

CONSTITUTIONALISM AS A PROJECT AND A PRACTICE IN BRAZILIAN INDEPENDENCE: APPROACHES IN THE ALMANACKS

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ABSTRACT

This article surveys the scholarly contributions in the *Almanack Braziliense* and the *Almanack*, paying particular attention to new research on the political culture of constitutionalism and early constitutionalist practice. Beginning in 2005, these contributions, in formats ranging from scholarly articles to presentations and exchanges on YouTube, show how people of various social groups in Brazil and with diverse political aims and projects reckoned with questions of rights and representation in the context of local, regional, and transatlantic crises to forge the end of Portuguese rule in America.

KEYWORDS:

Constitutionalism – Constitution of 1824 – Independence – *Almanack Braziliense* – *Almanack*.

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Beginning in 2005, the *Almanack Braziliense* (Instituto de Estudos Brasileiros, Universidade de São Paulo) and its successor, the *Almanack* (Universidade Federal do Estado de São Paulo), have provided a widely accessible platform for elucidating the national question in late eighteenth- and nineteenth-century Brazil. Calling attention to the shortcomings of over-determined accounts of Brazil as a nation, either organically constituted or forged by the state, the editors have encouraged scholars to focus instead on the conflicts and negotiations within “múltiplas esferas” that yielded a range of social, political, economic, and cultural experiences and identities and to critically reconsider Brazilian nationhood and its relationship to the state and society in local, regional, transatlantic, and globalizing contexts³. This article surveys the scholarly contributions brought forth in both *Almanacks*, paying particular attention to what the editors have described as “novos regimes representativos e constitucionais”⁴ within the independence process in Brazil. Independence, after all, responded to both a crisis of empire – of expectations about, and demands on, the political and economic relationships between Portugal and Brazil – and a crisis of political legitimacy – of representation and sovereignty – across the territories of the Portuguese monarchy. The various mobilizations and actions that led to Brazil’s independence from Portugal were part of not only a questioning of colonial arrangements but also a broadly experienced “efervescência política do constitucionalismo,” as Argemiro Ribeiro de Souza Filho describes it, in which the political order was transformed⁵.

On both sides of the Atlantic, people defended, scrutinized, and debated constitutionalism as both a pathway toward a new political order and as a destination, the new political order itself. After a constitutional revolution crystalized in Porto, Portugal in 1820 and, subsequently, the summoning of the Lisbon Cortes and the drafting of the *Bases da Consti-*

3 Jancsó; Dantas, 2005. Cf.: Histórico do Periódico. Available at: <https://periodicos.unifesp.br/index.php/alm/about>. Access on: July 2, 2023.

4 Cf.: Histórico do Periódico. Available at: <https://periodicos.unifesp.br/index.php/alm/about>. Access on: July 2, 2023.

5 Souza Filho, 2008, p. 102.

*tuiçãõ*⁶, transatlantic support for a new constitutional form of governance grew, even as the defenders of constitutionalism created new spaces in which they debated exactly what constitutionalist governance would entail. What would change? What would stay the same? For people on both sides of the Atlantic, constitutionalism came to promise an end to a corrupt old regime, sweeping away the machinations of favorites and courtiers to usher in a new era of transparency. In place of an absolutist tyranny, the nation, guided by a constitution, would govern itself. Such a transformation, constitutionalists argued, rested upon the creation of new political bonds and a new political lexicon: citizens took the place of vassals. Yet, constitutionalists also appealed to the past to make present transformations legitimate. Constitutionalism was “to regenerate” not only the nation but also the monarchy. Thus, the process of bringing about a new constitutional order, as José Luís Cardoso explains in his contribution to a recent *Almanack* dossier on liberalism, was also marked by a moderation “essencial para que o guião da revolução fosse concretizado e para que, simultaneamente, se respeitassem os elementos de continuidade essenciais à sua aceitação popular, nomeadamente o respeito pela religião católica e pela casa de Bragança”⁷.

This article focuses on two areas of intervention in the *Almanacks* since 2005: the political culture of constitutionalism and early constitutionalist practice. Contributors to the *Almanack Braziliense* and the *Almanack* have illuminated constitutionalism as an ideological vehicle for both broadening and disciplining political participation, equality, and rights, especially the rights of citizens. In research articles, book reviews, and, more recently, blogs and video presentations and exchanges, scholarly contributions have also explained how constitutionalists produced very specific documents – constitutions – that codified their political aspirations. Crucially, the process of implementing a new constitution was then both shaped by, and further transformed, a new and dynamic politics of national so-

6 Reino Unido de Portugal, Brazil e Algarve, 1821. Available at: <https://www.parlamento.pt/Parlamento/Paginas/bases-da-constituicao-1821.aspx>. Access on: July 2, 2023.

7 Cardoso, 2022, p. 32. On historicism and the politics of independence, especially in Spanish America, cf.: Thibaud, 2011; Hespanha, 2008.

verignty, in which the conditions for the actualization of citizenship and rights were scrutinized. Read as a whole, the *Almanacks'* archives thus reveal deeper understandings of the contingencies that shaped Brazilian independence. They show how, in Brazil, people from a range of social groups and with diverse political aims and projects, some that posed revolutionary challenges to older notions of political legitimacy and others that defended established social and economic practices, reckoned with questions of rights and representation in the context of local, regional, and transatlantic crises to forge the end of Portuguese rule in America.

Constitutionalism and political culture

While interest in constitutions registered across the Atlantic world in the last decades of the eighteenth century, it was, as many historians have observed, the constitution drafted in Cadiz, in 1812, that became a focal point of interest and debate in the Portuguese monarchy's territories in the first decades of the nineteenth century. Understanding the complex Lusophone engagement with constitutionalism thus entails understanding the political-cultural and ideological underpinnings of the Gaditanian constitution, as well as the debates surrounding its drafting, in which a hereditary monarchy was maintained but within a new political order predicated on a division of power, individual rights, and notions of the nation as a subject that exercised sovereignty via elected representatives⁸.

Published in 2015, Fabricio Gabriel Salvatto's and Maria Inés Carzolio's "*Natureza and Citizenship in Modern Spain. From subject representation to the dawn of contemporary citizenship*" examines the constitutionalism forged in Cadiz and, more specifically, its "juridical-political"⁹ culture, attending to the tensions between modern notions of citizenship and the corporate ideals of the old regime. The representatives gathered at Cadiz were keenly aware of divergent constitutionalist paths in other parts of Europe, most notably the revolutionary French on the one hand, and the traditional Burkean on the other. The challenge for those in Cadiz, Salvatto

8 Cf.: Hespanha, 2008 for a comparative analysis of Spanish and Portuguese constitutionalism.

9 Carzolio; Salvatto, 2022, p. 672.

and Carzolio explain, was “to make compatible what was general or common and what was particular or specific, between historical constitutions and fundamental rights of some Hispanic territories, and the ordering of Spain as a nation at a constituent moment.” Codifying the practice of national sovereignty, therefore, also required understanding the nature of the nation and whether it was constituted in “a traditional corporate Old Regime society of *naturales* or subjects” or in newer enlightened, patriotic, or “Romantic essentialist” versions¹⁰.

Constitutionalists did produce change, Salvatto and Carzolio argue, even if that change took the form of giving new meanings to old words, evident, for example, in the encounter between notions of the *vecino* and the citizen. Reflecting on the idea of the citizen, they explain that “Though an old term, with the Constitution it has acquired a certain, precise, exact meaning. It is new in legal nomenclature and cannot be confused hereafter with the word *vecino*”¹¹. Innovation was also evident in the widely cited declaration that the Spanish nation was “the reunion of all the Spanish from both hemispheres,” a definition of the nation as the sum of the individuals that it encompassed based on the principle of popular sovereignty.

Yet, these innovations did not do away entirely with more traditional notions of political identity and agency. In Cadiz, representatives “did not theorize the figure of the citizen as an abstract individual participating in an abstract nation.” Rather, citizens were recognized as “real persons integrating concrete communities”¹². Historic notions of *vecindad* and *naturaleza* were also in play within shifting understandings of “Spaniards” and “Spanish citizens” in the new constitution, with citizen signifying an autonomous subject who can exercise power as an elected representative within a broader group of people who were free *vecinos* in the Spanish dominions, their children, as well as foreigners with *cartas de naturaleza*, all of whom could elect but not be elected. The relationship between these categories was dynamic, as Salvatto and Carzolio also emphasize.

10 Carzolio; Salvatto, 2022, p. 673.

11 Ibidem, p. 675.

12 Ibidem, p. 680.

In debates, Cadiz representatives regarded some *naturales*, most notably people of African descent, as not yet, but having the potential to become, citizens¹³.

This framework, and the historic notions of political identity that underpinned it, resonated further in Gaditanian reckonings with empire and a geography of *naturaleza* and citizenship. “Those naturalized Spanish,” the authors explain, “were not easily recognized as *naturales* in America and vice versa”¹⁴. In Cadiz, citizens were conceived of as men who descended from *naturales* from the Peninsula, but also from America, Asia, and other Spanish states, with the notable exception of Africa, although, as noted above, Spanish-born Africans were regarded as having potential for citizenship. Added to such perceptions of difference were the tensions between peninsular claims to the nation as an indivisible subject and an American defense of communal authority, or what the authors describe as “the persistence of different forms of corporate conception of citizenship”¹⁵. Surveying the initial articulations of constitutionalism in the Hispanic world in a 2012 issue of the *Almanack*, José María Portillo Valdés similarly analyzes this encounter with reference to “una antropología católica,” in which was forged a constitutionalism “que entendía la nación como suma de pueblos y provincias, que apuntaba a formas de ‘democracia’ vecinal”¹⁶.

The legacies of Cadiz manifest in the tensions between the constitution as an innovative political instrument and the basis for a new political order on the one hand, and the persistence of some aspects of old-regime political and legal culture, are also explored in Paula Botafogo Caricchio Ferreira’s review of Fernando Martínez Pérez’s “Entre confianza y responsabilidad; la Justicia del Primer Constitucionalismo Español”. Pérez, Ferreira explains, argues for a more complex contextualization of the tensions between old regime politics and views of modern norms and practices – the “primeiro liberalismo” – in the Cadiz debates. More specifically,

13 Ibidem, p. 681.

14 Ibidem, p. 678.

15 Carzolio; Salvatto, 2022, pp. 684-85.

16 Portillo Valdés, 2012, p. 107.

studies of Cadiz need to recognize that “o Poder Judicial tornou-se pressuposto do constitucionalismo moderno” and that “a Era Constitucional tinha como fundamento a luta entre os poderes legislativos e judiciário em busca da hegemonia do poder de interpretação da lei”¹⁷. Concluding her review, Ferreira suggests a number of points of intersection in the “casos gaditano, português, e até mesmo brasileiro”. Perhaps, above all, “julgar no constitucionalismo significava administrar o poder político.” At the same time, the legislative branch could assert power over the judiciary and responsibility for the interpretation of law. Finally, the maintenance of diverse judicial fora (military, ecclesiastical, commercial) signaled “a persistência de um paradigma jurisdicional pré-constitucional,” an arrangement that privileged juridical continuity as a source of order and stability¹⁸. More recently, an *Almanack* forum on Annick Lempériere’s “Constitution, jurisdiction, codification. Le libéralisme hispano-américain au miroir du droit” has invited additional inquiry into the tensions between political and imperial ruptures, on the one hand, and legal continuities, on the other, as well as their impact on debates about rights within emerging constitutionalist projects in Europe and the Americas. As Wilma Peres Costa observes, reflecting on Lempériere’s survey of jurisdictional liberalism in nineteenth-century Spanish America, in the case of nineteenth-century Brazil, scholars need to also attend to the “sobrevvalorização não da lei, mas daquele que a dita, vale dizer, a permanência de uma ‘justiça de juizes’, ao mesmo tempo carente de codificações e resistente a elas”¹⁹.

While news of the debates in Cadiz circulated, and as both transformations and continuities were codified in the Constitution of 1812, in the years that followed it was the resurgent constitutionalism of the early 1820s, *o Vintismo*, as it came to be called, that would most dramatically shape Brazil’s independence. As Lucia Maria Bastos P. Neves, Adriana Pereira Campos, and Kátia Sausen da Motta write, introducing a 2022 *Almanack* dossier on liberalism, constitutionalism, and parliament, the Revolution of Porto in 1820 was the beginning of a so-called Liberal Triennium,

17 Ferreira, 2008, p. 175.

18 Ibidem, p. 178. Cf.: Portillo Valdes, op. cit., p. 111.

19 Costa, 2017, p. 49; Lempériere, 2021.

a critical moment that “possibilitou o surgimento de novas linguagens, novos vocabulários, e imaginários que anunciavam um tempo de ruptura e de aceleração”²⁰.

Along these lines, in “Projetos políticos na revolução constitucionalista na Bahia (1821-1822)” Argemiro Ribeiro de Souza Filho examines the reception of news during the events in Porto and Lisbon in the city of Salvador. “Ideias liberais,” he shows, catalyzed these experiences within various social groups. Across Bahian society, people sought to defend the principles of popular sovereignty and political representation and, above all, ensure that, within Lusophone constitutionalism, they extended these principles to Brazil. While those in power in the Bahian countryside negotiated both rupture with Portugal and challenges to their own authority, the *plebe*, or popular classes, of Salvador “mantiveram suas presenças na cena política”²¹. In “O povo nas ruas: cultura, disputas e alianças políticas em Pernambuco,” included in the dossier noted above, Flavio José Gomes Cabral also finds that news of Revolution of Porto spread among people from various social groups who educated one another about constitutional politics and embraced the right to speak publicly about authority exercised locally and from afar²². Such a marked spread of support for the constitutionalist project proposed within *Vintismo* may have been rooted in what Wilma Peres Costa has observed as a promised “consolidação das autonomias” that would overturn centralizing governance as the colonial *capitanias* became provinces²³.

While such research calls attention to the dynamic, transatlantic, and local social contingencies of political-cultural transformation, central to both the reception of metropolitan frameworks for a new political order and local and American projects and mobilizations was the press. More specifically it was the free press, integral to the constitutionalist project, that became a feature of transatlantic and local politics. As José Luís Car-

20 Neves; Campos; Motta, 2022, p. 2.

21 Souza Filho, 2008, p. 118.

22 Cabral, 2022, p. 9.

23 Costa, 2017, p. 58.

doso observes, writing on the Revolution of 1820, “A liberdade de imprensa e a agitação na esfera pública foram rastilhos essenciais da explosão de ideias, programas de reforma, planos de melhoramento e proclamação dos princípios vitais do constitucionalismo em movimento”²⁴. Various *Almanack* articles engage with the complex roles played by the press in the forging of Brazilian constitutionalism and, later, the movement for independence, revealing the press’s role in disseminating news of transformative events on both sides of the Atlantic, and as part of a new political order that it forged, in which political authority was contested and debated using both old and new political idioms.

Virgínia Rodrigues da Silva’s “O Revérbero Constitucional Fluminense, imprensa e constitucionalismo na Corte na Independência” examines the *Revérbero* as an instrument and as space in which the consequences of *Vintismo* were elaborated. Silva highlights diverse interventions within the periodical’s pages, ranging from Rousseauian appeals to the sovereignty of the people, to more reformist approaches to change that privileged political transformations over more profound social change, most notably the division of powers, the defense of rights, and representation. At the same time, she explains, within the *Revérbero*, the constitution figured as “um texto que deveria necessariamente postular ou propor a efetiva liberdade dos cidadãos”²⁵. Both the periodical, and the crackdown against it during conflicts over the scope of representation and authority of the emperor also reveal, Silva argues, that, within constitutionalist debate, political ideological commitments did not only reflect socio-economic interests, nor do such interests explain the emergence of, and support for, certain political projects.

João Paulo Mansur’s “Com a minha espada, defenderia a constituição se fosse digna do Brasil e de mim! Leviatã, Argos e liberais na Assembleia Constituinte de 1823” turns to the debates over the nature of constitutionalist transformations in Brazil’s first constitutionalist assembly. Mansur contests traditional narratives about the dissolution of the Assem-

24 Cardoso, 2022, p. 24-25.

25 Silva, 2009, pp. 175-76.

bleia Constituinte of 1823 as having foreclosed on a liberal framework for an independent Brazil. Rather, the violent disbanding of the Assembleia led to a “superestimação do seu potencial liberal”²⁶. Historians, therefore, need to attend to continuities between the Assembleia’s constitutionalism and the institutionalization of authority provided for it in the Constitution of 1824.

Part of a complex transatlantic context in which the ideas of Paine, Constant, Rousseau, Sieyès circulated, within the Assembleia a “liberalismo moderado” found a platform. Even Antônio Carlos Andrada Machado, Mansur notes, “[l]argou mão do republicanismo para abraçar o poder real”²⁷. And within a moderate liberalism, those gathered as the Assembleia also sketched out a kind of “moderating power.” Although the Assembleia’s “Projeto” did not address the *Poder Moderador* (moderating power) explicitly, the kind of liberalism that prevailed “fincava bases na realidade social, e delas percebia os limites ao poder de construir” “O constitucionalismo menos abstrato dos liberais moderados,” he concludes, “entendia que não seria possível uma autoridade ilimitada da vontade política”²⁸. This point is also underscored in “Conservar, vigiar, dirigir: significados políticos da inclusão do Poder Moderador na Constituição de 1824,” a blog post by Cecília Helena de Salles Oliveira. Rather than a neutral power, and in contrast to both the Constitution of 1812 and the constitution drafted by the Lisbon Cortes in which royal authority was more symbolic or “decorativa,” in Brazil’s Constitution of 1824, the *Poder Moderador*, she explains, was “ativo e vigilante” with respect to “os demais poderes do Estado”²⁹.

Bringing into view the complex political and intellectual culture of constitutionalism in Brazil, the archives of the *Almanack Braziliense* and the *Almanack* thus reveal local, regional, and transatlantic encounters with political theory, from Rousseau to Burke, as well as readings of distant

26 Mansur, 2022, p. 4.

27 Ibidem, p. 7.

28 Ibidem, p. 11.

29 Oliveira, 2022a. Cf.: Blog das Independências. Available at: <https://www.historiaaberta.com/post/conservar-vigiar-dirigir>. Access on: November 7, 2023. Cf.: Oliveira, 2022b.

and recent pasts, within the context of commitments to corporate forms of authority and justice. For those committed to political transformation and “regeneration,” presumably imperiled by the potential for anarchy witnessed France, in the first decades of the nineteenth century, Lusophone constitutionalism promised more stable ground for deliberations that foregrounded rights, justice, and new forms of political action – citizenship and representation – without tearing down entirely the existing social order.

Constitutionalist practices

Although Brazil’s constituent assembly was not organized after a revolution, as in the case of France³⁰, the new constitutionalist ideals that it represented were the product of various mobilizations in Portugal and Brazil, before and after the rebellion in Porto. As several contributions to the *Almanack Braziliense* and the *Almanack* have elucidated, the triumph of constitutionalist politics was, thus, at once an endpoint and a point of departure. In the years that followed mobilizations in favor of constitutional governance, the Assembleia of 1823, and then the granting of the Constitution of 1824, people in Brazil contended with putting into practice a new representative politics. As Souza Filho explains, writing on Bahia, as news of the events in Porto in 1820 spread, and as residents of the city of Salvador interpreted their consequences, the status of local social order emerged as a core concern. In some ways, both elites and members of the popular classes engaged in the cultivation of continuities. Men of color, most particularly the Henriques, now directed to the new constitutionalist government in Portugal appeals to incorporation and equal access to resources that, in prior years, had been sent to the monarch. At the same time, the city’s popular classes expressed expectations that constitutionalist transformations encompassed the local socio-political order, in contrast to the city’s elites who sought to step into, and preserve as such, the narrowest of political openings that constitutionalism created³¹.

30 Mansur, 2022.

31 Souza Filho, 2008.

More specifically, as people in Brazil sought to engage with an unfolding constitutionalist process to advance their interests, they also had to reckon with the scope and practice of constitutional rights. If constitutionalism was part of a set of larger transformations that sought to reorder politics and political agency, constitutional practice also afforded ways to reaffirm the exercise of established authority and discipline popular action. As Cecília Helena de Salles Oliveira observes, turning to town governments to approve the new constitution, Dom Pedro “recuperava tradições coloniais.” Setting aside a body of elected provincial representatives, he also signaled to conservative allies that the authority of the monarch transcended the rupture of independence. Rather, she explains, independence was framed as “uma transição de poder dentro do Império português”³². At the same time, statutory hierarchies were scrutinized in new debates about “capacities” and the grounds for actualizing those capacities in constitutional practice. In “Diretas ou indiretas? O debate sobre as eleições no Brasil (1821-1823),” Kátia Sausen da Motta traces transatlantic debates about representation and efforts to define a process of suffrage that would express “vontade geral” but also produce “bons representantes”³³. Such a process, she explains, crystallized in debates over the codification of direct or indirect elections. While proponents of direct elections argued that a direct vote would allow for the freedom to choose without pressure and interference, those who defended indirect elections countered that illiteracy and other incapacities laid the ground for corruption.

The incorporation of a direct vote in the Portuguese constitution of 1822, attended by debates about qualifications such as literacy, resonated in, but did not determine, the codification of voting practices in the Brazilian constitutional process. Indeed, the Brazilian press returned to debates over the nature of representation, with Ledo and the *Revérbero* defending direct elections, against more counter-revolutionary expressions of concern with the potential for disorder³⁴. Even representatives who had defended the direct vote in the Portuguese deliberations, Motta

32 Oliveira, 2022.

33 Motta, 2018, p. 282.

34 Ibidem, p. 301.

observes, did not defend the same in Brazil. Thus, even without a literacy requirement, the “projeto,” and the final text of the Constitution of 1824, “valorizava-se a moderação da extensão do poder confiado aos novos cidadãos”³⁵.

The practice of constitutionalism in Brazil also took shape in efforts to consolidate the new legal order across the territories of the new empire. Marcelo Cheche Galves³⁶, in “‘Aderir’, ‘jurar’ e ‘aclamar’: o Império no Maranhão (1823-1826),” examines *juramentos* to the Constitution of 1824 as constitutive rituals that consolidated a new political order in the context of uncertainty over Brazil’s independence and republican alternatives to a Brazilian monarchy. Negotiated ritual acts of adhesion and fidelity to a constitution that recognized both Brazilian and Portuguese people enacted in cities in Northeastern Brazil, Cheche explains, came to displace acts of allegiance to independence. Connections between cities, as nodes of political power, and more rural areas were also constituted in journeys to São Luis to formally pledge allegiance. Furthermore, an increase in people going to São Luis for such a purpose coincided with imperial communications about people who had adhered to the cause of Brazil and taken an oath to the constitution. With elections on the horizon, Cheche concludes, in the convergence of dual, successive acts of allegiance – to Brazil’s independence and the Constitution of 1824 –, “estava o reconhecimento de uma autoridade constituída no Rio de Janeiro e a tentativa de constituir vínculos entre o ‘povo’ da província e o Estado nascente, corporificados nas figuras da Constituição e do Imperador”³⁷.

As ritualized acts of adhering and pledging allegiance thus constituted a kind of constitutionalist itinerary within Brazil, the constitution itself provided a framework for an independent Empire of Brazil’s political geography. In “Definindo as linhas do Império: concepções de território na transição da independência. Brasil, década de 1820,” Vitor Marcos Gregório examines debates in the assembly about political-administrative

35 Ibidem, p. 315.

36 Galves, 2011.

37 Galves, 2011, p. 108.

boundaries within the Empire based on a constitution that “abria ampla margem de interpretação para as condições a que as províncias brasileiras poderiam ser subdivididas”³⁸. The Constitution of 1824 appealed to the status quo, stipulating that the territory should be divided “na forma em que atualmente se acha”³⁹. The basis for this “tese da continuidade territorial,” Gregório explains, was the notion that “Sendo o território do império uma herança direta das possessões portuguesas, nada mais lógico que considerar que suas subdivisões deveriam respeitar as mesmas linhas de antemão traçadas pelo colonizador europeu”⁴⁰. Yet, the case of Grão Pará, he observes, in which Rio Negro ended up administratively subordinate to Pará, also complicated the invocation of continuity⁴¹.

The kinds of negotiations that marked administrative demarcations also shaped the implementation of codified socio-political arrangements, including that of the “right of nobility.” In “O ‘direito da nobreza’ na cultura jurídico-política do Brasil imperial,” Álvaro Monteiro Mariz Fonseca traces the more specific question of *recompensas* in the Constitution of 1824 and its various interpretations. In the broader context of disputes over the balance of power, the constitution provided for “a autonomia imperial para agraciar”⁴². At the same time, however, the provision abetted a shift towards service rather than heredity as the standard for receiving *recompensas*. Thus, “diante do princípio da igualdade estabelecido na constituição,” Fonseca explains, “os privilégios jurídicos passarem a ser considerados incompatíveis com condecorações”. Nobility, no longer an order or a political body, was re-grounded, or “readequado” in civil acts rather than natural lineages⁴³.

Importantly, Fonseca also traces the more extended reverberations of this shift into the middle decades of nineteenth century. Although jurists

38 Gregório, 2022, pp. 23-24.

39 Ibidem, p. 25.

40 Gregório, op. cit., p. 25.

41 On this question see also Gregório, 2011.

42 Fonseca, 2021, p. 10.

43 Ibidem, pp. 13-14.

did not initially engage in extended scrutiny, the political crisis and abdication in 1831 renewed the debate about the contradictions between the principle of equality and a doctrine of privilege. Jurists considered whether and to what extent the constitution ended privileges or demanded a new understanding and a new practice of privileges. For some, the ideal of “utilidade pública” rehabilitated privileges granted by the emperor by disassociating them from older, personal privileges. If, then, a “direito de nobreza” ceased to exist, it was also the case that “a abolição dos privilégios pela Constituição do Império não se deu de forma estanque”⁴⁴.

Fonseca also points to a key to understanding the reverberations of constitutionalism and the Constitution of 1824 in nineteenth-century politics and society. “Sendo, para uma parte dos juristas e políticos, uma lei como muitas outras,” he observes, “a Constituição não teria o poder de derrogar automaticamente outras leis anteriores a ela”⁴⁵. As Portillo Valdes similarly affirms of the first constitutions written in the wake of Iberian crisis and Ibero-American independence, because they were not “exclusivas fuentes de ordenamiento,” “outras fuentes siguieran perfectamente activas, como fue el caso del derecho eclesiastico, militar y, en algunos casos, derechos territoriales y municipales”⁴⁶.

Regarding Brazil, the tensions between rupture and persistence, noted above, and the juridical palimpsest that shaped constitutionalist practice in Brazil have been further elucidated in a blog by Andréa Slemian, “Há cidadãos e cidadãs na cena pública da independência,” and in a *bate-papo* (conversation) between Slemian and Cláudia Chaves, part of the *Almanack’s* YouTube series on the bicentenary of Brazilian independence. Recognizing the consequences of the preservation of the earlier law code, the *Ordenações Filipinas*, is especially important, Slemian explains, for understanding the ramifications of constitutionalism and the Constitution of 1824 for women and how, in the following decades, rights and citizenship were defined and negotiated. The Constitution of 1824 did

44 Ibidem, p. 40.

45 Ibidem, p. 44.

46 Portillo Valdes, 2012, p. 111.

not create social equality. The codification of an ostensibly natural social order and norms was affirmed even as appeals to a countervailing universal citizenship and rights, resonated within contemporary politics and political discourse. As Slemian explains, “O problema do constitucionalismo é exactamente a tensão que cria por meio da concepção de indivíduo universal que arrastava consigo uma ideia de igualdade”⁴⁷. Yet, tension did not mean inevitable stasis or impasse. Constitutionalism and the process of independence created openings in which questions about the scope of rights could be posed, questions that women in Brazil did pose in the following decades. At the same time, however, as Wilma Peres Costa observes, Brazil’s liberalism, or “liberalismo jurisdicional,” was marked too by “a extraordinária opacidade gerada pelo escravismo” and the persistent marginalization of the enslaved and of Native and African-descended peoples from the nineteenth-century legal and political order of rights⁴⁸.

In conclusion, in a range of formats, the contributors to the *Almanacks* have shared almost two decades of research, engaging with expanding notions of the political and attending to the local, regional, and transatlantic contexts of the early nineteenth-century crises of monarchy and empire. Together, these contributions move beyond older, and often simplifying, frameworks of change and continuity to reveal how people, from various social groups, reckoned with ideas of representation and rights, as well as the aspirations, contingencies, and equivocations that shaped Brazil’s constitutionalist independence.

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47 ALMANACK, 2022. Available at: <https://www.youtube.com/watch?v=d8U4NEdJ71k>. Access on: November 22, 2022.

48 Costa. Op. Cit., p.59.

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