamento Estadual de Arquivo Público do Paraná – DEAP-PR.

⁴ *Ibid.*

⁵ Correspondence from the President of the Province of Paraná, Antônio Augusto da Fonseca, to the *Delegado* of the Division of Public Land and Colonization of the Province of Paraná, Cândido Rodrigues Soares de Meirelles, 27 July 1869. Fundo Administração Provincial, C 458, p. 379 – DEAP-PR.

⁶ Correspondence from José Secundino Lopes de Gomensoro, Judge of the *Comarca* of Guarapuava to the Vice-President of the Province of Província do Paraná, Agostinho Er-

melino de Leão, 17 October 1870. Fundo Administração Provincial, AP 315, pp. 189-190 – DEAP-PR.

⁷ Correspondence from the President of the Province of Paraná, Antônio Augusto da Fonseca, to Pedro Ribeiro de Souza, Director of *Aldeamento* of Palmas, 26 July 1869. Fundo Administração Provincial, C 458, p. 380 – DEAP-PR.

⁸ Correspondence from the President of the Province of Paraná, Antônio Augusto da Fonseca, to the *Delegado* of the Division of Public Land and Colonization of the Province of Paraná, Cândido Rodrigues Soares de Meirelles, 29 July 1869. Fundo Administração Provincial, C 458, p. 386 – DEAP-PR.

⁹ Correspondence from the President of the Province of Paraná, Antônio Augusto da Fonseca, to the Minister of Agriculture, Trade, and Public Works, Joaquim Antão Fernandes Leão, 31 July 1869. Fundo Administração Provincial, AP 308, pp. 64-65 – DEAP-PR.

¹⁰ Correspondence from the President of the Province of Paraná, Antônio Augusto da Fonseca, to the Director General of the Indians of the Province of Paraná, Francisco Ferreira da Rocha Loures, 31 July 1869. Fundo Administração Provincial, C 458, p. 389 – DEAP-PR.

¹¹ Correspondence from the President of the Province of Paraná, Antônio Augusto da Fonseca, to Pedro Ribeiro de Souza, Director of Indians of Palmas, 31 July 1869. Fundo Administração Provincial, C 458, p. 391 – DEAP-PR.

¹² Relatório apresentado ao exmo. senhor Vice-Presidente, Dr. Agostinho Ermelino de Leão pelo excelentíssimo Ex-Presidente Antônio Augusto da Fonseca, 5 de dezembro de 1869, pp. 17-18. *Índios*. Curitiba, Tipografia de Candido Martins Lopes, 1869.

¹³ Correspondence from the Minister of Agriculture, Trade, and Public Works, Joaquim Antão Fernandes Leão, to the Vice-President of the Province of Paraná, Agostinho Ermelino de Leão, 30 September 1869. Fundo Administração Provincial, C270, p. 269 – DEAP-PR.

¹⁴ Letter from the President of the Province of Paraná, Antônio Luís Affonso de Carvalho, to the Director of Indians of Palmas, Pedro Ribeiro de Souza, 10 December 1869. Fundo Administração Provincial, C458, p. 526 – DEAP-PR.

¹⁵ Letter from Francisco Ferreira da Rocha Loures, Director-General of the Indians of the Province of Paraná Antônio Luiz Affonso de Carvalho, on 12 February 1870. Fundo Administração Provincial, AP 327, p. 182 – DEAP-PR.

¹⁶ Relatório apresentado à Assembleia Legislativa do Paraná na abertura da 1ª sessão da 9ª legislatura pelo Presidente Dr. Antônio Luiz Affonso de Carvalho, no dia 15 de fevereiro de 1870. Curitiba: Tipografia de Candido Martins Lopes, 1871, p. 47.

¹⁷ Correspondence from de Pedro Ribeiro de Souza, Diretor do aldeamento de Palmas ao Vice-Presidente da Província, Agostinho Ermelino de Leão, 3 de julho de 1870. Fundo Administração Provincial, AP 338327, p. 182 – DEAP-PR.

¹⁸ Correspondence from the Vice-President of the Province of Paraná, Agostinho Ermelino

de Leão, to the Director-General of Indians, Francisco Ferreira da Rocha Loures, 16 August 1870. Fundo Administração Provincial, C458, p. 136 – DEAP-PR.

¹⁹ Correspondence from the Vice-President of the Province of Paraná, Agostinho Ermelino de Leão, to the *Delegado* of the Division of Public Lands, Candido Rodrigues Soares de Meirelles, 19 August 1870. Fundo Administração Provincial, C458, p. 145 – DEAP-PR.

²⁰ Relatório apresentado ao Excelentíssimo senhor Presidente Dr. Venâncio Jose de Oliveira Lisboa pelo Exmo. senhor Vice-Presidente, Dr. Agostino Ermelino de Leão, 24 de dezembro de 1870. *Índios*. Curitiba: Typographia de Candido Martins Lopes, 1871, p. 19.