

NEWS OF CONSTITUTIONS: LUSO-ATLANTIC POLITICS IN THE 1810s AND 1820s

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Abstract:

This article examines the spread of constitutionalist ideas in Luso-Atlantic politics in the 1810s and early 1820s. Successful pro-constitutionalist mobilization in early 1821 raises questions of how vassals of the Portuguese crown, especially residents of the new royal court of Rio de Janeiro, learned of constitutionalist projects taking shape elsewhere in the Atlantic world, most notably that of the Spanish Constitution of Cádiz written in 1812. By examining the record of efforts both to prevent the spread of news from Spain and to disseminate and interpret the constitution written there, especially by Hipólito da Costa (1774-1823) in his London-based *Correio Braziliense*, this article examines how encounters with news of the Spanish constitution transformed Luso-Brazilian understandings of constitutional government. As Costa's readers learned, the constitution written in Cádiz in 1812 was a turning point not because it offered a model to be adopted wholesale but rather because it illuminated constitutionalism as a political path forward in an era of trans-Atlantic crisis.

Keywords:

Constitutionalism; Constitution of 1812; Hipólito da Costa; *Correio Braziliense*; political assembly.

Resumo:

Este artigo examina a difusão das ideias constitucionalistas no luso-atlântico na década de 1810s e início de 1820. A bem-sucedida mobilização pró-constitucionalista no início de 1821 levanta questões sobre como vassalos da coroa portuguesa, especialmente os moradores da nova corte do Rio de Janeiro, souberam dos projetos constitucionalistas que tomavam forma em outras partes do mundo atlântico, mais notavelmente o da constituição espanhola de Cádiz, escrita em 1812. Attendendo aos esforços tanto para prevenir a divulgação de notícias da Espanha como para divulgar e interpretar a constituição ali escrita, principalmente por Hipólito da Costa (1774-1823) em o *Correio Braziliense*, este artigo examina como os encontros com notícias da constituição espanhola transformaram as ideias luso-brasileiras de governo constitucional. Como os leitores do *Correio* aprenderam, a constituição escrita em Cádiz em 1812 foi um ponto de inflexão não porque oferecia um modelo a ser adotado integralmente, mas porque iluminava o constitucionalismo como um caminho para um futuro político em uma era de crise transatlântica.

Palavras-chave:

Constitucionalismo; Constituição de 1812; Hipólito da Costa; *Correio Braziliense*; assembléia política.

In April 1821, as part of efforts to respond to surging support for constitutionalism in both Portugal and Brazil, and as Dom João VI prepared to leave Rio de Janeiro and return to Lisbon, the Portuguese royal government in Rio convened a meeting of electors. To these local elites already in the city for the purpose of selecting deputies to the Portuguese Cortes, a royal minister was to present an «exposição textual e do espírito das instruções e poderes» that Dom João had given to Dom Pedro, his son and heir, for the future government in Brazil (Ferreira 1976: 89-91). The electors, in turn, would be called upon to advise the crown on these instructions. Although certain royal counselors had urged that the meeting remain discreet, the newly-built and spacious merchants' exchange building in the city's center was chosen as the venue. And the edital that officially convoked the electors stated that residents who wished to attend could do so as long as a certain decorum was maintained, noting that if during the meeting they wished to «fazer algumas reflexões» they could submit a written note to the presiding magistrate (Monteiro 1927: 333, n.2).

Although the meeting was convened as planned, with the magistrate reading aloud the decree that contained the list of men who would form Dom Pedro's government after Dom João's departure, the magistrate's authority was quickly deposed by a group within the gathering that demanded a re-reading of the decree and, according to various accounts, soon after «gritou em altas vozes successivamente» that they wanted the Spanish Constitution, written by the Cortes of Cádiz in 1812, «enquanto não viesse a Constituição das Cortes de Lisboa». Reports of the interrogations of those arrested after the meeting was dispersed with force confirmed that many in attendance had brought copies of the Spanish constitution with them to the meeting and that its text had been consulted and cited in their debates. As one witness testified, before the April assembly an elector named José Pedro Fernandes «insitava a muntos da freguezia da Candelária antes do dia vinte hum para pedirem a Constituição Hespanhola». Others reported that at the entrance to the building where the meeting was held residents distributed papers that amounted to a «convite para se aclamar a Constituição Hespanhola e inaugurar huma Junta Provisória». Indeed, this platform triumphed, for a few hours at least, when a deputation sent to the royal palace returned and reported that the king had consented to the assembly's demands. Soon after, however, others at the palace secured a change in course. Militia units received orders to disperse the assembly and arrest those responsible for the disorder. The king's pledge was rescinded.

According to witness accounts of the gathering that came to be known as the Assembléia da Praça do Comércio, as well as the interrogations that followed its repression, supporters of an intermediate pledge to the Spanish constitution defended their agenda by citing both the constitution's content and form. As «a mais engenhosa do Espirito umano» and the acknowledged inspiration of both the Porto rebellion in 1820 and of the constitutional «Bases» adopted by the Portuguese Cortes in March, the Spanish constitution was a symbol of the principle of national sovereignty. As many in the Rio assembly emphasized as well, it was a written document. As a text it defined and, as some contemporary observers explained, «fixou» the rights of citizens, thereby protecting them from the tyranny of absolutism in a way that earlier pledges of allegiance to the ideas of rights and national sovereignty had not (*Quaes são os bens* 1821: 2). In fact, several who attended the assembly specifically cited their disappointment that a royal pledge to constitutionalism

made two months earlier in Rio had not been translated into a practical definition or defense of citizenship and national representation. Securing a royal commitment to rights as defined in an existing written document would, they argued, ensure that such a «farsa» would not be repeated⁽¹⁾.

How did politically mobilized residents of Rio de Janeiro learn of the Spanish constitution that they then decided should define their first steps toward dismantling the old regime? How did encounters with the news of the Spanish constitution transform Luso-Brazilian understandings of constitutional government and constitutionalism? This article offers some responses to these questions by examining the record of efforts both to prevent the spread of news from Spain and to disseminate and interpret the constitution written there, especially by Hipólito da Costa (1774-1823) in his London-based *Correio Braziliense*. Like other critics, as well as some within Luso-Atlantic circles of power, Costa reckoned with what historians have described as an Age of Revolutions as a moment of transformation that demanded circumspect reform rather than categorically counter-revolutionary resistance (Armitage and Subrahmanyam 2010). As Costa's readers learned, the constitution written in Cadiz in 1812 was a turning point not because it offered a model to be adopted wholesale but rather because it illuminated constitutionalism as a path that could lead to a new orderly practice of politics in an era of trans-Atlantic crisis and revolution.

Constitutions and trans-Atlantic circulations

Notwithstanding rigorous royal censorship, Luso-Brazilian engagement with constitutionalism was concurrent with experiments with new and renewed political contracts taking shape elsewhere in the late eighteenth-century Atlantic world. The well-educated elite conspirators of the 1789 Inconfidência Mineira in the mining region of Brazil, for example, were caught with a copy of the United States' *Articles of Confederation* as well as various state constitutions that they reportedly debated with admiration as they plotted to create an independent

(1) Accounts of the assembly consulted here include "Memória sobre os acontecimentos", 271-289; Silvestre Pinheiro Ferreira's letters in *Idéias*, 91-105; and "Processo da revolta na praça do commercio", *Documentos para a história da independência*, 277-325.

republican government (Maxwell 1973:126). Shortly thereafter, Luso-Brazilian engagement with constitutionalism was, like almost all aspects of eighteenth-century Atlantic political culture, also transformed by the French Revolution and, later, by the Napoleonic invasion of Portugal in 1807. Although in the 1790s the Portuguese crown had responded to the French Revolution by attempting to isolate the kingdom and its territories from what royal officials argued were the ruinous effects of immorality, impiety and «filosofia», French political thought and constitutional experience resonated within the crown's territories.⁽²⁾ In the early days of the French occupation of Lisbon the juiz do povo de Lisboa presented to the Junta dos Três Estados a petition addressed to Napoleon. «*Pedimos uma constituição e um rei constitucional, que seja príncipe de sangue de vossa real família*», the petition explained. With reference to the constitution given to the Grand Duchy of Warsaw, the petition cited religious tolerance, a free press, a new law code, an independent judiciary, the end of mortmain, equal political representation for the colonies, and other administrative aspects of «o systema francez» that they admired and desired to see established in the Portuguese empire (Hespanha 2008: 83-84)⁽³⁾.

The petition, which, as António Manuel Hespanha noted, ran contrary to Junot's own political designs for occupied Portugal, went nowhere (Hespanha 2008: 84). In the years that followed, the Peninsular war then changed the calculus of constitutionalist appeals. Although before his departure for Brazil Dom João had ordered that those in Portugal were to receive the French army without opposition, within months, the Portuguese crown, now in Rio de Janeiro, declared war on France. In Portugal and the new capital of Rio de Janeiro, the press issued an unprecedented number of war-time pamphlets that decried the perfidy and impiety of the revolutionary French, and both lamented the plight and celebrated the heroism of the Portuguese nation. Along with regular

(2) Rodrigo de Sousa Coutinho, «Ofício a Fernando José de Portugal remetendo exemplares de um impresso traduzido para o português sobre os crimes e desmandos da Revolução Francesa, para que ele os faça circular na Bahia», Lisbon, 25 August 1798, Biblioteca Nacional (Rio de Janeiro), Manuscritos II-33,29,070. On investigations of French-inspired revolutionary conspiracy see *Autos da Devassa. Prisão dos Letrados do Rio de Janeiro, 1794*.

(3) «Súplica da Constituição», 23 May 1808 <https://www.parlamento.pt/Parlamento/PublishingImages/Paginas/Historia-Parlamentarismo/suplica.jpg>.

reports of battles and popular resistance in Portugal and Spain, the publication of translations of pamphlets first published in English and in Spanish cultivated an image of a sacred and civilized alliance – Great Britain, Portugal, and Spain – against the monstrous France of Napoleon (Neves 2008; Schultz 2001).

Absent from this official print culture of war and alliance proliferating in both Portugal and Brazil in the 1810s, however, were references to the Spanish Cortes, to Cádiz or to constitutions. While news of developments in Cádiz in 1812 and of the status of the Spanish constitution in the years that followed certainly reached official circles, they were met with efforts to stop their spread. As the expatriate journalist Portuguese Rocha Loureiro explained:

escreviamos ali [Lisboa] um periódico [*Correio da Península ou Novo Telegrapho*] – 1809-10 quando as Cortes [Cádiz] se instalaram com vistas de formar a sua constituição e logo fomos avisados pelo nosso Censor, que ele tinha ordens do Governo, para que não passasse artigo algum sobre os decretos políticos das Cortes (...). Saiu impressa a constituição Espanhola e nós, e alguns outros tentaram traduzi-la em Português, mas a ninguém se deu licença para o fazer [...] (*O Portuguez* v.1 n.1 cited in Alves 1992: 32).

Furthermore, Rocha Loureiro recalled, the editor of the *Gazeta de Lisboa* had published «mesquinhos discursos (...) em os quais dissuadia os Espanhois de arranjar um Constituição» (*O Portuguez* v. n.1 cited in Alves 1992: 32).

In the new royal court of Rio de Janeiro, royal officials also sought to prevent the spread of news of the Spanish constitution. The city's newly-appointed police intendant recruited men to both openly and secretly collect information about newcomers and the news that they brought and then shared with others in the inns and taverns where sailors, merchants and military officers gathered. The policing of Spanish vassals, in particular, was an especially urgent and complex task, the intendant argued, considering not only news from Spain but also reports of an insurgency in Buenos Aires. Yet, he also concluded, the city's now-open port, which received ships from all over the Atlantic including southern Spain, seemed to defy even his most zealous attempts to surveil those who came and went from the city and to prevent the circulation of news. By the turn of decade, even in the city's streets uninhibited, and often dissident, speech had become routine (Schultz 2001: 112-113; Silva 2010: 306-309).

Nor were newcomers to the city and the news they shared the only threats to the Intendancy's efforts to suppress discussions of constitutions, royal policies and royal authority. Throughout the 1810s booksellers imported works on political philosophy and political history both in the original and in translation, including one entitled «Histoire des Cortes d'Espagne»⁽⁴⁾. Magistrates entrusted with the inspection of imported books, under the jurisdiction of the Mesa do Desembargo do Paço in Rio, struggled to keep up with requests. As royal officials recognized, more and more books and pamphlets with «antipolítico» messages circulated within the city and in other areas of Brazil (Neves 1992)⁽⁵⁾.

When it came to news of constitutions and revolutionary upheavals, the Intendant and other officials in Rio were especially concerned with sources that were regular and not dependent on the ability to read French. Beginning in 1808 London had come to serve as a base for a number of Portuguese-language newspapers, including Rocha Loureiro's *O Portuguez*, cited above, and Hipólito José da Costa's *Correio Braziliense*, that offered critical perspectives on royal policies and actions (Lustosa and Silva 2017; Almeida 2016). In response, royal officials worked to prevent the circulation of both journals, on the one hand, and to counter criticism and promote representations of its policies and actions using the royal press on the other. A new *Impressão Régia*, founded in Rio in 1808, printed official justifications for the transfer of the court and anti-Napoleonic pamphlets, many of which were first published in Portugal, that affirmed the political legitimacy of the old regime. Beyond the royal press, beginning in 1811 the crown sponsored the publication in London of *O Investigador Portuguez* to counter Costa's challenges to royal policy. Royal officials also appealed to Costa himself with the promise of some sort of subsidy in exchange for ending his «disertações de Cortes» and

(4) "Livros impressos em idioma Frances" submitted by Manoel Silva e Companhia [1817], Arquivo Nacional (Rio de Janeiro), Desembargo do Paço Caixa 171, Documento 40. See also Caixa 170 Documento 75 for José da Silva Lisboa's annotations on a list submitted by Luís Nicolau Dufreyer in 1818, Silva Lisboa had doubts about the circulation of Benjamin Constant's *Cours de Politique Constitutionnelle* (1815) because the book sustained "doutrinas de moda sobre constituições, liberdade de culto, e do prelo." The reference to the *Histoire* is mostly likely that by Juan Sempere y Guarinos, a Spanish defender of Enlightened reform who also criticized Spanish constitutionalism. See Herrera Guillén (2007).

(5) Marcos de Noronha e Brito, Conde dos Arcos, "Ofício ao Conde da Barca", Bahia, 3 March 1817, Biblioteca Nacional (Rio de Janeiro), Ms. I-28, 31,34.

comparisons of the «antiga Constituição Portuguesa» and «a actual constituição Ingleza» (Schultz 2001: 118-119).

Yet, as was the case with the spread of news by word of mouth, royal officials came to acknowledge that they could not stop entirely the circulation of news in print. Throughout the 1810s, as police intendency records indicate, the city's residents continued to «mandar a buscar as gazetas», including Costa's *Correio*, and to read or listen to news of constitutions and of popular political action taking shape elsewhere in the Atlantic world (Schultz 2001:110-119; Slemian 2006: 82). Demands for «novas constituições», the intendant complained in 1818, had become a refrain for many «Gazeteiros e Periodicos»⁽⁶⁾. The «atrevida» constitutionalist mobilization in Rio in 1821 that culminated in the Assembléia da Praça do Comércio, with its demands for a new constitutional politics to take effect immediately, thus reflected both perceptions of the need to defend local interests and authority as well as, as one resident reported, ideas of representation, rights and freedoms «que se nutre com a leitura dos folhetos de Londres»⁽⁷⁾.

Constitutionalism and the *Correio Braziliense*

As royal officials in Rio recognized, among the city's residents the most widely disseminated of the London news journals was «o incendiario Correio Braziliense». That periodical's efforts to, as José da Silva Lisboa complained, «despertar no povo idéias de Cortes» and overturn the status quo were formulated by an editor who had enjoyed at least some of the old regime's privileges but also suffered its wrath⁽⁸⁾. Born in 1774 in Colônia do Sacramento to wealthy family from Rio, Costa was, like many elite Brazilian sons, sent to the University of Coimbra to study law. Completing his degree in 1797, he then was sent on a crown-sponsored scientific mission to North America where he was

(6) Paulo Fernandes Viana, "Ofício ao rei comentando sobre a volta da Família Real para Portugal [...]", Rio de Janeiro, 8 November 1818, Biblioteca Nacional (Rio de Janeiro), Ms. I-33,27,010.

(7) José da Silva Arêas, Rio de Janeiro, 17 March 1821, *Documentos para a história da independência*, 240.

(8) José da Silva Lisboa, 24 January 1816, Arquivo Nacional (Rio de Janeiro), Desembargo do Paço Caixa 171, Documento 3.

to collect botanical specimens and information about agriculture and infrastructure. In Philadelphia, where Costa spent most of his time, he also became a freemason (Costa 2004; Buvalovas 2011). Although when he returned to Portugal in 1800 he was associated with the prestigious Arco do Cego printing house and its natural science project, his masonic activities, including those pursued on a brief visit to London in 1802, led to a trial before the Inquisition and two years of incarceration before he escaped across the Spanish border disguised as a servant and then made his way to London between 1805 and 1806 (Lustosa 2019).

At the time of the Napoleonic invasion and the transfer of the court, Costa thus was settled in London and ready to put into practice a new journalistic intervention into an equally novel state of affairs. To begin with, Costa argued that a free press was not only a principle to be defended but also a practice central to any sound reckoning with what the Napoleonic invasion and the transfer of the court meant for the Portuguese crown and its vassals across the empire. Recalling how «chegassem ao povo as notícias do que se passava em França, no tempo da revolução» Costa observed that the crown's efforts to restrict the circulation of news had the opposite of their intended effect. In Portugal the revolution ended up having «amigos». «[C]omo será possível occultar, nem ainda desfigurar aos Portuguezes», he then asked, «o que estão fazendo ali em Cadiz os seus vizinhos, os seus aliados, os Hespanhoes? Logo o melhor he explicar o que se não pode esconder» (*Correio* 1811: 666). For Costa, in other words, in 1811 it seemed likely that Portugal would either become a part of the French empire and/or have a neighbor that was part of the French empire or an independent constitutional monarchy. There was nothing to be gained in denying these potential outcomes, Costa insisted. Disclosure, in turn, would lay the ground for more reasoned responses to change.

Although, as his interest in a free press suggests, Costa often engaged directly in what he and contemporaries in Portugal and Rio came to describe as the creation of «opinião pública» by providing analysis and commentary, much of the twenty-nine volumes of the *Correio* consisted of regular reports on political events and developments in various European and American cities, transcriptions and translations of government documents from England, Portugal, Spain and France, and notices and translations from English pamphlets and the periodical press. Costa was also especially interested in disseminating documents from Spanish

America, above all Rio de Plata and Venezuela (Pimenta 2015). Costa's readers, then, were invited to not only assess Costa's own understanding of events and decrees but also draw their own conclusions about what the documents revealed about recent developments.

Thus, the October 1811 issue included a full translation of the draft of the Spanish Constitution and its «discurso preliminar». Costa did not advocate the adoption of the Spanish constitution in the territories of the Portuguese crown. Yet, contextualizing the documents for his readers, Costa wrote that they were «os mais importantes, que temos publicado, desde que o nosso periodico registra os acontecimentos notaveis da Peninsula» (*Correio* 1811: 52, 474, 493-520). As Costa explained over the next several issues of the *Correio*, the work of the Cortes and the draft Spanish Constitution were admirable because they defended a number of the political principles and practices that he had come to admire, most notably, and not surprisingly considering both his journalist endeavors and recent personal experience, the freedom of the press and the end of Inquisitorial censorship. Writing on debates in the Cortes on the abolition of the Inquisition, whose «instituição», Costa explained, «parece incompativel com a Liberdade de Imprensa, adoptada pela nação Hespanola», he reported that he had received «varias publicações a este respeito [...] que provam quanto a opinião publica vai de acordo com a parte pensante das Cortes; e homens instruidos do Governo» (*Correio* 1812 (8): 677). As Costa also indicated, he admired the recognition of certain principles of civil and political equality across the empire, or what the Cadiz constitution referred to as «ambos os hemisferios» («Plano de uma Constituição» in *Correio* 1811 (7): 496).

Yet the aspect of the Cortes' work and the draft constitution that Costa pointed to with most enthusiasm was its respect for established authority. Notwithstanding what critics decried as the constitution's radical nature, and its perceived borrowings from French revolutionary constitutions, Costa explained to his readers that «os principios, em que se fundam, existem nas leys, e costumes das Hespanhas, e que só na forma, e não na substancia, varia esta constituição das leys fundamentaes das diferentes monarchias estabelecidas nas Hespanhas» (*Correio* 1811 (7): 552). In other words, the legislation and constitution drafted in Cádiz, according to Costa, provided an example of innovation that was measured rather than radical and, most importantly in the wake of the French Revolution, offered a regenerated political order rather than

anarchy. It preserved what was legitimate in the old regime, namely the institution of the monarchy while, as Costa also explained, purging politics of the despotic practices – the excessive and secretive powers of ministers – that had corrupted that regime. As Costa argued later in 1821, «A causa principal deste systema geral de corrupção e de engano, em que El Rey se achava envolvido, éra a practica de ouvir em particular os conselhos de pessoas, que não tinham responsabilidade publica» and who disguised their self-interest as service to the king. In contrast, he continued, «O systema representativo traz com sigo a responsabilidade dos funcionarios publicos, incluindo os mesmos Conselheiros do Rey: em vez das intrigas secretas, haverá os debates publicos». In this way, he asserted, «nação conhecerá quem são os homens, que propõem medidas saudaveis, e quem promove, e por que meios, a ruina nacional» (*Correio* 1821 (26): 357).

Costa's defense of the monarchy was an instance of what Portuguese historian Zília Osório de Castro described as Portuguese constitutionalism's «racionalidade de base histórica» (Castro 1979: 176) Indeed, Costa was among the first to confront the French occupation with the imperative of an institutional legitimacy grounded in history. «Ninguém póde duvidar», he wrote in July 1808, «que a forma de Governo, em Portugal, foi estabelecida pelo Povo em Cortes, e a pessoa do primeiro Rey foi designada, e nomeada pelas mesmas Cortes, como o confessou D. Affonso Henriques, nas cortes de Lamego quando disse – Vós me fizesteis Rey –». The utter illegitimacy of the French occupation, therefore, could not be obscured by «aquelles poucos Portuguezes, em Bayona», just as claims that Napoleon had conquered Portugal could not obscure the «seguranças de amizade» that inaugurated French rule (*Correio* 1808 (1): 131).

The bond between the people and the monarch also fortified what Costa, writing in 1810, had called «o justo meio entre o despotism, e anarchia» (*Correio* 1810 (5):75). Thus, the unfolding of revolutionary ideas and conflicts in neighboring Spanish America was, the *Correio* made clear to readers, a cautionary tale (Pimenta 2015). Reporting, in turn, on the republican insurrection in Pernambuco, Brazil in 1817, Costa concluded his disapproving assessment with reference to Richard II of England. «“Quereis vós matar o vosso Rey? Quem então remediará vossos agravos?”» the king had asked his rebellious subjects. The manifest need for some sort of arbitrating power, what Costa deemed a «maxima», was, he explained, «applicavel a todos os Governos; porque destruido o

Governo, quem ha de remediar os males e abusos da Nação?» (Correio 1817 (19): 105-06). Rather than tearing down government entirely, then, or adopting abstract theories, or cultivating popular resentments, the task for Luso-Brazilian leaders, according to Costa, was to forge reforms based on Portuguese historical experience and contemporary conditions. Instead of adopting the Spanish Constitution wholesale, they needed «observar o que os Hespanhoes fazem digno de imitação, ou applicavel a Portugal; e fazêllo tambem a tempo, e de bom grado» (Correio 1811 (7): 667). As Costa urged leaders to be cautiously mindful of tradition, he also insisted that the task at hand was urgent and that the stakes were high. For the misfortune of Europe, he wrote, did not stem from the changes brought about by the French revolution but rather from «a obstinada teima dos outros governos em não quererem admittir reforma em cousa alguma» (Correio 1811 (7): 667).

To Costa and other critics, however, it was such obstinacy that had seemed to prevail as the Napoleonic crisis and the Peninsular War drew to a close. Following the restoration of Fernando VII in 1815, Costa reported to his readers, supporters of the Cortes were persecuted, ministerial secrecy and incompetence returned, and imperial policies toward the colonies fomented civil war. Nor were there significant reforms in the Portuguese empire. In spite of raising Brazil to the status of a kingdom and renaming the European and American territories of the empire a United Kingdom, questions of the post-1808 structure of empire persisted. And from the perspective of Portugal, the defeat of Napoleon had led neither to the end of foreigners on Portugal's soil (although now they were mostly British) nor to the return of the king.

In 1820, however, when Spanish constitutionalism triumphed once again, Portuguese constitutionalists too mobilized and staged a successful constitutionalist rebellion in Porto. In the months that followed, constitutionalism quickly gained ground across Portugal. In Lisbon, the garrison called upon a newly formed provisional government to proclaim the Spanish Constitution of 1812 as the interim law of the land. Elected according to the procedures established in that constitution, the Cortes Gerais e Extraordinárias da Nação Portuguesa then drafted the «Bases da Constituição» drawn, with only a few modifications, from the Spanish Constitution. As one deputy to the Constituent Cortes declared in a debate on the language of the preamble of the Portuguese draft constitution, he approved it in its entirety because he could see «que elle he tirado com pouca diferença da Constituição hespanhola,

e sobre tudo da Franceza de 1791; e tanto a Assembleia de Cadis, como a Assembleia Constituinte de França, se compunhão de homens os mais sabios do seu tempo» (*Diario* n.122 (1821): 1477). Other representatives, however, were more critical of what they perceived to be a radical version of popular sovereignty. Thus, for the new Cortes the applicability of Cadiz constitutionalism in the territories of the Portuguese crown and the imperatives of both transformation and tradition remained, as Costa had argued they should be, topics of debate and scrutiny.

In Brazil in early 1821, as mobilization of Portuguese troops and residents in Bahia and in Rio secured the crown's recognition of the constitutionalist movement and a promise to pledge allegiance to the future constitution of the Portuguese Cortes, the means and venues for debating the monarchy's political future also changed. The end of prior censorship, the transformation of the *Impressão Régia* into the *Imprensa Nacional* and several new presses in Brazil all contributed to an unprecedented wave of pamphleteering that surpassed that of the Napoleonic war only a few years earlier. In Rio de Janeiro, where a single issue of the *Correio Braziliense* sold for 1\$280, book sellers distributed extensive lists of relatively inexpensive imported and locally published works including the *Constituição Hespanhola em Portuguez* and *Catechismo Politico Constitucional, ou analyse da Constituição Espanhola adequada as circunstancias de Portugal* (Lustosa 2019: 78-83, 120-126; "Noticia" [1821]; Camargo and Moraes 1993).

As the above titles suggest, as a theoretical and practical source of inspiration for the Portuguese Cortes and its «Bases», the Spanish Constitution and its innovations were at the center of the first months of constitutionalist politics in Rio de Janeiro. Similar to the way in which Costa had read the work of the Spanish Cortes years earlier, constitutionalist pamphleteers celebrated the end of the despotism of royal ministers and the restoration of an uncorrupted relationship between the people and the king. They insisted on the place of Catholicism, purged of its own Inquisitorial aberrations, in the new political order. They claimed their project to be one of restoration of an historically defined political legitimacy embodied by the Cortes. The text of the Spanish Constitution itself, as we have seen, was also sufficiently accessible to those who organized the April assembly that they had come to embrace it as an organizational tool. Whether residents had read the constitution in the *Correio*, read more recently imported or printed copies,

or, certainly in the case of many, simply heard some commentary about it, it inspired mobilization in defense of national sovereignty and a new constitutionalist regime in Lisbon.

Yet the Assembléia da Praça do Comércio might also be seen as the high point of the influence of the Spanish constitution in Brazilian political culture. Although leaders of the constitutionalist movement that began in Porto cited the Spanish constitution as a bulwark against radicalization, on both sides of the Atlantic there were those, including Costa, who criticized the Spanish constitution for its affinities with French revolutionary constitutionalism. The end of censorship and the expansion of print culture in Brazil also made alternative models of constitutionalism more accessible to interested readers. The *Constituição dos Estados Unidos da America* was on sale in Rio in 1821 for about half of the price of the Spanish Constitution ("Notícia [1821]). In September of 1822, in the context of the Brazilian declaration of independence, Costa also published a draft constitution for Brazil. Introducing the draft, Costa excoriated the «monstruosa» Portuguese Constitution written in Lisbon earlier that year for having embraced so completely «muitos dos desvarios does Hespanhoes». The error, Costa explained, had been the adoption of a single representative body that was too susceptible to «innovações prejudiciaes» that did not account for laws and customs. Accordingly, the *Correio's* «Projecto de Constituição Política do Brazil» featured bicameral representation, a council of state consisting of two members from each province, and a house of representatives, elected by eligible citizens. The inspiration, Costa observed, was England, which enjoyed «um gosto de esplendor, de virtudes civis, de patriotismo, de prosperidade». Acknowledging the potentially aristocratic dimensions of such a form of institutional representation, and accusations that the *Correio* itself defended «principios aristocraticos», Costa countered by pointing to the example of the United States, which had adopted a bicameral representation, he explained, «como fructo da meditação e de principios» defended in the writings of John Adams, Benjamin Franklin and the Abbé du Pradt among others, hardly, Costa noted, «emissarios da Sancta Aliança» (*Correio* 1822 (29): 372-74). As Costa reiterated later that year, «a Segunda Camara ou Senado» would serve as a «corpo intermediario entre o Monarcha e os Representantes immediatos do Povo» and maintain «o justo equilibrio entre as pretensoes de um e outros [...]» (*Correio* 1822 (29): 566-67; Ferreira 2006: 10-11).

Costa's publication of a proposal for a constitution had been inspired by steps taken in 1822 by Prince Regent Dom Pedro that appeared to prepare the way for Brazil's independence. In response to measures adopted by the Lisbon Cortes, most notably the repeal of commercial regulations perceived to be at odds with the interests of peninsular merchants, the stripping of Rio de Janeiro's status as a political capital, and the recall of Dom Pedro to Portugal, support for Dom Pedro's residence and leadership grew, especially in Rio and surrounding provinces. In May 1822 Rio's city council had presented him with a petition to convoke a representative body that would evaluate the conditions for the union of Portugal and Brazil and whether and how the constitution drafted by the Lisbon Cortes would apply to Brazil. Indirect elections for 100 deputies from the provinces had been conducted. Married men and men at least twenty-five years old chose electors, who then chose provincial delegates. Although Dom Pedro intended that the Rio Assembly and the Lisbon Cortes would be able to maintain the integrity of the Portuguese Monarchy, with the Cortes poised to enforce its authority with force, local mobilization in favor of defending Brazilian «Liberdade» grew. Thus, in September Dom Pedro pledged to defend Brazil's independence⁽⁹⁾. As was the case in the Spanish monarchy, in Portugal and its territories constitutionalism had come to encompass both a promise of representation and impositions and limits that undermined American allegiance to the empire (Berbel 2008).

When convened the new assembly thus had the task of defining the political future of an independent Empire of Brazil. The well-educated and experienced deputies of the now Constituent Assembly received instructions from Dom Pedro to uphold the principle of the division of power and to avoid what he called the «teoréticas e metafísicas» aspects of French constitutions (Falas 2019: 38). A number of deputies embraced the directive with recourse to the kind of jurisdictional arrangements Costa had advocated. In the draft constitution, published in 1823, legislative power was bicameral. Yet, if Costa had anticipated a debate about a single versus bicameral legislative body, in the Brazilian constituent Assembly, the most contentious question was the scope of the power of the Assembly as a whole vis-a-vis the crown. Would legislation passed

(9) «Representação do Senado da Camara do Rio de Janeiro, pedindo a convocação de uma Assembléa Geral das Provincias do Brasil», *Documentos para a história da independência*, 378-383.

by the Assembly require the emperor's sanction? Would legislation without his sanction be, as one representative suggested, an usurpation of «direito essencial e inseparavel do caracter sagrado do Monarcha, de que elle se acha revestido?» (*Diario da Assembléia* t.1 2003: 299). The draft offered provisional answers to these questions by establishing specific frameworks for the balance of power: legislative power was delegated to the General Assembly and the emperor «conjunctamente»; the emperor could «addiar» the General Assembly but «Nenhuma Authoridade» could prevent its members from meeting; certain types of legislation did not require his sanction. (*Diario da Assembléia* t.1 2003: 689-91).

Within weeks, however, what Dom Pedro perceived to be the Assembly's disposition to encroach upon his power led him to disband the assembly. In the following year, a counsel appointed by the emperor, including several former assembly deputies, drafted what would become the Constitution of 1824, the Brazilian political-legal framework until 1889. Some of its features bore a strong resemblance to the Assembly's draft: it defined as representatives of the «Nação Brasileira» both a general assembly and the emperor (*Constituição Política do Imperio do Brasil* 1824, Tit.3). While framework for elections thus resonated with Spanish constitutionalism, the constitution was also informed by more recent «projectos» that sought to curtail the exercise of popular sovereignty (Paquette 2011: 449-50). As Costa had as well, the new constitution drew on the ideas of Benjamin Constant and introduced a fourth power within governance, the «o Poder Moderador» of the emperor (Ferreira 2006: 6). Dom Pedro was thus both the head of the executive branch of government and the «Chefe Primeiro da Nação, e seu Primeiro Representante», responsible for the «mantenuação da Independencia, equilibrio, e harmonia dos mais Poderes Politicos» (*Constituição Política do Imperio do Brasil* 1824, Tit. 5, Cap. 1).

Just a few years into the decade of the 1820s the Spanish constitution's influence on Brazilian constitutionalism thus had been mitigated by Anglophone and continental influences. Monarchical authority had been reaffirmed. Still, in the previous years the Spanish Constitution had provided vassals of the Portuguese crown with both a crucial text and context for confronting and understanding the crisis of the old regime. Perhaps, above all, as its attentive and admiring critic Costa had suggested, the Spanish experience with constitutionalism offered some clarity in the bewildering wake of the French revolution and war

as people across the Luso-Atlantic world reckoned with challenges to the old regime (Adelman 2006). Political transformation, Costa had insisted, was destiny, but the embrace of national sovereignty, the rights of citizens, the abolition of the Inquisition and a free press did not mean that monarchy and religion would be displaced by the excesses of popular politics.

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