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**CHANGES IN THE BRAZILIAN RURAL PANORAMA AND THEIR
IMPLICATIONS**

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Introduction

Brazilian rural world has been through deep changing processes. And these are not only marginal or incremental, but also modifications that will mark a new phase in spatial formation in the country. In this phase, there is no reason for the conception of rural spots as synonym of delay or as agricultural regions only. Although agrarian social processes are strong, there is an increasing diversification of agricultural spots and an environmental routing of new rurality. It all demands the creation of new institutions and classification and comprehension categories. These changes, experienced by agricultural world since mid eighties, involve demographical, economical and social aspects. Some remarkable tendencies may be observed, not aiming at offering an exhausting view that will show a qualitative difference in comparison to the previous stage.

The article is divided in five parts, according to the questions contained in the Commission II Questionnaire of 2011 European Council for Rural Law Congress (CEDR). It starts with the definition of territory and its alterations in last decades. Later, we verify the definition of rural activity within juridical system and the treatment granted. At last, we proceed with the analysis of economical ecological zone as skilled instrument at establishing land usage and correlate agriculture and natural resources.

1. Changes in rural areas demographic profile

One of the most remarkable characteristics of Brazilian rurality in mid XX Century was the intense exodus from the countryside in direction to the city. According to official statistics, at the end of the nineties, four in each ten Brazilian people were considered to be urban (IBGE, 2000). Despite this evidence, a particularity of Brazilian definition of rural and urban makes more difficult an accurate comprehension of this demographic dynamic. The definition about rural an urban zone limits is an attribution of each municipality. This way, Legislature Power at each one of the 5.560 municipality can determine the border between rural al urban areas

As a result of this liberty, the low population density municipalities, with small size and fragile infrastructure, for several times, present overestimated statistics of their levels of urbanization. Besides, this way of defining rural and urban areas darkens particular situations as the ones in which agricultural people who live in little housed on municipalities, but whose lives are connected to agricultural activities, that ends classified as urban.

Aiming at overcoming these problems, some studies (VEIGA, 2001) are trying to redefine these contours in Brazilian rural world, applying more usual criteria from international community. Thus, from a combination of variables such as density of the population, municipalities' size and its location, it reached the conclusion that approximately a third part of Brazilian population could be considered as rural, against 18% indicated by official statistics. More important than this was the discovery that many regions and municipalities with remarkably rural characteristics were no longer losing population, as it occurred in the past, now attracting new inhabitants.

Case studies carried out showed that this attraction was not caused by a unique reason, but by a series of reasons, from employment crisis and the deindustrialization process in some cities to which immigrants first headed to, till the non concentration of economic activity that is slowly occurring in the country. Also, there is a greater injection of resources in provincial areas due to

the amplification of social politics and to the greater availability of natural amenities, mainly in the areas that are around urban centers, exploited for touristic activities or new residences.

Other programs and researches focus on farmers' families' composition and in the dynamic in some regions. Abramovay (1998) has an interesting study that reveals rural population aging and masculinization tendencies, similar phenomenon to the one analyzed by Bourdieu (2002) in Europe, particularly in France. Regarding youth, the book organized by Carneiro & Castro (2007) demonstrates how the demands and concerns of rural young people are close to the ones for urban young people: in both categories, they complain about acknowledgment and amplification of opportunities, demonstrating major insecurities about the future. Once again, the incomes are close to the ones from Bourdieu in relation to the unification of symbolic assets markets unification, more distinct in rural and urban.

2. Economic changes: agriculture importance do not reflects in job generation and incomes

Alongside with demographic changes, are also economic bases changes in rural spots. There is no doubt that agriculture has an important role in national economy: although only 10% to 12% of GDP correspond to agricultural activities only, it is an extremely dynamic sector, recently stimulated by international prices and competitiveness increasing. Considering agroindustrial sector in a whole (including transformation activity), we have the third part of Brazilian GDP. As far as exportations, though agriculture participation has decreased due to the industrialization process, almost a quarter of the total is still provided by this sector. Brazil arises as a major agricultural goods exporter, including coffee, orange juice, soybean, sugar, tobacco, paper and celluloses, meat (beef, chicken and pork).

But despite this importance, both in DGP composition and exportations, primary sector does not have the same impact in job and incomes generation. As shown by Projeto Rurbano data (GRAZIANO DA SILVA; DEL GROSSI & CAMPANHOLA, 2005), at the end of the nineties,

non agricultural incomes overcame agricultural ones. And this is not a phenomenon located in urban or industrialized areas. The same study show that non agricultural incomes present enlargement tendency, even those regions that registered more modern and with technical agricultural expansion, as in Midwest, or in areas in which population is more occupied in agricultural business, as in the Northeast.

Three factors can explain this seeming paradox: the first one is the large availability of production factors at low costs in agricultural border regions, in the northern area of the country. This constant land and work incorporation is carried out, for several times, in totally boasting social and environmental conditions. The second factor is the work saver strong feature of Brazilian modern agriculture. Seade Foundation data show that it takes, on an average, 247 acres of sugar cane to generate one job position. In soybean, the relation is one job position for each 294 acres. At last, the third factor: demographic profile changes associated to the economic activity deconcentration and the social politics expansion. With the end of generalized rural exodus, a population with higher educational levels remains in rural areas, due to economic deconcentration and social politics, finding more job opportunities in non agricultural activities.

3. Changes meaning

Previous tendencies reinforce the argument about the arising of a new rurality. But, more than isolated tendencies, there is a subjacent meaning to them.

Favareto (2007) argues that, baseline to what is denominated as “new rurality” there is a change in social content of the articulation of its three fundamental definite dimensions: nature proximity, interpersonal bounds and rural-urban relationships.

The relation between society and nature, that is a first distinctive trace of rurality, is a displacement object, once the natural resources social uses forms do not privilege primary

goods production, enabling a multiplicity of possibilities, among which we may detach: natural amenities exploitation and appreciation, biodiversity conservation, renewable sources of energy.

Proximity relations, the second distinctive trace, also dislocate: relative homogeneity that used to characterize rural communities is replaced by an increasing heterogeneity and by a fraying on solidarity bounds that, once upon a time, were rurality characteristic.

And the relation with the cities, last distinctive trace, is not based only on primary products exportation, originating complex and multifaceted territorial plots, with different articulation mechanisms among both poles and new integration forms within job market, physical products and services.

Summarizing, there is no reasonable sense in treating rural as an opposition to urban, announce a tendency to its extinction, or compress it to one of its dimensions: the agricultural.

4. Legal system obsolescence facing “new rurality”

In this article section, the important question is how the changes on Brazilian rural panorama, described above, are incorporated to the legal system. Justice clearly cannot be unaware to the alterations in rural scenery, using concepts that go back to second half of the eighties.

The main difficulty of Brazilian normative texts is verified in preponderant connection with agrarian/agricultural activity conceptualization, which presents itself with different nuances. The rule for legal texts is elaborating a list of activities that are considered as agricultural, but with no criterion that would define its characterization. The lists clearly evidence the tendency to restriction to the primary goods production activities.

The first problem in legal plan is the variety of existing definitions for the activities considered to be agrarian in Brazilian positive law and that can be verified as an example for the conceptualization of three branches of law: tax law, labor law and land rights. The index of

activities considered as agrarian by tax law is the best explained and detailed and it includes agricultural products transformation phase, as well as the creation of several animals.

Labor law has conceptualized agrarian activity to characterize agrarian employer and, by that, the agrarian employee. It is important to observe that the expression used by labor legislation is “rural employers”, but with no relation with rural territory or even with multifunctionality paradigm. We consider as an agrarian employer person or entity, owner or not, that explores agro economical activity, permanently or temporarily, directly or by means of any agent responsible, and with help of employees. It is also included in this case the industrial exploitation in agricultural property. We can compare to the agrarian employer the person or entity that usually, professionally, and by third part orders, handle agriculture nature services, by using other people’s work.

On the other hand, Land Rights restricts the concept to the agricultural, livestock or agro industrial exploration development. The importance of agrarian activities in Land Rights were mainly focused on rural estates classification, once it is a fundamental criterion in rural estates identification, once its territorial location is irrelevant (BRASIL, 1964).

In the same branch of law we may find another agrarian activity definition. Law 8.171 of 1991 that disposes about agricultural politics on the paragraph of the first article, concepts agrarian activities in a wider way (BRASIL, 1991).

We understand as agrarian activity the production, processing and commercialization of products, sub products and derivative, services and agricultural, livestock, fishery and forestall input, but all of them focused in primary goods.

In 2002, the new Brazilian Civil Code substantially alters the gravitational center of Land Rights from land to business, in which the property is now part of a constitution as an equally important element to the ones who compose it. The change happens because of the insertion of rural business along with “urban” business on Civil Code (BRASIL, 2002).

All Civil Code projects would literally follow the Italian model, regarding agrarian activities definition, dividing into relational and main activities.

The main activities are: *fundus* cultivation, silviculture and livestock. It does not discharge the existence of other possible relational to the one named as main, carried out by the same company, usually aiming at a better production commercialization possibility. (ITALIA, 1991).

It is important to show that Italian Civil Code modification has modified the one article that inspired Civil Code, although this change was not considered in proceduring process. The new Italian article has inserted the agrarian theory as a determinant factor for agrarian activities characterization, what avoids the use and discussions about the varied index of agrarian activities (ITALIA, 2001). Essentially, agrarian activities are characterized by biological cycle development, referring both to cattle and vegetal creation, that arises directly or indirectly connected to exploitation of natural resources and forces, resulting in the fruits (vegetal or animal) destined for direct consumption, as they are or derived of several transformations (CARROZZA, 1988).

Italian code Article 2.135 modification amplified agrarian activity concept, already established by Civil Code, and thus resized, at least theoretically, its rural development agricultural politics when including diversified practices to the rural businessperson activity. Diversification is about enlargement of products, production techniques or introduction of new activities that would develop always within the agrarian company (ITALIA, 2001).

This way, we amplify the activities attributed to the farmer, once rendering of services in also included in activities index developed by him. As soon as it is entitled, in some cases, the most adequate representative of agrarian companies' diversification that, for Bodiguel (2002), is nothing but a symbiosis between agriculture and environmental custody, which are then considered greatly relevant within agrarian activities.

Agrarian companies no longer develop only traditional activities, agrarian, it goes further, extending for protection activities and rural territory esteeming.

As previously seen, Brazilian legislator intention, since 1965, first project's year, includes diversified activities within agrarian company. The changing on agrarian description activities (related and main), for the expression "rural activity", was made in the last review of the code's project. Nevertheless, if the concept used here shows only the connection to the rural area, there would be no way to sustain the distinctive treatment due to agrarian activity risk, as according to the historical route in Italian doctrine institute (GERMANÓ, 2010).

Another argument that could be arisen for the inclusion of the expression "rural activity" to the 2002 Civil Code would be the multifunctionality concept, is the explicit acknowledgment that agriculture is not only responsible for food production, but also for the conservation of environmental, historical, cultural and landscaping values unique to the rural world. For European Commission, the functions considered as developer for new European agriculture and that allows the existence of multifunctionality are, mainly: a) production of food for human consumption and for animal feeding, as well as other goods for industrial consumption; b) landscaping and environmental values defense; c) equilibrated economic development incentive in rural areas and territorial points of view. (UNIÃO EUROPÉIA, 2000).

We assume that rural may not be comprehended as a simple generator of economic development, in which agrarian activity has fundamental role, but, in wide sense, embracing other aspects, mainly related to the need that the development is a controlled process, considering biological and social balance.

Thus, we would follow the same tendency from European Union, that prefers to speak about rurality instead of agrarian, due to the previously noted changes: rebounding other uses of environmental resources, not only primary goods production.

Alongside with the classic functions defined for agrarian companies (both economical and social) the function of protecting existent natural heritage and resources in the property and in some regions, because it is known that natural environmental or partially preserved maintenance guarantee natural services continuum production and, more recently, biodiversity

maintenance, understanding biodiversity as intra and interespecific, besides environmental, diversity.

Therefore, Brazilian legislator, in a first analysis, seems to be beyond Italian model that only allowed their companies to vary its activities, as far as they were connected to the main agrarian activities. Nevertheless, it stops in origins and reasons for the distinction between rural and “urban” businessperson. The use of the adjective “rural”, as in labor law, would be more connected to the lack of technique than to the multifuncionalidad paradigm incorporation.

There is a question about how legal system will incorporate natural resources social use as esteeming and natural amenities employment, biodiversity conservation, renewable energy sources production. A possible alternative empowers the agrarian businessperson, the rural, as Civil Code prefers, to demonstrate that the activity will fit as a relational activity.

However, this exercise will be in doctrine and jurisprudence charge, also considered as law sources. These situations will, indeed, generate typical criticism, relating to the legal insecurity and subjectivism.

The development of agrarian activity is considered in Brazilian legal ornament as a fact that deserves differentiated treatment, that means, the difference in treatment between agrarian and urban activities maintains, mainly, in what concerns taxes, credit and rural employees rights. But legal politics and instruments that incentive rural development are still incipient. Businesspeople whose main activity is rural, that means relational and main agrarian, Civil Code proportionate a differentiated and more benevolent treatment , mainly when it comes to bookkeeping simplification. (Brasil, 2002).

5. Economical ecological zone

If it is true that sectorial look – agricultural activities production – is no longer enough to understand dynamics of rural areas and the impact of economy in natural resources, thus

establishing the agrarian paradigm that overrule during all last century, we cannot say, yet, that this was replaced by a new rurality paradigm, at least not in what concerns public institutions and politics.

The so-called rural development territorial approach is introduced in Brazil at the end of the nineties. Inspired by the European experience of territorial development promotion, which the most recognized representative is the Leader Program (Saraceno, XXXX. Ray, XXXX). In Brazil, this approach was implemented in a very partial and incomplete way. The main way for this to become true was through a specific program created within Ministry of Agricultural Development: the Rural Territory National Support Program (PRONAT), renamed as Identity Territories. It was a program with territorial pretensions, but restricted to a sectorial ministry. In recent years, there was an attempt to amplify this scope, involving other ministries on a wider program, the Citizenship Territory. Nevertheless, even though the ministries and the mobilized resources were still restricting to agricultural activities, now aggregating social politics. It is not a territorial development program able to sustain itself on rural spaces multifuncionalidad.

Besides this specific politics, we should mention an instrument that, through the last decade, has been used and that should allow this more integrated and compatible treatment with the new rurality statute – Economical Ecological Area (ZEE).

ZEE is a precise diagnosis about national territory and smaller units that constitute itself (Amazon bioma, some watershed, other sensitive areas) involving physical biotical, social economical, institutional aspects. This instruments aims at offering action guidelines to subsidies an efficient planning and, at the same time, compatible with environmental conservation requirement and the best territorial resources use.

Legal baseline for ZEE is on Federal Law 6.938 of 1981, *“that disposes about environmental national politics, its reasons and formulation and application mechanisms and gives providences”*. There, articles fifth and ninth says: 5° article – Environmental National Politics guidelines will be formulated in plans and rules, destined to the orientation of Federal, States,

D.C, territories and municipalities government in what refers to environmental quality preservation and ecological balance maintenance, observed in the principles established in 2º article of this Law; (...) Article 9º - they are Environmental National Politics instruments: (...) II – environmental zone (regulation)” (BRASIL, 1981)

This law was regulated Decree 4.297 July 2002, which, besides regulating and establishing criteria for ZEE, defines execution and elaboration competences. Federal Government is responsible for National and regional ZEE activity, applied to the areas considered as national heritage. This way, the States are responsible for residual competence to execute local ZEE.

In order to collaborate with ZEE execution, 2001 Decree 28, “disposes about the Coordinating Commission of National territory economical-ecological zone, institutes Permanent Work Group for Economical-ecological zone execution denominated Consórcio ZEE-Brasil”, attributing the competence to its performance to the ZEE Coordinating Commission that should articulate with the States, suits their works with the ones executed by Federal Government in order to make it possible.

Amazon Forest was considered as priority area, once this area has part of its territorial extension constituted by low occupied areas by population, which demands political decisions and environmental services. ZEE Program for Legal Amazon was established in 1991 for federal government and it is defined as an instrument for spaces occupation rationalization and activities redirection, with the capacity of subsidiate strategies and actions for regional plans elaboration and execution, aiming at sustainable development (MMA, 1997).

Analyzing ZEE Program for Legal Amazon, Sousa (2008) has punctuated that federal and state governments attributed it different goals, which led to doubts about who should the program attend at first. Administrative management and planning has been contributing for ZEE discontinuity in Legal Amazon. On the other hand, Amapá State presents better perspectives because, although ZEE is not yet concluded, it was already possible to diagnose data and to indicate territorial occupation and use.

Nevertheless, almost ten years is gone and ZEE is still an elaborating instrument, with indicative character to the other ministries and private, with no regulatory power towards the territory.

Final considerations

The definition on what can be considered rural in the Brazilian conjuncture dates back to the thirties of the last century, period known in historiography as the transition of the Agrarian Brazil to Urban-industrial Brazil. In accordance to this definition, rurality is considered in the boundaries of the municipalities (the smallest federative unity in the country), and residually, as something that is out of the urban perimeter (which, on its turn, is defined by the Municipality Legislative Power, based on a very generic criteria).

As it was demonstrated on the preceding pages, this intra-municipal and residual definition was gradually overcome by the quality of the articulation between rural and urban spaces, such as increased mobility, unification of labor markets before rigidly separated in these two spaces, emergency of new social usages of natural resources. This “desagrarization” of the rural space and the overcome of the dichotomy rural-urban made the legal definition created almost one century ago become obsolete, and, therefore, policies and normative instruments nowadays loose adherence to social and economic processes that respond for the effective dynamics of the Brazilian rural.

In this context, new frameworks for conceptualizing the spatial reality of contemporary Brazil are still very incipient. New practices for planning and new attempts of normatization within the policies, as the economical ecological zone, are still embryonic. Everything suggests, therefore, that the overcome of conceptual impasses that are present in the Brazilian specificity will not be easy nor quick. The biggest challenge in the normative field is, based on comparative readings of the international reality and from the search for the best comprehension of the more updated content of social-spacial dynamics, to undertake forms of actualization of the conceptualization available and then, make the legal framework more adherent to the concrete historical-social situation that mark the Brazilian rural.

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