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Implications of the rural territorial tax (RTT) on Brazilian functionalized property in light of the 1988 Constitution

Orígenes Rosendo da Silva Neto[1], Fabrício Muraro Novais[2]

[1]Master's student at PPG - Postgraduate Program: Master's Degree in Agribusiness Law and Development at the University of Rio Verde (UniRV); Specialist in Constitutional Law from the Federal University of Uberlândia (UFU); Graduated in Law from the University of Uberaba (UNIUBE); College professor; Lawyer regularly registered with OAB/GO 44.830; e-mail origenesneto@gmail.com
[2]Doctor and Master in State Law from the Pontifical Catholic University of São Paulo (PUC/SP); Adjunct Professor at the State University of Mato Grosso do Sul (UEMS) and Permanent Professor at the Professional Master's Program in Agribusiness Law and Development at the University of Rio Verde (UniRV); Graduated in Law from the USP Law School (Largo São Francisco); former Assistant to the President of the Federal Supreme Court (STF) and to the Minister of the Superior Court of Justice (STJ); e-mail: fabriciomuraro@uol.com.br

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Abstract*—*This article aims to explore the basic characteristics of the Rural Territorial Tax - RTT - in Brazil, with a focus on achieving the social function of property. For this, it aims to outline the main aspects of the evolution of property rights around the globe, as well as in Brazil, from the occupation of lands by the Portuguese Crown to modern times. The research method addressed is bibliographic, documentary, qualitative and primarily deductive. Meanwhile, it narrates the property with inspiration in the ideals of liberalism and what are the consequences arising from the development in the tax area. Therefore, it explores the main nuances of the State's power to tax, especially with regard to the RTT - when measuring the level of effectiveness of said tax, whether in its fiscal or extrafiscality aspect, within the fundamental bias of the Federal Constitution of 1988.

I. INTRODUCTION

The property right, currently recognized by the Federal Constitution of 1988 as a fundamental right, had a long path of development in order to arrive at the interpretations that are correlated with it today. The owner-owner is guaranteed his rights to private property, with the powers that are inherent to him – to use, enjoy/enjoy, dispose of and recover the thing, while also being subject to a legal framework of duties to meet the so-called principle of social function of property.

The item II of this study proposes to delve into the preliminary aspects of the evolution of property around the globe, dealing with the main exponents of the theme in the modern age, from the philosophers John Locke and Rousseau, who detailed basic characteristics, although with their distinctions, about the guarantee from property to man, its reflections on society, as well as revolving its inspirations in liberal ideas.

In the meantime, the item is also dedicated to highlighting how the occupation and distribution of land in Brazil, since the colonial period, had implications for property on national soil, permeating a study based on the Land Law, the Brazilian Constitutions and the Statute of Earth.

In the item III, once the premises of property consolidation are overcome, the article focuses on the tax issue inherent to it, specifically in rural property, through the institution, regulation and collection of the RTT - Rural Territorial Tax. For this, at first, it rescues concepts of taxation and its purposes in society, as well as the Constitutional prediction and the limitations of the State to the power to tax.

Next,it will be demonstrated, through studies and research, which are the criteria for measuring the tax due on rural property, legislation and regulatory evolution, in addition to inherent concepts, such as the definition of bare land value, degree of use of rural property, as well as the exceptions and incentives for the extrafiscality function of the tax: preservation of native forest or cultivation of these species, sustainable and adequate use of the environment, accessions (constructions, buildings), added to the fulfillment of the social function of the land /property.

In the item IV, as part of the conclusions, the paper analyzes the consequences and the possible (in)effectiveness of the Rural Land Tax in Brazil through data collected since the 1980s, to understand whether the tax is effective both in the fiscal and extrafiscality functions. For this, it is still based on comparative law research, in relation to the same type of rural tax, also imposed in other countries.

II. PROPERTY RIGHTS: HISTORICAL DEVELOPMENT INCURSIONS

Man's relationship with the land goes back to the beginnings of organized civilizations, because when leaving the characteristic of nomads and settling in certain organized places for housing and cultivation, the nature of possession and occupation arises, which modernly develop in the right of property. that is conceived today. It is even verified that the idea of property, for some, exponent of the philosopher John Locke, is a natural right of man, as shown below.

Considering the modern age, Barcellos (2020, p.86) mentions that when Locke develops the theme of property rights, he does so with the understanding that property encompasses the individual himself, in an absolute bias, whose propagation takes place through the ideals of liberalism. On the other hand, in contrast, based on Rousseau's studies, Barcellos (2020, p.87) narrates that property is embodied by a positive act of someone who occupies and exercises dominion over something, attributing it as their own.

In this vein, it is also observed that Rousseau establishes a premise by which the domination and distribution of wealth, in greater or lesser amounts, to specific groups, give rise to social inequalities, when it is up to the State to intervene to balance the factual situation. Meanwhile, Locke develops an ideal of the guarantee of property as inherent to the human being, including itself along with the notion of life and freedom. Therefore, for Rousseau, property is only recognized within civil society, in such a way that there is no property without society. While Locke marks property as a natural right, unlinked from the formation of society itself, and for that very reason, imposes a set of duties on the owner (BARCELLOS, 2020, p. 89).

From the definitions espoused by these two of the greatest exponents of the theory of property rights already in the modern age, it is inferred that, within civil society, with property there also emerges a question of entitlements, about who can have something, to whom it belongs the right of ownership, which, in turn, implies possible social inequalities that also permeate the tax system inherent to property (BARCELLOS, 2020, p. 78).

Locke's ideals emerge, as he understands that the ownership of goods and the organization of the Liberal State have freedom and equality as essential. When referring to capitalist society, it is notable that equality is a value that is at the heart of the concept of the Rule of Law, so that everyone must be treated equally before the law. In addition, private property proves to be fundamental for carrying out free commercial transactions, and for pure economic liberalism there should be no state intervention in the economy, under penalty of distorting freedom and private property (BARCELLOS, 2020, p. 93/96).

Turning our gaze to the development of property in Brazilian lands, it is necessary to pay attention to the peculiarities of the occupation of the territory by the Portuguese Crown. At the time of the “discovery” of Brazil, Portugal did not have enough dimension on the immense extension of land that covered the Colony, therefore, in order to clear, demarcate, occupy, explore and defend the new lands, a system of hereditary captaincies was installed in which the donee captains held power over a specific part of land.

Fourteen hereditary captaincies were established, distributed to those more fortunate and close to the Portuguese Crown, with sufficient prestige and economic power to try to carry out the mission that was incumbent on them. However, even with the division into fourteen portions of land, the territory was still more extensive than could be managed, which is why the captaincy system failed.

From then on, to resolve the imbroglio, the Portuguese Crown decided to import the Sesmarias institute to the Colony from its Empire, although with different characteristics, since on Brazilian soil, the Sesmarias letters were delivered so that new owners could occupy, explore, demarcate and defend the territory that was consigned to them, many times, until then, new and “virgin” lands. Once again, permeating the inequalities that are perpetuated until today, the letters of Sesmarias were delivered to the “friends of the King”, people with considerable wealth and power.

The Sesmarias system was also not successful in Brazil, with sesmeiros who did not fulfill their obligations to the Crown and other irregular occupations that spread throughout the territory, until, shortly before the Independence of Brazil, still in 1822, Dom Pedro I suspended the concession of new Sesmarias until the regulation of land occupation by the Constituent Assembly.

Although the Imperial Constitution of Brazil, of 1824, dealt with the full right of property in its article 179, item XXII, and providing for compensation for expropriation, the fundamental letter did not effectively regulate the situations already consolidated. That said, there was a period of time in Brazil from 1822 to 1850, called the tenure regime, without land occupation legislation or property rights that would bring legal certainty.

It is in this period, with the Constitution of 1824, that the development of property rights in Brazil is understood, whose first regulation was promoted by Law n. 601/1850 (Land Law).

In the Brazilian context, the realization of lands also led to the concentration of wealth and power in a small part of society, since occupations and sesmarias had already been consolidated, a select elite group, which was more aligned with the interests of the King, ended up be the most benefited, even by the lack of inspection in the colonial period and the precariousness of dominion titles. This situation, which should have been resolved by the Land Law by promoting the right to property, did not obtain support from the agrarian elite, even because in the following Magna Carta, the Republican Constitution of Brazil of 1891, the legal tax on rural properties was provided for, a situation that was only addressed more comprehensively in the Land Statute in 1964 (SIQUEIRA, 2021, p.32/35).

In the meantime, around the world, due to the Second World War, a new model of constitutionalism, with a more social nature and, therefore, with room for interference in economic freedom, gained strength to be implemented, since it already had in the Mexican Constitution of 1917 and the German Constitution of 1919 (Weimar Constitution). From there, after the horrors of the world wars, the 20th century had implications of ideals rooted in social solidarity. That said, the paradigm of the Liberal State is changed to the Democratic State of Law, imbued with transforming society, in an egalitarian process, which became known as the Welfare State (BARCELLOS, 2020, p.101/102).

In terms of Brazil, with the enactment of the Land Statute, Law n. 4504/1964, there is a relevant regulation of the institute of the social function of the land, by which the property must be subject to minimum criteria that serve the community, in addition to the owner himself.

Only after the Federal Constitution of 1988, however, the property right, now considered as a fundamental right, starts to have a socialized function with greater clarity and effectiveness regarding the measures to be taken by the State in the fulfillment and effectiveness of the aforementioned principle. The idea of democracy is strengthened, together with economic freedom and contracting, with the guarantee of private property, but as long as it is based on basic principles of human dignity, adequate exploitation of the environment and sustainable development. The right to guarantee private property is not withdrawn from the owner, but only combines the ideals of rights and duties of the individual with the community and which, therefore, justify the constitutional protection of the State for the common good. In this vein, it can be inferred that the social function of property promotes a change in the right from “having property” to “being an owner”, with the subjection of the characteristics and powers inherent to the thing (BARCELLOS, 2020, p.113/115).

In summary, it appears that, in Brazil, following the parameters of implementation and development of property rights around the globe, despite the peculiarities of Portuguese colonization, there is currently the guarantee of property as a fundamental right, in the terms espoused in art. 5, XXII, XXIII and art. 170, II, CF/1988. That is, property must serve a social function, subjecting its owner not only to the rights inherent to it (use, enjoy/enjoy, dispose of, recover), but also to the duties that advocate social justice for the community, uniting the economic order, the environment, sustainable development, respect for neighborhood rights and tax and labor legislation.

For this reason, in terms of taxation, the institution and implementation of the Rural Territorial Tax - RTT, appears as an important instrument to coerce the owner in fulfilling the social function of the property, based on incentives to those who produce meeting the social function and, on the other hand, on the other hand, encumbrance to those who do not satisfactorily meet such criteria (D'AGOSTIN and CATAPAN, 2020, p.03).

III. BASIC ASSUMPTIONS FOR REGULATION OF THE RURAL TERRITORIAL TAX – RTT

Taxation on immovable property, based on the right to property, or even possession, is an instrument used by various civilizations since ancient times. At that time, this type of tribute was generally instituted for purposes of tax collection and also for land management, in order to consolidate and maintain dominion over a certain territory, following the example of the Roman Empire and also,

more recently, by Napoleon. In Brazil, given the historical context of colonization and the resistance of the dominant agrarian elites, this type of taxation was postponed for a long time (SIQUEIRA, 2021, p.48).

Humberto Ávila (2008, p.06) teaches that when creating a tax there is a specified purpose within a fundamental legal framework of the Federal Constitution of 1988, which advocates standardization through law, guaranteeing legal certainty to the citizen by through the predictability and certainty of what will be charged (art. 50, XXXVI), and the definition of time frames, such as the limitation of the power to tax: the non-retroactivity of the tax (art. 150, inc. III, a). Furthermore, it advocates the principle of precedence: in the case of social contributions (art. 195, § 7), it is essential that they are instituted 90 days before collection (art. 195, § 7), while taxes can only be demanded if created until the end of the previous year (art. 150, item III, b). Complementarily, the author explains in more depth about the objectives of taxation:

> Taxation seeks to achieve certain purposes. These purposes can be analyzed from an extra-legal perspective, when examining the causes that led the legislator to conform the taxation in this or that way, or from a legal perspective, in the event of investigating the validity basis used to justify the taxation or the distinction between taxpayers and the purpose that the distinction aims to achieve. This is because, since the justification and purpose of the distinction are different, the legal interests that affect the subjects will be different and, by implication, the rules and principles that will protect them will also be different. (ÁVILA, 2008, p.06)

Still in the objectification of taxes, Bach and De Andrade (2020, p.03) recall that the State, when creating a new tax, primarily has the configuration called taxation, that is, to seek collection purposes and with the purpose of raising funds. to promote public policies that are necessary. On the other hand, there is also parafiscality, when the tax is destined to the revenue of state-owned legal entities or linked to them. And yet, extrafiscality, when the tax goes beyond the fiscal criterion, serving as a means of State intervention in the private economy and in social relations, as is the case of the RTT - Rural Territorial Tax.

The idea of taxation related to the right to property dates back to the ideals set out in the Declaration of the Rights of Man and of the Citizen, dated 1789, in which it was already foreseen that all citizens, according to their possibilities, should contribute to the maintenance of conquered rights: liberty, equality and property. In this vein, it is observed that property rights and taxation complement each other, since the State can only guarantee its own bases, such as fundamental rights, through the required taxes, which finance them (BARCELLOS, 2020, p. . 152 and 170).

In this wake, taxation should not be seen and rejected as depriving citizens of their rights, when, on the contrary, it is one of the ways to guarantee such foundations:

> As seen, citizenship in the Democratic State of Law can no longer be understood only as the possession of rights, but rather as a relationship of rights and duties. Within the scope of such duties, the fundamental duty to pay taxes stands out, which has an intimate connection with fundamental rights, relating to them in three perspectives: the guarantee against state power, the role of financing the cost of rights and, finally, acting as a mechanism for the realization of fundamental rights. It can be said, then, that if democracy is compatible with the right to property, which legitimizes inequalities - but at the same time requires efforts to be made to reduce them -, there is no violation of the right to property by adopting inequalities. redistributive fiscal policies, as long as they are carried out in constitutional terms. The social function of property, which justifies the inclusion of collective interests, is reflected in tax law with the recognition of the need to pay taxes, adding to it a link to the constitutional project of transforming reality. (BARCELLOS, 2020, p. 186)

Having surpassed the basic premises in relation to property taxation, we have that the RTT – Rural Territorial Tax was instituted in Brazil in the first Republican Constitution in 1891 and today is based on art. 153, VI, of the Federal Constitution of 1988, and regulation in Law n. 9.393/1996. It is inferred that the RTT is imbued with both a taxation and extrafiscality function, since, in addition to raising funds, it also aims to encourage the owner in the proper use of the land, attending to the social function, in order to avoid latifundia without production, as well as as real estate speculation. For this very reason, there is a difference in the rates charged, so that unexplored rural properties have higher collection rates, according to criteria of degree of use (D'AGOSTIN and CATAPAN, 2020, p.03/04).

In order to understand the institution of the RTT in Brazil and the method of calculation, it appears that the tax

was effectively created only in the military period, through the Land Statute, already providing for the collection and extrafiscal character, in the sense that the progressiveness of the collection rates was stipulated by the size and use of the property. The creation of the RTT also aimed at a more effective land regularization by allowing the identification and expropriation of unproductive rural properties. However, the failures of the public power in the inspection did not favor the effectiveness of the established objectives (SIQUEIRA, 2021, p.15/16).

A brief historical review shows that the RTT was originally provided for by the 1891 Constitution, with instituting competence attributed to the federated states. In the 1946 Constitution, by Constitutional Amendment n. 5, the competence was conferred to the municipalities, but it was soon modified again in 1964, during the military period, transferring the competence of the RTT to the Union, which was maintained in the current Magna Carta of 1988. However, under the terms of art. 158, II, CF/1988, the inspection of the RTT is the responsibility of the Union, but half of the collection is the right of the municipalities (art. 158, II, CF/1988). Another relevant modification is the hypothesis that the municipalities and the Federal District establish an agreement with the Federal Revenue Service so that the federated entity itself inspects and collects the entire RTT (art. 153, §4, III, CF/1988), provided that it does not constitute tax waiver or tax reduction (BACH and DE ANDRADE, 2020, p. 05).

Regarding the incidence of the tax due, the provisions of Law n. 9.393/1996, which gives the guidelines in relation to the RTT:

> Art. 1 The Tax on Rural Territorial Property - RTT, calculated annually, has as a triggering event the property, useful domain or possession of property by nature, located outside the urban area of the municipality, on January 1 of each year.
>
> § 1 The RTT is also levied on the property declared to be of social interest for the purposes of agrarian reform, as long as it is not transferred to the property, unless there is a previous imposition of possession.
>
> § 2 For the purposes of this Law, rural property is considered to be the continuous area, formed by one or more parcels of land, located in the rural area of the municipality.
>
> § 3 The property that belongs to more than one municipality must be classified in the municipality where the headquarters of the property is located and, if it does not exist, it will be classified in the municipality where most of the property is located.

In addition, Cora et al (2020, p. 08) highlight the hypothesis of exemption from presenting the RTT for those farmers who exploit land in up to 100 hectares, in addition to the specific cases of lots and settlements destined for agrarian reform, provided that the requirements are met. basic legal criteria. Therefore, the author explains how to calculate the tax due:

> In order to carry out the calculation basis, it is necessary to know what the Non-Taxable and Taxable Areas are, being able through this to identify means of how to carry out the calculation of the rural land tax. It is necessary to know what bare land is and the market value of the land, and bare land is the property by nature or natural accession, comprising the soil with its surface and the respective native forest, natural forest and natural pasture. The RTT legislation adopts the same understanding as the civil legislation (BRASIL, 2012). According to Law No. 9,393 (BRAZIL 1996) in its art. 8: "The Value of Terra Nua (VTN) is the market value of the rural property, excluding market values related to: I - constructions, installations and improvements; II - permanent and temporary cultures; III - cultivated pastures. " The Non-Taxable Area is one that is determined by the Forests Code and is protected for environmental conservation. According to the Federal Revenue's normative instruction, number 256, (BRASIL, 2002) the non -taxable areas of rural property are: permanent preservation; of legal reserve; of Private Natural Heritage Reserves of ecological interest, thus declared by means of an act of the competent federal or state agency, which are: ; and b) demonstrably useless for rural activity; of environmental easement; covered by native, primary or secondary forests in a medium or advanced stage of natural regeneration and flooded for the purpose of constituting a reservoir for hydroelectric plants. According to Law No. 9,393, of 1996, arts . 10, § 1, I and III, the RTT calculation basis is the Taxable Bare Land Value (VTNt). The amount of the RTT to be paid is obtained by multiplying the VTNt by the corresponding rate, considering the total area and the degree of use (DU) of the rural

> property. Degree of utilization is the percentage ratio between the area effectively used by the rural activity and the usable area of the rural property; constitutes a criterion, together with the total area of the rural property, for the determination of the RTT rates. (CORA et al, 2020, p.09/10)

According to the calculation base adopted, for the purpose of extrafiscality of the RTT, it is interesting to note that the occupied and preserved surface areas on the property are excluded from the taxable area, which should encourage the owner to maintain the native forest or even cultivate native species, regenerate areas that have suffered degradation, contributing to a sustainable and balanced environment. In addition, the progressivity of the RTT is also supported, since the rates are defined according to a proportionality between the size of the property and its productivity, giving the degree of use (UD) of the property (BACH and DE ANDRADE, 2020, p. 08/07).

For all the above, the institution of the RTT in the form of contribution with extrafiscality, shows itself as an alternative permeated with good objectives and "could promote environmental preservation, stimulate economic practices that generate income and work in the field, in addition to ensuring that the social function of the earth was fulfilled." However, it has proved to be inefficient in the Brazilian historical context, either due to the lack of regulatory legislation for long periods, the inefficiency in the inspection and collection of the tax due or even the transfer of the State to the pressure of the ruling elites who aim not to change this scenario. Furthermore, if there were effectiveness and efficiency in the inspection of the RTT, unproductive rural properties, kept for speculative purposes, could serve for expropriation for land regularization purposes (SIQUEIRA, 2021, p.39).

IV. SCOPE AND (IN) EFFECTIVENESS OF THE RURAL TERRITORIAL TAX (RTT) IN BRAZIL: FROM TAXATION TO EXTRA-FISCALITY

As previously exposed, the State's power to tax is constitutionally defined in specific situations regulated between articles 153 to 156 and other scattered ones. In the model of the federative pact adopted in Brazil, the competence to tax can be of the Union, federated states, municipalities or the Federal District. It is noteworthy that taxation must adopt parameters of reasonableness and proportionality, since it affects the legal circle of human rights, such as freedom and private property, even if it is in order to preserve them. Therefore, the legislator determines a minimum that is indispensable to the citizen for his life and that of his family in a dignified way, while also conferring the contributory capacity of this citizen, substantiating and justifying the reason for a specific tax, with the purpose, need, adequacy and proportionality of choice (ÁVILA, 2008, p.08/10)

Considering these basic premises, when dealing with property rights, an approach that focuses on the scope of the principle of the social function of land and property is unavoidable. This is because functionalized property is built in accordance with the daily actions of people collectively, that is, at the same time that the Constitution guarantees the right to property, it subjects the owner-owner to a series of duties that meet, not only individual, but also benefits the whole society (BARCELLOS, 2020, p. 122).

With regard to rural property, the social function is embodied in allying the exploitation of the land in a sustainable way, harmonizing the relationship between man and nature in the achievement of agricultural or even industrial activity that is developed in the place. In this vein, the Citizen Constitution elevated environmental protection as one of its foundations, in such a way that sustainable development through a healthy and balanced environment must be shared with the economic order to meet the social function of property (CORA et al. al, 2020, p.03/04).

For this reason, the taxation concerning the RTT – Rural Territorial Tax, takes into account environmental and sustainability criteria, including the Brazilian Forest Code:

> From the study carried out, it can be observed that through the Forest Code in relation to the Rural Territorial Tax, the evidence found is that when the farmer fulfills the obligations related to the environment, he can benefit from a reduction in taxes, especially the Tax Rural Territorial, thus being able to contribute to sustainability being of great value to contribute to society. In order to have these benefits, it is necessary to preserve the areas, considered non-taxable in the declaration of the territorial tax, being these areas the legal reserve and the permanent preservation areas - APP, provided that these reserves are proven by suitable and skillful documents, in addition to the presentation of CAR. In order to calculate the RTT calculation basis, it is necessary to know what the non-taxable and taxable areas are, thus being able to identify the possible means for quantifying the rural

> land tax. It is necessary to know what bare land is and the market value of the land, bare land is the property by nature or natural accession, comprising the soil with its surface and the respective native forest, natural forest and natural pasture. The RTT legislation adopts the same understanding as the civil legislation. (CORA et al, 2020, p.11).

However, even with all the incentives, the RTT tax collection is very low in the national revenue, and still, taking into account its extrafiscality nature, it shows that the Brazilian taxpayer has not felt sufficiently stimulated, since they permeate unproductive properties and without developmental benefit, since the tax burden does not burden the taxpayer to the point of forcing him to meet the attributes of a social function. In addition, in environmental parameters, the taxpayer barely perceives the correlation between the preservation of green areas on his property and the value of the RTT, since these areas are subtracted, in proportion they occupy, for the calculation of bare land, and by in turn, it has little impact on the tax reduction value (BACH and DE ANDRADE, 2020, p. 12).

The low RTT collection does not refer only to the present day. As early as 1987, studies carried out by Giffoni and Villela, found that the tax was inefficient in its fiscal function because properties were declared at a value much lower than what they actually corresponded to on the market. In the same sense, with regard to the extra-fiscal function of the tax, even about 40 years after the aforementioned study, the situation remains deteriorated: there is no efficient inspection by the State, with the consequent low adherence to providing the fulfillment of the social function of property. So much so that, according to the 2017 Agricultural Census, 1% - one percent - of the establishments were large properties and corresponded to a total of 47.6% of the entire area that was analyzed. This means that large landowners continue to concentrate land, often without meeting the social function, and maneuvering them into real estate speculation (BARCELLOS, 2020, p. 220).

Furthermore, when approaching the collection of the RTT in its taxation function, Bach and De Andrade (2020, p.09/10) explain in their studies the low impact that the tax has on total national revenue, as well as, specifically, its relation with the agribusiness sector:

> When analyzing the collection of the RTT over recent years, it is clear that this tax is among those that generate the lowest revenue for the State. According to data from the Brazilian Federal Revenue Service (2018, 2014, 2006, 2002, 1998), in 2017 the collection amounted to R$ 1.418 billion reais, which represents 0.06% of national tax revenue and 0.02% of the Domestic Product. Brazilian Gross Domestic Product (GDP). This quotient has fluctuated, since 1990, between less than 0.01% and 0.03% of GDP, a record maintained in the 1996-1997 biennium. [...] On the other hand, agribusiness, understood as the extension of the agricultural production chain, has great weight in the formation of state reserves, equivalent to 21.4% of GDP (CNA, 2020). So much so that the wealth generated by this productive set is not limited to the fruits and products of economic activity, but is reflected on the very surface on which it develops: in this context, rural property gains the quality of a speculative object.

The disparity in the amount of Brazilian collection, when it comes to the RTT, is even more evident when compared to taxation on rural lands in other countries. While in Brazil, the RTT collection does not correspond to more than 0.3% of the total, even in Latin America, Uruguay and Chile, they collect, respectively, 6% and 4%. In Anglo - Saxon America, both the United States and Canada collect, on average, 5%. In Europe, in countries like France and Italy, the amount reaches 3% of the total collected (D'AGOSTIN and CATAPAN, 2020, p.02).

The most diverse scholars on the subject attribute the low RTT collection in Brazil to inspection or administrative factors, as Siqueira (2021, p.50) explains well:

> Thus, due to the persistent evidence of its low effectiveness, even after the different regulations, one of the main obstacles to the performance of the RTT is still associated with the self-declaration of the VTN by the taxpayer, as it directly compromises the amount collected and, therefore, the effectiveness of compliance of extrafiscality objectives. The declaration of the VTN by the taxpayer, in addition to compromising the collection of the RTT, also generates other systemic failures, since, even if the value is contested by public agents, resources are available in the legal sphere to try to reverse these charges.

Another approach that promotes failure in the approval of the tax is also necessary, with the imperative that the legislation authorizes the expropriation of unproductive

rural properties, according to art. 185, II, CF/1988. That said, there are taxpayers who tend to declare false information to increase the degree of use (DU) of the land and, thereby, prevent an expropriation procedure, which could even have the aim of promoting agrarian reform, under the terms of art. 6 of Law no. 8.629/1993 (BACH and DE ANDRADE, 2020, p. 15).

From this spectrum it is possible to conclude that the RTT also did not prosper in Brazilian lands in the sense of being used for land regularization, as allowed by the agrarian reform law. Considering that the concentration of land in the country remains practically unchanged, in addition to the fact that most of the national settlements did not materialize through consequences attributed to fiscal issues, there is also the fact that the collection is inexpressive due to the lack of a system or cadaster that integrate the characterization data of rural landowners and promote an efficient state inspection movement (SIQUEIRA, 2021, p.41/44).

Meanwhile, aspects that are interconnected with the rural land tax collection rates are also out of step with the evolution of Brazilian society over the decades, as demonstrated in the research by Bach and De Andrade (2020, p.15):

> Regarding the indices, it appears that the same ones established in 1975 are in force, without changes, in total mismatch with the technological innovations of agribusiness and livestock activity (FRIAS; LEÃO, 2017, p. 15). As a result, it is possible to glimpse one of the reasons for the low collection and, at the same time, a disincentive to the rational use of land in these criteria established by the Federal Revenue Service. An update of the minimum yields by 40%, reaching an average of 1.37 AU/ha, understood as similar to the contemporary agricultural reality 32, without any other change in the rules governing the ITR, would generate a collection of R$8.5 billion (INSTITUTO ECHOLHAS, 2019, p. 42-44).

In short, it is inferred that the Rural Territorial Tax - RTT - as established by Brazilian legislation, has a very small relationship with the total national tax collection, which, from now on, relatively mitigates its fiscal function in a country whose territorial vastness is continental. On the other hand, in the extrafiscality aspect, the tax is not more successful either, since, although wrapped in commendable grounds of adequacy of the land to a social function and allied to the sustainable use of the environment, the Brazilian State does not have inspection instruments. effective in achieving the objectives assigned to the tax, failing in the related regulatory and administrative functions.

V. CONCLUSION

Property consists of an essential right for the development and evolution of the human species in society, whereas, for the famous philosopher John Locke, property would be a natural right, prior to man himself, elevating it as a right embedded in life and in the freedom of man, which is denoted by influences of liberalism.

On the other hand, Rousseau, also in the modern age, attributes to man the possibility of appropriating things and having dominion over them, organizing himself in society, that is, property exists as a function of society.

Both thinkers played a fundamental role in the understanding of the aforementioned property right around the world, even after the rise of the Welfare State, a relevant model of State interference in private property through fundamental constitutional norms that aimed at an evolution in the human rights after the horrors of two world wars.

In Brazil, given the aspects of Portuguese colonization, with irregular land occupations and lack of effective rules, the right to property emerges in the constitutional texts from the Magna Carta of 1824, but takes greater emphasis with Law n. 601/1850 – Land Law.

In the following Magna Carta, of 1891, there was already a provision for the institution of a tax on rural properties, however, this rule did not really materialize until the enactment of the Land Statute in 1964. It is observed that the concentration of rural lands in the hands of an agrarian elite, with roots in the period of the Colony and Empire of Brazil, was fundamental in not achieving a tax collection on rural lands, since, with the political influence of these actors and for financial and power reasons, there was no interest in regularize the aforementioned taxation.

With the regulation of the Rural Land Tax - RTT - in the Land Statute, two functions are denoted: the fiscal one, with the purpose of collecting funds for State investment in public policies and the extra-fiscal function, by which the objective was to encourage landowners to produce and exploit their lands in a sustainable way and in line with the social function of property.

It turns out that studies on the subject demonstrate State failures in the inspection and collection of the RTT - Rural Territorial Tax, considering that the method of declaring the tax bases by the owner himself is deficient, often due to false information provided, in order to of

reducing the value of the tax or even inducing a false perception of a high degree of productivity of the property, which prevents an expropriation process for land reform purposes.

In an analysis of a study compared with other countries, whether in South America, North America or Europe, it appears that the RTT collection in Brazil is extremely small in relation to the total collected in the country, being only about 0.3 per percent, while in other nations, such as the United States and Canada, it is estimated, on average, 5%.

As an instrument to guarantee property and other fundamental rights, the State has the power to tax, with the constitutional limitations that are inherent to it, and the RTT - Rural Territorial Tax is an instrument for tax collection - monetary - and also extrafiscality, that is, aims at objectives other than financial ones, such as encouraging the rational and sustainable use of land.

That said, weighing all the studies and research carried out, it is observed that the State guarantees the right to property, as one of its foundations, as long as it serves a social function, serving the common good. However, when verifying the scope of the RTT's effectiveness in this context, normative and supervisory inefficiency is verified, mitigating the relevance of the tax in the national scenario as an instrument for tax collection or for the healthy promotion of the social function of property.

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