

**MONTEIRO LOBATO IN THE COURTS AS DEFENDANT:
THE SUBJECT OF THE JUDICIALIZATION
OF THE BOOK *PETE'S HUNTING***

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ABSTRACT: The paper problematizes an important historiographical question as for the judgments one does toward people and facts of the past. It analyzes a legal discussion in the context of fragments of Monteiro Lobato's works, a Brazilian writer, ostensibly progressive, who was charged, however, of expressing racist ideas.

KEYWORDS: Monteiro Lobato; historiography; charges of racism; Brazilian Supreme Court.

INTRODUCTION

Judging people and actions without considering the fact that they lived and happened in different contexts is a recurrent historiographic problem. It is "*a tiger's leap into the past*" (Benjamin, 1985, p. 261), as instances and occurrences are selected, defying reality and ignoring the fact that every fact is inside history as well as every knowledge is inside history (Collingwood, 2001, p. 171). Human experiences lose their context, become reduced to fragments, are extracted of their identities, in a chaotic irradiating disintegration process, similarly to what happens to things and objects as time passes by (Matos, 1993, p. 13).

And since we unconsciously consider the past as a model for the present (Le Goff, 1988, p. 43), not completely fairly, characters and mentalities are emphasized, as if they were pieces of an opaque and

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undefined mosaic, like a “*gallery of history*” (De Certeau, 2007, p. 106). A historical representation may contain less than what is represented, in favor of the one who built the representation; it is a gap-filling effort of understanding the past (Veyne, 1998, p. 26). There is a certain moral judgement in History (Croce, 1962, p. 169), from which there is no apparent escape.

In such a substantially disturbing context, a debate over a fragment of a novel by Brazilian writer José Bento Monteiro Lobato is brought to light. It was legally accused of containing, even if indirectly, excerpts with racist content. Lobato wrote novels for children and his production transcended time, as it is still read and acclaimed nowadays, because of the undeniable effects it reaches towards its readers. This essay aims at synthesizing, firstly, the generalized irreverence which characterizes the production by Monteiro Lobato, especially in relation to social institutions of his life time. Then, the objective is to review facts debated in the Federal Supreme Court of Brazil, attempting to reach a series of conclusions that flaunt quarrels of our time.

MONTEIRO LOBATO IN HIS LITERARY, POLITICAL AND EXPERIMENTAL CONTEXT

Monteiro Lobato was born in the city of Taubaté, in the Brazilian state of São Paulo, on April 18, 1882. He was registered as José Renato Monteiro Lobato, but later changed his first name to José Bento, apparently in order to assume the name of his father, which was engraved with the letters JBML on a walking stick he inherited. Forced by his grandfather, the Viscount of Tremembé, Lobato moved to the capital and entered university.

The lack of interest for Law School seemed to be complete. Apparently, Lobato only admired a particular professor, Pedro Lessa, who was responsible for Philosophy of Law (Cavalheiro, no date, p. 5). Throughout his undergraduation years, he developed friendship ties with people who shared his main interest: Literature. Once he finished Law School, Lobato returned to Taubaté, where he was honorably welcomed with his bachelor's degree. He soon became district attorney in Areias, in the countryside. Lobato got married in 1908 and in the following year inherited the farm from his grandfather. He then left public life and became a farmer.

In the 1910s, he started to publish short stories, articles and reviews. After selling out the farm, he moved back to the capital city of São Paulo, and set up a book publishing company. Seven years ahead, finances were unsuccessful and he moved to Rio de Janeiro, at that time, the capital of the Republic. There he became a somewhat important newspaper reporter. In 1926, Lobato moved to New York, where he lived until 1931, working as commercial attaché at the Brazilian Embassy. Impressed by the economic growth of the United States of America, he started to campaign in favor of petroleum and iron exploration in Brazil. Very intransigent when fighting for rights of soil exploration, he was arrested in 1941, for three months. Then he went into exile in Argentina, in 1946, where he dwelled for a year. When he returned to Brazil, he was already a much-acclaimed writer of children literature. He died on July 4, 1948, due to a vascular spasm.

Law School was imposed over Lobato by his grandfather, from whom he inherited the farm. After a quick period living in Taubaté, the homeland of his grandfather, he became an attorney in Areias. At the time, which was the turn of the century, the Public Ministry was very different from what it is like contemporarily. Lobato did not like the judges. He hated charging people. He was distant from the notary. He had no ideological bonds with the main judge. He did not like reading about Law. He had never written an article on Law. Therefore, he left Areias and the attorney life, as he did not considered himself fit for such a job (Cavalheiro, no date).

Carried away by disappointment and skepticism, Lobato struggled to overcome this emptiness, which led him to writing articles and short stories. That is what he attempted by writing the sublime *Jury in the countryside* (*Júri na roça*) and so many other literary pieces, filled with irony and wit. For example, Lobato heavily criticized the Brazilian tax legislation. In *Ideas of Jeca Tatu* (*Ideias de Jeca Tatu*), while describing the arrival of the Portuguese Royal Family in Brazil in the 19th century, Lobato calls attention to a character who landed in the country: “The Revenue Supervisor – an enormous dog with big sharp teeth – is conducted in action by several bailiffs” (Lobato, 1950, p. 14).

The war Lobato fought against the tax authorities (and which somehow had some results, given the tax exemption of books, defended by himself) is another facet of his combative spirit. Lobato also believed that

the life of the law operator was empty because the determining conditions for law were completely structural, and depended of economic justice, which was based on a good income distribution.

He heavily criticized the formal conceptions of Law and Justice, because

If Law really represented a reverberation of Justice as the dream of philosophers, it would be in the consciousness of every man, mingling with the moral and eliminating the need for penalties. Why are there today, as before, as always, many violators of laws? Because these laws represent only conservation, permanence, status quo in fact, never a pure emanation of justice (Lobato, 1950b, p. 17-18).

Lobato had a pointed critical spirit, which could not coexist with so many inequities he came across to, especially as an attorney. His radical skepticism blended with a morbid, everlasting disbelief regarding formal matters in the legal area. His practical effectivity, his entrepreneur spirit and his concrete mobility repelled the abstract, the theoretical, the conceptual, which design Law, as a completely cultural creation. His constant nonconformity set him far from imposed solutions.

Monteiro Lobato lived in a very different context if compared to our present context. His first children's book, *The adventures of Lucia Little Nose (Reinações de Narizinho)*, was released in 1920, a year marked by revolution in Brazil – through the antagonism between rebel lieutenants and the President Epitácio Pessoa, which started off a very difficult decade and led to a movement started in Southern Brazil by Getúlio Vargas. Lobato disagreed with Vargas, especially because of his resistance to acknowledging the existence of petroleum in Brazil, a positioning he altered substantially in the 1950s.

Children's literature written by Monteiro Lobato was also important because of the number of successful adaptations he made, such as *Children's Don Quijote (Dom Quixote das crianças)*, *The twelve labors of Hercules (Os doze trabalhos de Hércules)*, *Fables (Fábulas)*, *Adventures of Hans Staden (Aventuras de Hans Staden)*, *Peter Pan*, *History of the world for children (História do mundo para crianças)*, *The minotaur (O minotauro)*. He also created a breathtaking universe for children of many generations, developed in novels such as *Voyage to the sky (Viagem ao céu)*, *The Saci (O Saci)*, *The Yellow Woodpecker (O Picapau Amarelo)*,

Reforming Nature (A reforma da natureza), The size swich (A chave do tamanho), Emília's autobiography (Memórias da Emília) and Pete's hunting (Caçadas de Pedrinho).

This last novel, *Pete's hunting*, whose content was also questioned in court, was originated from a previous story by Lobato, *Hunting the ounce*. The final version was published in 1933. In this narrative, the children characters hunt ounces, warthogs, rhinos. To accuse Lobato of environmental crimes is an incrimination that does not consider the historiographic fault of judging people out of their original context and time. However, as in the narratives there also are very serious imprecations of racism, the matter may arise a different approach, as summarized in the next chapter.

JUDICIALIZATION OF MONTEIRO LOBATO'S PRODUCTION

The Institute for Racial Law (IARA) is one of the plaintiffs in the Supreme Court, headed by President of the Republic, the Minister of Education, the President of the National Education Council and the then rapporteur of processes in the Basic Education Board of the National Education Council. The injunction was reported by the Minister Luiz Fux, rejecting the claim of the interested parties, although for reasons of form (fault by the Supreme Court) and not of content.

The injunction aimed at suspending the ministerial approval by the Ministry of Education, until a decision was given regarding the callback action from the Presidency of the Republic. A report from the National Council of Education (number 6-2011), approved by the Minister of Education, withdrew allegation of a previous decision (number 15-2010), treating differently the matter of controlling artistic production with eventual racist manifestations. This shift in jurisprudence, which would stop the monitoring of productions that could eventually include racist content, is the procedural core of the question hereby analyzed.

For the plaintiffs, the request for reviewing the report number 15-2010 had been carried out by the Chief of Staff of the Minister of Education, and not by the Minister himself, who should hold exclusive competency on the matter; that is why the review should be banned. The intention was to have the President holding the case and until final decision, a suspension of

report number 6-2011 was expected. Report number 15-2010 was more emphatic towards defining control and combat to publication of books with explicitly racist content.

Objectively, the intention was to create a model for educators to use books with racist content. There should be a necessity for consignment of an explanatory presentation note, since the analyzed books had notes regarding orthography changes and animal protection laws. The plaintiffs did not defend clearly a banning of the novel or any type of harsh censorship.

The plaintiffs wanted that the new publications of the book had an explanatory note, making it clear for readers that the narrative included topics related to crime of racism, and that education laws should defend more emphatically the appreciation of African culture. Public law should be subject to an anti-racist education. It was claimed that the questioned novel could be considered a violation to racial equality.

In the text, excerpts by Monteiro Lobato were used to show expression of racial stereotyping when referring to the character Aunt Nastácia, in the novel *Pete's hunting*. The plaintiffs thought the Ministry of Education had broken the general norms of Public Administration and legislation about racism when authorizing the acquisition of books with expressions that reinforced racial stereotypes. Indeed, in one of the editions published nowadays, in the closing of the narrative, Aunt Nastácia says, "Black people are also people, ma'am..." (Lobato, 2011, p. 71). This excerpt, among others, is the reason for the revolt which led to the judicialization of the matter.

In the beginning of the discussion, from a bureaucratic point of view, there was an application with a request for extraordinary avocation, by one of the plaintiffs, as a citizen, towards the Ministry of Education, with the purpose of achieving measures onto the novel release. The book was being distributed by a national program of promotion of public libraries (Programa Nacional Biblioteca na Escola-PNBE). The president delayed the decision regarding the Ministry of Education, which changed the final report by the National Education Council.

The filed, the President of the Republic, manifested herself consigning that there would not be danger because of the delay of adjudication, for the grant of the injunction; that is, there was not a concrete act to be fixed. The interested part should demand action from the Ministry of Education and wait for a decision.

The National Education Council had issued a report (number 15-2010) claiming that there should be explanatory notes in racist publications, with the objective of contextualizing the literary production. The Ministry of Education produced a technical note counteracting the Council, demanding a revision of the report, explaining that it was pedagogically inadequate to insert such a note in a literary production, as the book in its integrity was important for the reading formation of the students. After all, a collegiality formed by teachers, professors and specialists in Literature and Education had chosen the novel to be a part of the books in the project. The literary publication should be kept unaltered regarding its historical register, so as not to become decontextualized. They defended that inserting a note would limit the possible readings of the book, excluding from the readers the possibility of autonomously interpreting and critically reflecting about the passage.

The National Education Council (Report number 6-2011) insisted that the right for freedom of expression is characteristic of a democratic society, so it could not veto circulation of literary and artistic work. However, this line was quenched if consigning that the society should also guarantee the right to non-discrimination, under the same constitutional, legal and contractual provisions. It was recognized at the same time the fictional quality of Monteiro Lobato's work. And our subjection to our own time was mentioned, as well as our responsibility for choices and political, pedagogical and literary orientations assumed in the contexts in which we live. And literature, as said in the mentioned report, is in tune with the world, "is not out of conflicts, power hierarchies and social and racial tensions in reality."

The Minister of the Supreme Court who reported the process led and mediated conciliation hearing, when it was interpreted that the opinions referred were gathering each other, which is why there was no need for correction. On the merits, it was decided that there was not demonstrated

illegality or abuse of power. It also set the lack of jurisdiction by the Supreme Court to rule on the matter, because it did not see the need to call back the file by the head of the Federal Executive, only justification for the fact that the Supreme Court was acknowledged with the recognition of jurisdiction to decide the issue.

CONCLUSION

This discussion brings us, among many other problems, a historiographical question which is difficult to solve. One cannot isolate Monteiro Lobato of the context in which he lived, with its historic heritage that perceived the slave heritage with naturalness that today our society may not understand. In this sense, it is a presumptuous attitude of our time to judge such a production. It would be no justice to the immense critical collaboration of this great writer, in the context of our literary history.

On the other hand, there is a perverse element in the reading of literature, through which we are never free of our time and of our categories of thought. One cannot hide that there is offensive content in some fragments of the questioned novel, and that the pain and humiliation of those affected should be mitigated, because these feelings actually existed and exist.

The average solution that does not include a ban or outright censorship of the work, but the construction of clearing mechanisms, tinted by training teachers who mediate readings proposals and also instrumentalizing publications by circumstantial notes with natural compliance costs towards a humanistic policy and clarification.

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