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ON THE EVE OF LIBERALISM, GOOD REASON AND PROOF OF COMMON LAW IN PORTUGUESE AMERICA (1769-1808)

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Abstract

This paper presents the unfinished result of a research work, still in progress, on how the administrative justice of the Portuguese empire was conducted in the kingdom and its domains in America at the end of the Ancien Régime. It focuses on the impact of the *Lei Máxima* (Law) of 18 August 1769, later called the Law of Good Reason, in Portuguese America, considering the validity of common law and customary practices during the period under study (1769-1808). The aforementioned law, enacted by the Secretary of Affairs of the Kingdom of King D. José I, Sebastião José de Carvalho e Melo (Count of Oeiras and Marquis of Pombal), instituted the mandatory nature of national law and subdued the customary practices operating throughout the empire..

Keywords

Common Law, Reforms, Reason, Justice, Minas Gerais

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ON THE EVE OF LIBERALISM, GOOD REASON AND PROOF OF COMMON LAW IN PORTUGUESE AMERICA (1769-1808)[1]

CLÁUDIA ATALLAH

Introduction

This paper examines the use of common law in Portuguese America after the institution of the *Lei Máxima* of 18 August 1769. It starts by assessing the historiography on Pombal's reforms. The objective is to understand the fundamental interpretations about the changes fostered by Carvalho e Melo during his period as Secretary of State and analyse the interpretations of the main authors about the post-Pombal period. Then, it examines the impact of Good Reason and the requirement for a legal basis on the daily activities and local government based on the requests for proof of common law submitted to the Overseas Council during the period (1770-1808) filed in the *Projeto Regate* (archive). The captaincies under research are: Rio de Janeiro, Minas Gerais and São Paulo (and the counties that separated them territorially).[2]

The historiography of the reforms in Pombal's period

The theory about the gradual political centralization operated in modern monarchies during the last decades has been closely studied. Some studies identify political-legal plurality when analysing the power structures of the Portuguese Ancien Régime. The intention is to review the research structuring bases by examining the medieval features of social self-organization, as well as interdependence relations and the corporatism signs of that society. These debates point to the absence of the State as a sovereign entity in terms of doctrinal and political practices (Cardim, 1998). The debate was not restricted to Portugal, extending to the entire modern Europe (Elliot, 1992; Ladurie, 1994; Greene, 1994).

António Manuel Hespanha showed how much of daily activity were based on customary practices and late-medieval legacies that remained almost unaltered over time. Accordingly, the crown adapted itself, throughout the modern period, to these structures of power, seeking ways to strengthen the symbolic and customary bonds of interdependence with the subjects (Hespanha, 1994).

[1] Article translated by Carolina Peralta.
[2] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso Brasileira. Projeto Resgate. Available at http://resgate.bn.br/docreader/docmulti.aspx?bib=resgate

The author drew attention to the precarious use of control mechanisms over institutions of power, both in the kingdom and in the Portuguese colonies. Royal officials, appointed to oversee council practices and exercise justice on behalf of the king, were almost always involved in the plots of local powers. This made remote administration and inspection even more complex. Governability was exercised by local authorities on a daily basis. They were responsible for choosing their representatives and for the municipal burden. Statutory laws were limited and ineffective, especially when extended beyond the territorial limits of the kingdom. Administrative and legal relations gave way to morality and habits that had long characterised social and political relations and which involved royal agents in the local administrative routine (Hespanha, 1994; Hespanha, 2010).

According to Nuno Gonçalo Monteiro, the years that preceded the reign of D. José were characterised by a "silent mutation". Under D. João V, the sociability rituals and practices were redefined, leading to new symbolisms and representational niches, thus reorganizing the forms of exercising power and the interdependence networks. In this respect, the monarchy had a central position. According to the author, one of the major focuses of this mutation was the reform of the Secretaries of State in 1736. This new arrangement was maintained until the reign of D. José, when the secretaries attained the status of ministries, like in Portugal's neighbouring monarchies. In almost twenty years (1736-1750), the relationship between the administrative centre and the overseas territories made the administration even more complex, reinforcing the importance of the Portuguese agents operating overseas. However, despite all these arguments, the author stated that "the most systematic reforms were still to come" and it was during the time of the Marquis of Pombal that the intervention of the monarchy expanded considerably (Monteiro, 2006:36 e 37).

In "O terramoto político" (The political earthquake), José Manuel Subtil used a metaphor, in an analogy between the earthquake that struck Lisbon in 1755 and the rise of Sebastião José de Carvalho e Melo, the future Marquis of Pombal, to Secretary of State of Affairs of the Kingdom in 1756. After carefully examining the composition of the Secretaries of State, before and after the 1736 reform, the author reached a conclusion: the practices that characterized the secretaries' policies were still based on political habits associated with personal relationships typical of the politics of the Ancien Régime. "This means that during the reign of D. João V, there was never a political reshuffling of the government, and even the beginning of the reign of D. José was not used to form a new government" (Subtil, 2006:39).

Regarding this "silent mutation", Subtil (2006:45) states that in the reign of D. João V, social relations and political structures were still supported by "symbolic orders" that represented the symbolic legacy of the Ancien Régime. In his opinion, the royal centrality that Lisbon came to represent had a greater relationship with the ability to run the administration and its complexities that stemmed from mainland and overseas locations.

In this sense, the changes conducted during the monarchy of D. José I represented the "moment of political rupture with the past" (Subtil, 2006:12). The uncertainties caused by the 1755 earthquake created the conditions for Sebastião José de Carvalho e Melo to take the lead in the political administration and choose the reforms as a strategy for the country's recovery when he became Secretary of State of Affairs of the Kingdom in 1756. From then onwards, the intentions to overcome the corporate and jurisdictional tradition,

which had already been discussed in the Portuguese intellectual and diplomatic circles for half a century, would delineate the reform plans (Subtil, 2011).

More recently, Hespanha provided a fundamental study that enables us to understand these paradigm shifts between the 18th and the 19th centuries in the Iberian world. Analyzing the balance between the legal and doctrinal sources of law and their continuation during much of the nineteenth century, he noted the importance of instituted modern codes and how they were "guaranteed with the authority of a legislator which, if not yet legitimized by vote, was already legitimate because of its wisdom and the authority of the monarch, which the legal doctrine of post-Enlightenment presupposed" (Hespanha, 2017:52). The author clearly defines the complexity that the influence of the reforms had during this period and notes the continuation of traditional practices in the construction of contemporary Law.

On the subject, although the historiography departs from different interpretations, it is unanimous in recognizing the impact of the Pombal period and its reforms on the modernization process experienced by eighteenth-century Portuguese institutions on the eve of the 1820 Liberal Revolution.

Reforms in justice and compliance with the *Lei Máxima* of 18 August 1769

With regard to the enforcement of laws, the Pombal period sought the construction of the legal framework according to state reason and under the auspices of "regulatory forces" (Antunes, 2011:18), scrutiny phase and norms, aiming at rectitude in trials.[3]

The basis for reform in the area of Law and Justice was the *Lei Máxima* of 18 August 1769, later entitled *Lei da Boa Razão* (Law of Good Reason).[4]

With fourteen items, its structure aimed to formalize Portuguese law and align it with the authority of the State. It would be a national law, anchored on the Enlightenment ideas and the rationalization of institutions. This project was conducted based on a set of reforms led by Sebastião José de Carvalho e Melo, appointed Secretary of State of Affairs of the Kingdom in 1756 (Subtil, 2006; Pollig, 2017).

The 1755 earthquake created the opportunity for a kind of "zero degree of politics". According to Subtil, from then on the autonomy of the "group of Pombal's men" increased slightly. Notable judges who held the confidence of the Secretary of State were at the forefront of outlining the steps to be taken. After the first four years, by stifling some conflicts and persecutions, Carvalho e Mello once again annihilated the "conservative group that maintained influence in the Court" and began a consistent "reform cycle" that profoundly shook the political and legal structures of the Ancien Régime (Subtil,

[3] Pierre Bourdieu drew attention to the idea of legal field: a place where disputes guarantee the "monopoly of the right to say the law", thus leading to the "good order". Social agents, equipped with techniques and previously recognized, legitimize the interpretation of texts that "enshrine a legitimate, fair vision of the social world". According to Bourdieu, it is a process that includes professionalization, hierarchy and symbolic appropriations. (Bourdieu, 2010: 212 and 213).

[4] *Ordenações Filipinas*. Book Three. Amendments. Law of 18 August 1769. Based on the critical commentary by jurist José Homem Correia Telles in 1824, with the aim of opposing the legal pluralism typical of the ancient régime that had been left behind. (Telles, 1824).

2013:276). For this author, such reforms extended into the kingdoms of D. Maria and D. João and led to the Police State. It was "a proto-liberal State" that established a dialogue with some "identity aspects of liberalism", while at the same time using discipline to regulate social life, establishing codes of conduct that created models of citizenship and marginalization (Subtil, 2020: 3).

In this aspect, the *Lei da Boa Razão* meant the establishment of a legal field that aimed at professionalizing and specializing its agents, in addition to controlling their actions. In addition to the strict observance of the laws of the kingdom, it established jurisprudence from the records of *Casa de Suplicação* (Subtil, 2020). The purpose of such measures was to prohibit (or at least destroy) the customary and common law practices that had long been rooted in society.

The Law of 18 August 1769 also aimed to eliminate the untouchable and symbolic authority, hitherto unquestionable, of the judge. Based on a culture of litigation, the administration of justice during the Ancien Régime was sometimes mixed with political practices and had a plural action and interpretation. Educated men, trained under the Coimbra ethics and the care of Jesuit neo Thomism, bachelors, magistrates and judges were aware of representing royal justice and, in cases of litigation, should act in the name of the monarchy (Atallah, 2016). This practice, imbued with Roman law, imposed on the monarch the role of mediator and gave shape to the theory of " the king's two bodies": the monarch's body and that of Christ, "a mixed persona" responsible for divine and men's justice (Kantorowicz, 1998: 48).

Similarly, the 1769 Law revoked the secular authority of canon law, prohibiting its invocation in civil audiences, a practice permitted by the Ordinances and commonly used by judges and court officials. Thereafter, the use of Canon Law became restricted to ecclesiastical courts.[5]

This set of reforms and institutionalization of legal rationalism that served the interests of a strong and regulatory State and its rule of law (Hespanha, 1993) generated conflicts and resistance throughout the Portuguese empire: accusations of mistrust for blasphemy against Pombal and (or) D. José (Cato, 2005; Atallah, 2016); expansion of the *Ordenações Filipinas* regarding the power of the ministers and officials of the kingdom, turning any resistance to these men into a lesser crime of lèse-majesté (*Segunda Cabeça*)[6]; condemnation and execution by his majesty of the main leaders of the rebellions in Vila Rica and Salvador (Furtado, 2002; Valim, 2018).

As for the *Lei da Boa Razão*, everyday life in Portuguese America had difficulty adapting to the imposition of legal rationality. The people believed that they could manage their lives based on local and regional codes that had been socially rooted for a long time. This perspective generated legal clashes between the colonial residents and the kingdom and often involved agents of the crown who exercised their positions in the western part of the Portuguese empire.

[5] *Ordenações Filipinas*. Book Three. Amendments. Item 8. Available at http://www1.ci.uc.pt/ihti/proj/filipinas/ordenacoes.htm

[6] *Coleções da Leis, Decretos e Alvarás que compreende o feliz reinado Del Rei Fidelíssimo D. José o I.* Book II. Lisbon Oficina Miguel Rodrigues, 1761-1769.

The proof of common law and the exercise of customs in the colonies - the case of Minas

On 8 May 1783, Dom Rodrigo José de Menezes e Castro, governor of the captaincy of Minas Gerais, wrote to Martinho de Melo e Castro, Secretary of State for the Navy and Overseas of the Kingdom of Portugal, to discuss the "establishment of customary law, contrary to the provision of the law, in the said captaincy".[7]

Dom Rodrigo had taken up the government of Minas Gerais, one of the most important captaincies with regard to commercial activity and population of the Portuguese empire, in February 1780. At the time, the region faced an increase in gold shortages and tax debts, which, according to the authorities, were justified by the increase in smuggling and the lassitude with which this was addressed. It had also long faced the clandestine settlement of the hinterland regions, a situation that became complex at the end of the 18th century (Rodrigues, 2003).

These were difficult times. In addition to seeking means of control over mining and the debtors of royal taxes, the governor had to struggle with the unspecified borders of the gold mines, getting involved in a tangle of local powers that challenged royal officials and imposed their own political and social wills. All over Portuguese America, gangs led by men who had acquired some social and political prerogatives in the area during the conquest process deeply disturbed the instituted powers (Anastasia, 2005).

In his jurisdiction, he was involved in clearing these hinterlands and their networks. The aim was to extinguish the areas considered "forbidden" and to integrate them, politically and socially, into the domains of the crown. The inhabitants, until that moment marginalized by the legislation, should become loyal subjects[8].

Charles Boxer was one of the pioneer historians to note Portugal's great success in consolidating its sovereignty in areas so disconnected and remote from each other. A maritime empire: from one end of the southern hemisphere to the other, "the human societies that flourished and declined throughout America, and much of Africa and the Pacific, were completely unknown to those living in Europe and Asia" (Boxer, 2002:15).

Dom Rodrigo José de Meneses noticed this territorial and political discontinuity in Minas Gerais and its surroundings. In his reflections sent to Martinho de Melo e Castro, he recognized the use of customary law in "almost all contracts of the highest sums" judged in the mines. However, he justified it, noting how inhospitable Portuguese America was and how "the great distances between villages" made it difficult to ensure "the continuous deals of interior commerce that demands speed in its operation". He recognized the ineffectiveness of the kingdom's actions in face of the discontinuity of those lands, populated, but largely alien to the written laws in use.[9]

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7 Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 8 May 1783. Minas Gerais. Box 119, document 31.

8 Arquivo Público Mineiro. Seção Colônia. *Registro de Ofícios do governador à Secretaria de Estado*. Codex 224.

9 Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 8 May 1783. Minas Gerais. Box 119, document 31.

The governor referred to the *Lei Máxima* of 18 August 1769 decreed by Carvalho e Melo. His concerns revolved around the numerous debt and lien contracts in the region and the difficulties in judging court charges under the new law. He claimed that

> *Almost all contracts of the highest sums were celebrated by simple private obligations. Justice ministers, seeing the general disorder that would otherwise result, were forced to take into account public pledges, judging according to their existence or validity of the largest debts and seeing their sentences confirmed in Relação*[10]*.*

Therefore, it must be stressed that there were major difficulties in imposing royal laws in those parts, where the maintenance of order had always depended on negotiations between the peoples and royal agents, and customary relations supported a precarious balance that made the empire work. Justice ministers lived daily with the plurality of justice and late-medieval legal practices that supplanted the legislative reforms implemented by Pombal.

According to D. Rodrigo, the situation described in his letter, although unfortunate, was necessary due to the "circumstances" under which the mines lived. The king's magistrates, in their corrections and trials, were often forced to reflect on the enforceability of the law and its interpretations.

> *notwithstanding the mandatory necessity to follow the principles established by the times, only the Legislator had the remit to deal with the Circumstances and derogate from, or declare in whole or in part the Provision of the Law and, in compliance with it, make some sentences condemning only the part where he same Law gives validity to the said obligations.*[11]

Legal rectitude caused the disappearance of "apparent good faith among men", in addition to dismaying creditors, making it difficult for them to "request payment from their most feared debtors for fear of seeing their properties lost". In this customary universe, the Royal Treasury also lost. According to the governor, the difficulty in collecting the debts also harmed the royal coffers, as "very large sums" were lost due to the difficulties in collecting the disputes that were being dealt with in the courts.[12]

According to D. Rodrigo, it was of paramount importance that the crown recognized the need for magistrates to deal with disputes based on common law, under the influence of Roman law, which for centuries supported the enforcement of justice in Portugal, and, later, in its colonies. This was the everyday life of the mine regions and of the entire Portuguese empire.

[10] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 8 May 1783. Minas Gerais. Box 119, document 31.
[11] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 8 May 1783. Minas Gerais. Box 119, document 31.
[12] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 8 May 1783. Minas Gerais. Box 119, document 31.

The evidence of common law was a resource increasingly used by people in the colonies to resolve their judicial disputes. Hespanha has stated how precarious the law was in the legal universe of the Ancien Régime. "Living the law" was associated with "the social, cultural and political conditions" on which the law depended (Hespanha 1993: 8). During most of that period (16th and 18th centuries), "it would have lived" under the shelter "of royal law and common law", mainly under the Glosses of Accursius, in Bartolus's comments and later "in the communis opinio of the 'modern'" (Hespanha, 2005: 49).

By expanding the imperial borders, the conditions of governability became more complex, due to the difficulties of demarcating territories and their troubled control. Gustavo Cabral warns us that, when it comes to the analysis of the law in Portuguese-American lands, "there are difficulties in talking about a Brazilian colonial law as a general category valid as a broad parameter, as occurred in Hispanic America" (Cabral, 2018). The legal area in Portuguese America was almost always fluid and precariously defined by written laws. According to the author, the so-called "Brazilian colonial law" can be understood, following an interpretative bias adopted by Hespanha, as being based on a set of practices, often unwritten, grounded on customs and judicial decisions.

It is still necessary to consider the political and social prerogatives that the local authorities held. It is interesting to note that little customary law was registered by the political communities, despite the kingdom's ordinances recommending that it should be done.[13] Little of these customary practices was, over time, registered in the activity books of the chambers (Hespanha, 2005).

In Portuguese America, requests for proof of common law had been registered by the Overseas Council since the end of the 17th century, albeit not usually. Although the dispersion of the empire was a constant that the royal authorities wanted to neutralize, most of the times without success, the *Lei da Boa Razão* only instituted the compliance obligation in 1769. Since then, there was a significant increase in these requirements.

It was recommended that the legislation of the Kingdom, sparingly extended to the domains, be applied by the legislators. This should already be customary in the courts of the empire. However, it was not. The *Projeto Resgate*, which gathered documents relating to overseas administration, has records of this practice prior to 1769. Most of those catalogued by this research had their requests granted by the crown.[14]

Regarding the Minas Gerais captaincy, two cases were registered. On the twenty-eighth of November 1726, Francisco Ribeiro, in the "general trial at the village of São João Del Rey (...), offered (...) a libel against sergeant major Simão de Almeida Campos". The dispute revolved around the ownership of an enslaved "Negro" and her "children", whom he had received as a dowry for his marriage to her daughter and was in the hands of the sergeant major. The groom sought to retake his dowry through witnesses, as he did not

[13] *Ordenações Afonsinas*. Book One. Title 27, Item 8. Available at http://www.ci.uc.pt/ihti/proj/afonsinas/ *Ordenações Filipinas*. Book One. Title 66, Item 28. Available at http://www1.ci.uc.pt/ihti/proj/filipinas/ordenacoes.htm Ordenações Manuelinas. Book I. Title 46, Item 8. Available at http://www1.ci.uc.pt/ihti/proj/manuelinas/

[14] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. *São Paulo Alfredo Mendes Gouveia (1618-1823)*: 30 October 1710. Box 1; Document 89. *Bahia Luísa da Fonseca (1599-1700)*: 7 November 1673. Box 14; Document 1191 and 26 January 1689. Box 12; Document 1549. *Bahia Avulsos (1604-1828)*: Before 3 September 1720. Box 14; Document 1191. Available at http://resgate.bn.br/docreader/docmulti.aspx?bib=resgate

"have a contract" to prove it. It is interesting to note that Francisco, like D. Rodrigo José de Meneses, drew attention to the fact that the dispute was already taking place in the "form that was practiced in those conquests". He mentions the delay imposed by the great distances, which made legislative rectitude difficult.

Captaincy	County	Number
Minas Gerais	Vila Rica	23
	Rio das Mortes	4
	Rio das Velhas	1
	Serro do Frio	1
	No information	7
Rio de Janeiro	Rio de Janeiro	81
	Espírito Santo	1
	No information	33
São Paulo	No Records	

Table 1: Requests for Proof of Common Law (1770-1808)

Source: Biblioteca Nacional. Projeto Resgate. Biblioteca Luso Brasileira. Minas Gerais; Rio de Janeiro and São Paulo. Available at http://resgate.bn.br/docreader/docmulti.aspx?bib=resgate

In December of the same year, the magistrate of Rio das Mortes, Thomé Godinho Ribeiro, issued a favourable opinion regarding the claim, which was confirmed in the third instance court in January 1727.[15]

In another case, José Fernandes Carreiros, a resident of Vila de Mariana, asked the crown "the favour of allowing him to claim (...) according to the proof of common law" the collection of a debt from Francisco Rodrigues do Passo. There is little information about this case, but there are indications that this dispute had dragged on for years and received a favourable opinion in August 1748.[16] As can be seen, and as far as the research carried out could go, the requests for proof of common law prior to *Boa Razão* were scanty.

It is still unknown whether all disputes handled under the usual customary practice reached the courts.

From Table 1 onwards, requests for proof of common law, or at least their registration, multiplied after the institution of the 1769 law. Rio de Janeiro and Minas Gerais

[15] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate – Minas Gerais (1680-1832): Before 20 January 1727. Box 10; Document 9.

[16] As explained, the research is taking place in the digital collection of *Projeto Regate*, available at the website of Biblioteca Nacional of Rio de Janeiro. Projeto Resgate – Minas Gerais (1680-1832): Before 31 August 1748. Box 52; Document 81. It is important to note that Arno Wehling and Maria José Wehling inform us that these documents analysed here are part of the claim submitted to the Overseas Council and that these cases were also running through the Courts of Appeal. In this sense, there may be some difference in the numbers presented here. The initial intention of this ongoing project was precisely to identify the claim brought together by the CU, the main Court responsible for the overseas disputes (Wehling and Wehling, 1997).

captaincies and counties contain a large part of this material. Epicentres of some of the largest urban centres in colonial America, these captaincies were interconnected, by paths and borders that defined administrative territoriality and, at the same time, outlined clandestine transactions that were alien to the kingdom's administration (Furtado, 2006; Oliveira, 2014). The Rio de Janeiro region was one of the largest in Portuguese America. Created in 1608, it had, at the beginning of the 18th century, a jurisdiction that encompassed a good part of the coast of the State of Brazil. To the north, its boundaries were demarcated by the captaincy of Paraíba do Sul dos Campos dos Goytacazes, a region of constant conflicts, as it was divided between a district administration under the responsibility of the captaincy of Rio de Janeiro and the jurisdiction of the district of Espírito Santo, which ended it (Cunha e Nunes, 2016; Atallah, 2019).

The complexity of remote governance and customary traditions dictated daily actions. The reforms undertaken in the Pombal period and confirmed in the reigns of Queen Maria and King João were difficult to enforce in those parts, as sometimes the laws of the kingdom did not reach them. And, as an expert administrator on behalf of the king and an astute trader in the balances of power, Dom Rodrigo José de Meneses had noticed this situation.

In his letter to the overseas minister, the governor asked Queen Maria I to

declare "the validity of the aforementioned obligations in this Captaincy, at least all those that have been done so far in good faith", since "the creditors felt that they had an indisputable right to request their reimbursement". He recognized that

> *Otherwise, if all the private fortunes are suddenly upset, the Royal Treasury will experience a considerable loss and the bad faith of the debtor will only benefit if they want to take advantage of the Benefit of the Law, whose spirit can never be directed to sponsor trickery.*[17]

Unfortunately, there is no evidence that Dom Rodrigo's request was answered by the queen or by Melo e Castro. However, as shown above, the Portuguese crown used to comply with requests through proof of common law that came from the colonies.

In August 1779, years before the Minas governor's letter, Lieutenant José de Sousa Codeço asked the queen "for provision to present his proof of payment to Francisco José de Fonseca of the corresponding value for the purchase of the Rio de Janeiro tithe contract carried out with José Francisco de Almeida through common law". The important matter here is the answer given by the Overseas Council:

> *Notwithstanding the fact that the grace requested by the lieutenant (...) is grantable to all and Your Mag does not deny it, and much as all may deny it, what the petitioner requests should be denied, given the door he intends to open for his well-known iniquities.*[18]

[17] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 8 May 1783. Minas Gerais. Box 119, Document. 31.
[18] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 11 August 1779. Rio de Janeiro (1614-1830). Box 110, Document 9187.

Lieutenant Codeço was well known to the authorities for "his intrigues, and falsehoods with others in order to defraud the merchants of Rio de Janeiro". The Council also accused him of creating false deeds and presenting false witnesses. Later, it stated that

> *Your Mag. usually dispenses with the Law of the Kingdom to prove [disputes] by witnesses the contracts that are signed by public deed, when the appellants are in good faith and, with the same law, declare in the petition which witnesses they had or want to have.*[19]

The Overseas Council recognized the habit of granting provisions that exempted subjects from the righteousness of the kingdom's laws. However, it did not fail to analyze the pleas it received. We can assume, based on the statements in the above document and on the justifications described by the governor, that his letter received a positive response from the Overseas Secretary of State, Martinho de Melo e Castro.

Conclusion

I would like to draw attention to the conflicts generated by the institutional impositions arising from the Pombal reforms. The empire, with its maritime and discontinuous dimensions, was under the aegis of a set of insufficient laws that made the central administration fragile and dependent on royal agents and local powers and their political rearrangements. This governability depended on the balance, almost always precarious, between these negotiations and the local and regional dynamics that defined daily life. Requests for proof of common law, especially with the approval of an experienced governor who had long lived with the peoples of the colonies and their experiences, can help us understand part of this situation. His justification for such practices reflects the changes that imperial administrative policy underwent as it crossed the Atlantic. Likewise, it shines light on the relevance of longevity and the problematization (increasingly present in the historiography about it) of the reforms promoted by Pombal, from the reign of Dona Maria onwards.

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[19] Biblioteca Nacional of Rio de Janeiro. Biblioteca Luso-Brasileira. Projeto Resgate. 11 August 1779. Rio de Janeiro (1614-1830). Box 110, Document 9187.

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