

Scientific  
Journal of  
**Applied  
Social and  
Clinical  
Science**

**THE 1988 CONSTITUTION AND THE CONFLICT NOTEBOOKS IN THE FIELD OF THE CPT: A DEBATE ON THE CONSTITUTIONALIZATION OF THE LAND REFORM IN BRAZIL<sup>1</sup>**

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<sup>1</sup> Article presented in the second half of 2022, during the III International Congress of Agrarian Law of the Graduate Program in Agrarian Law at ``Universidade Federal de Goiás``.

During the first half of July, after the recess, and with the calendar already assembled, 1,884 amendments were presented to the text produced by the Rapporteur.<sup>2</sup>

**Abstract:** The research aims to explore the constitutionalization process of the Agrarian Reform. The entry of Agrarian Reform into the constitutional text was marked by an intense dispute, involving parliamentary debate and violence against social movements that resumed the organization of struggles in the countryside after the period of the Military Dictatorship. Social struggles were fought in the process of formulating and executing the First National Plan for Agrarian Reform (I PNRA), which in many respects advanced the positions that were consolidated in the constitutional text. In this research we go through the entire dispute around the constitutional text, both in the parliamentary arena and in the social environment, and the ``Caderno de Conflitos`` will be our point of reference, by recording the violence in the period, as well as for echoing the conceptions of Agrarian Reform that were being elaborated by the social movements. It is also interesting in our elaboration to understand how the Pastoral Land Commission, through ``Caderno de Conflitos``, founded the right of peasants to land, as well as witnessed the conflicts of the period from a pastoral point of view. The research will concentrate the analyzes between 1985 and 1988. It will have as source the bibliography on the subject, Newspapers, the ``Caderno de Conflitos`` and documents produced by the social movements. The methodology is based on references produced by Legal Pluralism and historical-dialectical materialism, based on the reading of works by José Gomes da Silva. through the ``Caderno de Conflitos``, he founded the right of peasants to land, as well

2 SILVA, José Gomes da. Black Hole: agrarian reform in the constituent. Rio de Janeiro: Paz e Terra, 1989, p. 196. Situation referring to the 1987/88 constituent.

as witnessed the conflicts of the period from a pastoral point of view. The research will concentrate the analyzes between 1985 and 1988. It will have as source the bibliography on the subject, Newspapers, the ``Caderno de conflitos`` and documents produced by the social movements. The methodology is based on references produced by Legal Pluralism and historical-dialectical materialism, based on the reading of works by José Gomes da Silva. through the ``Caderno de Conflitos``, he founded the right of peasants to land, as well as witnessed the conflicts of the period from a pastoral point of view. The research will concentrate the analyzes between 1985 and 1988. It will have as source the bibliography on the subject, Newspapers, the ``Caderno de conflitos`` and documents produced by the social movements. The methodology is based on references produced by Legal Pluralism and historical-dialectical materialism, based on the reading of works by José Gomes da Silva.

**Keywords:** Right. Agrarian. Constituent. CPT.

## INTRODUCTION

The notebooks of the Pastoral Land Commission (CPT), based on the reports, point to the number of conflicts that exist annually and previously. In Brazil, every year, cases of violence are registered. The origin of the disputes are conflicts organized into different categories, those that guide are those for land and water in the historical series of published bulletins, the years 1985 to 1988 were a period marked by expressive numbers of deaths, a moment that was in line with the Plan National Agrarian Reform and constituent.

This way, the research will analyze the ``Cadernos de Conflitos no Campo``, a time frame between the years 1985 to 1988. The work "Black Hole: agrarian reform in the

1987/88 constituent” by José Gomes da Silva (1989), will be the starting point to identify the main debates that were part of the Constituent, later consolidated to the Constitution of 1988.

Among the books and other studies that deal with the context for the production of the Magna Carta, the work of Silva (1989) is one of the main references, due to the wealth of data and for being able to capture the debates/clashes of the moment, relevance also to the context of the production of the book, with the date of 1989, still in the following moment, after the constituent. Understand part of the process of constitutionalization of agrarian reform, considering the narrative of CPT’s Notebooks of Conflicts in the Field, as a source for research.

The work of José Gomes portrayed part of the discussions, such as the preliminary project of the Afonso Arino commission, the preliminary skirmishes, agricultural policy, land and agrarian reform, also passing through the economic order, the extraordinary sessions, the project of the systematization commission, the agreement, the action of the centration, the experiences of popular amendments, the plenary session and the final results that marked the reflection on agrarian reform in the national context.

Marked by demands and struggles against the domination of capital, in the conjuncture of the redemocratization of Brazil, with pretensions that the new Constitution contemplates the desires, which implies recognizing that José Gomes da Silva emphasized the different proposals that were part of the debates and clashes, whose central nuance is related to the agrarian question, which would be introduced in the constitutional text.

Later conjuncture, the effectiveness of Decree n° 91.766 of October 10, 1985, produced by the extinct Ministry of Agrarian Reform and Development (MIRAD), where

goals and objectives were created to be carried out between the years 1985 to 1989, intending a more effective performance of the National Institute of Colonization and Agrarian Reform (INCRA), in view of the democratization of access to land ownership.

The body of the article is organized in three moments, intending to better organize the notes about the constituent period, the analysis of the conjuncture outlined in the notebooks, without intending to exhaust the field of analysis and the complexities that were part of the period., also saying about the current context.

At first, the considerations will be directed to “The agrarian question in the constitutions: clashes and debates”, with a brief passage through the matter in the conjuncture of the first Constitution of Brazil in 1824, after the period of political independence of Portugal in 1822, extended to the other constitutions, passing through the seven Letters that marked, including the one of 1967, during one of the moments of greater authoritarianism of the Military Regime, if expanded to the Constitution in force.

Before listing points that José Gomes da Silva explores in his work, in the respective topic, he intends to carry out a passage through previous constitutions, in relation to the agrarian perspective, with the objective of apprehending how the theme was incorporated, aiming at the perception of what happened posteriorly. In the following sections, the focus will be directed to CFRB/88, including the commissions and projects that were part of the agrarian question and the agents that were part of the process.

The second moment “the agrarian perspective in the constituent: scores of the work ‘Black Hole’”, the notes will be directed to the work of José Gomes da Silva (1989). The author’s production is rich in information, among them the task of emphasizing some

landmarks that commanded the constituent, such as the economic order, potential social function, (pre)projects of the commissions and agrarian reform.

In the following moment, in the final considerations, it will lead to a reflection on the importance of the work of José Gomes da Silva to analyze the agrarian debate between 1987 and 88, historical factors that were part of the notebook, disillusionment with the New Republic, capable of promoting structural changes, since it is one of the references, when the purpose is to study the debate process of commissions and projects that made agricultural and land policy and agrarian reform possible.

## **THE AGRARIAN QUESTION IN THE CONSTITUTIONS: CLASHES AND DEBATES**

The perspectives of the Constitution of the Federative Republic of Brazil of 1988 (CRFB/88), were not the same as those of other previous constitutions, reflecting on the agrarian question is to consider the absences and developments of the theme in the body of the constitutional text, in the critical aspect, not it was always that its devices encompassed all the problems of a given temporal and spatial conjuncture.

In a complementary sense, the study of the Constitution can be associated with what Peter Häberle (2002) considered:

Here we have a derivation of the thesis according to which everyone is inserted in the process of constitutional interpretation, even those who are not directly affected by it. The broader the constitutional interpretation, from an objective and methodological point of view, the wider the circle of those who must participate in it. (HÄBERLE, 2002, p. 32)

In the scores on constitutional hermeneutics, the Professor of Philosophy of Law at the University of Augsburg-RFA

in Germany, argues that constitutional interpretation is something open, calling it “pluralist interpretation”. In the study, he did not discuss the methods or forms of interpretation of the constitution – as it is another aspect that is disconnected from a different theme from the initial proposal – as he highlights in relation to the “theoretical, scientific and democratic” conception (HÄBERLE, 2002, p. 12), for criticizing the closed way in which this occurs.

One aspect that I consider indispensable is the opening of the interpretative field, expanding to the social, making it possible to be associated with the study, due to the proposal to reflect some provisions of the Constitution. Possible line of reasoning, to be redirected to infraconstitutional laws. At the beginning of the imperial government, Law Number: 601, of September 18, 1850, entered into elements related to vacant lands, an aspect that currently belongs fundamentally to the agrarian debate.

In the Political Constitution of the Empire of Brazil of 1824, the expression agrarian was not used. In addition to the differentiated temporal aspect of the CRFB/1988, when compared, they must be considered, to avoid errors of anachronisms. The period of formation of the Nation States, went through a process of construction.

What did not incur in the disregard of the relationship between man and the land, in the womb of what was the first Constitution of Brazil, a nation that was built with a rural base, among complex relationships in a triad that involved years of slavery, in article 179, item

XXII. The Property Right is guaranteed in all its fullness. If the legally verified public good requires the use and use of the Citizen's Property, he will be previously compensated for its value. The Law will define the cases in which this sole exception will apply, and will provide the rules for determining

compensation (sic).<sup>3</sup>(BRASIL, 1824)

Although the first Constitution did not include questions specific to Agrarian Law, it provides for the right to property, the organization of land on national soil, which reverberated in the Land Law or Law Number: 601 of September 18, 1850:

Article 15. Owners of land for culture and creation, whatever the title of their acquisition, will have preference in the purchase of vacant lands that are contiguous to them, as long as they show, by the state of their cultivation or creation, that they have the necessary means to take advantage of it. -to the.

The Land Law was a milestone, considered a form of internal organization, providing for vacant lands. “With the end of the sesmarias, in 1822, there was no longer a law regulating the acquisition of land, in such a way that the legal system in force at the time did not provide for the transfer of vacant public lands to private individuals. This situation lasted until 1850, with the Imperial Land Law, Law 601, of 1850” (FILHO, 2021, p. 78).

The first Constitution that inaugurated the republican government in 1891, marked the detachment from the previous political and legal structure. The notion of property persisted, encompassing another guise, without necessarily ceasing to exist at expense with the interference of the state structure. In article 72, “§ 17. The right to property is maintained in all its fullness, except for expropriation due to necessity or public utility, subject to prior compensation” (BRASIL, 1891).

Conformity with Filho (2021), some nuances differentiated the constitutions of 1824 to that of 1891:

When the 1891 Constitution transferred vacant lands to the States, it handed over distribution power precisely to the landed

elites, who were interested in maintaining the status quo. That is, when the concession of vacant lands passed to the States, created in 1891, the local oligarchies assumed the uncontrolled right of distribution of vacant lands, even being able to change the rules contained in Law 601/1850, because they started to have legislative competence, reproducing and expanding the unfair system of the land property, with the consequences that we still see of violence in the countryside and misery in the city. (FILHO, 2021, p. 91)

Changes, according to the author, resulting from the openness to the elites, a permissive way of the State that advanced in the consolidation of inequalities. As one of the characteristics: “the property described in the Constitution of 1824 is private and individual, public property is an exception” (FILHO, 2021, p. 52).

The Republic of Brazil was marked by the creation/reformulation of several constitutions, mainly in the mid-twentieth century, that of 1891 gave way to the Constitution of 1934, a departure from the policy known as “coffee with milk”, centered on the oligarchies of Minas Gerais and São Paulo. Paulo, as managers of the political and economic plan for the national scope.

In the Constitution of the Republic of the United States of Brazil of July 16, 1934, article 121,

§ 4 - Agricultural work will be subject to special regulation, in which the provisions of this article will be complied with as much as possible. An attempt will be made to settle men in the countryside, take care of their rural education, and ensure that national workers have preference in the colonization and use of public lands.

(...)

Art 129 - The ownership of forestry lands found therein shall be respected.

3 Quotations of some excerpts from the constitutions are reproductions from the site of [planalto.gov.br](http://planalto.gov.br), maintaining the writing of the Portuguese language of the period.

permanently located, being prohibited, however, to alienate them.

The provisions of the Constitution, as Peter Häberle (2002) needs to be interpreted, the perspectives listed therein do not derive from full applicability or only from the creation of infraconstitutional laws, to better deal with a certain aspect.

Sense that was referred in Brazil, the 1934 Constitution approved the possibility of intervention in the economic order, but it failed to absorb a new concept of private property because the constitutional norm only granted the possibility for the law to change the content of property, subjecting it to the common and social interest. The Constitution, therefore, lacked self-applicability and was dependent on a law that did not come. Not even the environmental protection laws of the time were able to intervene in private property, despite constitutional authorization. (FILHO, 2021, p. 133)

Before the construction of questions about the Vargas Era, the article by Gilberto Bercovici (2020) made it possible to challenge the defense that the Getúlio Vargas government was absent from legislation in favor of agrarian and land policy.

Mentioning the 1937 Constitution, Bercovici (2020, p. 187) emphasizes that “the Estado Novo maintained the new concept of property, in accordance with article 122, 14 of the 1937 Charter: ‘The Constitution ensures Brazilians and foreigners residing in the country the right to freedom, individual security and property, in the following terms(sic.)’”, then reproduces: “14) The right to property, except for expropriation for public necessity or utility, subject to prior compensation. Its content and limits will be those defined in the laws that regulate its exercise (sic.)”.

There were no grotesque disparities in the text of the Magna Carta, between the

1934 and 1937 Constitutions, regarding the matter of property rights. While in the 1946 Constitution, article 5, item “a”, agrarian law was included as a matter of competence of the Union, already in article 141, “§16. The right to property is guaranteed, except in the case of expropriation for public necessity or utility, or for social interest, upon prior and fair compensation in cash”.

Although there are other legislation mechanisms related to the agrarian issue, such as those mentioned by Wellington Pacheco Barros in volume 2 of the book “Curso de Direito Agrário”, on Complementary Law Number: 93, of February 4, 1998, related to the Land and Agrarian Reform Fund; Law Number: 9,393, of December 19, 1996, on the tax on Rural Territorial Property and Law Number: 8,171, of January 17, 1991, among others, considered issues specific to rural areas.

The perspective, which at the time is broader, directs to the field of provisions of the Constitution, which in the 1967 Charter marked by contrasts, reverberating in a government structure that was not derived from the majority popular choice. Context in which the competence of the Union was maintained, in agrarian matters, also in CRFB/88.

Institutional acts marked the military regime, such as AI number 09, of April 25, 1969, amending paragraph 1 of article 157. The greatest impact stems from the creation of the Land Statute or Law Number: 4504, of November 30 of 1964, in effect, which presented a preliminary concept of agrarian reform, in Article 1, “§ 1 Agrarian Reform is considered to be the set of measures aimed at promoting better distribution of land, through changes in the regime of ownership and use, in order to meet the principles of social justice and increase productivity”.

The text despite having particularities, with

the Land Law, advanced in some senses, as

in Brazil, the Land Statute, of 1964, followed the tradition of previous systems of allowing a reformist discourse to the government, but preventing, in fact, a break with the landowner tradition of territorial occupation. It is true that it modernized terms, humanized contracts, made old semi-feudal and slavery practices illegal, but in essence it kept intact the ideology of the supremacy of private property over any social benefit. (FILHO, 2021, p. 176)

The paths embraced by the constitutions in the agrarian theme, were not the reflection of the proposal for the transformations, the problems of the violence in the field, the necessity of a more particularized look, on the daily of those that live in the rural space, did not obtain completely the desired attention, in certain perspectives, the necessary and deserved care.

The period of the 1987/88 constituent was marked by disengagement, with the previous route, the constituent consolidated new clashes and debates. Chapter III of the agricultural and land policy and agrarian reform, in articles 184 to 191 of the current text, is a consequence of the confrontations.

The CRFB/88 innovated by allocating a specific moment in its essence, dealing with the agrarian question,

that's why it was called citizen, green, environmental, plurisocial, indian, democratic and how many praiseworthy adjectives can have a diploma that was written to manage the destinies of the people. And she is all of that. And perhaps that is the exact reason for the great effort of the oligarchies in the sense of modifying it, altering it, in order to pale its green yellowness, its civic force, its emancipatory character. (FILHO, 2021, p. 187)

The path taken was a preview, understanding the points that were covered, to reach the 1988 Constitution. The agrarian theme is perceptible and the notions of

property remain, as one of the most latent issues to reflect on Brazil.

The 1985 CPT notebook classified the path towards the new Constitution as a stage for confrontations, disputes that existed since the “discovery of Brazil”, based on the persecution of the strong against the weak. Carrying out Agrarian Reform would be a significant step towards breaking with factors that reverberated in History.

The Agrarian Reform Plan would have a national scope and regionalized perspectives, the 1985 notebook explained the process of formulating the PNRA, marked by the extension of the deadline, pressure from landowners, the final wording was presided over by 10 texts, regional plans followed different paths:

In his ministry, the MIRAD, replacing the MEAF, began the preparation of the agrarian reform plan of the ‘new republic’. Sarney presented to Brazilian society, for analysis and suggestion, the ‘proposal for a national plan for agrarian reform’ on the occasion of the IV Congress of Rural Workers, at the end of May. According to MIRAD/INCRA, the deadline for presenting a series of suggestions is 30 days. As of July, the “plan” would be detailed in “regional plans”, starting in August. Faced with pressure from the owners, the deadline for suggestions was extended to August. The final wording, after too much of October 10th. (CPT, 1985, p. 13)

The lack of homogeneity between ideas drove the divergences, the New Republic in 1985, after the Military Regime, from the perspective of the intended agrarian reform, had not been implemented: “In a nutshell: The government has not yet started the implementation of agrarian reform. The new republic has already celebrated its 1st year of life and the promise remains a promise” (CPT, 1985, p. 13). Due to the Landless Movement, the PNRA did not reflect its purposes, because it understood that the interests of

the landowners prevailed, allied with the politicians who were in the government, counting on the reactions of the judiciary, in the same year the Rural Democratic Union (UDR) was created. national level, strengthening of the latifundia.

What was visualized were false interests, appearances that camouflaged the deceptions created: “We know that appearances are deceiving, but they are the doors, windows, starting points to understand what is happening. The explanation, the generating source of events, may be hidden under appearances, but it is by following their signs that we arrive at what is not seen” (CPT, 1985, p. 13), lack of dialogue demonstrated the lack of interest.

Notebook of 1985 in the historical series, stood out among all the other years, due to the screaming number of deaths, coming from the conflicts in the field, totaling 216 (two hundred one hundred and sixteen) cases, against 768 conflicts. In the year 2020, 14 (fourteen) death records were reported, among 2,054 (two thousand and fifty-four) conflicts, the high rate of conflicts does not necessarily mean an increase in death numbers.

In the 1986 notebook, the masks of democracy, dynamism from the real Brazil to the legal one. In 1987, pre-existing conflicts resurrected and reinforced, debates on agricultural policy and land reform were topics discussed in the constituent, as well as the protection of indigenous people: “Despite the denunciations and the positions taken, the repression and massacre against peasants and Indians continue, who in the era of the Constituent Assembly are still not considered ‘Brazilian citizens’” (CPT, 1986, p. 11), absence of protection in massacres, registering collective deaths.

## THE AGRARIAN PERSPECTIVE IN THE CONSTITUENT: SCORES OF THE WORK “BLACK HOLE”

The previous topic was intended for the presentation of the constitutions, in relation to Agrarian Reform, involving questions of property rights and themes of agrarian law. In this subdivision, the objective is to emphasize some elements that are in the book “Black Hole: agrarian reform in the constituent”, in the (pre)projects and commissions, positions and resolutions referring to the issue of agrarian reform.

The author José Gomes da Silva was an agronomist, trained at the Luís de Queiroz School of Agriculture at `Universidade de São Paulo` (USP), a professional career that extended to agrarian activities. Compliance with the FGV CPDOC entry<sup>4</sup>:

It was responsible for the Brazilian Institute of Agrarian Reform (IBRA), from its creation, in November, until the appointment of the first president, in April 1965. its main objective was to promote the elaboration and coordinate the execution of the National Plan for Agrarian Reform. In 1970, the body would be transformed into the National Institute of Colonization and Agrarian Reform (INCRA).

In 1967, he was one of the creators of the Brazilian Association of Agrarian Reform (ABRA), of which he would be director-president from 1970 and one of the most important figures. ABRA was founded on September 20th as a civil, non-profit entity, with the aim of promoting the idea (sic.) of agrarian reform embodied in the Land Statute. Professionals linked to agriculture (lawyers, agronomists, economists, etc.) and leaders of unions and higher-level entities of rural workers participated in it.

The highlighted work is one of the main references to analyze the formation of the 1987/88 constituent. The book began the end

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4 **Entry.** Biography of José Gomes da Silva. Available at: <<http://www.fgv.br/cpdoc/acervo/dicionarios/verbetes-biografico/silva-jose-gomes-da>>. Accessed on: 12 Dec. from 2021.



of the military cycle and the convening of the National Constituent Assembly (ANC):

If that was the Brazilian constitutional framework in terms of the agrarian question, during the year 1985, no less lacking in reformulation was the Magna Carta in force. It is enough to say that the CF of January 24, 1967, with the wording given by EC n.º1 of October 17, 1969 and the alterations made by ECs nos. 2/27 to 27/85, was not voted by the constituencies that usually represent the people, but simply edited by a military junta made up of three general officers from the three branches of the Armed Forces. (SILVA, 1989, p. 27)

The fragmentation of the dictatorial regime already demonstrated to be dissolving before the beginning of the constituent, a condition marked by the absence of the participation of the people. When the opening took place, the environment to prescribe the clash of ideological profile, according to Silva (1989, p. 30), mixed between left and center-left, center, right and center-right, the trends indicated that the debates and challenging, to propose a project that could be easily approved.

In the chapter on the draft of the Afonso Arinos commission, the different positions such as that of the National Confederation of Agricultural Workers (CONTAG), of the Rural Workers Union Movement and the pretensions of the Catholic Church, which, in short, had proposals and ideas, whose main are organized in the table:

PROPOSALS AND IDEAS DEFENDED IN THE CONSTITUENT		
COUNT	WORKERS' UNION MOVEMENT	CATHOLIC CHURCH
<ul style="list-style-type: none"> <li>* Land reform;</li> <li>* Creation of the National Land Reform Fund;</li> <li>* Expropriation for agrarian reform;</li> <li>* Adoption of the Institutes of summary loss of land;</li> <li>* Adoption of the Maximum Area Institute;</li> <li>* Vacant and public lands intended primarily for the National Plan for Agrarian Reform;</li> <li>* Social function of property.</li> </ul>	<ul style="list-style-type: none"> <li>* Political freedoms;</li> <li>* Eliminate existing inequalities;</li> <li>* Differentiation between expropriation for social interest and public utility;</li> <li>* Limit on the maximum area of the rural property;</li> <li>* Obligation with the fulfillment of the social function of the property.</li> </ul>	<ul style="list-style-type: none"> <li>* Condemnation of the concentration of land ownership;</li> <li>* Right to common use;</li> <li>* Private property a right of all citizens;</li> <li>* Private property law is for everyone;</li> <li>* Expropriation for purposes of social interest and public utility;</li> <li>* Defense of social justice;</li> <li>* Land guarantee for workers;</li> <li>* Politics and agrarian justice.</li> </ul>

In counterpoint were the proposals of the Commercial Association of São Paulo, the Democratic Ruralist Union (UDR) and the Federation of Industries of the State of São Paulo, once again demanding that the State act in the face of what would constitute the text of the Constitution, the economic and political order agricultural. In the environment of the drafts, there was the Provisional Commission for Constitutional Studies (CPEC).

In chapter three, the organization of commissions and subcommittees in the distribution of positions, mixed with party and political interests that aimed to gain prominent positions, such as deputy Benedicto Monteiro (PMDB/PA), Fernando Henrique Cardoso (PMDB/SP) and deputy Bernardo Cabral

(PMDB/AM), were not the only ones, along with Senator José Lins (PFL/CE) and others, who, among other personalities, represented the conservative expectation.

With the date in May 1987, the predominance of ideological issues persisted, the formation of alignments and the construction of the internal regiment of the ANC, shaped between disputes that reverberated in the committees and subcommittees. The quest to have the pretensions represented opened the way for clashes.

In terms of representation, entities positioned themselves as representatives of popular movements, such as the National Campaign for Agrarian Reform (CNRA), which brought together the Brazilian Association for Agrarian Reform (ABRA), the National Confederation of Agricultural Workers (CONTAG) and the Pastoral Land Commission (CPT), last created in 1975, linked to the National Conference of Bishops of Brazil (CNBB).

The formation of commissions was based on the concern of who could compose them. Something not disassociated from anxieties, they involved employers and the government, represented through the proposals of the extinct Ministry of Agrarian Reform and Agrarian Development (MIRAD).

The problems pointed out in the field, they were part of the subcommittees, as was stated in the Pitanga Project (SILVA, 1989, p. 65), plus the case of Araguaína in Goiás and the murders, were indicative, for today's subjects, how the constituent period was complete. Violence recorded in the tables of the Pastoral Land Commission, the years 1987/88, accumulated 256 (two hundred and fifty-six) deaths in conflicts, through the conflict notebooks in the field.

To assess the prevailing climate, it is enough

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5 Acronym meaning: National Council for Agrarian Reform.

to say that, when opening the meeting, its president, Senator Edison Lobão (PFL/MA), already warned the galleries, invoking Article 40 of the Internal Regulations, which allows anyone to attend sessions from the galleries, provided they are unarmed and remain silent. (SILVA, 1989, p. 76)

The climate of tension on the constituent, during the debates, connected with the agrarian perspective, was a mirror of an important part of the national panorama, outlining the conflicts, deaths and rivalries.

The positions were the strands of ideological trends, “the violence and misdemeanors that predominated in the work of the subcommittee and the appeals that were lodged in it would already be enough to guarantee the necessary suspense for the activities of the Economic Order Commission” (SILVA, 1989, p. 91), predominantly composed of conservatives, the domain in which the contestations were located, about the scope of the device that would deal with the social function.

In practice, this means that any landowner, when deciding to present himself as a promising farmer, would no longer need to resort to the traditional “special way” or even make-up, a practice invented by the dispossessed in the 1980s and which consisted of moving cattle to their large estates for Exploitation or hurriedly throw some grass seed from the top of an airplane and intend to impose a totally unused area as a Rural Company. (SILVA, 1989, p. 101)

According to the author, the “potential social function”, constituted an instrument for agrarian reform, even if this demanded deeper reflections.

In chapter six of the work, the position of some parties, including the Workers' Party (PT), even declaring “their support for the 17-point Proposal presented by the CNRA<sup>5</sup>(...) and located in the 303 votes of the PMDB and in its leaders the responsibility of changing the text and allowing the new CF to lead to

an RA". (SILVA, 1989, p. 109). The Brazilian Democratic Movement Party (PMDB) was in favor of taking office immediately, defining an agricultural policy, defending the expropriated in a summary manner and other points (SILVA, 1989, p. 110).

In addition to the parties mentioned, the Liberal Front Party, the parties considered minor, the Brazilian Labor Party, the Communist Party of Brazil, the Christian Democratic Party, the Labor Democratic Party, the Brazilian Communist Party and others, were actively inserted.

The commission for meetings and systematization, formed blocks, the debates presided over the votes, in the context that mixed attempts at agreements with tactics, giving rise to the different blocks, among which some from the right, the progressives and the left. Decree-Law Number: 2,363 of October 21, 1987 was criticized, as emphasized by Silva (1989, p. 141), for being an "agrarian reform in reverse".

Author's records that captured the complexities of the moments, with clashes of different nature, in the set that also sought to make alliances. Another point raised was the experiences of popular amendments, which were born:

of an effort by the Pro-Popular Participation Plenary in the Constituent Assembly, a movement formed by volunteers, civil, religious, unions, etc. (...), The intense movement for the preparation of a Popular Amendment on AR, uniting the various interested entities around the same position, began to be prepared in February 1987. It unfolded in several meetings in Brasília, São Paulo and Rio de Janeiro, as previously detailed. This work resulted in the articulation of 17 items that make up the CNRA Proposal. (SILVA, 1989, p. 163-164)

The entire course resulted in the approval in plenary of some propositions debated during the commissions, resounding in the

unseizability of the small rural property, considered at the time an innovation.

In the final moment of the work, Silva (1989, p. 176) explained the origin of the expression "black hole": "the impasse that came to be popularly known as 'black hole' refers to the lack of approval of a Chapter due to insufficient of votes (...), this situation only occurred in the vote on Chapter III of Title VII, which deals with Agricultural, Land and Agrarian Reform Policy", arguing that the 1988 Constitution advanced in some points, but regressed in others.

The researcher criticized and mentioned that this was the repercussion of conservative action. In the final notes of the work, he resumes the content of chapter III of the current CRFB/88, for the consideration that its unfolding reverberated in countless articles of law. Which does not dispense with other notes, due to the wealth of information that the work contains, in the context of the effervescence of the recent Constitution of 1988.

According to Otoni (2017, p. 50) the author speaks of "valorization of capital, which José Gomes da Silva (1989) in his work called Black Hole, where he evaluates the theme of agrarian reform in the 1987/1988 constituent". Among the groups that claimed improvements, facing economic issues, the power of capital and the interests placed in an overlapping way, among those that highlighted the Constitution as a way to change old and usurping relationships.

The constituent's results in relation to agrarian matters are questioned by Silva (1989), as the intentions of an economic order were superimposed, becoming powerful in the legal space. Maia and Oliveira (2017, p. 58) highlighted that the

Centrão guaranteed full power to reform the original project, and also the formation of vacuums, called "black holes", within the new Constitution when they did not succeed in approving the desired amendment (...), the

progressive attempts to raise achievements that caused twice the defeat of Centrão's substitutive project for Title VII of the Economic Order, such expedients were not able to get the Commission's original project approved, forming a "black hole" that allowed the vote on a new text by the Commission's rapporteur of Systematization, considerably similar to the substitute for Centrão, adding to it the loss of productive property due to non-observance of its social function.

The projects for the production of the new constitution were modified during the course of the commissions, the texts were being changed, based on pretensions, derived from agreements and/or alliances. Analyzing the different perspectives that were guided by Silva, the constituent was not a linear debate, but with different moments of conflicts, falling in line with the impasses that did not cease to exist in the agrarian daily life.

Setbacks and unrealized debates, commented by Silva, can be apprehended in the CPT notebooks in 1987/88, related to the position of the Church: "in this analysis we cannot fail to highlight a new and clear attitude that the Churches are taking: it is the open condemnation of the UDR" (CPT, 1987, p. 15). The debates on the constitutional texts in 1987 were already having repercussions on the international scene, reaching the institutions. The Church, faced with such significant prospects for the national panorama, positioned itself in favor of the demands of the rural workers' movements.

In the 1988 section, he considered the new text of the Constitution, on agricultural policy and agrarian reform, a loss of movements, consolidating gains for the land property, since "the main battle was fought around those who in the text would be Article 185 and sets 'productive property' as 'not subject to expropriation'. Strictly speaking, the constituents, by not defining what 'productive property' is, placed the latifundia above the

Constitution" (CPT, 1988, p. 16). The lack of legislative conceptualization of what would be considered productive property was seen as an alternative to problematize expropriation, an impediment to Agrarian Reform.

## FINAL CONSIDERATIONS

The choice for the work of José Gomes da Silva, resulted from its temporality, it was not a distant production from the period of the 1987/88 constituent, because it was produced in the constancy of contestations and clashes, even mentioning the days, months and years that led to the production of each of the twelve chapters, starting on August 7, 1984 and ending on June 30, 1988.

In accordance with the preface of the work produced by João Gilberto, the book "Black Hole: agrarian reform in the 1987/88 constituent" is the portrait of the crisis that the agrarian question went through in Brazil, before obtaining, by acidic means, a space itself in the 1988 Constitution. What was not the guarantee of agrarian and social justice for the men and women who live in rural areas, being more the portrait of the maintenance of the difficulties, as it is registered in the "Cadernos de Conflito no Campo" of the Pastoral Commission of Earth, every year they continue to identify cases of deaths and violence.

The agrarian theme is not the only relevant one in the CRFB/88, others received greater emphasis, when compared to the constitutions that preceded it, however the agrarian reform and the agricultural policy, were one of those that gathered a particular environment. A nuance that, when placed close to Silva's criticism (1989), refers to progress under conservatism, ceasing to be as ambitious as some projects aimed to make it.

The 1988 Constitution incorporated advances and, due to its absences, left openings. Prioritizing productive property,

latifundia by extension was not considered a problem, it ceased to problematize large latifundia, permissiveness for few to have a lot of land, opposed to those who cannot acquire it, with that the notebooks from 1985 to 1988 expressed the defeat and recognized the victory of capital, so the fight for justice in the countryside must continue.

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