The anti-treaty tradition: Brazilian Parliament and foreign policy in the early 19th century.

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Abstract. This paper analyses the impact of the so-called "anti-treaty tradition" on Brazilian foreign policy in the 19th century. This political movement was characterized by the rejection of the"system of treaties", a foreign policy paradigm established in the Brazilian Independence (1822), in which the Brazilian state privileged the signature of international legal instruments in order to ensure its recognition as an independent nation and regulate, above all, political and commercial relations. Nevertheless, the treaties and conventions in question, although supposedly established on the basis of liberality and reciprocity between the contracting parties, revealed a concrete inequality of conditions. A thorough literature review was conducted, tackling mainly Brazilian authors. Furthermore, historical sources, mainly the Annals of the Brazilian Parliament were examined, in order to understand the full expression of this political phenomenon.

Keywords. Brazilian Empire, Brazilian foreign policy, international treaties, anti-treaty movement.

1. Introduction

During the sitting of 16 May 1828 Brazilian congressman Vasconcellos issued his opinion on international treaties signed between the newly independent Brazilian Empire and several European nations:

> I have declared myself against all treaties not only because they are harmful, but because they are made in an unconstitutional way, which has resulted in great damage to our name, to our glory. (Dep. Vasconcellos, 1828, Annaes do Parlamento Brasileiro)

Vasconcellos' position was shared among many other Brazilian congressmen in the beginning of the 19th century, in what came to be called the "anti-treaty tradition" by Brazilian foreign policy historian Amado Cervo. This political movement was characterized by the rejection of the so-called "treaty system", a foreign policy paradigm established in the Brazilian Independence (1822), in which the Brazilian state privileged the signature of international legal instruments in order to ensure its recognition as an independent nation and regulate, above all, political and commercial relations. Nevertheless, the treaties and conventions in question, although supposedly established on the basis of liberality and reciprocity between the contracting parties, revealed a concrete inequality of conditions. The political, economical and legal disadvantages borne by Brazil resulted in great dissatisfaction among several sectors of the Brazilian elites between the 1820s and 1840s. In the early 1840s, the anti-treaty tradition would have left its impact on the restructuring of Brazilian foreign policy (Bueno & Cervo, 2002).

2. Research Methods

In this paper we focus on how the anti-treaty tradition has shaped Brazilian foreign policy in the 19th century. A through literature review was conducted, tackling mainly Brazilian authors. Furthermore, historical sources, mainly the Annals of the Brazilian Parliment were examined, in order to understand the full expression of this political phenomenon.

3. The anti-treaty tradition in Brazilian foreign policy

3.1 A brief chronology

Brazilian Independence in 1822 made external recognition a main priority for the young nation (Bueno & Cervo, 2002, p. 28-29). On August 29, 1825, Rio de Janeiro, the Peace Treaty between Brazil and Portugal for the recognition of independence was signed through the mediation of the British envoy Sir Charles Stuart. In return for the transfer of sovereignty to the Bragantino heir, D. Pedro, a compensation of 2 million pounds to the former metropolis, along with the promise of Brazil not to join any other Portuguese colonies was agreed. The customs tariff for Brazilian and Portuguese products was fixed at 15%. Britain, however, turned out to be the greatest beneficiary of the agreement, as it not only became the creditor of the loan contracted by Brazil for the payment of the Portuguese compensation, but also stipulated the maintenance of the treaties 1810 as a condition of the negotiations (Garcia, 2005, p. 54).

The Treaties of Alliance and Friendship, and Trade and Navigation, signed between Portugal and Great Britain on 18 February 1810, followed the long diplomatic ties established between the two nations, which dated back to the 18th century, as of the Treaty of Methuen (1703) (Garcia, 2005, p. 30). The Trade and Navigation Treaty: a) fixed the rate of 15% on English goods, maintained the 16% rate on Portuguese goods and established the rate of 24% on goods from other sources; b) established a special forum to English subjects in Brazil and ensured the right of residence and free Protestant worship in the country, without reciprocity for Brazilian subjects in England; c) guaranteed access for Portuguese export products to the British market, so that they would enjoy customs tariffs equal to those paid by the most favoured nation (this advantage, however, excluded products of Brazilian origin such as coffee and sugar); d) determined the unlimited duration of the stipulation; e) reserved the right to renew the treaty within fifteen years from the date of the exchange of ratifications (Carvalho Filho, 1990). In turn, the Treaty of Alliance and Friendship established the commitment to a gradual abolition of the traffic of slaves. In the Brazilian context, these agreements represented the colonial heritage of subordination to British interests (Garcia, 2005, p. 30).

In the following years, treaties of alliance, friendship, navigation and trade were signed with a number of countries: England, Austria, Prussia and Hanseatic Cities in 1827; Denmark, United States and Netherlands in 1828; Sardinia in 1829; Belgium in 1834; Austria, again, in 1836; and Portugal in 1836. A so-called "system of treaties" was established (Cervo, 1981).

The unfavourable conditions of these agreements have been subject to parliamentary criticism since at least 1827, when an official copy of the 1826 Convention on the Slave Trade was sent to the Chamber of Deputies. The Convention stipulated an expiration date for the transatlantic slave trade (13 March 1830) (Rodrigues, 2008, p. 100) and maintained the terms of the Anglo-Portuguese Additional Convention of 1817, which granted British ships the right to search and seize vessels that transported slaves (Rabelo, 2015, p. 7) and instituted mixed commissions for the prosecution of traffickers (Rodrigues, 2000, p. 98). The concerns raised by the deputies revolved around formal aspects (the absence of Brazilian parliamentary ratification, the imposing nature of the Convention, the legal responsibility of the Brazilian Ministers) and content (its damage to Brazilian economy and morale as an independent nation).

In August 1827, the Treaty of Friendship, Navigation and Trade between Brazil and Great Britain was concluded, which allowed for the solidification of a proper Anglo-Brazilian alignment (Bueno & Cervo, 2002). The 1827 Treaty was very similar to the prior 1810 Treaty, and its British-friendly clauses severely impacted Brazilian national trade, industry, navigation and the rights of citizens, allowing English interference in internal affairs. Valid for 15 years, its expiration was scheduled for November 1842 (Carvalho Filho, 1990). On October 15, 1827, the law of responsibility of Ministers and Secretaries of State highlighted concerns about the direction of Brazilian foreign policy:

> Art 1° The Ministers and Secretaries of State are responsible for treason:
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> §1° Infringing treaties, conventions, and adjustments, within or outside the Empire, or by any other acts of his office, or taking advantage of them with wilful misconduct.

During the Primeiro Reinado (1822-1831) other fields of dispute in foreign policy emerged: in the North, England, US and France had showed expansionist tendencies in the Amazon; in the South, the Platine War (Cervo, 1981). From the Regency (1831-1840) onwards, the Parliament takes an active role in the formulation, implementation and monitoring of Brazilian foreign policy (Ricupero, 2017). On June 14, 1831, Congress passed a bill requiring the submission of any treaty to the approval of the General Assembly before its ratification. It is the first victory of the anti-treaty movement (Carvalho Filho, 1990).

From 1831 onwards, the anti-treaty discourse spread beyond the Chamber of Deputies, being incorporated by the Chancellery, followed by the Senate and finally by the Council of State. In the following legislatures, treaties continued to be subjected to the strict scrutiny of parliamentarians, and the anti-treaty movement began to dialogue

with matters such as State budget (especially the budget of the Ministry of Foreign Affairs and the Brazilian diplomatic corps), national trade, cabotage navigation, rights of anchorage, mining, popular participation, colonization, slave trade, hiring of foreign troops and the navigation of the Amazon (Bueno & Cervo, 2002, p. 68-70).

The signing of treaties would finally be interrupted by the rejection of the Treaty with Belgium of 1834 by the Brazilian Senate (the agreement had been priorly approved by Chamber of Deputies). The Chamber of Deputies would then unanimously reject the Trade and Navigation Treaty with Austria (Carvalho Filho 1990). The Parliament's position became clear: they were to wait for the expiration of all treaties and, in the meantime, they would not ratify any others. As the Anglo-Brazilian Treaty of 1827 was about to reach its expiration date, the British Foreign Office sent the Henry Ellis mission to Brazil in August 1842 to negotiate its renewal. But it was too late – they were unable to convince the Brazilians. With the formal termination of the 1827 Treaty in 1844, the system of treaties had reached its end. From then on, we can see a shift from a foreign policy based on dependence to foreign powers to a greater search for autonomy in the post-independence period (Cervo, 1981).

3.2 The historiography of Brazilian foreign policy

British-Brazilian relations in the 19th century have been extensively studied by researchers on the fields of History, Economics, International Relations and Law, among others. The "English century" was explored mainly in relation to the political and economic pressures exerted by Great Britain on an independent Brazil, specially in what entails the so-called "unequal" treaties of 1810 and the abolition of slavery (which was heavily regulated by British law).

From the perspective of International Relations, there was talk of an "English hegemony" in Brazil throughout the 19th century, which manifested itself in the form of a political-economic "dependence" to British interests. This alignment would have been inherited by the independent Brazil from a long bond established between England and Portugal dating back to the 18th century, and intensified throughout the Napoleonic wars. Some interesting works in this line were produced by Francisco das Neves Alves (Alves, 2005) and Diego Marques Morlim Pereira (Morlim, 2015).

From a historical perspective, Leslie Bethell, in *Britain and Brazil (1808-1914)* of his book Brazil: Essays on History and Politics, offered a broad panorama of the "English century" in Brazil. Bethell explored the historiographical thesis of the British "informal empire" in Latin America, whose central argument entails that the republics of Spanish America, especially Argentina, and the Brazilian Empire were effectively under political subordination (different from the political-administrative and even legal-constitutional subordination of formal empires) of Great Britain. Bethell, however, believes that British commercial and financial supremacy would be insufficient to set up an informal empire (Bethell, 2018, p. 57-92).

In the field of international law, jurists such as Clóvis Beviláqua and a series of authors such as Hildebrando Accioly, José Francisco Rezek, Valerio de Oliveira Mazzuoli evaluated the powers of ratification and denunciation of international treaties, in the light of the provisions of the Brazilian constitutions. According to Medeiros, in the Constitution of the Empire of 1824, approval by the Legislature would only occur for treaties concluded in peacetime that involved assignment or exchange of territory of the Empire, or its possessions (art. 102, 7th and 8th). But the author points out that the imperial parliament would have reacted to the system of treaties in the government of D. Pedro I, a system formed by agreements concluded with foreign powers that entailed global and specific disadvantages for Brazil (Medeiros, 2004, p. 353-362).

In a more succinct way, Mariza Arcuri Magalhães, in "Brazil-England relations in the Primeiro Reinado: recognition of independence, abolition of trafficking and trade treaty" examined some interesting quotes by Brazilian and English politicians of the time (Magalhães 1972).

The anti-treaty movent, or anti-treaty tradition, was mainly examined by Cervo in his works *História da Política Externa Brasileira* (Bueno & Cervo, 2002) and *O Parlamento Brasileiro e as Relações Exteriores Brazilian (1826-1889)* (Cervo, 1981). Through an analisys of a vast set of historical sources, including the Annals of the Chamber of Deputies and the Annals of the Senate, Cervo was able to outline the major trends in Brazilian Imperial foreign policy and their expression in the Brazilian Congress. His studies inspired the works of authors such as Rubens Câmara de Carvalho Filho (Carvalho Filho, 1990) and José Antônio Fogolari (Fogolari, 2019), who focused on preferential trade treaties with England.

That said, we can identify a gap in the literature on the History of Brazilian foreign policy focusing on the anti-treaty tradition. A fully-fledged analysis on the phenomenon has not, insofar, been conducted.

3.3 The anti-treaty tradition impact on Brazilian foreign policy

According to Doratioto, D. Pedro the First's foreign

policy did not prioritize Brazilian interests, but rather the preservation of the Royal House of Bragança in Portugal and Brazil. This was a major conditioning of the main external guidelines of the First Reign: the acquisition of international recognition of Brazilian Independence by the means of large concessions to European powers (Contrera, 2015).

The Regency would mark the transfer of power to the Brazilian elites, that effectively start to rule the country (Fausto, 1995, p. 161), which did not necessarily imply cohesion in foreign policy. The "forced" abdication of D. Pedro the First (1831) was the result of a serious political crisis, in which the foreign policy of the Primeiro Reinado had contributed to a large extent. Added to the authoritarianism of the Emperor and his departure from the Brazilian elites, the concessions made by Pedro I for the recognition of independence and the unsuccessful war in the South led to a popular uprising and the subsequent exile of the monarch (Barman, 2012).

As the Regency was constituted, the lack of intra-elite consensus made it particularly difficult to define na external objective. According to Fausto, the dominant groups did not hold a perception of the State as an organizer of the general interests, "having to sacrifice in certain circumstances specific interests of a particular social sector" (Fausto, 1995, p. 55).

That said, the affirmation of parliamentary power in Brazilian foreign policy of was not a linear process, neither the result of an internal cohesion of political thought of the elites. What we can actually determine is that the Parliament could no longer be fully silenced once the 1831 bill on treaty ratification had passed.

Once the final obstacle, the 1827 Treaty, was eliminated, tariff increase became a possibility. This meant bigger financial power to the central Brazilian government (Furtado, 2007). The Tariff Reform of 1844 (decree n°. 376 of 12 August 1844), known as Tarifa Alves Branco, increased import tariffs on certain products by 30%. Of a protectionist character, it marked a search for greater national autonomy (Guimarães, 1975, p. 24-28).

The distaste for European connections contrasted with an increasing preference for inter-American ties. In the anti-treaty vocabulary, Europe is characterized as old, powerful and distant, as opposed to the new, freedom-loving, neighbouring Americas. According to Santos, the concept of hemisphere, developed by Thomas Jefferson, was the first properly political translation of the geographical concept, and reflected a political dichotomy between America and Europe, which would reside in the notion that "the peoples of the Western Hemisphere were united by a special relationship that set them apart from the rest of the world" (Santos, 2002, p. 17). The "English century" was to be succeeded by a new and strong bond with the United States by the end of the 19th and early 20th centuries.

4. Conclusions

As we have come to see, the anti-treaty movement, despite its central contribution to a paradigm shift in the history of Brazilian foreign policy, has not received as much attention as the study of British-Brazilian relations in the specialised literature.

In this paper, we have established how the anti-treaty tradition was set in opposition to the “system of treaties” constituted after Brazilian Independence in 1822 and its newly born need for international recognition. Brazilian congressmen shared their disapproval, which led to the approval of the June 14, 1831 bill on the requirement of submission to the General Assembly prior to treaty ratification.

During the Regency (1831-1840), as power decentralized from the Crown to the elites, Parliament gained greater saying in the making of the Empire’s foreign policy. As the treaties signed with European nations successively came to an end, no more were signed. The expiration of the 1827 Treaty with England marked the end of the system of treaties. Tax reform followed and the Brazilian Empire

Tax reform followed, and so did a new alignment with the Americas. The intercontinental relations matched a Brazilian foreign policy based on greater autonomy and prosperity for the State.

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