

Civil Law in ‘Rosaura, the foundling’¹ by Bernardo Guimarães: “[...] eternal and unsolvable problem [...]”

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ABSTRACT. The main objective of this article is to understand how Bernardo Guimarães, in the work ‘Rosaura, the foundling’, presented aspects of Civil Law in Brazil in the 19th century. To do so, we will take into account the plot of the characters and the author’s legal background at the São Paulo Law School. In this sense, we ask: Why is Civil Law plotted as ‘an eternal and insoluble problem’ in relation to nineteenth-century slavery in Brazil? How does the author present his arguments to defend this thesis? The central issue circumscribes around the understanding that students occupied a social place that enabled the production of various writings (memoirs, theses, academic journals, novels, poetry, among others), which dealt with themes belonging to imperial Brazil, especially the slavery. To achieve the proposed objective, we operate as a historical research methodology for analyzing the literary work, questioning and questioning the document. In this article, to mobilize the object, we use the concept of repertoire, in terms of Alonso (2002). This concept served as a magnifying glass for the analysis of the work in focus. Finally, we show that the man of letters used the artifice of the free-born slave to deal with slavery and Civil Law, showing how the character ‘Rosaura’, victim of the slave system, could be restored to the place of free, from the ills of slavery that he had suffered since birth. The author mobilized repertoires of legal culture acquired at the intellectual locus of the São Paulo Law School. Thus, within a general analysis of the narrative, the expressions of law appear as social and legal elements, used not just as a mere elucidation. Certainly, there was selectivity and intention to announce the contents of the laws in Brazil.

Keywords: civil law; slavery; Bernardo Guimarães.

O Direito Civil em ‘Rosaura, a enjeitada’ de Bernardo Guimarães: “[...] problema eterno e insolúvel [...]”

RESUMO. O objetivo central deste artigo é compreender como Bernardo Guimarães, na obra ‘Rosaura, a enjeitada’, apresentou aspectos do Direito Civil no Brasil do século XIX. Para tanto levaremos em conta a trama dos personagens e a formação jurídica do autor, na Faculdade de Direito de São Paulo. Neste sentido, indagamos: Por que o Direito Civil é tramado como ‘um problema eterno e insolúvel’ em relação à escravidão do século XIX no Brasil? Como o autor apresenta seus argumentos para defender tal tese? A problemática central circunscreve em torno do entendimento de que os estudantes ocupavam um lugar social que possibilitava a produção de diversos escritos (memórias, teses, jornais acadêmicos, romances, poesias, entre outros), que versavam sobre temas pertencentes ao Brasil imperial, especialmente a escravidão. Para alcançar o objetivo proposto, operamos como metodologia de pesquisa histórica de análise da obra literária interrogando e problematizando o documento. Neste artigo, para mobilizar o objeto recorreremos ao conceito de repertório, nos termos de Alonso (2002). Esse conceito serviu como uma lupa para a análise da obra em foco. Por fim, evidenciamos que o literato usou do artifício da escrava nascida livre para tratar da escravidão e do Direito Civil, mostrando como a personagem ‘Rosaura’, vítima do sistema escravista, poderia ser restituída ao lugar de livre, das mazelas da escravidão que sofrera desde o nascimento. O autor mobilizou repertórios de cultura jurídica adquiridos no locus intelectual da Faculdade de Direito de São Paulo. Assim, dentro de uma análise geral da narrativa, as expressões do direito aparecem como elementos sociais e jurídicos, usados não apenas como uma mera elucidação. Certamente, havia seletividade e intencionalidade para noticiar os conteúdos das leis no Brasil.

Palavras-chave: direito civil; escravidão; Bernardo Guimarães.

¹ Titles were removed from excerpts and subtitles from the work ‘Rosaura, the foundling’.

El Derecho Civil en ‘Rosaura, a enjeitada’ de Bernardo Guimarães: “[...] problema eterno e insoluble [...]”

RESUMEN. El objetivo central de este artículo es comprender cómo Bernardo Guimarães, en su obra *‘Rosaura, a enjeitada’*, ha presentado aspectos del Derecho Civil en el Brasil del siglo XIX. Para tanto tendremos en cuenta la trama de los personajes y la formación jurídica del autor, en la Facultad de Derecho de São Paulo. En este sentido, preguntamos: ¿Por qué el derecho civil se considera un ‘problema eterno e insoluble’ en relación con la esclavitud del siglo XIX en Brasil? ¿Cómo presenta el autor sus argumentos para defender tal tesis? La problemática central circunscribe en torno al entendimiento de que los estudiantes ocupaban un lugar social que posibilitaba la producción de diversos escritos (memorias, tesis, diarios académicos, romances, poesías, entre otros), que versaban sobre temas pertenecientes al Brasil imperial, especialmente la esclavitud. Para alcanzar el objetivo propuesto, operamos como metodología de pesquisa histórica de análisis de la obra literaria cuestionando y problematizando el documento. En este artículo, para movilizar el objeto recurrimos al concepto de repertorio, en los términos de Alonso (2002). Tal concepto sirvió como una lupa para el análisis de la obra en foco. Por último, evidenciamos que el literato ha utilizado del artificio de la esclava nacida libre para tratar de la esclavitud y del Derecho Civil, mostrando cómo el personaje ‘Rosaura’, víctima del sistema esclavista, podría ser devuelta al lugar de libre, de los males de la esclavitud que sufrió desde el nacimiento. El autor movilizó repertorios de cultura jurídica de los medios intelectuales de la Facultad de Derecho paulista. El autor movilizó repertorios de cultura jurídica adquiridos en el locus intelectual de la Facultad de Derecho de São Paulo. Así, dentro de un análisis general de la narrativa, las expresiones del derecho aparecen como elementos sociales y jurídicos, usados no sólo como una mera elucidación. Ciertamente, había selectividad e intencionalidad para noticiar los contenidos de las leyes en Brasil.

Palabras-clave: derecho civil; esclavitud; Bernardo Guimarães.

Received on April 1, 2019.
Accepted on March 19, 2020.

Introduction

This article aims to understand how Bernardo Guimarães, in the work *‘Rosaura, the foundling’*, presented aspects of Civil Law in Brazil in the 19th century. Therefore, we will take into account the plot of the characters and the author’s legal background at the São Paulo Law School. The central issue circumscribes around the understanding that students occupied a social place that enabled the production of various writings (memoirs, theses, academic journals, novels, poetry, among others), which dealt with themes belonging to imperial Brazil, especially the slavery. Thus, we ask: Why is Civil Law plotted as ‘an eternal and unsolvable problem’ in relation to nineteenth-century slavery in Brazil? How does the author present his arguments to defend this thesis?

To achieve the objective² proposed, it was operated as a historical research methodology for analyzing sources from the guidelines of Le Goff (1994). For this author, every document is “[...] a product of the society that manufactured it according to the relations of forces that held it” (Le Goff, 1994, p. 545). Thus, we take into account the historical circumstances in which the document was produced, investigating the past and establishing tensions. Because, in the dialogue with Foucault, Le Goff (1994) gives us the opportunity to understand that documents bring power relations. Thus, we engage the dialogue between the literary work, the studied theory and the historical context of the nineteenth century, in relation to the problems of slavery. Therefore, it was necessary to understand the document beyond what is included in the work, demystifying its senses and apparent meanings.

The work with literary works has become a constant resource and has gradually gained space in the field of historical research, especially in the field of History of Education. We assume that: “[...] the literary work does not reflect reality: the fraction of reality it reveals is the result of an interpretation and re-elaboration” (Galvão & Lopes, 2010, p. 73). And wouldn’t historical production also be the result of interpretation and re-elaboration? In the historical analysis procedure of the work, listed as a source for this narrative, it is possible to discover not only answers to questions such as ‘what is the document capable of saying?’, but also what is ‘behind’ what he is able to say.

² It is noteworthy that this text is the result of research linked to the Research Program ‘Education in Brazil projects: public space, modernization and Brazilian historical and social thought in the 19th and 20th centuries’ and the Research Group ‘History, Memory, Education and Identity’ (GPHMEI), above all, from the master’s thesis entitled ‘Slavery and civil law in the novel’ *‘Rosaura, the foundling’* by Bernardo Guimarães, presented in 2018, with the Graduate Program in Education at Tiradentes University (PPED/Unit).

The theoretical framework is based on Alonso (2002), bringing the concept of repertoire as “[...] a set of intellectual resources available in a given society at a certain time: analytical standards; notions; arguments; concepts; theories; explanatory schemes; stylistic forms; figures of languages; concepts and metaphors” (Alonso, 2002, p. 46). Thus, the definition of repertoire is associated with a set of forms of action, which are configured in the strategies used by agents, before groups, and can be represented in different ways, such as in texts, dialogues, clashes.

In this direction, we seek to understand the repertoire of legal culture mobilized by Bernardo Guimarães, when dealing with the issue of Civil Law brought up on the first page of the novel and consequently translated in the course of the plot. The repertoire of legal culture is configured in appropriations made by the author in the discussions present in the novel, which involve racial and legal themes. Composed of legal knowledge, present in the elaboration of thoughts about the constitution of the Brazilian Law sciences, this repertoire consists of mobilized resources, such as speeches, concepts, terms and arguments related to Law, to disseminate ideas through the productions that were linked to the studies legal rights.

‘In the tangle of one night, a foundling was born’: assumptions about property principles

How beautiful—exclaimed the black woman, laying curious eyes out the window. – if missy could see how beautiful the night is!... everything is so peaceful!... the sky is so clear!... My God, what a clear night, so serene and so fragrant!... and this song?... aren't you listening, missy?.... it's an open sky all this means fortune for the girl who was born (Guimarães, n.d., v. 1, p. 134).

It is by appreciating the scene description about the beauty of the night of the birth of 'Rosaura' that we want to elucidate the designs of her destiny. In the narrative, we have seen the questioning of her mother 'Adelaide' to 'Lucinda': “Can anyone born in these circumstances be happy, and perhaps they will never have to know father or mother? Poor thing! - sighed the girl, squeezing the baby to her breast and bathing her in tears” (Guimarães, n.d., v. 1, p. 134). The character's words lead us to understand the enigmas surrounding the birth of the “[...] beautiful girl, who in the mystery of a peaceful and silent night came to breathe the aura of life under such sad auspices” (Guimarães, n.d., v. 1, p. 133).

In the tangle of stories contained around 'Rosaura', Bernardo Guimarães transmitted his conception of civil law, in addition to the principles learned about freedom. The author discussed slavery and civil law and, in addition, found, in this communication vehicle, the opportunity to convey the assumptions about the principles of property. Within that period, “[...] according to liberal thought, civil rights exist as a form of defense of the individual against the coercive power of the state [...]” (Adorno, 1988, p. 197).

Certainly, this explains many elements identified in the work, which are interconnected to the content of academic training and to the thoughts that ran through the classrooms and arcades, infiltrated in 'Rosaura, the foundling', among which, the content of the subject of civil law that was taught. Adorno identified that in the legal teaching of the subject in civil law, classes were limited to “[...] commenting on laws [...]” (Adorno, 1988, p. 101). We have started from the understanding that civil law, in the Brazilian Empire, was proposed to govern family, patrimonial and obligatory relationships that are constituted by subjects said to be members of society. It was a group of laws, a set of norms and principles that regulate individuals, their lives, families and property.

When describing the drama of the girl “[...] who was born free [...]” (Guimarães, n.d., v. 2, p. 24), 'Conrado', her father, in an attempt to save her from the condition of a slave, declares:

Rosaura is my daughter, and as a father I have the right to claim her. If you still don't want to give her up, I'll tell her that she was born of a free mother, which I'll try to prove before the courts, even though for this I have to lose everything I have. (Guimarães, n.d., v. 2, p. 42).

The author sought to introduce dialogues that refer to civil law in the 19th century in the work. In Brazil, after independence from Portugal, in 1822, the law that governed civil law was the Political Constitution of the Empire, of March 25, 1824. The life of slaves was ordered by infra-constitutional norms, regulated by civil legislation. When dealing with this theme, the man of letters narrated the episode in which, at the time of fate, the girl was baptized as a slave in the chapel of Santa Ifigênia, and in the baptismal font she received the name 'Rosaura'. Let's see the dialogue between 'Nhá Tuca' and 'Conrado':

– Say it, say it all, ma'am! - Conrad urged. – It is necessary that you do not hide anything from your conscience and in order to be able to remedy the harm you have done.

- And I had the foundling baptized as the daughter of the slave and I made it known that the foundling had died.
- And what did you name the girl?
- Rosaura.
- And then sold her, isn't it?
- It's true, my lord
- And to whom did you sell her?
- To a Mr Basilio, who lives in the street Tabatingueira (Guimarães, n.d., v. 2, p. 63).

'Rosaura' was baptized as a child, as the sacrament was recommended for newborns. The Church preached that, if there was a death, the child would already have been consecrated by religious acts. We believe it was a way for Catholicism to gather believers and maintain itself as a single religion, and still official. Baptism, the sacrament responsible for the purification of sin, consecration given by the Catholic Church, was with the birth certificate. In this sense, "[...] for slave owners, the registration of child baptism played, among others, the function of defining and proving the possession of the minor" (Vasconcellos, 2006, p. 153). Certainly, by christening 'Rosaura', the old woman sought to assert her property right over her. In addition to these meanings, baptism made the relationship with the Church official through the sacraments.

The continuity of the union between the Church and the Imperial State and the recognition of Catholicism as an official religion would dispense with the adoption of civil registration as a form of legal identification of Brazilians for almost the entire century and, in this way, the practice of ecclesiastical books was maintained which, since the colonial period, served as official documents relating: births, marriages and deaths, both of free people and captives. In this way it relieved the State of legislating for an undesirable group. Thus we verify that the Catholic Church [...] established control over the life of slaves, freedmen and freedmen. The Church wanted to acquire more members to share its religious principles and saw in Africans or Creoles new members of Christian culture (Nascimento, Damasceno, & Bernardo, 2012, p. 4).

The baptism record was the official document and was attached to the manumission letters. We seek to understand the relationship between the Church, as an offertory of the sacrament, and the State, as the legitimator of laws, in order to discuss the intervention of Catholicism in imperial society. In this sense, Alonso (2002, p. 64) asserted:

[...] Catholicism was also a state religion. The separation between the public and the religious spheres had not been made, so that the political institutions were not secular. The Church gave vital assistance to the state in social control, especially where state arms were short.

The Catholic Church was responsible for the social organization of populations with the State, that is, "[...] it was the advanced arm of the State in society" (Alonso, 2002, p. 112). Still on Catholicism and the practice of baptism in imperial Brazil, Chalhoub (2012) alerts that in slave society there was the practice of baptizing free people as their slaves, exemplified in the episode in which 'Nhá Tuca' baptized 'Rosaura', even knowing her real genealogical origin, taking advantage of the "[...] fact that a slave child was born, on the same day and in the same house where a foundling died" (Guimarães, n.d., v. 2, p. 52). This way, Bernardo Guimarães, when working in his literature with stories of characters trapped in the slave system, shows interest in the fate of the slave population.

'Rosaura' was not 'daughter of the slave quarters', however, it was necessary to prove her origin to free herself from the sentences of slavery, which legitimized the idea that the womb of a slave would also be a slave. Bernardo Guimarães, when discussing this theme, referred to the customs introduced in Portuguese legislation, on "[...] the regulatory principle [...] *partus sequitur ventrem*³ [...] So that the child of the slave is born a slave regardless of whether the father is free or a slave" (Malheiros, 1866, p. 56). Thus, slavery relations in Brazil were based on this regulation.

In the work, we find the author discussing this theme in the voice of the character 'Morais', when, when defending his property right over his slave, he stated to 'Conrado': "As for the father, we don't care who he was [...] he was, because as you, he certainly doesn't ignore '*partus sequitur ventrem*', the offspring follows the mother's condition" (Guimarães, n.d., v. 2, p. 51, author's italics). That is, it did not matter who the girl's father was, it was necessary to prove that her mother was a woman free from birth, "[...] motherhood is what matters in this case, and as long as you do not prove that Rosaura is daughter of a free mother [...]" (Guimarães, n.d., v. 2, p. 97) she would remain a captive. This principle preceded the historical context of the approval of

³ Expression extracted from the work 'Slavery in Brazil: historical-legal-social essay', by Perdigão Malheiros (1866), which means childbirth follows the womb.

the Law of the Free Womb, in 1871, which tried to give freedom to the free children of slave women. Along with this fact, we believe that an action charged with social thinking was his work, which he sought to express in order to problematize issues of his time, thus interfering with the social ideas and concerns that surrounded him.

It is in the context of this discussion on civil law, legitimized by the Constitution of the Empire in Article 179, which dealt with "[...] the inviolability of civil and political rights of Brazilian citizens, and was based on freedom, security individual and guaranteed ownership [...]" (Brasil, 1824, s/p.), that the novelist situates the plot and process of the slave's freedom. 'Conrado', after learning that 'Adelaide' "[...] had his daughter at home [...] as a slave, as property, as a piece of furniture, [...]" (Guimarães, n.d., v. 2, p. 26), he sought to undertake ways to free her.

Oh my gosh! My God! [...] he exclaimed, [...] my daughter, slave, slave!... and sold to her own mother!... oh damn Major! You are only responsible, before God and for everything and humanity, for such a strange misfortune! It was you, and no one else, who reduced your granddaughter to the condition of a slave. But [...] I swear to God and to all that is sacred: my daughter, daughter and Adelaide, in a few days she will be recognized as free, as they were born, and not as freed, whatever the cost, money, tears, real blood, [...] if necessary! Lucinda, you see, God favors us, and you have been an instrument of providence in everything (Guimarães, n.d., v. 2, p. 41).

In the character's speech, we have a discussion about the conditions for the liberation of slaves, in view of the current laws. The narrative demonstrates that the fact that 'Rosaura' might achieve freedom would not take her out of the condition of a freed slave, this would then be the central issue for "Rosaura to be free, by birth, as the daughter of a free woman, deserves to be free [...]" (Guimarães, n.d., v. 2, p. 3) and be restored to her free-born social place. With this desire, 'Conrad' undertook ways to free 'Rosaura' by religious means, together with the Catholic Church; on learning that 'Nhá Tuca' was at death's door, he sought out the Church where:

A Carmelite Friar, named Friar João de Santa Clara, distinguished for his virtues and his great knowledge, was staying. An expert preacher and a profound theologian, he had not spent his time vegetating in pious idleness and meekly treading the holy tiles with the breviary in his hand in the severe shade of vaults in the cloister. He had gone through almost all the provinces of missionary Brazil, already among civilized populations and among indigenous villages in the service of catechesis. He was also sometimes in charge, as a general rule of the order, of arduous and important commissions, and it was by virtue of one of these that he was in S. Paulo (Guimarães, n.d., v. 2, p. 66).

'Friar João' was a priest who lived at the service of the Catholic Church, a character to whom Bernardo Guimarães dedicated Chapter XII, of the second volume of the work, for his presentation. It was the priest that 'Conrad' took to the hut where old 'Nhá Tuca' lived, to hear her confession with two witnesses. After collecting the report, it was placed in a document registered by the presence of the Church, which "[...] functioned as an administrative department" (Holanda, 2015, p. 118). This document would bring the possibility of restoring the social place of 'Rosaura' and revealing its true genealogical origin, in this way the Church helped in the relations between State and society. "The state religion was a vehicle of social control (Alonso, 2002, p. 64).

Through analysis of the narrative, the Catholic Church was, then, the only way that 'Conrad' would have to remove it from the clutches of slavery. Thus, the father of 'Rosaura' said to 'Nhá Tuc' that he would bring the priest, being "[...] an absolute need for you to repeat the confession in front of the witnesses in order to obtain the girl's freedom, that she, through the sacrament in the baptismal font, condemned to slavery" (Guimarães, n.d., v. 2, p. 64). For the confession registered with the Church would give the slave not only the condition of freed, but also free from birth, which was why 'Conrado' faced the family that owned the slave, exclaiming: "Deliver this girl to whom I have a sacred right" (Guimarães, n.d., v. 2, p. 97). This right is given through the document to which 'Friar João' refers in the excerpt below:

My friend has an indisputable document, which we have just heard read, and which can never, either in court or out of court, be invalidated. Furthermore, he claims a sacred right: paternity; Mr. Conrado is Rosaura's father. Finally, he offers to indemnify them for what they bought the girl for, and is ready to give even more if they demand it. As a result of generosity, my friend wants to avoid the legal means to avert a scandal, the weight of which must fall entirely on those who want to provoke it. Justice, humanity, religion and honor demand that your landladies deliver the girl to Mr. Conrado, return the daughter to her father (Guimarães, n.d., v. 2, p. 100).

Towards the priest's words, the document presented to the lords of 'Rosaura' had religious, legal and moral support, thus representing the Church, State and society, respectively. 'Conrad', under this circumstance, said: "[...] I believe that in this business I will be able to do without the legal means" (Guimarães, n.d., v. 2, p. 98). The character's position, in view of the non-acceptance of the slave's release, confirms that the document was

supported not only in Catholicism, but also legally, thus, we find once again the relationship between State and Church. It is noteworthy that trying to give freedom to the slave would not be a harmonious issue, since “[...] one of the pillars of the social control policy of slavery was the fact that the act of manumission was an exclusive prerogative of the masters” (Chalhoub, 2012, p. 122). Still for Chalhoub (2012, p. 121):

Discussing the freedom of slaves meant interfering in the liberal stage of the defense of private property and, furthermore, it was the very organization of labor relations that seemed to be at stake, that is, the matter was delicate because it sparked the danger of disagreements or splits more serious within the propertied and ruling class.

Freeing slaves would transgress the Brazilian slave system, since slavery was responsible for the development of the country's economy and slaves were valuable properties. Furthermore, freeing slaves could weaken the lordly domain, covered by current legislation. There was a duality within the slave system regarding the liberation of slaves, since whoever legitimized the condition of slave was also the one who liberated. Thus, the legislative power decided 'the limits to the right to private property', determining in which cases it could happen.

‘[...] infective and muddy abyss of slavery’: legal debates among São Paulo students

The novelist, in 'Rosaura, the foundling', allows us to perceive which ideas could populate the legal debates in imperial Brazil, considering that the laws did not ignore the slave structures of Brazilian society. It was in that environment of desire for liberation of 'Rosaura' and the presence of legal determinations that Bernardo Guimarães placed his narrative, discussing the issue of civil law, since in the work we find facts that allow us to think about the theme as to the central issue for the slave's freedom. In the first pages of the work we find the dialogue between the students of São Paulo, 'Aurélio' and 'Belmiro':

- What are you doing there, Aurélio, who are yawning like someone dying of sleep? ... When everyone here is chattering like a bunch of parrots, you sulk in a corner, you who ordinarily giggle in person?
- In fact, Aurélio!... You're so quiet, I even forgot you were there. Come on and suck another glass of cognac, and entertain us with some of your usual nonsense.
- Nonsense!... shut up Belmiro... I just ask you not to get embarrassed with me; talk and leave me alone.
- He's already drunk, of course, in which case he'll go to bed.
- Drunk me!... Oh, I wish!... I am meditating, and at this moment I am trying to solve one of the most serious and arduous problems that have arisen before the human spirit...
- Oh! Oh! a problem of geometry, or of algebra?...
- None of that; a serious spirit is not concerned with frivolities.
- Square the circle?
- Not; better thing, or worse.
- I bet it's not civil law.
- Certainly civil law is an 'eternal and insoluble problem' (Guimarães, n.d., v. 1, p. 1, author's italics).

Bernardo Guimarães began his plot dealing with civil law as “[...] an eternal and insoluble problem [...] whose solution I am concerned with is the momentous and serious evils, the most full of important corollaries that can arise in the present phase of our scholastic life.” (Guimarães, n.d., v. 1, p. 3). Looking at this episode, the following concern arises: for the author, would civil law be the central issue of Brazilian slavery? We believe in the possibility that the novel condenses the memories of experiences during the Academy years. Thus, from the meetings to the dialogues, as well as his discussions about law, the author mobilizes repertoires of the legal culture, disseminating ideas in the networks in which he was involved. We identify, in the narrative, arguments, terms and concepts that refer to these legal ideas.

In this sense, the speech of 'Carlos', in conversation with 'Frederico', both students of the São Paulo Academy, conveys the feeling of repudiation of society, legislation and the government for legitimizing and promoting 'so shameful and execrating trafficking', referring to the slave trade, represented as the 'infectious and laden abyss of slavery'. In addition, he criticizes the formatting of the law for not granting the right to 'Rosaura' to free itself from the inheritance of slavery, even after freed by marriage

Ah! Damn society! damn law! people and government a thousand times accursed, that tolerate and foment so shameful and execrating trafficking! Oh! if I had been rich, I would go along these roads, accompanied by an escort of good henchmen, in pursuit of the thief, I would discover his trail, and, by will or by force, the infamous one would let go of his prey. Ah! poverty! poverty!... You sum up in yourself all the misfortunes... Poor girl! candid and spotless lily thrown into the foul and muddy abyss of slavery! (Guimarães, n.d., v. 2, p. 129).

Through such an excerpt, for the character 'Carlos', the studied and practiced law was not valid, since the laws were against his will to have his beloved for himself, whom the 'damn' law placed in the condition of captive. Such thoughts were present in the academy, since the legal and political culture was an important part of national life. The elements identified in the work are interconnected to the contents acquired in their training and the thoughts that ran through the classrooms and arcades, infiltrated in 'Rosaura, the foundling', among these the content of the subject of civil law that was taught. Adorno identified that in the legal teaching of the subject in civil law, the classes were limited to "[...] commenting on the laws" (Adorno, 1988, p. 101).

Mesquita (2015), in his studies on the São Paulo Law Academy, when analyzing the theses defended by the alumni, warns that "[...] legal education was linked to the imperial power, as it is up to this to regulate the curriculum, as well as the choice of textbooks to be used by students" (Mesquita, 2015, p. 87). Thus, the laws studied by academics were also part of a Brazilian legal culture that, in turn, was in the process of consolidation.

The composition of the legal culture also generated a certain dissatisfaction, which can be understood from 'Carlos', when he questioned the laws, the books studied and the codes, condemning them "[...] as pure derision to the rights of humanity, that society weighs in a corrupt scale." (Guimarães, n.d., v. 2, p. 131). The student makes reference to the legal sciences and their compositions that dealt with civil law, considering abandoning studies at the Academy, stating that: "In November I will go, for the last time, to my correspondent's house to leave" (Guimarães, nd, v. 2, p. 130). 'Carlos' makes us think about the students' dissatisfaction with the formatting of the Academy, that is, the academic structure that was linked to the laws, since:

It is common to find in the readings of the memoirs students dislike the methodology used by the lenses when teaching. However, we noticed that the lessons were done through memorization and also through speaking. Therefore, these virtues were essential for anyone wishing to pursue a legal career or even a political career. The quizzes were constant in the classes and helped in the teaching-learning process of this law student. The quizzes were done in different ways: between students or from the lens to the student (Santos, 2015, p. 62–63).

Through the analysis of the memories, we also found traces of the knowledge acquired by the students, from the reports on the rhetorical exercises, the quizzes, which were part of the activities, in which the students would have to simulate the actions, using the contents of the Brazilian legislation. In the work 'Rosaura, the foundling', we have identified academics referring to 'scholastic life' in a discontented way, also exemplified in the voice of the character 'Moraes', when he said: "[...] goodbye Academia, boring and powdery law books!" (Guimarães, n.d., v. 2, p. 55). Still on the particularities of the academic training of students, Mesquita (2015, p. 95) highlights:

The knowledge of Brazilian jurists in the nineteenth century can also be understood by the knowledge of rhetoric that culminated in obtaining a doctoral degree. Pedagogical control, understood as an evaluation of the arguments mobilized by the defense, in the construction of theses and dissertations, revealed that one could not go against the codification of laws and the conduct of legal doctrines.

We assume that this condition, within academic training, was one of the factors that influenced 'Carlos' questions about the laws that supported his studies, and, finally, the idea of giving up legal education, since in college students they would have to learn the knowledge imposed by the academy, and they needed to appropriate the contents, in order, at the end of the course, to defend a thesis and receive a doctoral degree. To do so, it was necessary to have rhetorical training and a theoretical basis for the laws. Thus, "[...] the theses defense sections were constituted as an exercise in rhetoric and in the construction of legal knowledge, as the bachelor should defend his position on the topic previously chosen by the congregation" (Santos, 2015, p. 60). We identified, in the memoirs, traces of the organization of the Brazilian legal culture and the curricular structure of the academies, in addition to reports on the training received by academics. We believe that, in Brazil, discussing the teaching of legal sciences is talking about the history of legal culture.

About the creation of the legal courses in which these students were enrolled, Mota (2006, p. 135) highlights that "[...] the crucial issue at that time was to form elites to keep the new State functioning, and not exactly to articulate and mobilize civil society". The objective of the training was not linked to the sense of mediating these kinds of conflicts. We believe that 'Carlos' questions were associated with this idea, a society governed by the State and its laws, however, this young man's wishes were impeded by the legal formatting of the laws he studied at the Academy of Law. Mota (2006, p. 143) follows affirming "[...] the creation of legal courses is intertwined with the formation of the national state". It is important to understand how these social conflicts presented themselves in the face of the nation's development ideas.

Amidst the passions that surrounded the universe of romance, and involve 'Rosaura', Bernardo Guimarães narrated the story of the impossible love lived by his parents, 'Adelaide' and 'Conrado', both from different families. The young men experienced the dramas of a passion, in the social scenario of a country still stuck to patriarchy and the impositions of the ruling classes. In the course of family and love intrigues, the author described social relations in the Empire. In this plot, involving the two lovers, the novelist left evidence of the mobilization of legal culture discourses in his narrative. Let's see the conversation between the 'Major' and 'Conrado':

- Pardon, Mr Major; you will have to listen to me for a few moments yet, he said firmly. Conrado, placing himself in front of the Major, who was getting up as if he wanted to leave. Since he knows that there is law and justice in the country, he should also not ignore that his daughter is already seventeen and what the code says about it.
- Oh! - Said the Major, stepping back and crossing his arms. He didn't know he was so far ahead of age and what the law says! And that's what gives you such audacity! He is mistaken!... First of all, I don't want my daughter to be still seventeen; and then let her have it; do you want to take it out for justice?
- No doubt, as I have no other recourse and I am within my rights (Guimarães, n.d., v. 1, p. 125).

More than once, in the work, the author dealt with legal compositions, when elaborating the speech of the characters, who refer to law, in the discussion of imperial laws. The 'in love', 'Conrado', induced by feeling, questions what the law says about the age of his beloved and crimes against the security of her honor, referring to the provisions of the 'Criminal Code of the Empire of Brazil', in the Art. 224, which ensures that it is a crime "[...] to seduce an honest woman, under the age of seventeen, and have carnal copulation with her" (Brazil, 1830, s/p.).

According to article 219, it was considered a transgression to "[...] deflower a virgin woman, under the age of seventeen [...]", with the imposition of a penalty on the individual who committed such an act (Brazil, 1830, s/p.). It was, therefore, supported by the law that the 'lovely young man' declared that his 'beloved' had already completed 17 years of age, appropriating justice to face his father, in the scene described by the narrator:

- Well then! said the major, taking two long steps to one side and holding two pistols, which were on the table. Startled by this movement, Conrado reached up to his breast and gripped the handle of a knife, which he had attached to the armhole of his waistcoat.
- Well then! continued the Major, his voice trembling and sinister. - go; bring your agents of justice to take the daughter from me, instead of her, they will take me safe if they want to take the corpse (Guimarães, n.d., v. 1, p. 125).

The way in which the author narrated the characters' dramas was also a strategy to deal with issues that ran through the imperial tradition. Family and love disputes carry a social meaning, presented in the work as factors of disorder in nineteenth-century society. The expressions of law appear as social and legal configurations, used by the author not only as a mere illustration, there was certainly an intention to disseminate the contents of the laws in Brazil.

In the plot, around the character 'Rosaura', the author mobilized repertoires of the legal culture that constituted the intellectual means of the São Paulo Law Academy, in the 1800s. When dealing with civil law and slavery, the poet certainly did not taste the silence, as, through the pages of the novel, he took us on a walk through the arcades and classrooms, describing this place of education as a space for the formation of legal thought, political and social. Listening to the literati, based on their writing, made it possible to understand the social context of slavery Brazil and the country's legal compositions.

Bernardo Guimarães, when working on his literature with slave characters, not only narrated life stories, but sought to leave a testimony of his thinking about the fate of the slave population. In this way, we understand the work as a stage for a legal discourse, considering the moment when intellectuals from different areas sought to formulate concepts that built a Brazilian social imaginary.

Final considerations

In the airs of pauliceia, of the Brazilian Empire, Rosaura, the foundling', the repertoire of Bernardo Guimarães, emerged. In the yellowed pages of the novel, the author brings traces of his educational experience that resist the action of time and configure the testimony of his formation, memories eternalized on papers that also imprint the author's vision.

The novelist knew how to use the printed material to perpetuate his ideas. He used the artifice of the free-born slave to deal with slavery and civil law. Bernardo Guimarães showed how the character 'Rosaura', victim of the slave system, could be restored to the place of free, from the ailments of slavery she had suffered since birth, from the social and racial disparities of that institution. Thus, through the work, the author demonstrated how, within the

norms of the right to property, the process of releasing a captive could occur. In addition, he also highlighted the role of mediator of the Church, in the relationship between State and society.

In this way, passing through the academic life of Bernardo Guimarães, we built a narrative that tells how 'Rosaura, the foundling' gives us particularities that are interpreted through the characters and allowed us to understand and develop this article. In this sense, fiction provided us with the possibilities of accessing a place and a time, experienced by the author when we find, in the work, dialogues between 'Carlos' and 'Frederico', both students at the São Paulo Law Academy, who make reference to 19th century civil legislation, when discussing the regulatory principle: 'the offspring follows the mother's condition'. Such indications refer to the configurations of the organization of Brazilian legal culture and academic training.

We conclude that Bernardo Guimarães imbued his position on slavery and Civil Law when he chose to tell a plot about the enigmas of a couple in love, with different life stories, who faced difficulties in making a marriage a reality. The research on slavery, using the literature, helped us to understand the conceptions coined in that period about the country.

Thus, within a general analysis of the narrative, the expressions of law appear as social and legal elements, used not just as a mere elucidation. Certainly, there was selectivity and intention to announce the contents of the laws in Brazil. The work is a social and legal discourse, in the period when intellectuals from different areas sought to order perceptions that built a Brazilian social imaginary. The author mobilized repertoires of legal culture through the São Paulo Faculty of Law. Thus, slavery Brazil and the country's legal compositions were interpreted in 'Rosaura, the foundling'.

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NOTE:

The authors were responsible for designing, analyzing and interpreting the data; writing and critically reviewing the content of the manuscript and also approving the final version to be published.