



"Our fight is not [just] for land, but for territory": proposition about protected areas from political ecology

"Nossa luta não é [somente] por terra, é por território": uma proposta sobre as áreas protegidas a partir da ecologia política

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ABSTRACT The creation of territories aimed at protecting biodiversity often leads to land and territorial conflicts with historically marginalized social groups. It occurs, because their way of life is not only underestimated, but because they are also exposed to forced expropriations. The aims of the present study are to reason on the creation of Brazilian protected areas based on the implications and consequences of the senses of nature in the National System of Conservation Units [*Sistema Nacional de Unidades de Conservação*] and to propose a new territorial framework to simultaneously bring together nature protection, land regularization, traditional peoples and communities' autonomy and governance, and universal access to natural resources based on a critical approach that exceeds biodiversity maintenance issues. Legislation and legal frameworks were revisited, as well as the academic literature on this subject in order to prepare the introduced analyses. The first part of the text provides a historical overview ranging from conservationist currents to Brazilian socio-environmentalism. Subsequently, it addresses the territorial effects of both law n. 9.985/2000 enforcement and its concepts of nature. Then, a reflection based on political ecology, nature conservation and the need for incorporating cultural aspects to public environmental policies is elaborated. Propositional nature arguments on the creation of a new category of protected area is introduced, namely: traditional territories of traditional peoples and communities. In conclusion, environmental conservation, in Brazil, in the 21st century, must give up the nature-culture dichotomy in order to embed the socio-biodiversity concept.

Keywords: socio-biodiversity; traditional peoples and communities; protected and conserved areas; socio-environmental conflicts.

RESUMO

A criação de territórios dedicados à proteção da biodiversidade, usualmente, acarreta conflitos fundiários e territoriais com grupos sociais historicamente marginalizados, pois não apenas subestima seus modos de vida, como também impõe processos de espoliação. Este trabalho tem como objetivos refletir sobre a criação de áreas protegidas brasileiras, a partir das implicações e consequências das noções de natureza no Sistema Nacional de Unidades de Conservação e propor um novo arcabouço territorial que congregue, simultaneamente, a proteção da natureza, a regularização fundiária, a autonomia e a governança dos povos e comunidades tradicionais, bem como a democratização do acesso aos recursos naturais, numa abordagem crítica que ultrapasse a questão da manutenção da biodiversidade em si. Foram revisitadas legislações e normativas jurídicas, bem como a literatura acadêmica sobre o tema para elaboração das análises apresentadas. Na primeira parte, o texto traça um panorama histórico das correntes conservacionistas até o socioambientalismo brasileiro. Na sequência, debate os efeitos territoriais da aplicação da lei 9.985/2000 e suas concepções de natureza. Posteriormente é elaborada uma reflexão, a partir da ecologia política, sobre a conservação da natureza e a necessidade de incorporar aspectos culturais nas políticas públicas ambientais. Com caráter propositivo, apresentam-se os argumentos para a criação de uma nova categoria de área protegida: os territórios (dos povos e comunidades) tradicionais. Conclui-se que a conservação ambiental no Brasil do século XXI deve abdicar da dicotomia natureza-cultura para incorporar a concepção de uma sociobiodiversidade.

Palavras-chave: sociobiodiversidade; povos e comunidades tradicionais; SNUC; conflitos territoriais; socioambientalismo.

1. Introduction

The title of the current article derived from a speech by a extractivist woman from Pará State during the 11th Seminar on Protected Areas and Social Inclusion, also known as SAPIS, which was held in November 2023 at University of São Paulo (USP). This speech could have emerged from several social groups, such as riverside communities, family farmers, *caiçaras* (coastal communities), *quilombolas* (people from *quilombo* lands), indigenous peoples and other groups from all over Brazil, within a territorial context marked by agrarian conflicts linked to the expansion of commodity crops, the installation of wind farms, mining, real estate speculation, among other factors. What is really striking is that the Brazilian State, whose objective was to preserve nature, is the true adversary in this struggle, or the oppressive agent, according to the aforementioned

speech. The process to create and manage conservation units, mainly the Full Protection ones, have historically caused disputes with the very social groups that have been responsible for maintaining the standing forest, the environmental quality of the territories and for delimiting the protected areas for generations (Bensusan, 2006; Diegues, 2019; Villas Boas *et al.*, 2022). Therefore, it is essential inquiring about the effects of nature protection policies.

Nature protection or, at least, the protection of non-anthropogenic elements and landscape processes, has been going on for centuries in different ways, functioning and goals (Davenport & Rao, 2002). Brazil has witnessed economic concern with timber exploitation since the Colonial and Imperial periods and, consequently, with forests; it is expressed by regulations such as Pau-Brasil (Brazilian Wood) law, from 1605, and the Royal Charter, from 1797 (Bursztyn & Bursztyn, 2012). Several

legal instruments were created to protect nature throughout the history of the Brazilian Republic, and it reflects scientific advancements, as well as the political and economic contexts observed on this timeline. Brazil followed the preservationist model imported from the United States in the late 19th and early 20th centuries, and it aimed at launching protected areas in National Parks (Bensusan, 2006; Medeiros, 2006; Castro Junior *et al.*, 2009). Other instruments were developed over the 20th century and they featured the core role played by the State. Currently, nature protection often happens in two ways, either by regulating the exploitation and/or management of certain species or abiotic elements, or by delimiting areas based on specific standards to rule the access to and/or management of natural resources.

This scenario started to change after the 1988 Federal Constitution was enacted, since it allowed and included social participation in public hearings and in decision-making; it also shared with society the duty to keep a “balanced environment” (Brazil, 1988). However, the Brazilian legislation not only perpetuates the culture-nature dichotomy, which was created and outspread by science development (Diegues, 2008; Leff, 2015), but also refuses to acknowledge the relevance of traditional peoples and communities for the management of currently protected forests, for ecosystems’ conservation, biodiversity maintenance and, most of all, for the construction of identities forged from a socio-nature (Castree, 2001) or from socio-biodiversity (Diegues, 2019; Krenak, 2020).

Given the context of profound environmental crisis, which is worsened by environmental injustice processes¹ that have racism as underlying criterion (Bullard, 2000; Martinez-Alier, 2008), climate and food emergency “denialism”, and the reconstruction of environmental public policies (Gomide *et al.*, 2023), the aims of the present study were to reason on the creation of Brazilian protected areas based on the implications and consequences of senses of nature in National System of Conservation Units (SNUC) and to propose a new territorial framework that simultaneously brings together nature protection, land regularization, traditional peoples and communities’ autonomy and governance, as well as universal access to natural resources through a critical approach that exceeds the biodiversity maintenance issue.

The intention behind the current article is not to present a bill, but rather to systematize and support some reasoning already in place in several forums based on the socio-biodiversity management fundamentals; therefore, hopefully to soon help the legislative work. The legislation and legal regulations, as well as academic theoretical and empirical publications by renowned authors on this topic were revisited in order to prepare the present study. Results of this critical analysis are organized into four chapters, in addition to the current introduction and the concluding remarks. The first chapter triggers the debate by introducing the three environmentalism currents; the second chapter addresses reflections on the effects of implementing SNUC; it was followed by the analysis of public nature conservation policies, from a political ecology

¹ The debate on environmental justice focuses on those contexts in which injustice becomes evident. This means that the “where” of threats, risks, and environmental impacts, not coincidentally, is directly correlated with aspects of social cleavage, ethnicity, and class patterns.

perspective; and, finally, the current contributions to the concept of territories dedicated to safeguard socio-biodiversity are disclosed.

2. The debate on nature protection trends

The debate between conservationism and preservationism emerged at late 19th and early 20th century in the United States. It guided the public debate and became hegemonic in the development of both legislation and public policies aimed at protecting natural resources worldwide (Fernandez, 2016). This debate lies on the modern biological science framework and it overall guides the modern concepts of nature, which are notably pragmatic and utilitarian, besides working as the very basis for the development of public policies aimed at protecting natural resources (Bensusan, 2006). This debate has influenced the entire environmental regulation process in Brazil since the modernization of the Brazilian state, it has also supported the implementation of the National System of Nature Conservation Units (SNUC) at the late 20th century (Mercadante, 2001). The Brazilian environmental movement emerged right at this time. This movement was substantiated by conservation biology and its lines of argument can be summarized as the clash of the concept of rational use of resources (conservationism) and of sublime wilderness (preservationism).

The historical concern of Preservationism lies on maintaining the “untouched nature”, which is idealized by a romantic philosophy that has disregarded economic values and/or the sustainability of human life. On the other hand, since its origin, conservationism advocated for the possibility of rationally exploiting natural resources and of mi-

nimizing environmental impacts. The concept of sustainability emerged from this current of thought and became a paradigm to justify the creation of protected areas prone to accept the exploitation of natural resources. This current overvalues technical solutions aimed at promoting efficiency gains and at activating markets by combining the ecological modernization doctrine (Martinez-Alier, 2007).

Currently, “conservationism” describes the line of thought encompassing preservationists and conservationists, which is defined as the set of activities mainly focused on protecting natural areas, without further involvement with other underlying issues such as restricted access to these resources or the maintenance of cultural practices (Fernandez, 2016). Accordingly, preservationists and conservationists are herein understood as “two sides of the same coin”, due to lack of a more forceful critique to production, consumption and capitalist accumulation models that view natural areas as stocks of resources. Consequently, they give little relevance to other concepts and relationships with nature. Ultimately, they perpetuate social inequality.

On the other hand, there is contrast among emerging political ecology currents, socio-environmentalism and environmental justice, which promote a more critical, popular and participatory approach to Brazilian environmental issues. Socio-environmentalism emerged from the dialogue and alliance set among “Peoples from the Forest”, environmental movements and scholars critical to the developmental model consolidated at Rio-92 Conference. Furthermore, socio-environmentalism projected the biodiversity conservation issue into social and political approaches (Viola & Leis, 1995; Santilli, 2005).

3. SNUC and the ‘territorialization’ of the concept of nature

Political actions that led to the creation of Nature Conservation Units (CUs) in the country comply with some concepts of nature; yet, they have straight spatial impact; in other words, the ‘territorialization’ of a particular interpretation of nature. Article 2 of SNUC (Brazil, 2000) defines the terms used in this law, but it does not provide for the concept of nature, but rather follows common sense to designate it. Therefore, the question “what is the nature intended to be protected?” remains among researchers who lean on critical reasoning about environmental conservation models. The definition of “nature conservation” as “managing the human use of nature (...)” and the idea of “natural environment” - both in paragraph II of the aforementioned article (Brazil, 2000), make it clear that, according to this legislation, ‘nature’ would be the antonym of human.

The culture-nature dichotomy, which is the fundamental of modern science, largely underpins the arguments of creating Protected Areas (CUs), mainly of those in the Full Protection category. These territories are the preservationist projections of an idealized nature that could broadly reproduce itself without human intervention, where it would be possible to “discover the true natural world” through scientific research (Bensusan, 2006; Diegues, 2008). Thus, Ecological Stations would be the biodiversity analogy to the role played by *Comandante Ferraz*

Antarctic Station, in assessing the ‘uninhabited’ Southern continent, where not even visitors are allowed. Biological Reserves, in their turn, as the name suggests, are territories aimed at integral biota preservation, at its natural features and as everything that must be preserved (in this case, known and unknown biodiversity) or accumulated for later use. Accordingly, parks are territories open to the visitation of those who would supposedly have little, or no, contact with natural elements in their daily activities, as well as little environmental education and no contact with scientific research. According to this current of thought, ignoring the past presence of both indigenous peoples or traditional peoples and communities that still live in these areas, in spatial isolation, without direct human activity, would be the ideal way to maintain environmental quality, from a biocentric perspective of nature² (Hoeftle, 2019).

On the other hand, creating Conservation Units open for human presence was taken into consideration for the Brazilian case, and this was a victory of groups living in these territories. In theory, these groups could keep on exercising their traditional practices. According to Santilli (2004), both biodiversity conservation and socio-diversity conservation underlie SNUC within a context that prioritizes society-nature interaction and biological/cultural diversity interfaces. This legal instrument incorporates socio-environmental paradigms. Furthermore, it is worth noticing that the Socio-environmental Institute (ISA) presented a proposition to include the managerial category ‘Indigenous

² On this subject, during the event described in the introduction to this text, the then President of ICMBio, when questioned by one of the authors, in a workshop, about the conceptual lack of definition of nature in the SNUC and the effective protection of landscapes (valued in the collective imagination), materialized by the spatial distribution of UCs throughout Brazil, instead of the protection of sociobiodiversity, responded by confirming the hypothesis that, in practice, each category of conservation unit would be dedicated to the protection of “a different nature”.

Natural Resources Reserve (RIRN)’ during discussions about the text that have given rise to SNUC in the National Congress. However, this proposition was not accepted by congressmen due to pressure put by environmental preservationist movements and by some indigenous organizations (Bensusan, 2004; Ricardo & Santilli, 1997).

Environmental Protection Areas, also known as APA, aim at disciplining “the occupation process, protect[ing] biological diversity and ensur[ing] the sustainable use of natural resources”, are the most popular example of sustainable use units, besides covering the largest territorial extensions among all SNUC categories (MMA, 2023) based on rational exploitation precepts of natural resources (Brasil, 2000).

It was observed that zoning and management plans, and territorial conservation management instruments based on scientific logic, impose severe restrictions on pre-existing land use in some cases; yet, management models and practices often make social groups quit their practices. Therefore, making adjustments in the legislation favors the formation of a technocratic nature (Almeida, 2021; Villas Boas & Mattos, 2021).

According to Urban & Rhodes (2014), current scientific objectivity understandings are built over the distinction between nature and society, humans and non-humans, because individuals often see themselves as beings separate from other entities in the universe. The unrestricted association between science and technology also fails to take science and the appropriation of its results as elements shaped by a complex game of power in society as a whole (Becker & Gomes, 1993).

Souza (2015) proposes the term “urban ecopolitics” to refer to geographic space as instrument

understood as territory, i.e., to exercise power in order to control land use. After dealing with technical instruments managed by spatial planning agents (i.e., public authorities), he added:

What is, after all, zoning – seen as technical tool by supposedly neutral and rational planners (...), if not a geopolitical instrument, almost always at the service of the capitalist valorization of space and even, in not a few cases, of segregation? (Souza, 2015, p. 27).

Therefore, overall, this model ends up neglecting or marginalizing other ways to relate to and to manage the so-called natural world, other than those established by the logic of scientific rationality (Porto-Gonçalves, 2020). Even when human presence is accepted, the logic of conservationist territory largely resembles preservationist principles. This understanding disregards the idea that society and nature are not independent from each other, because they are linked by a symbiotic relationship, according to which, both of them have functions focused on maintaining the environment. Human actions within this context are crossed by several values and rules characteristic to the culture they are outspread in (Diegues, 2008).

Indigenous peoples, rubber tappers, *babassu* coconut breakers, riverside communities, chestnut gatherers, fishermen, *arumã* gatherers, and *quilombolas*, among others, brought the complexity of identity elements to the field of environmental significance. This marked a profound break with the homogenizing colonialist attitude, which historically erased ethnic differences and cultural diversity. The collective meaning of these emerging self-definitions imposed a sense of identity corresponding to specific territorialities, whose established boundaries do not always comply with areas officially defined as reserves (Almeida, 2004a, p. 21).

Furthermore, it is worth highlighting that traditional populations are not mere spectators of this process. In other words, they produce their own ‘territorialization’ of nature, which is embodied by territorial-environmental planning, in contrast to the scientific-utilitarian view (Porto-Gonçalves, 2020). Accordingly, the creation of Extractive Reserve (RESEX) and Sustainable Development Reserve (RDS) categories, which differ territorial organizations from APAs and have been in place since the 1980s, was a great victory for traditional peoples and communities in SNUC (Santilli, 2004; Silva, 2024). Social groups in these two categories could remain in demarcated territories (of public domain) in order to ensure the conservation of natural resources, to maintain their lifestyles and the low-impact of technologically based activities that have become conventionally called traditional.

The RESEX category, for example, which is seen as victory to rubber tapper movements led by Chico Mendes during debates about SNUC creation, was applied in other territories as solution taken by the State to launch CUs conservation units and to keep traditional peoples and communities on their lands (Porto-Gonçalves, 2009). However, although they maintained crucial aspects in the original Extractive Reserves propositions, such as extractive use concessions, private land expropriations and the protection of traditional ways of life, other important aspects were disregarded like self-management and ‘Utilization Plans’, which are crucial elements for the participatory process. SNUC replaced them and set ‘Deliberative Councils’ as “legitimate” decision-making space. It also consolidated the centralizing managerial role of environmental agencies, which were substantiated by both the head of the unit and the president of the Council. SNUC also

marked the trend toward giving greater importance to technical-scientific knowledge to the detriment of empirical, traditional and customary knowledge (Cunha, 2010).

Actually, the environmental agency became accountable for managerial actions and it changed the relationship between the State and communities, when it comes to these units’ claimed self-management, co-management or shared management. This process can be summarized as the State’s guardianship of these areas and of the entire bureaucratic territorial-management framework (Cunha, 2010; Urzua, 2023).

However, traditional peoples and communities living in RESEXs do not necessarily organize themselves territorially like Amazonian extractivists. It is worth taking into account the environmental contexts these resource management practices take place, as well as sociopolitical peculiarities in territories’ management organization process. It is noteworthy that social mobilization aimed at ensured access to natural resources found in these Conservation Units as important references for struggles to set traditional territories. This is an emblematic factor if these territories are located in coastal and marine areas witnessing struggles for Fishing Territories (MPP, 2013).

These matters keep on being addressed in CUs in the Sustainable Development Reserve (RDS) category, which were created to reduce poverty and improve the quality of life at local level by valuing the knowledge of traditional populations living in them. However, again, they remain under the guardianship of the State, as observed in SNUC’s institutional structure (Mattos *et al.*, 2011, Almeida *et al.*, 2018).

4. *The political ecology of nature conservation*

The dualistic ontology burden typical of modern cosmology is guided by environmentalist discourses and public policies aimed at nature conservation substantiated by the assumed purification of “nature” and “society” spaces. Thus, overall, a guardianship relationship supports the nature protection regime claimed by conservationist movements that drive UC creation. Therefore, it is essential establishing a relationship with nature as external and autonomous entity that demands protection from anthropic action ravages (Descola, 1996). Thus, by fetishizing nature as domain external to humans, conservationist movements, far from questioning the foundations of the Western culture, have acted to perpetuate this ontology (Whatmore, 2002; Ferdinand, 2022).

Bensusan (2004) argues that adopting this nature conservation model demands at least two premises. The first one lies on the idea that landscapes resulting from biodiversity expected to be conserved are static, i.e., they do not change, overtime. The second one states that parts of planet Earth have not yet been “touched” by humans; thus, they must be preserved. With regards to the second premise, numerous studies have shown that nature is not as natural as it seems to be, and wilderness is not what it appears to be. Wilderness and untouched nature do not exist apart from humanity; actually, it is a human creation (Dean, 1996; Johns, 2020; Kropf *et al.*, 2020). In other words, it was precisely the centuries-old management of these natural landscapes that made the current biological richness possible, in many cases (Peet *et al.*, 2011). Recent

scientific discoveries point out that virtually every part of the globe, from boreal forests to the humid tropics, have been inhabited, modified or managed throughout the human history (Gómez-Pompa & Kaus, 2000; Esteves, 2023).

According to Diegues (2000; 2008), the viability of the nature conservation model based on the creation of Parks and Reserves where human presence is allowed under very restricted uses is problematic in countries of the Global South. It is so, because these countries account for several environmental and cultural specificities due to their socioeconomic scenarios and the different ethnic groups living in them. Indigenous and traditional populations even live in seemingly empty tropical forests in these countries, and their relationships with the natural world is different from that observed in urban-industrial societies (Porto-Gonçalves & Leff, 2015). This cultural diversity, in its turn, is only possible because of environmental heterogeneity itself, since it is a feedback effect herein referred to as socio-biodiversity (Diegues, 2019; Krenak, 2020). However, modern anthropocentrism is largely unconscious and it does not comply with the idea that our environment is largely anthropic (Descola, 1998).

From this perspective, the State takes territorializing actions by creating Protected Areas aimed at nature protection, a fact that simultaneously pushes the ‘(de)territorialization’ of social groups living in them, as it imposes a socio-spatial logic alien to these populations (Haesbaert, 2019). Thus, the actions taken by these populations become criminalized, politically invisible and their existence becomes undesirable, besides the tendency toward land dispossession.

Haesbaert (2019) draws attention to the formation of a kind of reverse natural territory represented by the creation of nature reserves that are not natural at all; therefore, they seem to exist outside social relationships. The seclusion some areas on the planet have been relegated to, due to their “protected area” status, leads to the reproduction of territories seen as reverse enclosure, since they often face prohibited human intervention and mobility within their borders.

Diegues (2019) considers protected areas that do not allow human presence in them as “non-places”, and they include lands of traditional populations that help conserving and increasing biological diversity in them by using their own knowledge and management practices. Thus, expelling traditional populations from these areas means opening room for these ‘non-places’ to become the research domain of multinationals; of future mining reserves, hydroelectric plants, bioengineering, among other uses.

Diegues (2000) also stated that many conservation practices are marked by a sense of authoritarianism by both governmental institutions and several environmental non-governmental organizations. These practices often disrespect the civil rights of local populations and ignore their vast knowledge and ethno-management of forests, rivers, lakes and coastal environments (Porto-Gonçalves, 2014; Acselrad, 2022; Villas Boas, 2024).

These practices very often result in incipient conservation and lead to a large number of “conservation refugees” who are forced to abandon their traditional territories because they face restrictions to their way of life (Dowie, 2009; Diegues, 2019).

Another highly relevant idea observed in this debate lies on the sense of “common good”. The

1988 Federal Constitution, in its Article 225, states that everyone has the fundamental right “to an ecologically balanced environment, a common good for the people, essential to a healthy quality of life, imposing on the Government and [on] the community the duty to defend and preserve it for present and future generations”. Souza (2015) highlights the potential mistakes of having society holding the blind defense of a supposed “common good” and, even worse, of adopting a utilitarian reasoning to justify the sacrifice of certain social groups:

From a utilitarian viewpoint, even more so if it is naively applied, sacrifices imposed on a part of the population (e.g., removals) could be justified in the name of the “public interest” and of the “common good” – after all, the interests of the many prevail over the interests of the few (Souza, 2017, p. 12).

Therefore, Peet *et al.* (2011) call the “political ecology of environmental conservation” as absolutely fundamental focus. This analysis targeted the creation of nature protection areas that often shed light on exclusion and social violence processes disguised into biodiversity preservation or conservation. Resident groups lose their autonomy and governance processes, and are subjected to the management of a “guardian” State, even when they are authorized to remain in a territory dedicated to develop low-impact environmental activities such as the sustainable use of conservation areas.

Many local production systems and socio-political organizations are canceled by authorities and disrupted by the interests if those seeking to preserve nature throughout the process to implement protected areas and to control natural resources. It is often observed that many governmental en-

vironmental institutions are controlled by natural scientists who see the Western scientific knowledge, mainly biological sciences, as the only basis to establish protected area management practices. According to Almeida (2004b), this same profile has also been incorporated to several environmental policies that resent the incorporation of ethnic factors to their straight-intervention instruments and to other technical resources that could lead them to a more precise understanding of common use modalities currently in place.

5. From protected areas to territories of traditional peoples and communities

The term “protected areas” is often used in the international literature, mainly in publications in English, as synonym for what is called Conservation Unit in Brazil. However, protected areas have much broader meanings in the Brazilian case, whose legislation encompass not only the limits of territories aimed at maintaining biodiversity through Conservation Units (CUs) but other natural aspects, and thematic and sectoral objectives, such as Indigenous Lands (IL); *Quilombola* Remnant Communities (QRC); Legal Reserves (LR); Permanent Preservation Areas (PPA), Special Areas of Tourist Interest (SATI); Historical, Artistic and Cultural Heritage; among other spatial manifestations of the Brazilian legislation.

A National Plan specifically designed to protected areas was enacted in Brazil, in 2006, through Decree n. 5.758 (Brazil, 2006), which was a progress in the understanding of the relevance of having different territorialities focused on common goals participating in the herein addressed process. The

National Strategic Plan for Protected Areas, also known as PNAP, whose backdrop lied on ratifying the Convention on Biological Diversity (CBD), embedded CUs, Indigenous Lands and *Quilombolas*’ responsibility for preserving biodiversity (Brazil, 2006). However, other studies have pointed out lack of proportionality between the spatial growth of protected areas and biodiversity maintenance (Spracklen *et al.*, 2015; Fritz *et al.*, 2022). This finding stems from several factors, among them, uneven spatial distribution of protected areas, lack of adequate human and economic resources to manage these territories, and, the most critical factor, little participation of local populations in the elaboration and implementation of management strategies.

There is no universally accepted definition of what traditional communities are. According to Little (2003), this concept should be judged within the realm of land tenure in the Brazilian case. The socio-genesis of this concept complied with a set of social groups that fight for their respective territories. This concept seeks to provide analytical mechanisms capable of bringing together factors such as the existence of common property regimes, sense of belonging to a place, autonomy and sustainable practices. Thus, “traditionally occupied lands” express several forms of collective existence of different peoples and social groups in their respective territories that, in their turn, shimmer with other forms of ownership and postulate their own customary laws. Diegues (2019) advocates that traditional knowledge can be defined as the knowledge of and expertise on the natural and supernatural world produced by traditional peoples and communities.

The sense of “traditionally occupied lands” was included in the 1988 Federal Constitution

(Brazil, 1988). In 2004, Brazil ratified Convention 169 of the 1989 International Labour Organization (ILO, 1989) through Decree n. 5.051, which deals with the rights of Indigenous and Tribal Peoples, and postulates the awareness of traditional peoples and communities' identity as criterion "for the recognition of property and possession rights over lands they traditionally occupy" (Brazil, 2004). This Convention holds a specific chapter on these peoples' territoriality, besides pointing out that

[The State] shall recognize the rights of ownership and possession of the peoples concerned over the lands they traditionally occupy. Furthermore, in appropriate cases, measures shall be adopted to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their traditional and subsistence activities. In this regard, special attention shall be given to the situation of nomadic peoples and shifting cultivators (Art. 14.1);

and

The rights of the peoples concerned to the natural resources existing on their lands shall be especially protected. These rights include the right of these peoples to participate in the use, management, and conservation of the aforementioned resources (Art. 15.1) (Brasil, 2004).

This legal provision states the understanding of the traditional meaning of occupied lands. It also works as means for asserting identity and territory in conflict scenarios (Almeida, 2004b; Acsehrad, 2010). ILO Convention 169 emphasizes self-determination as fundamental criterion to apply the conventions. The meaning of "traditionally occupied lands" has expanded since the Brazilian 1988

Federal Constitution, which complies with situational aspects currently featuring the emergence of collective identities. Furthermore, it has become a defining legal principle to legitimize specific ethnically built territorialities.

The Brazilian 1988 Federal Constitution also institutionalized the limits of lands aimed at promoting and maintaining groups to safeguard their cultural aspects, with emphasis on indigenous peoples and descendants of formerly enslaved peoples or *quilombolas*. The constitutional text provides, in its article 231, that "Indigenous peoples are recognized for their social organization, customs, languages, beliefs and traditions, as well as their original rights to the lands they traditionally occupy, with the Union being responsible for demarcating them, protecting them, and ensuring respect for all their assets" (Brazil, 1988). Therefore, the State no longer focuses on guaranteeing the integration of indigenous peoples to the national community. The dominant evolutionary principles that had outspread the sense of incorporating indigenous populations to the dominant society were displaced and reoriented to open room for the establishment of a new legal connection between the State and these peoples, and this process was guided by ethnic diversity (Almeida, 2004a; Oliveira, 2016).

The incorporation of this concept to the constitutional text enabled the rise of new occupation forms have also defined specific territorialities. Unlike Indigenous and *Quilombola* peoples, these new territorialities were not provided for in the constitutional text. However, little progress has been made when it comes to enacting a legislation that recognizes and affirms other territorial organization forms that hold traditional and locally built features found in the country's different biomes due to their

contribution to environmental quality maintenance. It means that other social groups still lack a legal framework to recognize their socio-biodiversity, since they remain politically isolated and trapped in their territorial struggles at local level. This diversity of uses and symbolic-material meanings adopted by social groups to geographic space profiles often corresponds to conflictual relationships that give rise to power spatiality (Raffestin, 1993), which, in its turn, brings along disputes emerging from the imposition of specific forms of use and appropriation of the territory's physical and symbolic features.

It was only in 2007, three years after a specific national commission was formed to address this issue through Decree n. 6.040 (Brazil, 2007), that the country advanced in acknowledging the relevance of traditional peoples and communities that were not categorized as indigenous or *quilombolas* in maintaining their culture and in representing them in the biodiversity protection scene. This Decree enacted the National Policy for the Sustainable Development of Traditional Peoples and Communities (Brazil, 2007), and provided for its principles, objectives and instruments. Above all, it defined the understanding of the category known as "traditional peoples and communities", at least in the public policy field. It is worth briefly highlighting the presumption of conservationist concepts, eco-efficiency and ecological modernization in this policy by adding the concept of sustainable development to its

title and to the legislative text principles. However, little progress has been made in effective measures aimed at safeguarding their autonomy, at the rights and governance of the territory, at free access to its natural resources and at the socio-environmental practices of traditional peoples and communities.

These peoples' struggle is not limited to land conquering as production means, but to land as space for self-government and autonomy. This struggle gives meaning to the land itself based on the existence and on the act of being in the land. Thus, this process ensures the material conditions for production (Santos, 2023), but it goes beyond that. In Porto-Gonçalves's (2002) terms, it regards how to signify the act of being in the world, drawing the land, inventing new territorialities; in short, of geo-graphing.

Unlike demands for land, which are often crossed by fierce peasant struggles focused on agrarian reform, these demands oppose modernizing projects and advocate for land as production means, because their way of living and working are linked to the land and/or subordinated to land income³. The consolidation of the so-called "struggles for territory" brought about by indigenous peoples, *quilombolas*, and traditional peoples and communities oppose demands for land that would not necessarily challenge regulation rules, according to which, property rights are managed. They call out power issues, identity

³ In Ricardian theory, ground rent is the portion of the land's produce—that is, everything obtained from the earth's surface through the combination of labor, machinery, and capital—paid to its owner for the use of the land's indestructible and original forces. It is conceived in terms of landowners who lease their land to capitalists for profit, using laborers. In this process, rent is conceived as a function of the land's rarity (a finite resource) and quality, and precisely for this reason, it generates income (Ricardo, 1982). According to Marx (2010), this process alters the logic of land ownership, as it involves "the transformation of landed property into a commodity (...)" (Marx, 2010, p. 74). In Marx, ground rent is not an ambiguity for capitalism, on the contrary, it is the result of capitalist production that allowed, at first, the primitive accumulation of capital through the expropriation of peasant lands, throwing masses of men deprived of their means of labor (land), by force, into the cities to proletarianize themselves.

affirmation, self-management and control of natural resources (Gallois, 2004; Porto-Gonçalves, 2016).

From this perspective, traditional peoples and communities' territories, unlike the static, georeferenced state territory – which is a product of Euclidean cartography that emerges from the territorial division of an entire surface (Raffestin, 1993), are often flexible, malleable and they can shift depending on climate and/or wildlife cycles, for example. Territories are the manifestation of their own production means. More than that, they are also spatial reflections for the construction of both the sense of belonging and social memory, which become concrete from the moment clashes emerge from legitimate forms of use that regard demands by territorialized subjects.

Accordingly, traditional territories are always multiple, unlike uni-functional territories mainly materialized in actions by the modern State, such as the creation of protected areas. In these cases, the act of institutionalizing the territories is taken simultaneously as power instrument, power spatial projection, as well as value. It means that, beyond the simple use or exchange of value, it extends to symbolic identity and existentialism valorization and reinforcement. Multiple emerged territorialities brought to the fore the reinforced collective existence and the right to self-determination, just as it was argued by Little (2003), according to whom, the concept of traditional peoples and communities holds both empirical and political dimensions that, as a rule, are almost inseparable.

It is worth highlighting that this multiplicity mostly arises from the emergence of other territorialities that sparkle ways of life; consequently, from different concepts of nature. Sack (1986) states that territoriality can be primarily understood in

light of three interdependent relationships. It must hold a communication form capable of defining or classifying an area for a given social group, of establishing a marker or a limit sign; a territorial expression, although symbolic, combined to a declaration about the use or non-use of a given geographic space; a control relationship sought by territoriality when it comes to access to a given area.

The struggle of traditional peoples and communities for their territory, mainly when it overlaps Full Protection Conservation Areas, conquered a slight victory in 2012 due to its political-institutional nature. However, this victory, although transitory, would ensure these individuals maintenance on their land, not necessarily in their territory. Although the elaboration of Commitment Terms (CT) was foreseen in 2002 through Decree n. 4.340 (Brazil, 2002), Normative Instruction n. 26, from Chico Mendes Institute for Biodiversity Conservation (ICMBio), which regulates this process, was only published ten years later (ICMBio, 2012). This instrument was taken as victory by traditional peoples and communities, and socio-environmentalists, but it did not guarantee land possession and permanence.

Madeira *et al.* (2015) conducted a survey in 277 of the 313 existing Federal Conservation Units (CUs) and observed the overlapping of traditional territories in 69% of the analyzed Fully Protected CUs, with emphasis on national parks - overlaps were identified in 76.8% of parks at the time. The solution found to solve this dead-lock in the Terms of Commitment currently in force was not only slow and bond to pre-defined deadlines, but also had transitory nature. It is so, because, at that moment, these instruments worked to harmonize the coexistence of traditional peoples and communities, and managers, until these populations were resettled and/or

compensate. Furthermore, some communities never got to an agreement in the agreed activities with CU managers, whereas other populations refused to negotiate their removal, a fact that reinforced CTs' weakness (Talbot, 2016).

A more substantial victory actually happened in 2021 through Opinion n. 175, which was issued by the Attorney General's Office. The Federal Prosecutor stated that

[one] must consider the possibility of permanently maintaining traditional populations inherent to the biocultural diversity affected by the conservation unit, which need and depend on this necessary and immovable space for their identity to be affirmed (...). The Administration must seek to resolve conflicts generated by the implementation of Full Protection Conservation Units in traditional territories, considering the proposed management measures and instruments (Paula, 2022, p. 326-327).

This decision was supported by the National Chief Prosecutor, who added:

If resettlement is not the traditional people's wish, ICMBio must carry out a study that culminates in practical compatibility measures, including direct uses; the legal instruments that contemplate compatibility must be of a perennial nature (Paula, 2022, p. 338).

However, this decision has raised, and still raises, questions in ICMBio about its effective implementation without violating articles in law n. 9.985/2000 (SNUC), which prevent these groups from remaining in CUs and the direct use of natural resources. Accordingly, legal support is still necessary to ensure land permanence and possession, ownership (in some cases) and autonomy to manage

the territories. It is so, because lands are of public domain even in RESEX and RDS, and their use is granted to groups inhabiting them. Ultimately, management is carried out by the environmental agency based on consultations to a deliberative council.

Therefore, although not focusing only the conceptual debate or critical analysis, it is herein suggested the creation of a specific legislation that, by overcoming the culture-nature dichotomy, can guarantee full access to, and ownership of, the territory and of its resources by overcoming the culture-nature dichotomy, without state control over traditional peoples and communities. Numerous studies point out the relevance of societies that remain in their territories for socio-biodiversity maintenance (Baleé *et al.*, 2020; Dawson *et al.*, 2021; Benzeev *et al.*, 2023). Furthermore, not only social groups listed in Federal Decree n. 8.750 (Brazil, 2016), the National Council of Traditional Peoples and Communities, but also other social groups recognized by the Pastoral Land Commission [*Comissão Pastoral da Terra*], the Web of Peoples [*Teia dos Povos*], and other organizations defending land rights, should have legal support and land tenure guarantees. The SNUC model and its management categories demand reasoning about individualities of each socio-spatial organization. If one bears in mind that indigenous and *quilombola* communities already have legal frameworks to guarantee their territories, there would be, according to Decree n. 8.750, alone, at least other 26 traditional-territory categories.

Although Opinion 175/2021 (Paula, 2022) mainly addresses the legal issue linked to the presence of traditional peoples and communities in protected areas, it is herein understood that this

Opinion's arguments converge and substantiate the defense of specific legislation developed to ensure the creation and implementation of traditional territories: "it is not about discussing property rights, possession rights, or any real right: it is more than that. It is the intangible bond that connects people to a certain territorial space. It is the bond that makes them be who they are, in countless dimensions, including spiritual ones (...)" (Paula, 2022, p. 335).

With regards to the creation process, by following the example of Palmares Cultural Foundation and in compliance with Federal Decree n. 4.887 (Brazil, 2003), it is crucial considering the self-identification of territories focused on traditional peoples and communities. Yet, the need for interdisciplinary technical studies, including participatory methodologies to determine the most appropriate dimensions and the limits for socio-biodiversity maintenance, was not ruled out. When it comes to land tenure, it is essential respecting traditional peoples and communities' socio-spatial and territorial organizations to properly maintain collective, *pro-indiviso* property, private lands or State property subjected to usufruct rights. It is also important emphasizing the need for expropriating private areas in public-interest cases, as already provided for in the constitutional text. The autonomy of peoples and territorial governance, without authoritarian interference from the Brazilian State, based on respecting the use of natural resources, their ethno-management and territorialities is herein advocated for. Activities assumingly capable of destabilizing socio-environmental quality, such as tourism and/or mining activities, although of interest to traditional groups, could be subject to evaluation and licensing by public authorities, as

the case of Indigenous Lands and Protected Areas for Sustainable Use.

6. Conclusion

Despite significant advancements accomplished by SNUC in recognizing new rights for traditional populations by creating Conservation Units, such as Sustainable Use Units, biodiversity protection policies have also shown their downside, as the autonomy of these peoples and the self-management of territories remain far from being agreed upon. However, advancements brought by SNUC in terms of biodiversity conservation are undeniable in the country.

It is also worth highlighting that SNUC's effectiveness is acknowledge for its ability to replicate a spatial management model based on its categories across Brazil's socio-environmental diversity. Its development took place at a time when other popular issues were also on the political agenda, such as access to land, human rights, nature protection, health promotion, education, food security, among others. However, these debates previously took place in separate forums, whereas they have been currently embodied by the socio-environmental movement.

The concepts of traditional peoples and communities and traditionally occupied lands within the complexity of land tenure, as defined in ILO Convention 169 and in the constitutional text, are part of the realm of both territorial conflicts and struggles spread throughout Brazil. It is important emphasizing that this scenario does not support a romantic view, according to which, traditional peoples and communities, *quilombolas*, or indigenous

peoples are atavistic ecologists, although these groups have been adjusting the Western environmentalist rhetoric to their cosmologies and ways of life, as strategies for political struggle. Idealizations following the lines of Rousseau's "noble savage", i.e., that these populations have a harmonious relationship with nature, are nonsensical. However, these populations can be the most interested in better managing the so-called natural world, given their more immediate need for these natural resources.

As Silva (2024) points out, individuals cannot fail to mention the difficulty, or near impossibility, of transmuting these ontological entities in current study as traditional territory forms, in a normative-objective version enshrined in Brazilian legislation, despite all their socio-spatial differences and local specificities. However, it is necessary to update mechanisms aimed at safeguarding these cultures and their reproduction spaces, mainly because they present us with counter-hegemonic models of relationship with nature(s).

We believe it is time to rethink the conservation of natural resources based on traditional, popular and local concepts of nature, but, above all, in compliance with issues linked to full access to territories and to the maintenance of socio-environmental practices of populations that, on the periphery of the capitalist development model, have kept the environmental quality that has allowed the creation of conservation units. Furthermore, it is time to reflect on the role of nature conservation in accessing land and in achieving an effective agrarian reform.

The proposition introduced in the current study concerns the defense of traditional peoples and communities' autonomy beyond land regularization. It is essential emphasizing the need for

acknowledging and guaranteeing access to land and to its resources, as well as the maintenance of their socio-environmental practices, not only for groups inhabiting protected areas, but for all those who, for whatever reason, find themselves in territorial conflict situations. In short, environmental issues as a whole, mainly the delimitation of protected areas occupied by traditional peoples and communities, must avoid the culture-nature dichotomy and find a "third way", namely: valuing and promoting socio-biodiversity protection policies.

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