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Fernanda DOMINGOS PINHEIRO, *Em defesa da liberdade. Libertos, coartados e livres de cor nos tribunais do antigo regime*

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Fernanda DOMINGOS PINHEIRO, *Em defesa da liberdade. Libertos, coartados e livres de cor nos tribunais do antigo regime*

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REFERENCES

Fernanda DOMINGOS PINHEIRO, *Em defesa da liberdade. Libertos, coartados e livres de cor nos tribunais do antigo regime* português (Mariana e Lisboa, 1720-1819), Belo Horizonte, Fino Traço Editora, 2018, 336 p., ISBN : 9788580543674, R\$ 55,00.

- 1 *Em defesa da liberdade* is the first book by Fernanda Domingos Pinheiro, Assistant Professor at the University of International Integration of the Afro-Brazilian Lusophony. It essentially represents her doctoral thesis defended in 2013 at Campinas State University. She is no stranger to experts and academics of the African Diaspora in America since she is a recent contributor to the social history of Africans and their descendants in Brazil with articles in academic journals and book chapters. In 2006, in her master's thesis, she had already analyzed the ethnic sociability and identities in Mariana City during the 18th century through the investigation of a religious brotherhood.
- 2 The book consists of a "Preface" written by Silvia Hunold Lara (Director of her doctoral thesis), an "Introduction," four extensive chapters, and some "Final Considerations." The "Preface" serves as context for the book in the framework of Brazilian historiography and it also highlights Fernanda Domingos Pinheiro's two great virtues. First, the book portrays stories of real people, often forgotten in the great historical and structuralist narratives. Secondly, adopting a legal approach, it systematically explores how justice has been used by slaves, freed people, and free persons of color.

The book also engages in a successful dialogue between two historiographic traditions that have diverged over the decades, namely legal and social history. This is made explicit in the “Acknowledgments” section, where the author recognizes the help and contributions of very different authors, such as Antonio Manuel Hespanha and Rebecca Scott.

- 3 In the “Introduction,” Domingos Pinheiro anticipates some of the general hypotheses of her work: the line between slavery and freedom was nebulous and the life of Africans and their descendants who managed to break free from captivity was characterized by an extreme vulnerability and the threat of reenslavement. To analyze this comprehensive topic, the author clearly delineates her thesis’ subject matter: how the free colored population (*livres de cor*), freed people (*libertos/alforriados*), and released slaves (*coartados*) resorted to justice in the cities of Mariana and Lisbon from 1720 until 1819. Domingos Pinheiro makes use of that Thompsonian precept that considered justice as a battlefield. Her research continues and deepens the paths opened by some scholars such as Sidney Chaloub, Silvia Lara, Keila Grinberg, and others¹—but with a significant difference. Whereas most historians have investigated the recourse to justice by the population of color during a period characterized by a strong crisis and questioning of the slave system, the 19th century, the author focuses on the 18th century. An accurate analysis of the archives studied, the questions guiding the investigation, and the structure of the book are described below.
- 4 The first chapter explores the difference between the legal status and the social condition of several individuals passing from slavery to freedom. Who were those who were neither entirely slaves nor freemen? Those who had been released by means of conditional manumissions and continued serving their former masters. The released slaves who were gradually buying their freedom, but had yet to pay some predetermined installments, who were called *coartados*. And finally there were those who had been partially freed as a result of last will and testaments. While some “enjoyed their freedom,” and by virtue of this they wanted to be recognized as freed people, others were still dominated by their masters just like slaves. The author shows that legal categories were not strict and unmodifiable but instead they were shaped and modified in everyday practice and subject to constant redefinitions in the legal field. It is clear that Africans and their descendants in ambiguous situations would not cease to seek complete freedom owing to the uncertainty in which they lived. However, according to the author, complete manumission did not mean enjoying an irrevocable state of freedom. On the contrary, it was just a significant step in that direction since freedom was temporary, was subject to limitations, and could also become invalid. In the cities of Mariana and Lisbon, this denial of freedom took place through three mechanisms: prolongation of inappropriate captivity, reenslavement of freed persons, and illegal enslavement of the free.
- 5 The second chapter focuses on the legal actions of former masters (*patronos*), slaveowners, and inheritors who sought to enslave Africans and their descendants. These civil lawsuits (*ações cíveis de redução ao cativeiro*) were mainly ordinary—not summary—and sought to eliminate not only the domain of freedom (legal status) but also its possession and beneficial usufruct (social condition). Some of the arguments they used were based on the ingratitude of freed people, late payments by the *coartados*, simply the fact that some slaves lived as free people and were not subject to masters’ control. However, the third chapter focuses on the opposite end of the relationship and

explains how justice has also been used by freed people, *coartados*, and their families to safeguard and defend their threatened or stolen freedom. In the first case, the goal of these civil lawsuits to safeguard freedom (*ações cíveis de manutenção da liberdade*) was to eliminate the risk to slavery reduction. When the attempt to reenslave had already taken place, the victims would enter civil lawsuits for the restitution of freedom (*ações cíveis de restituição da liberdade*). The author describes the legal means and strategies used by the claimants to avoid interference by their masters in their search for justice: they would request to be moved to third-party houses; they would lodge a bond as security; and they would request days off to be able to take care of their legal processes.

- 6 The fourth and last chapter analyzes the cases of illegal enslavement of people of color, contradicting the law that prohibited the slave trade in Portugal from 1761, as well as the inappropriate prolongation of captivity in Lisbon, contravening the 1773 Free Womb Law, which released children born after that date from becoming fourth-generation slaves. In Mariana, this illegal extension of the condition of slavery took place when specific freedom agreements were unknown. The legal representation of the affected was mostly managed by religious brotherhoods that were granted certain benefits. According to the author, these legal actions were important owing to the prolongation of the illegal trade of slaves and the vulnerability suffered by the slaves' children, who were often denied their right to freedom.
- 7 The book ends with some "Final Considerations" that summarize the main conclusions of the book. Behind the insistence on the idea that the distinction between slavery and freedom was vague, there is an implicit debate with the School of San Pablo, which accepted the existence of an irreconcilable counterpoint between those two legal statuses. The work is filled with merits and virtues. The comparative focus that Domingos Pinheiro adopts from the outset is an unusual and risky gambit in today's historiography but it turns out to be a clear wise move throughout the book. A clear narrative, a careful and exhaustive treatment of the archives, and an interesting and productive combination of a social and a legal focus are the basis for a strong recommendation of this reading. It would have been good, however, if the initial chapter of the book could have developed the most significant characteristics of the Portuguese legal system related to duties and rights of slaves and freed people as a guide for readers who are not familiar with the subject.²
- 8 *Em defesa da liberdade* does not only reveal a solid investigation but also triggers many questions and hypotheses for those who study similar subjects in other contexts. Experts in Hispanic American slavery, and particularly in the relationship between people of color and the legal system, will find lots of similarities between their investigation and what happened in Lusitanian territory.³ The Africans and their descendants in Brazil and Portugal would also obtain their manumission by means of "*coartación*." They would resort to justice to achieve freedom, they would appeal to high government authorities as a means of escaping ordinary justice, manipulating the rhetoric of miserability by imploring mercy and piety and taking advantage of the multiple legal regulations that characterized the *Ancien Régime*. In so doing, they would demonstrate a good knowledge of legal mechanisms and a remarkable ability to take advantage of family members, acquaintances, lawyers, and curators.⁴ We can also point out some contrasts: in the 18th century in several Hispanic American regions, the main legal demand from enslaved Africans and their descendants was based on mistreatments (*malos tratos*) and on the desire to obtain a 'selling paper' (*papel de venta*)

to be able to change their masters. In return, in the two regions studied by the author, the main cause for litigation of people of color was freedom.

- 9 This book has a lot to offer to Latin American historiography, which has long debated the importance of legal categories in people's real life. Domingos Pinheiro tells us stories about freed people who had been held in bondage and *coartados* who, despite not having self-purchased their complete freedom, lived with absolute independence. That's how we know that on some occasions someone's social condition had more value than his/her legal status. However, the battles fought in the justice system also reveal that legal definitions and legal decisions could safeguard the joy of a genuine freedom by considerably reducing the risk of reenslavement. Hopefully, *Em defesa da liberdade* will build bridges and forge bonds among investigators in different countries and contribute to a fruitful dialogue among historiographies that rarely go beyond national borders.

NOTES

1. Elciene Azevedo, *O direito dos escravos: Lutas jurídicas e abolicionismo na província da São Paulo na segunda metade do século XIX*, Campinas, Editora da Unicamp, 2010; Beatriz Mamigonian, "O direito de ser africano libre: Os escravos e as interpretações da lei de 1831," in Silvia Hunold Lara & Joseli Maria Nunes Mendonça (eds.), *Direitos e justiças no Brasil: Ensaios de história social*, Campinas, Editora da Unicamp, 2006, pp. 129-160.
2. Silvia Hunold Lara, *Legislação sobre escravos africanos na América Portuguesa*, Madrid, Mapfre, 1999; Mariana Armond Dias Paes, "O tratamento jurídico dos escravos nas ordenações manuelinas e filipinas," Comunicação apresentada no V Congresso Brasileiro de História do Direito, pp. 523-536, 2011.
3. In Argentina in relation to the freed people topic, we can highlight Magdalena Candiotti's contributions: "Regulando el fin de la esclavitud. Diálogos, innovaciones y disputas jurídicas en las nuevas repúblicas sudamericanas 1810-1830," in *Jahrbuch für Geschichte Lateinamerikas*, no. 52, pp. 149-172, 2015, DOI: <https://doi.org/10.7767/jbla-2015-0109>; and "El tiempo de los libertos'. Conflictos y litigación en torno a la ley de vientre libre en el Río de la Plata (1813-1860)," *História* (São Paulo), vol. 38, pp. 1-28, 2019.
4. Alejandro de la Fuente (ed.), "Su único derecho: los esclavos y la ley," in *Debate y perspectivas*, no. 4, 2004, pp. 7-22; José Andrés-Gallego, "La esclavitud en la monarquía hispánica: Un estudio comparativo," in José Andrés-Gallego (ed.), *Tres grandes de la historia de Iberoamérica: ensayos y monografías*, Madrid, Fundación Ignacio Larramendi, 2011.

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