



# TERRITORY, PEOPLE, AND FUTURE PERSPECTIVES

Contributions from the Public  
Prosecution Office of the State of Pará on  
the climate issue



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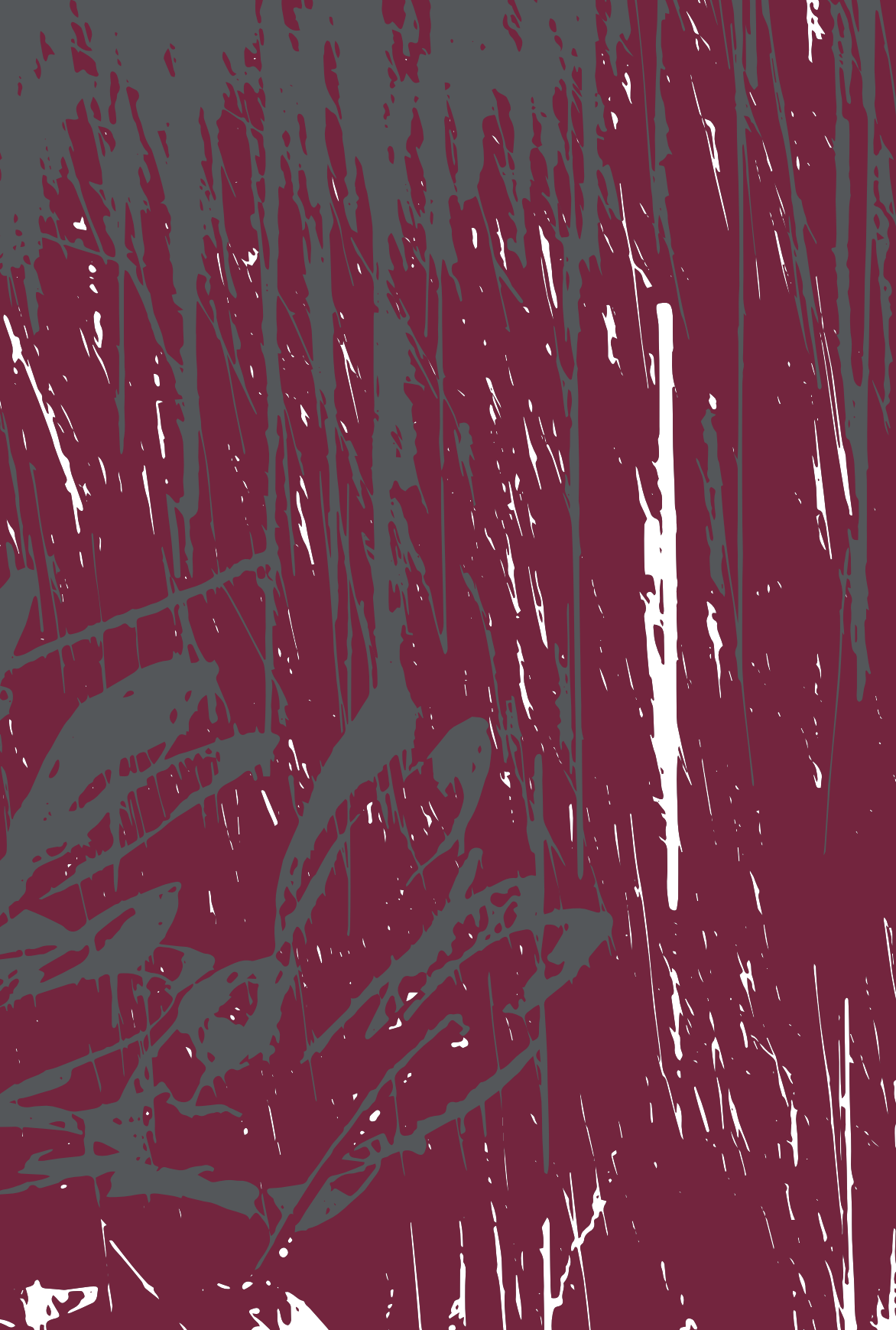
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# TERRITORY, PEOPLE, AND FUTURE PERSPECTIVES

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# A convergence of different voices for the Amazon

**A**fter nearly three decades, FUNBIO has proven that fostering connections is one of our most valuable strengths. We are delighted to support this publication, which is the result of an important dialogue with the Public Prosecution Office of the State of Pará, an institution that plays a central role in the conservation and sustainable development of the region. For the first time, the perspectives of members of the Public Prosecution Office of the State of Pará on these critical issues are compiled in a single volume. This publication serves as a valuable resource for anyone dedicated to preserving the Amazon through informed, knowledge-based decisions.

The receptiveness and enthusiasm that marked the beginning of this productive technical cooperation, initiated in 2023 between FUNBIO and the Public Prosecution Office of the State of Pará, quickly translated into meetings bringing together representatives of the Brazilian justice system and civil society. This assembly of different voices, centered on shared concerns, has enriched the depth of the perspectives presented in the articles gathered here.

The State of Pará, spanning over 1.2 million km<sup>2</sup>, is Brazil's second-largest state. Home to eight million inhabitants and a diverse range of landscapes, from dense forests to extensive mangroves, Pará is a pivotal state for the conservation and development of the Amazon and the well-being of those who live there.

This publication covers topics such as the impact of large-scale projects, carbon markets, benefit sharing, and the knowledge of traditional communities. It includes the perspective of those who live alongside these projects, preserving their traditional ways of life. Their commitment contributes towards guiding and seeking solutions to ensure that the challenges of the present become benefits for the future.

***Territory, people, and future perspectives: contributions from the Public Prosecution Office of the State of Pará on the climate issue*** is the second book in the series produced by the Climate Dialogues initiative, part of the COPAÍBAS program. Supported by the Norwegian Embassy in Brazil and financially managed by FUNBIO, this book focuses on the critical issues faced in a state of utmost importance for the Amazon. It is an essential and enriching read for all those who, like us at FUNBIO, work to preserve the future.

**ROSA LEMOS DE SÁ**

FUNBIO's Secretary General



When the Federal Constitution of 1988 came into force, two important milestones were established in Brazil's environmental protection framework. The first was the inclusion of environmental concerns into the Constitution, recognizing the protection of an ecologically balanced environment as a fundamental right.

In this sense, the original constitution makers entrusted the Public Prosecution Office with the responsibility of protecting the environment as one of its institutional functions. This duty is carried out through legal mechanisms such as civil investigations and public interest civil lawsuits, which are designed to safeguard public and social assets, as well as diffuse and collective interests.

The combination of these two constitutional provisions provided a robust framework for environmental protection, elevating the Brazilian State to the status of a democratic entity committed to upholding socioenvironmental rights.

Covering a territorial area of 1,248,000 km<sup>2</sup> and home to over eight million inhabitants, the State of Pará has a strategic geopolitical position. As part of the Amazon biome, Pará boasts complex preserved forest systems, an extensive coastline, traditional populations, and direct road access to the rest of the national territory. These factors, combined with its abundant natural resources, make this rich territory vulnerable to constant threats.

In this sense and in compliance with constitutional provisions, the Public Prosecution Office of the State of Pará has been undertaking initiatives to equip its members and technicians with the necessary tools to perform these critical responsibilities.

This is the foundation of the partnership between the Public Prosecution Office of the State of Pará and the Brazilian Biodiversity Fund – FUNBIO, which brings to life the constitutional provisions of article 125, emphasizing the duty of both the State and society to defend and preserve the environment for present and future generations.

The work presented here is the culmination of several meetings, discussions, seminars, and workshops resulting from this strategic partnership to incorporate the “COPAÍBAS program” of the Brazilian Biodiversity Fund within the Public Prosecution Office of the State of Pará. The articles explore two significant contemporary issues: actions related to Reducing Emissions from Deforestation and Forest Degradation (REDD) and the Carbon Market. The authors address topics such as the “Impact of the Major Development Projects in the Amazon”, the “Environmental Balance and health of the traditional populations: a case study on the communities of the Acará region and the impacts of oil palm culture”, “The Carbon Credit market and its impacts on the Indigenous and quilombola communities”, “The principle of information applied to agreements involving the voluntary carbon market”, the “Carbon credit agreements in the Amazon: environmental information to traditional and Indigenous communities, and the Public Prosecution Office’s role as a protector of the environment and communities”, and “Restlessness in the womb and in the earth: sounds and smells like felled forest Who’s coming there?”.

This are timely and essential topics, especially as the State of Pará prepares to host the Conference of the Parties (COP 30), where global attention will be focused on addressing the climate emergency. We hope that this work will contribute to meaningful reflections on these critical issues.

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# Climate Dialogues

BY ANDRÉIA DE MELLO MARTINS<sup>1</sup>

A chorus of voices calling for a new future as a call to action, urging us to build networks and craft joint solutions. It recognizes that, while we are powerful individually, our collective strength holds far greater potential for major transformations. To achieve this, we must innovate and shift away from traditional communication methods, decentralizing knowledge and fostering the development of new insights into our shared reality.

The Climate Dialogues, an initiative designed to engage professionals from across the Brazilian justice system in discussions on climate change and the fight against deforestation in the Amazon and Cerrado, emerges at a time when innovation is essential. This initiative goes beyond the traditional and routine expertise of these professionals, encouraging participants to expand their perception about what can be achieved collectively when tackling highly complex matters.

The strategy was conceived in 2020 by the Brazilian Biodiversity Fund (FUNBIO), a private, non-profit national financial and operational framework working in partnership with the government, private sector, and civil society to allocate strategic and financial resources to effective biodiversity conservation initiatives.<sup>2</sup> Within this framework, strategic resources also encompass the exchange of knowledge and the development of partnership networks.

In response to the challenges of 2020, a year marked by the global pandemic, FUNBIO established a partnership with the Ministry of Foreign Affairs in Norway to implement the Community, Protected Areas, and Indigenous People in the Amazon and Cerrado Savannah Program, also known as COPAÍBAS.<sup>3</sup> The program aims to reduce deforestation rates and the resulting greenhouse gas emissions by employing strategies that contribute to the conservation of forests and native vegetation in these critical biomes.

Structured around four distinct yet interconnected lines of action, the COPAÍBAS program involves:

- ▶ strengthening protected areas in the Cerrado;
- ▶ enhancing environmental and territorial management of Indigenous Peoples;
- ▶ disseminating information about the risks of climate change and providing tools to combat deforestation; and
- ▶ improving the economic efficiency of value chains and local productive arrangements for socio-biodiversity products.

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**1** This text was developed from consolidated information prepared by Isabelle Costa, of ICOSTA Consultoria, for the COPAÍBAS program.

**2** For more information about the Brazilian Biodiversity Fund (FUNBIO), please visit: [funbio.org.br](https://funbio.org.br).

**3** For more information about the COPAÍBAS program, please visit: [copaibas.org.br](https://copaibas.org.br).



The Climate Dialogues are part of the third line of action. This initiative aims to integrate climate change into the daily work of professionals involved in the legality of public policies, the defense of human rights, and the protection of a well-balanced environment. By fostering dialogue and the exchange of information and ideas among various stakeholders, the initiative seeks to generate solutions and/or guidance on how legal obligations and emerging opportunities can be more effectively and impactfully addressed within the context of climate change.

The Climate Dialogues, structured in multiple phases to mobilize and engage stakeholders, aim to identify partnership opportunities and connections to highlight the primary local challenges, offering different solution alternatives. One of these connections was established in collaboration with the Public Prosecution Office.

This is because the Brazilian justice system is comprised of various public legal professions, each with specific roles. Among them are the professionals of the Public Prosecution Office, which is responsible for upholding the law and ensuring its enforcement. The office is also in charge of investigating, processing, and, if necessary, prosecuting those who violate the law. As part of this mandate, it can open investigations and file civil lawsuits to defend collective rights, such as a well-balanced environment, cultural heritage, health, and quality education, among other topics.

In Brazil, the Public Prosecution Office is divided into two branches: the State Public Prosecution Office (MPE) and the Federal Public Prosecution Office (MPF). Both are tasked with enforcing the law, but they operate in different areas: the MPE at the state and municipal levels, and the MPF on national issues.

Consequently, each state has its own State Public Prosecution Office, which operates according to the regional characteristics and the local impacts of public and private activities, ensuring that public officials comply with the law and that private entities do not violate the laws in force.

Prosecutors and appellate prosecutors work to achieve social well-being, addressing a wide range of issues – from safeguarding childhood to prosecuting crimes against life, combating tax evasion, overseeing environmental licensing, and regulating the carbon market. These matters are highly complex and often transdisciplinary, requiring diverse perspectives and approaches.

To assist with this significant challenge, the initiative set up partnerships with various constitutional bodies to facilitate access to information and expand the exchange of ideas among different social stakeholders. These partnerships have led to the publication of books that present the perspective and positions of the public prosecutors and attorneys who are specialized in these matters.

This conceptual work aims to bring transparency to ongoing actions, while also producing material that capture current understandings of innovations. It highlights existing challenges and opportunities, fostering broader and deeper reflection on these matters.

## **Partnership with the Public Prosecution Office of the State of Pará (MPPA)**

Pará is the second-largest Brazilian state, fully integrated into the Amazon biome, home to roughly eight million people. The state's dimensions and socio-eco-

conomic challenges, particularly within the climate discussion, are largely tied to land-use changes, with impressive deforestation figures. This reality persisted in 2023, with Pará and Mato Grosso ranking among the five states with the highest deforestation levels. However, there has been a notable shift: in 2023, Pará a more than 60% reduction in deforestation rates compared to 2022.<sup>4</sup>

This achievement results from a series of investments in public policies and the promotion of political commitment to addressing climate change. Consequently, Pará has become a focal point of climate projects, yielding a mix of positive and negative outcomes. It is crucial to move forward in the discussions on the lessons learned and solutions for both the environment and the affected communities, aiming to observe changes in the deforestation scenario and the development of economic and sustainable alternatives. Partnering with the MPPA adds significant value by fostering collaboration between prosecutors and partners from various organizations, focusing on the actions being implemented. It is critical to look beyond the new and learn from the past to shape a better future.

In this context, and as part of the investment in new alternatives, on March 7, 2023, the Instrument of Technical Cooperation was signed between the MPPA, through the Functional Study and Training Center (CEAF) and the Environmental Operational Support Center (CAO), and FUNBIO, under the supervision of the Attorney General Cesar Bechara Nader Mattar Junior. This agreement aims to enhance capabilities and deepen understanding of funding for environmental conservation withing the climate change scenario and fight against deforestation in the state of Pará, building on the Climate Dialogues initiative.

The technical cooperation comprises holding lectures, courses, seminars, and meetings that bring together members and public officials from the contracting parties and guest institutions. The goal is to disseminate knowledge about their respective operating methods and work methodologies. It also involves conducting diagnoses, research, and providing technical support in the design of projects of common interest, with measures that can result in sustainable solutions for inducing and monitoring recovery, regeneration, mitigation, and compensation for environmental degradation. Additionally, the cooperation supports the promotion of research on short-, medium- and long-term economic and financial support tools related to the climate goals committed to by Brazil.

## Methodology

Each body faces its own operational challenges, whether due to structural factors or the responsibilities tied to daily activities. Therefore, before launching the Climate Dialogues, a series of interviews were conducted with professionals working at the MPPA. The questions addressed sensitive topics related to climate, their knowledge of the existing funding framework, and their views on ideal models for information exchange, among other relevant issues.

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<sup>4</sup> Relatório Anual do Desmatamento no Brasil, May 2024. Accessible at: [https://alerta.mapbio-mas.org/wp-content/uploads/sites/17/2024/05/RAD2023\\_DESTAQUES\\_PT\\_FINAL\\_27-05-24.pdf](https://alerta.mapbio-mas.org/wp-content/uploads/sites/17/2024/05/RAD2023_DESTAQUES_PT_FINAL_27-05-24.pdf).

Compiling this information enabled the tailoring of procedures and the selection of topics to be discussed. The first key insight was related to the approach, revealing that the Public Prosecution Office handles highly complex matters through professionals with extensive expertise and significant technical knowledge. Therefore, it was recommended:

- ▶ A formally established proposal be drafted in coordination with the superior body or association, as this would foster trust and justify the participation of the institution's members during working hours.
- ▶ Generic training sessions be avoided in favor of targeted actions that enable the assessment of specific cases.
- ▶ Immersion models be employed in a different venue, as this would help raise awareness of the issues and facilitate the exchange of experiences with local stakeholders and peers.

Regarding the topics, several sensitivities issues were identified, including pressure on protected areas, traditional communities, the carbon market, REDD+, economic alternatives within the sustainability framework, and the measurement of climate-related environmental damage. All these topics, directly or indirectly addressed by the COPAÍBAS program, facilitated substantial exchanges between the FUNBIO team, MPPA members, and partners.

A three-phased strategy was developed to achieve this collaborative effort, utilizing a small group of participants to ensure a more focused discussion. The partnership was formalized with the MPPA, and the proposal included inviting prosecutors who work on environmental and/or land-related issues to engage in collective exchanges and the development of solutions, facilitated by FUNBIO through the COPAÍBAS program.

The first stage involved organizing roundtable meetings, named so because they were held in circles, with no designated area for lecturers. All participants brought extensive knowledge in their respective fields, with the understanding that no one person held more expertise than another, but rather distinct experiences. Guests representing social entities with specific successful cases related to the matter were also invited to contribute to the collective reflection.

These meetings were held on March 16, 2023, and April 26, 2023, focusing on the following topics, discussed with the support of representatives from entities with successful cases, as detailed below:

- ▶ **Climate change, commitments, and actions:** This debate was promoted by Pontifícia Universidade Católica de Goiás (PUC/GO), Rede Laclima, and a researcher from Universidade de São Paulo (USP). The discussion encompassed the global context of the climate discussions, including international treaties developed in Brazil, the challenges faced in climate-related litigations, and the support mechanisms to fight deforestation, such as REDD+.
- ▶ **Actions in the territory to fight deforestation:** Following the previous debate, there was a presentation about the financial mechanisms to support projects in the territories, conducted by The Nature Conservancy (TNC). This was complimented by a reflection on the 'Legal Meat' (Carne

Legal) program, led by the Federal Public Prosecution Office, which shared a decade of experience. These specific cases allowed participants to contextualize critical issues within Pará's reality.

- ▶ **Climate monitoring data and tools:** This session introduced platforms that can assist prosecutors with their work. Representatives from the Forest Code Observatory, Amazon Man and Environmental Institute (Imazon), and Igarapé Institute provided valuable data and information on deforestation, public security, and legal obligations related to climate discussions.
- ▶ **PADDD:** the process of reducing, reclassifying, and extinguishing protected areas, known by the English acronym PADDD (Protected area downgrading, downsizing, and degazettement), were presented by the World Wide Fund for Nature Brazil (WWF-Brazil), Pro-UC Coalition, and Chico Mendes Institute for Biodiversity Conservation (ICMBio). Despite the numerous protected areas and the global recognition of their importance, these areas face increasing pressure from municipal councils, state legislatures, and the National Congress. This situation demands heightened attention from the society, particularly the Brazilian legal system.
- ▶ **Traditional, Indigenous, and quilombola populations:** All behavioral and land use changes occur in areas or territories occupied by different social groups, each with its own characteristics, traditions, and ways of interacting with the environment. This debate focused on how the climate dimension is being integrated into economic alternatives, networks, and the recognition of support for conservation and value chains. Representatives from the National Coordination for Articulation of Quilombos (CONAQ), FUNBIO, the Forest and Agricultural Management and Certification Institute (Imaflora), and Vitória Amazônica Foundation (FVA) shared their insights, projects, and recommendations for effective action.

All topics were considerably important, sparking consistent debates about local realities and the challenges often encountered by national and international strategies in the territories. In this context, the discussions on REDD+ and the carbon market in Pará gained particular prominence, leading the Climate Dialogues into the second phase, which focused specifically on these topics through an in-depth immersion.

The second phase, known as Life Experience (*Encontro Vivencial*, in Portuguese) Meeting took place from January 25 to 27, 2024, outside the headquarters of the Public Prosecution Office of the State of Pará. During the first two days, with support from the Institute of Brazilian Studies (IEB), Imazon, TNC, and WWF-Brazil, the topics of REDD+ and the carbon market were explored through four key perspectives: ownership of carbon rights (including shares and/or rights of ownership, possession, usufruct, and land use); the format of the Jurisdictional REDD+ and Vintage Credit Systems; biodiversity, conservation, and safeguards for private projects at the jurisdictional level; and the integrity of private projects. On the third day, participants shared a life experience by making a technical visit to two distinct protected areas in traditional communities, each at different operational stages and involved in productive and sustainable cocoa chains.

The results of these discussions will be presented in this book, along with the perspectives of prosecutors who participated in these activities, focusing on specific topics they work with. This represents the third phase of the work, where this compilation of information highlights the impacts of international treaties and their consequences in the state of Pará, viewed through the lens of professionals dedicated to ensuring legal compliance. The dissemination of this information is a critical element to address in ongoing discussions about climate change and strategies to address its consequences.

Divided into four major topics, this book presents prosecutors' perspectives on the Amazon, the impacts of the carbon market on communities, and the practical aspects of the gender issue beyond theoretical concepts. The book concludes with the presentation of the results from the Life Experience Meeting and a call for the establishment of support and exchange networks to combat deforestation and address climate change, ensuring that the people in the vast territory of the state of Pará are not overlooked.

# Amazon, a land of superlatives

BY ANDRÉIA DE MELLO MARTINS

**T**he Amazon biome is the largest in Brazil, covering nearly 50% of the country's territory and home to approximately 30 million inhabitants. This region faces significant accessibility challenges due to its geographic characteristics, where rivers serve as the primary “roads” for reaching communities and areas of critical environmental importance. Additionally, its population comprises numerous social groups, each with distinct histories, identities, and customs.

All public policies and projects developed in the region must consider the diverse realities that exist within it, recognizing that everything in this biome is vast and extensive, with significant socioenvironmental impacts on both Brazil and the world. Equally important is the need to acknowledge and support local actions that promote socio-productive solutions, providing visibility to those who occupy and protecting this important biome.

To this end, Prosecutor José Godofredo Pires dos Santos, coordinator of the Environmental Operational Support Center (CAO Ambiental), presents the historical context of the Amazon, the struggle for land following the implementation of major development projects, and the role of the Public Prosecution Office in this scenario. Additionally, a new dimension has been added to the responsibilities of these prosecutors, as climate-related discussions are increasingly integrated into the legal system's agenda, introducing new duties for members of the MPPA.

This perspective is further elaborated by Prosecutor Emério Mendes da Costa, who presents a concrete example of the conflicts that can arise between the advancement of large-scale capital projects and the traditional ways of life of the Amazonian populations. Drawing on his work experiences at the Public Prosecution Office in the municipality of Acará, part of the Tomé-Açu micro-region, he highlights and contextualizes the main challenges observed, particularly those affecting the health of different social groups. This specific case broadens the discussion on the social costs of development, emphasizing the need to balance these impacts to achieve climate justice.

## IMPACT OF THE MAJOR DEVELOPMENT PROJECTS IN THE AMAZON

BY JOSÉ GODOFREDO PIRES DOS SANTOS<sup>5</sup>

### The historical background of Amazon's economic occupation: unsustainability and deterioration

The Amazon region is currently home to approximately 30 million people. In the seven Northern states alone, there are 17,349,619 inhabitants, representing 8.5% of the Brazilian population<sup>6</sup>. Contrary to the common perceptions, about 70% of this population resides in urban areas, highlighting an often overlooked aspect of the biome: urban planning. Regarding traditional populations, there are 167,311 quilombolas and 753,780 Indigenous people living in the region.<sup>7</sup>

Since the European occupation during the era of “Great Navigations”, natural resources in the Amazon have been exploited in a predatory manner. Historically, this economic exploitation can be traced through periods defined by the dominance of a single economic element.

Before the Portuguese formally arrived in Brazil, around 3.5 million Indigenous people lived in the country, many of whom were concentrated in the Amazon, practicing survival methods that were in harmony with the forest and its biodiversity. After the “discovery”, however, the colonizers initially gave little economic importance to Amazon the biome. The most commercially important resources at the time were found along the Southeastern coastline (Brazilwood) and, primarily, on the Northeastern coastline (sugarcane). The forest's characteristics – its heterogeneity, logistics challenges for inland ventures, the presence of previously unknown Indigenous tribes, the difficulty of navigating fast-flowing rivers, and the spread of diseases such as malaria – created a hostile environment. Additionally, the perceived lack of valuable resources such as gold and precious stones further diminished the region's early economic appeal.

It was only in the late 19th and early 20th centuries that Amazonian settlement intensified, marked by the “Rubber Cycle”. Beginning in the second half of the 19th century, rubber became an important for both the Amazon and Brazil's economy, driving economic relationships and significantly impacting territorial occupation with clear social consequences.

The rubber cycle was the first major economic boom in the Amazon, peaking between 1879 and 1912. This economic monopoly formed a pyramid, with thousands of rubber tappers supplying hundreds of traders, who then sold to a few powerful establishments in Manaus, Belém, and Iquitos. During the height of

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<sup>6</sup> Censo 2022: Amazônia cresce. Accessible at: <https://amazoniareal.com.br/especiais/censo-2022/>.

<sup>7</sup> Ditto.

the rubber boom, Manaus experienced rapid population growth, expanding from 10,000 people in 1890 to 50,000 inhabitants in 1900.<sup>8</sup>

Thus, the occupation of the Amazon began in colonial times but intensified significantly during the 20th century, mainly in the 1970s and 1980s. During this period, the territory, which was previously dedicated to extractive activities, shifted towards extensive livestock farming and both formal and informal mining. More recently, large-scale monoculture farming has advanced into vast forest areas, encroaching on both heavily anthropized and more preserved areas, starkly contrasting with the traditional use of the land.

However, “it was only after the development surge in the 1960s that, forest degradation became widespread. These included the exploitation of timber (dead trees), mining practices (dead rivers), corporate mineral exploitation, hydropower generation, the conversion of forest into pasture and agribusiness lands and, more recently, speculative pressure of urban expansion. This urban sprawl often ignores essential ecological interstices, such as buffer zones required along river margins, for example.”<sup>9</sup>

At this point, the forest, which had previously been sustainably managed by traditional populations, began to shift towards a development characterized by direct exploitation practices such as timber extraction, mining, industrial mineral extraction, extensive livestock farming, and monoculture farming. Additionally, the region became subject to the implementation of major infrastructure projects designed to support these business activities. These developments tailored the Amazon to the interests of Brazilian capital, while also introducing significant factors that shaped the ongoing development agenda.

In this context, major domestic projects were implemented in the Amazon, including hydroelectric power plants like Tucuruí, Belo Monte, Jirau, and Samuel. These projects were accompanied by the development of highway transportation networks that facilitated economic expansion deeper into the forest. Key highways such as the Transamazonian, Manaus-Caracas, BR- 364, and BR-163 created an extensive network of secondary and local roads, pushing the economic frontier beyond the forest boundaries and generating new areas of deforestation and environmental damage. The process of highway interconnection, which creates new routes for grain transportation, not only continues today but has also intensified.

The new economic activities and the large-scale infrastructure projects in the Amazon have drastically altered the natural environment, creating a social landscape marked by intense land ownership conflicts (driven by the economic value of the land) and severe social issues. These changes have attracted a large influx of people, fueling a chaotic urbanization process characterized by a lack of basic sanitation services, inadequate urban infrastructure, and insufficient social services, such as access to healthcare and education. This structural scenario is

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**8** A floresta habitada: história da ocupação humana na Amazônia. Accessible at: <https://amazon.org.br/a-floresta-habitada-historia-da-ocupacao-humana-na-amazonia>.

**9** Translated from the original in Portuguese: LEOPOLDO, Eudes; LIMA, Marcos Castro de; SOUSA, Isaque dos Santos (orgs). *A produção do Espaço urbano na Amazônia*. Rio de Janeiro: Consequência Editora, 2022.



aptly summarized by Cruz, Costa, Novaes, and Sá<sup>10</sup>, who describe the alignment of the economic measures in the Amazon with major capital as being driven by the “accumulation of capital in the region through the construction of large-scale hydroelectric power plants, the expansion of soybean crops, production of agrofuel, and major urban infrastructure projects. These developments, along with extensive mineral extraction projects, are part of the so-called new developmentalism. This expansion and the associated changes in land use not only have significant environmental consequences but also create areas of territorial conflict.”

Such rapid and disorganized urbanization, driven by the influx of populations to areas of these economic activity, follows a “boom and bust” pattern. This unsustainable model lead to swift economic growth, which lasts only until the depletion of local resources, quickly followed by economic decline and the emergence of poverty pockets.<sup>12</sup>

The same pattern occurs with major infrastructure projects, such as power generation and road construction, where employment and income rates surge during the implementation phase but experience a sharp decline once the projects are completed. However, by this point, urban centers have already expanded, and the population has grown disproportionately compared to the availability of public services. This leads to a socially unbalanced environment where illegal activities emerge, such as drug trafficking and child sexual exploitation, emerge, along with clear indicators of an increase in violence and crimes.

Currently, it is observed that the major structural projects in the Amazon are primarily driven by agribusiness interests in the Central-West region, aimed at facilitating the transportation of grains from that area. As a result, the BR 163 highway, also known as the Ferrogrão Highway, has been paved, and the (Tocantins Waterway has been dredged, among other projects.

As an illustrative of a process similar to other major projects, Reis and Souza, in their article *Grandes projetos na Amazônia: A hidrelétrica de Belo Monte e seus efeitos na segurança pública* (Major projects in the Amazon: The Belo Monte hydroelectric power plant and its effects on public security), report that the social indicators in Altamira significantly worsened in connection with the Belo Monte hydroelectric power plant.<sup>13</sup>

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**10** NASCIMENTO, Nádia S. F. et al. *Grandes projetos de desenvolvimento e lutas sociais na Amazônia Brasileira*. In: **VI Jornada Internacional de Políticas Públicas**, São Luís, 2013.

**11** In the Brazilian Amazon, the exploitation of non-renewable natural resources and man himself, has been producing social clashes (NASCIMENTO, Nádia S. F. et al. Op. cit.).

**12** In the Amazon, land use is based on the predatory timber exploitation, coupled with the extensive livestock farming, which occupy more than 70% of the land with anthropic activity. The trend is to follow the so-called economic boom-and-bust cycle: in the first years, there is a quick growth (boom) in income and jobs, followed by a severe decline (bust), as a result of the depletion of the natural resources. (HADDAD, Paulo e REZENDE, Fernando. *Instrumentos Econômicos para o Desenvolvimento Sustentável da Amazônia*. Brasília: Ministério do Meio Ambiente, 2002).

**13** Regarding rape records, there was a change in the region: the rate grew from 8.5 to 53.2 per 100,000 inhabitants, which shows a growth by 44.7 (525.9%) in the period under analysis, from 2007 to 2013. The growth in the region observed is higher than that posted in the entire state of Pará and the state capital, when analyzed separately: from 30.4, the number grew to 41.7, and from 34.2, it grew to 45.6, respectively (WASELFISZ, 2014). This leads us to conclude that the region observed posted the higher IC growth in the state of Pará. In Altamira, the rape records related to the popu-

Similar indicators can be observed in the rise of other crimes, reflecting increased violence and criminality in areas impacted by the major public and private projects in the Amazon. This is largely due to the expansion of urban areas, movement of populations, unemployment and lack of sustainable public policies.

This scenario also encompasses climate challenges, which stem from extreme socioenvironmental impacts and the pressure to generate carbon credits. For the sake of benefiting the planet, traditional populations become victims of an obscure carbon trading market, with agreements that often include confidentiality clauses and land use change commitments.

Consequently, we witness an increase in rural conflicts, rather than a genuine fight against climate change.

## The dispute for the land use

The primary driver of deforestation in the Amazon – with its consequent impacts on biodiversity and water resources – is the change in land use. Historically, the exploitation of the Amazon was based on extraction practices aligned with the sustainable use of the standing forest: fishing, fruit gathering, sale of non-timber plant-based products, etc. This reality shifted with the rapid, disorganized, and predatory occupation of the region, financed by the Brazilian government beginning in the second half of the 20th century.

The primary incentive for the occupation of the Amazon was part of a broader project initiated by the military government established after the 1964 coup. Within this context, actions were taken to build major roads in the Amazon, cutting through native forest areas and attracting major migration flows from other regions. The first major projects can be identified by the construction of the Transamazonian Highway (BR-163), the Northern Perimeter project, among other roads that, in turn, enabled the emergence of numerous secondary roads penetrating deeper into the forest. These roads generally paved the way for the establishment of large cattle ranches, involving the clear-cutting of native forests to plant African-origin exotic grass, such as braquiara, Mombaça, Quênia, and massai.

The land appreciation and expansion of industrial-scale cattle raising, driven by the development of a robust sales chain and the establishment of slaughterhouses, led to increased interest in acquiring more land and speculative property investments for future sale. This, in turn, resulted in the occupation of land previously occupied by traditional populations, including Indigenous peoples, quilombola communities, and especially small-scale farmers, many of whom lacked formal documentation or held only temporary documentation of the areas they occupied.

This dispute between such unequal contenders, marked by disparities in economic power and limited legal protection, led to ongoing land conflicts, character-

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lation grew from 13, in 2007, to 65 per 100,000 inhabitants in 2013, reaching the highest number in 2012, when it reached 70, indicating the sharp growth of this type of crime in the municipality upon the project implementation. (REIS, João Francisco Garcia; e SOUZA, Jaime Luiz Cunha de. *Grandes projetos na Amazônia: A hidrelétrica de Belo Monte e seus efeitos na segurança pública. DILEMAS: Revista de Estudos de Conflito e Controle Social*, v. 9, n. 2, Mai-Ago. 2016, p. 215-230. Accessible at: <https://revistas.ufrj.br/index.php/dilemas/article/view/7730/6383>.

ized by frequent violence and minimal government intervention. A key milestone in the “fight for the land” was the incident known as the “Eldorado dos Carajás Massacre”.<sup>14</sup> The term “Land Grabbing” has since become a part of the legal and political environment. As pointed out by the Amazon Environmental Research Institute (IPAM)<sup>15</sup>, official policies and frameworks, such as SPEVEA and SUDAM<sup>16</sup>, have contributed to land speculation in the region.

The intense occupation of the Amazon, driven by land speculation and “land grabbing”, can be recognized as one of the most important factors in the deforestation dynamics. Historically, deforestation resulting from the “land grabbing industry” initially serves the immediate interests of logging companies, interested in the commercial value of the native species. This is followed by clear-cutting to establish grasslands. In recent times, this process has expanded to include large-scale grain plantations, particularly soybeans.

Addressing this situation requires investments in land regulation, including sustainable development initiatives for traditional populations and restrictions on irresponsible use of the land. The fight against deforestation and climate change is also intrinsically linked to improving the quality of life for the Amazon population.

## The mega infrastructure projects in the Amazon

The major projects in the Amazon can be summarized in three axes: mining, monoculture farming, and mega infrastructures. Both large-scale monoculture and mining, represented by massive projects, along with the mega infrastructures necessary for the economic exploitation (such as hydroelectric power plants, highways, and railways) are development strategies that primarily serve the interests of major investors. These projects offer no benefits to the most underserved populations and, more importantly, have no connection to the way of life of traditional populations such as riverbank dwellers, Indigenous peoples, quilombolas, and small-scale farmers.

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**14** Nineteen “landless” workers were killed by the Military Police of the State of Pará. On April 10, 1996, roughly 2,500 landless workers who were camped in the region, together with other MST protesters, totaling 4,221 people, started a march of almost 900 km to the state capital, Belém, to protest against the delay in land expropriation, mainly the 40 thousand hectares of Macaxeira Farm, which were considered to be idle. The Military Police was charged with removing them from the site, as they would be obstructing BR-155 highway, which connects the state capital, Belém, with the South region of the state.

**15** A Grilagem de Terras Públicas na Amazônia Brasileira. *Série Estudos*, n. 8, Brasília, Instituto de Pesquisa Ambiental da Amazônia – IPAM, 2006.

**16** The Superintendence of the Amazon Economic Appreciation Plan (SPVEA) was established in 1953 to consummate the plans for a drastic structural change in the region. The Amazon Development Superintendence (SUDAM) is an agency of the Brazilian federal government, created in the Castelo Branco administration in 1966, to promote the development of the Amazon region, generating special tax and financial incentives to attract national and international private investors (RENHA, Carlos Eugenio Aguiar Pereira de Carvalho. *A Superintendência do plano de valorização econômica da Amazônia, a política de desenvolvimento regional e o Amazonas (1953-1966)*. 2017. 149 f. Dissertation (Masters in History) – Universidade Federal do Amazonas, Manaus, 2017. Accessible at: <https://tede.ufam.edu.br/handle/tede/6135>.

Farias and Viegas,<sup>17</sup> citing Monteiro on page 66, state that “these projects are true ‘enclaves’ in the region, as they are dissociated from the local context, with ‘foreign’ technologies that are planned outside their area of operation and disconnected from the interests and needs of the local population. In summary, ‘These are economic projects targeted at exploiting the natural resources in the Amazon, characterized by the grandeur of constructions, the amount of labor employed, and the volume of capital invested,’ while also considering the necessity of for infrastructure compatible with the scale and nature of the economic activity.

Following the trilogy of mining, monoculture farming, and mega infrastructure, both public and private projects can be identified, with many financed by public capital through development and funding agencies. In the state of Pará alone, notable projects include: BR-110 (Belém-Brasília), BR-230 (Transamazon), and BR-163 highways (Cuiabá-Santarém section); Energy: Tucuruí Hydroelectric Plant, Belo Monte Hydroelectric Plant, Barcarena Thermal Power Plant, Tucuruí-Manaus-Macapá Transmission Lines, Tapajós Hydroelectric Complex; Mining: Vale projects in the municipalities of Parauapebas, Canaã dos Carajás, and Curionópolis, Trombetas Project, Belo Sun Mining (gold extraction at the Xingú, kaolinite exploitation<sup>18</sup>; Agricultural Projects: Jari project (which began with timber exploitation for pulp production and later expanded to mining), and oil palm plantation projects for the production of edible oil and biofuels<sup>19</sup>.

The Miritituba Port, the North-South Railway, the expansion of the Vila do Conde Port, the Tucuruí dams, the Dredging of Pedral do Lourenço/Araguaia-Tocantins Waterway are other major projects currently being implemented in Pará, each with significant social and environmental consequences.

Therefore, discussing perspectives for a different future with long-term sustainability in the Amazon also involves rethinking the investments and the triad on which the regional growth is based. Reliance solely on primary commodities leads to negative environmental and social impacts, with potential climate repercussions.

## The constitutional role of the Public Prosecution Office and the reduction of inequalities

The Brazilian Public Prosecution Office is unique, with no comparable counterpart in any other legal or state system. Generally, legal defense bodies in other

<sup>17</sup> Translated from the original in Portuguese: FARIAS, André Luís de. *Grandes projetos na Amazônia: a ecologia política dos impactos e conflitos socioambientais* (Org.) Guarujá-SP: Científica Digital, 2023.

<sup>18</sup> Kaolinite extraction in Pará is carried out mainly by Imerys with two mines, Imerys Rio Capim Caulim (IRCC) and Pará Pigmentos S/A (PPSA), which were previously owned by Vale S/A, both located in the municipality of Ipixuna do Pará (SILVA, Anderson Leonardo Sales; CAMPOS, Eduardo Pinto; PANTOJA, Josy Mayra Guimarães; ARAÚJO, Luciana Lunna Ferreira; COSTA, Marcos Henrique Correa da; SILVA, William Wallace Pinheiro da. *Aproveitamento de rejeitos de caulim*. Seminário Integrador Interdisciplinar, Curso de Mineração, Instituto Federal de Educação, Ciência e Tecnologia do Pará Campus Belém: 2021. Accessible at: <https://belem.ifpa.edu.br/docpublic/2021/julho-1/721-aproveitamento-de-rejeitos-de-caulim/file>.

<sup>19</sup> The oil palm bunches processing plants for palm oil extraction in Pará are: Grupo Agropalma, Marborges Agroindústria S.A., Agroindustrial Palmasa S.A., Companhia Dendê Norte Paraense (Codempa), Dendê do Tauá Ltda. (Dentaúá) and Indústria Yossan Ltda. (Yossan).

societies are exclusively focused on criminal law and, in some cases, their responsibilities include overseeing the enforcement of the law and electoral processes. However, even these duties are typically limited and arise as a residual function connected to criminal prosecution.

The Brazilian Public Prosecution Office, in its current institutional form, is the result of a political by the original constitutional legislator, shaped by the country's re-democratization process, the emphasis on human rights, and the establishment of a democratic state governed by the rule of law.

In this context, the Public Prosecution Office is a permanent institution, essential to the State's jurisdictional function, tasked with defending the legal system, the democratic regime, and the inalienable social and individual interests.<sup>20</sup>

Furthermore, the 1988 Constitution not only elevated the Public Prosecution Office to its current status but also provided the tools necessary for the exercise of its duties, along with guarantees that ensure the institution's independence, protecting it from political and economic pressures.<sup>21</sup>

The Civil Investigation, a tool used for investigating and preparing Public Interest Civil Actions, has become an essential resource for defending society's rights, particularly concerning collective and diffuse rights.<sup>22</sup>

Accordingly, the Public Prosecution Office's role in defending human rights, the democratic regime, and diffuse rights has become emblematic. The protection of these rights is intrinsically linked to the institutional profile of the Public Prosecution Office, a connection reinforced by society's perception, which view this public body as the natural instrument for addressing such claims.

Among the diffuse rights within the purview of the Public Prosecution Office is the right to an ecologically balanced environment.

In relation to the Amazon, and exemplifying the work of the Public Prosecution Office of the State of Pará, several significant measures and actions related to environmental protection can be highlighted.

To address the serious agrarian matter, the Public Prosecution Office of Pará has established Agrarian Prosecution Offices, which are divided into five prosecution bodies that collectively cover the entire territory of the state of Pará.

The Agrarian Prosecution Office is an integral part of the Land Grabbing Combat Commission, playing a pivotal role in advocating for justice in rural areas and working to end violence against traditional populations and small-scale farmers. The specialization of this office allows for a more qualified approach from both professional and technical perspectives, while also fostering a fairer and more balanced perspective on the ownership and use of the land.<sup>23</sup>

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**20** Constitution of the Federative Republic of Brazil, article 127.

**21** Legislative initiative, creation and extinguishment of jobs, determination of remuneration, self-organization, preparation of budget, administrative, and financial proposal, etc.

**22** Law No. 7347 of July 24, 1985, which governs the public interest civil action for damage caused to the environment, consumer, assets and rights of artistic, aesthetic, historical, touristic, and landscaping value and provides for other measures, already conferred upon the Public Prosecution Office the filing of the Civil Investigation (with requisitory powers) for the protection of diffuse and collective interests (environment, consumer, assets and rights of artistic, aesthetic, historical, touristic, and landscaping value).

**23** The Agrarian Prosecution Office of the 1st Region (Northeastern of Pará) currently has relevant

On the other hand, the Environmental Operational Support Center serves as the technical and environmental support body for the Public Prosecution Office of the State of Pará. It was established to assist the environmental prosecution offices in fulfilling their duties, whether by providing technical expertise or facilitating interaction with other environmental agencies. In contributing to the development of environmental public policies, the Public Prosecution Office of the State of Pará participates in several institutional collective bodies related to environmental matters, including the State Environmental Council, the Interinstitutional Environmental Education Commission, the Pará Board on Climate Change, the State Forest Commission, the Board of Environmental Prosecution Offices of the Amazon, the State Council on Water Resources, and the “Dams” Work Group.

To ensure coordinated and convergent efforts among prosecution offices in environmentally sensitive areas, the Public Prosecution Office of the State of Pará has established two work groups (WGs): the Xingú WG and the Tapajós WG. The Xingú WG was established in response to the severe and catastrophic environmental and social consequences of the Belo Monte Hydroelectric Power Plant’s construction. It includes the prosecution offices of the municipalities of Altamira, Anapú, Brasil Novo, Gurupá, Medicilândia, Pacajá, Placas, Porto de Moz, São Felix do Xingú, Senador José Porfírio, Uruará, Vitória do Xingú, and Pacajá. The Tapajós WG, on the other hand, was formed to address the urgent need for joint action due to the rapid environmental degradation in the Tapajós River region. This degradation has been exacerbated by the paving of the BR-163 Highway, the construction of the Port of Miritituba, the pollution and destruction caused by the mining activities, and the uncontrolled progress of the monoculture soybean farming, which is rapidly destroying native forests. The Tapajós WG includes the prosecution offices of the municipalities of Santarém, Aveiro, Belterra, Itaituba, Jacareacanga, Juruti, Mojuí dos Campos, Novo Progresso, Rurópolis, and Trairão.

Regarding its work on sector-specific topics, the Environmental Operational Support Center coordinates several work groups: the Solid Waste Work Groups for the Metropolitan Region of Belém, Animal Defense WG, and the Dams WG.

Particularly noteworthy is the Deforestation WG, which holds special importance and is crucial to the operations of the Public Prosecution Office of the State of Pará. This work group is a priority due to the alarming increase in deforestation in the Amazon in recent years, a trend exacerbated by the weakening of enforcement frameworks and the federal government’s inaction in combating this harmful practice. Deforestation negatively impacts the economy, society, and environment. The Deforestation WG is composed of prosecution offices from the ten municipalities with the highest deforestation rates: Altamira, Itaituba, Novo Progresso, Novo Repartimento, Pacajá, Portel, Rurópolis, São Felix do Xingú, Senador José Porfírio, and Uruará.

The Deforestation Work Group operates by utilizing georeferenced data provided by Imazon and obtained through the “Terrabrasilis” platform, which presents the official deforestation data from the Brazilian government via the National Institute for Space Research (INPE). This enables the prosecution offices

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and direct performance in connection with the serious conflict between the farming oil palm companies and traditional populations (Indigenous and quilombolas), in the so-called “Oil Palm War”.

to take more direct action in identifying those responsible for deforestation or environmental degradation, facilitating the pursuit civil or criminal liability.

Additionally, it is important to highlight the institutional concern of the Public Prosecution Office of the State of Pará regarding the harassment experienced by traditional populations at the hands of companies and intermediaries involved in the carbon market.<sup>24</sup>

For technical, technological, and operational support, the Public Prosecution Office of the State of Pará builds institutional partnerships with public bodies, such as the National Space Research Institute (INPE) and Pará Federal University, as well as with private, non-corporate scientific institutions like Imazon, Map-Biomas, and the Brazilian Biodiversity Fund (FUNBIO). In particular, the Public Prosecution Office of the State of Pará has entered into a Technical Cooperation Agreement with FUNBIO, which has yielded positive positive results. Notable, the “Climate Dialogues” initiative, now in its third iteration, has facilitated important technical discussions on environment issues, including biodiversity protection, protected areas, environmental crimes, climate change, and the carbon market. These discussions have provided significant technical contributions to the core activities of the environmental prosecution offices.

In conclusion, it is evident that the implementation of major projects in the Amazon is predatory and unsustainable. These projects aim to align the region with the interests of the major national and international investors, often without considering appropriate land use or, more critically, the rights of the traditional populations, which frequently leads to the emergence of poverty pockets. Additionally, the Public Prosecution Office of the State of Pará plays an important role in addressing these challenges. This involvement is not only a constitutional duty but also a commitment to social justice, highlighting the need for a more qualified and socially responsive approach to their operations.

In the context of the climate crisis, the Public Prosecution Office plays a central role, more than ever, in securing a high-quality environment for present and future generations, while safeguarding the rights and livelihoods of traditional social groups in the Amazon. Ensuring the adoption of measures to fight against deforestation, transition to a sustainable matrix, and generate income for those who depend on the land for survival are key responsibilities of state prosecutors and appellate prosecutors.

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**24** The Public Prosecution Office of the State of Pará, with the cooperation of the Federal Public Prosecution Office, issued a Technical Note with respect to the Carbon Market and the exposure suffered by traditional populations to authorize the negotiation of their rights by companies and representatives, with clear exploratory purposes.



## ENVIRONMENTAL BALANCE AND HEALTH OF THE TRADITIONAL POPULATIONS: A CASE STUDY ON THE COMMUNITIES OF THE ACARÁ REGION AND THE IMPACTS OF THE OIL PALM CULTURE

BY EMÉRIO MENDES DA COSTA<sup>25</sup>

This text was designed in the context of the Climate Dialogues initiative, which brings together the Public Prosecution Office and civil society institutions as a platform to promote ideas and practices aimed at addressing challenges of climate change and deforestation. The focus is on establishing key considerations for maintaining environmental balance and ensuring the well-being of Brazil's traditional populations, particularly those in the Amazon biome.

The Amazon region, with its unique geographic, social, and historical characteristics, is a site of intense economic and territorial disputes. On one side are major investors, often linked to mineral extraction and plantation agribusiness, and on the other side are traditional communities, including Indigenous peoples, quilombolas, and other extractive workers such as fisherfolk, collectors, or small-scale farmers.

This dispute environment is marked by the resurfacing of long-standing issues and unresolved challenges, such as land grabbing, inadequate public education and health policies, and the incompatibility of prevailing economic models with the traditional Amazon way of life. These factors contribute to a cycle of violence, oppression, rural migration, and the expansion of urban outskirts, perpetuating a cycle of underdevelopment that compels us to reconsider the roles and actions of both public and private institutions.

Within this context, the proliferation of large economic projects with little or no surveillance, often lacking genuine sustainable practices, serves as a factor of environmental and social insecurity. These projects act as drivers of underdevelopment, benefitting only a few while causing ecological imbalances that negatively impact the health of the traditional populations, exacerbate conflicts, and compromise the free economic development of the region.<sup>26</sup>

Given this reality, it is crucial to reassess the public policies in effect in the region, generate and expand knowledge, acknowledge the shortcomings of the major projects model, and reject superficial claims of sustainability. Strengthening communities is essential, which requires the proper structuring of public policies that ensure the implementation of fundamental rights, in particular those related to the access to land, education, professional development, and health.

This brief text is not intended to be a legal document but rather a professional exchange of experiences, aiming to contribute to a constructive debate and shed light on the conflicts arising from the recent expansion of the major capital projects and their impact on the way of life of the traditional populations in the Amazon. The focus is on work experiences developed within the prosecution office

<sup>25</sup> Prosecutor of the Public Prosecution Office of the State of Pará.

<sup>26</sup> Sen, Amartya Kumar. *Desenvolvimento como Liberdade*; tradução Lauro Teixeira Motta, São Paulo, Companhia das Letras, 2000.



of the municipality of Acará, which is part of the micro-region of Tomé-Açu, particularly in addressing territorial conflicts involving Indigenous and quilombola communities, extractive workers and palm oil production companies. From this foundation, we will begin to present and contextualize the main challenged observed and suggest methods of interinstitutional collaboration.

In this context, we refer to the documents produced in previous academic articles by the Center for High Amazon Studies of the Pará Federal University – NAEA/UFGPA, culminating in the seminar “Dendeicultura, Expropriações e Crimes Ambientais no Pará” (Oil Palm Culture, Expropriations and Environmental Crimes in Pará). These works are part of the New Amazon Social Cartography project, noted for their depth, extent, scientific rigor, and interdisciplinary approach. The research conducted within the graduate programs has provided valuable insights that have significantly informed and enhances the performance of the prosecution office.<sup>27</sup>

The contemporary landscape of the Acará region is dominated by oil palm crops for palm oil production, which form part of the so-called oil palm culture. This has resulted from land concentrations rooted in violence and land grabbing processes, mainly during the 1970s and 1980s. The region is rife with illegal cemeteries and precarious real estate records, which contribute to a wide range of conflicts. These conflicts are exacerbated by land speculation driven by large companies that the territorial rights of the traditional populations, staining this highly valuable international commodity with blood.

The oil palm plantations, operated under vast estates that extend across the municipalities of Tomé Açu, Moju, and Tailândia, have encroached upon native forests and legal reserves. This expansion has led to ecological imbalance and caused environmental and social damage that has yet to be fully assessed. The original populations have been pushed to the outskirts of the cities, facing all the resulting adversities.

Initially, partnership agreements were established with the communities for the harvest of oil palm, resembling a type of new feudalism. However, land ownership disputes intensified and international market prices rose, these agreements were abandoned in favor of selling the products directly on the market. This shift aggravated conflicts and led to attempts to criminalize Indigenous and quilombola communities, particularly targeting their leaders, under accusations of theft. This represents an effort to replace civil law with criminal law, effectively reviving the punitive legal practice reminiscent of Brazil’s colonial period.

Within this context, the use of administrative recommendations to police authorities proved to be a highly efficient tool. The aim was to ensure that police began to consider the right to confront allegations of theft by investigating the characteristics of land ownership, considering factors such as ancestry, georeferencing, and property records, as well as listening to community representatives. This approach was designed to prevent public security personnel from being used as de facto guards for major companies.

Alongside the land issues, the production of palm oil expanded with minimal and insufficient oversight, leading to improper management of waste. This mis-

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**27** UFGPA – Seminário aborda os crimes ambientais no Pará. Available at <https://ver-o-fato.com.br/ufpa-seminario-aborda-os-crimes-ambientais-no-para/>. Accessed on April 17, 2024.

management resulted in the contamination of various water sources, causing fish die-offs and soil pollution, which reduced its suitability for subsistence farming, while also leading to the proliferation of flies and the spread of disease.

This situation necessitates stricter inspection of licenses, particularly concerning compliance with environmental conditions. It was crucial to ensure popular participation in the review process, enforce the duty of land regulation, implement compensations for affected communities, correct harmful industrial practices, and mandate the restoration of native forests and legal reserves that were illegally deforested for the development of plantations.

A well-conducted civil investigation, utilizing requests for information and measures, mainly in collaboration with scientific institutions such as research institutes and universities, serves as the most effective working tool. This approach fosters a productive connection between the knowledge generated by researchers and the administrative and legal measures adopted, thereby deepening understanding of the issues, integrating diverse perspectives, and preventing the premature filing of claims.

Strengthening or empowering communities is essential for ensuring the effectiveness of the fundamental rights. In this sense, Resolution No. 230 of 2021, from the National Council of the Public Prosecution Office (CNMP) is noteworthy, as it regulates the work with these communities and represents a significant institutional milestone.

Public hearings, especially when preceded by extensive meetings with professionals and technicians involved, as well as social or popular oversight, have proven to be excellent tools for generating knowledge, aligning strategies, and raising awareness of the challenges faced.

A Public Prosecution Office that not only works closely with society but also actively engages through society, utilizing tools to ensure the involvement of other professionals – particularly those in education, health, and the natural and social sciences – is not just desirable but a functional necessity. This approach enhances and systematizes efforts, leading to outcomes that are far more effective than simply proposing legal actions, which can be difficult to manage and control.

Regularly visiting communities, listening to their members, understanding their issues, and documenting them – while also bringing in specialists and local or regional authorities to make them accessible to the communities – are essential practices. These actions promote transparency and guide the functions of these authorities with greater care, enabling more effective implementation of public policies, mainly in health and education.

The need to improve the State institutions as a means to guarantee free economic development and foster institutional dialogue aligns with the principles outlined in Recommendation No. 54 of 2017 from the CNMP, which emphasizes the principle of resoluteness.

Defending the legal system, the democratic regime, and inalienable social interests goes far beyond the traditional role of being a mere guardian of the law. It calls for members of the Public Prosecution Office to adopt a mobilizing, inclusive, and empowering approach that enables communities to understand their rights and the avenues for their enforcement.

To achieve this, it is essential to focus on the thorough documentation and systematization of procedures, the establishment of action plans and schedules, and the notification of relevant bodies and authorities to visit communities.

These visits should be conducted with transparency, ensuring that they result in the preparation of reports and technical documents that provide a deeper understanding of the issue at hand. This approach is crucial to prevent the visits from becoming mere formalities or ineffective meetings.

Even in regions close to major centers, it's not uncommon to encounter local power structures influenced by obscure relationships, where communities are stifled by oppression and neglect. Harassment by economic agents directed at public officials, often through the offer of privileges such as farms, transportation, or housing is frequently observed. This behavior undermines the functional autonomy of public officials and must be addressed. The principles of the law on misconduct in public office can serve as a foundation for correcting such behavior.

Another common practice in Brazil, which is not yet prohibited but is severely punished in more modern systems, is the hiring of retirees who once held positions of authority. These individuals often serve as “doorknobs”, leveraging their connections to gain access to current authorities, thus benefiting from cronny relationships.

To achieve harmonization, or at least reduce tension, between major investors and communities, it is essential to measures that ensure balance. This includes the effective enforcement of fundamental rights guaranteed by the Constitution, particularly following land regularization, the protection of communities' territorial rights, and the improvement of healthcare services and education. These steps are crucial to prevent communities from becoming vulnerable to harassment to leave their land.

Hence, public policies must be implemented based on shared decision-making, social oversight, and meaningful popular participation. This can be achieved through continuous monitoring, technical visits, and the transparent presentation and discussion of data and information. It is essential to intersectoral support, involving stakeholders from academic institutions as well as public oversight and security bodies.

In this regard, institutional visits to schools and healthcare units in the region should include the distribution of standardized questionnaires to collect both quantitative and qualitative data on the facilities and services. These visits should be followed by social monitoring and community meetings to gain a deeper understanding of the issues. Proper documentation of these activities is crucial to ensure the efficient adoption of measures and the preparation for any necessary procedures or future lawsuits.

Using this methodological approach, dozens of schools and healthcare units in the Acará region were visited. The findings revealed a predominance of precarious structures, a shortage of professionals, neglect, and health hazards, all of which contribute to forcing families to leave their land or become reliant on government assistance, clientelism, and dubious interests.

To improve this approach, it is essential to foster institutional dialogue by inviting researchers who focus on the problems in the region, notably in terms of health. By studying indices and quantification and qualification parameters of the information in managers' databases, these analyses can broaden our understanding of communities' needs. This, in turn, will help define the necessary adjustments to the public policies.

As a result of this approach, it was possible to drive significant changes, including the redistribution and adjustment of public investments, the renovation

of schools and healthcare units, the hiring of additional personnel, and the increased participation of communities through social control tools. This process also helped raise awareness about the importance of continuous organization and advocacy for their rights.

The conflict is far from over, and many rights are yet to be fully guaranteed. The ongoing crisis in the effectiveness of these rights continues to generate collective tension. However, the paths to resolution have become, and may continue to become, more visible and less tortuous. The key lessons from this experience in the region highlight the need to regulate and equip social monitoring and community visits through operational guides. Additionally, ensuring that communities are heard in a meaningful and qualitative manner, rather than just as a formality, during the development and enforcement of public policies, remains one of the most important factors for progress.

The authorities alone will not be the ones to change the reality in the region; it is the organized people who will drive this transformation. However, authorities can and must better organize themselves to facilitate this process.

# Carbon market for whom?

BY ANDRÉIA DE MELLO MARTINS

In recent years, the topic of economic and financial tools has increasingly been included in discussions about climate change. It has become commonplace to hear references to various strategies emerging from the international debates, often without these strategies being effectively communicated to the social stakeholders who work directly and indirectly to ensure nature conservation.

The United Nations Framework Convention on Climate Change (UNFCCC), signed in Rio de Janeiro in 1992, which convenes annual dialogue and cooperation meetings with countries to discuss ways to curb the rise in global temperatures, has been increasingly strengthened. Over the years, these discussions have evolved, with a growing emphasis on forest preservation, leading to the expansion of collaborative efforts. In pursuit of these goals, more effective methods and tools are being sought to reduce the anthropic pressure on forests, including actions to finance the maintenance of standing forests, the restoration of degraded areas, and more effective control over deforestation.

The existing funding models encompass the development of economic and financial tools to slow down and reverse the loss of forests by supporting actions within national territories that have extensive forested areas. However, integrating the discussion on effective and efficient funding methods with on-field actions can be challenging. This complexity arises from the diverse set of international treaties, Brazilian regulations, and operational models that differ from the traditional funding approaches.

The idea of having a framework to support the fight against deforestation has emerged as a concept surrounded by both experiences and divergence. In 2002, during COP 8 in New Delhi, a debate was initiated on creating a market-based tool to trade carbon credits focused on the deforestation avoided.

This proposal quickly gained traction, as it was perceived as a fast and cost-effective solution for the fight against deforestation, especially when compared to the more expensive investments required for technological changes and energy transitions. As a result, many began advocating for the concept, viewing it as a type of Payment for Environmental Services (PES) framework, grounded in the protector-receiver principle.

This understanding has evolved over the years into a concept aimed at compensating those who maintain their standing forests. This concept is known as Reducing Emissions from Deforestation and Forest Degradation, along with other conservation efforts, more commonly referred to by its acronym REDD+. The progression of discussion within the framework of the Climate Conventions has included the following key milestones:

- **COP 11** (2005, Montreal, Canada): The 11th climate convention was the first to be held after the enactment of the Kyoto Protocol. The agenda included the ambitious goal of reducing emissions between 20% and 30% by 2030, and 60% and 80% by 2050. The conference was also marked by a new

agreement established among the signatory countries of the Kyoto Protocol – excluding the United States – which outlined the measures to be adopted to combat climate change after 2012, the year in which the first commitment period of the agreement would end.

- ▶ **COP 13** (2007, Bali, Indonesia): This conference culminated in the development of the Bali Road Map, a document that determined significant reductions in greenhouse gas emissions resulting from the deforestation of tropical forests. Moreover, the conference approved the implementation of the Adaptation Fund, aimed at supporting countries most vulnerable to the effect of climate change. The conference also set the stage for the inclusion of the Fund for Reducing Emissions from Deforestation and Forest Degradation (REDD) in the agenda for the next phase of the Kyoto Protocol.
- ▶ **COP 15** (2009, Copenhagen, Denmark): This convention gathered world leaders to, among other goals, approve the Copenhagen Accord. The accord, though considered modest, acknowledged the need to limit the global temperature increase to no more than 2°C and highlighted the importance of promoting REDD as an efficient alternative against the impacts of the climate change. Additionally, the text called for countries to gather national data on efforts to curb global warming and stipulated that wealthy nations should provide financial support and technological resources to help poorer countries adapt to climate change. However, the treaty was widely regarded as weak in light of international expectations and was not approved by all 192 signatory countries at the time.
- ▶ **COP 16** (2010, Cancun, Mexico): This conference achieved historical climate-related results, mainly with the agreement of all 194 signatory countries on the need to implement measures to prevent global warming from exceeding 2°C. In addition to providing financial support to countries that preserve their forests, such as Brazil, through REDD projects, COP 16 was also a landmark for the establishment of the Green Climate Fund (GCF). The initiative's goal at the time was to raise USD 30 billion from wealthy countries by 2012, with a further goal of securing an additional USD 100 billion per year thereafter to finance the adaptation of the developing countries to the impacts of climate change.
- ▶ **COP 19** (2013, Warsaw, Poland): World leaders gathered to discuss strategies for combating climate change. A key highlight of the convention was the preparation of a commitment document related to the REDD, including detailed rules for the execution and funding of these projects. This document established frameworks to financially compensate countries that maintain and preserve their forests.
- ▶ **COP 21** (2015, Paris, France): One of the most iconic climate conferences in recent years, COP 21 brought together all 195 signatory countries of the United Nations Framework Convention on Climate Change (UNFCCC) to ratify an agreement with specific actions to reduce greenhouse gas (GHG) emissions and mitigate their effects on the climate. The treaty provid-

ed for group work to restrain the increase in temperature by 1.5°C above pre-industrial levels and maintain global warming below 2°C. The important definitions established in the Paris Accord also include the adoption of REDD-related measures, as a way of preserving and strengthening GHG stocks, including forests, which play a vital role in reducing emissions caused by deforestation and forest degradation.

- **COP 26** (2021, Glasgow, Scotland): This conference was marked by significant commitments, including the progressive phase-out of fossil fuels by the major emitter countries such as China, India, the USA, and the European Union. Additionally, COP 26 saw the completion of the Paris Accord Rulebook, which introduced more detailed guidelines related to article 6 of the document, specifically addressing the carbon market.

The REDD+ framework has become a vital funding tool for developing countries to stop deforestation, but it still requires robust regulation.

Currently, Jurisdictional REDD is under discussion at both national and state levels, but the voluntary carbon market is progressing with projects that connect those who preserve the forest with organizations purchasing carbon credits. Many times, these projects, particularly in the Amazon, are implemented in quilombola and Indigenous territories, as well as among various social groups engaged in extractive activities.

To work effectively with these social groups and ensure a balanced environment, coupled with the protection of human rights and the provision of development opportunities, organizations that sponsor these projects must adhere to specific protocols and procedures to enable the trading of carbon credits. While this presents an opportunity that can yield good results, it is crucial that these initiatives are well-structured to avoid causing more social harm than environmental benefits.

In this regard, carbon projects in the state of Pará are being scrutinized due to the significant challenges they present, particularly regarding the fair distribution of the benefits and the transparency of their impacts on the lives of populations and traditional communities. In response, the Public Prosecution Office of the State of Pará, in partnership with the Federal Public Prosecution Office, issued Technical Note No. 02/2023. This document outlines the limits and conditions for implementing projects on public lands and traditional territories, with a focus on safeguarding territorial rights and adhering to the Human Rights principles.

This discussion was incorporated into the Climate Dialogues' life experience meeting, where public prosecutors reflected on the challenges posed by the global carbon market framework and its impact on the territory of Pará and its different social groups.

Prosecutors Alexssandra Muniz Mardegan and Josélia Leontina de Barros Lopes initiated the problematization of this issued by exploring the carbon credit market perspective and its impacts on the Indigenous and quilombola communities. In their text, they detail the concepts of REDD+ and the carbon market, examine Brazilian legislation related to these areas, and analyze the implications for traditional communities. They conclude by introducing ways in which the Public Prosecution Office can support these populations in navigating such a complex matter.

Complementing this reflection, Mr. Márcio Silva Maués de Faria addresses the importance of decentralizing information in a clear and accessible manner. He argues that for the carbon market to function effectively and deliver meaningful results for traditional communities, three basic pillars must be upheld: the right of access to environmental information, public participation in decision-making, and access to justice in environmental matters. Faria points out that the inclusion of confidentiality sections in carbon credits trade agreements constitutes a violation of human rights. He asserts that government authorities have a duty to collaborate effectively with international certifying bodies, businesses, local authorities, and communities to gather relevant data on the agreements being made.

Next, prosecutors Louise Rejane de Araújo Silva and Juliana Pinho Nobre, in collaboration with environmental management technician Layse Pereira Favacho da Rocha, discuss the establishment of carbon credit agreements in the Amazon. They emphasize the importance of ensuring the fundamental right to environmental information as a prerequisite for developing valid protocols for traditional communities. This includes the requirement for free, previous, and informed consultation as a condition for contractual validity, safeguarding both current and future generations. Additionally, they highlight the role of the Public Prosecution Office's as the guardian of the environment and communities.



## THE CARBON CREDIT MARKET AND ITS IMPACTS ON THE INDIGENOUS AND QUILOMBOLA COMMUNITIES

BY ALEXSSANDRA MUNIZ MARDEGAN AND JOSÉLIA LEONTINA DE BARROS LOPES

In the context of urgent global demands for climate-related solutions, market mechanisms like carbon credits have emerged as promising strategies. Among these, the REDD+ program (Reducing Emissions from Deforestation and Forest Degradation) stands out, aiming to integrate forest conservation with economic development. This program not only seeks to mitigate carbon emissions but also promises to generate economic benefits for the communities living in these forests. However, the implementation of these projects in Brazil has revealed complexities and challenges that often diverge from the original conservation and social justice objectives.

This article analyzes the intersection of the carbon credit market and the rights of the Indigenous and quilombola communities, with a particular focus on how REDD+ projects have been implemented in traditional territories. By analyzing Brazilian legislation, relevant public policies, and the social and environmental impacts of these projects, the article seeks to understand whether the REDD+ has contributed to environmental and social protection or whether it has perpetuated exploitation and inequality patterns.

Against this backdrop, the role of the Public Prosecution Office is considered fundamental to ensure that the rights of these communities are not only protected but that they also equitably benefit from conservation initiatives.

The article further explores the necessary measures to align REDD+ with environmental and social justice principles, proposing a critical examination of current practices and potential pathways toward a fairer and more sustainable future.

### Carbon Credits and the Functioning of REDD+ Projects

The 2023 report *Análise das Emissões dos Gases de Efeito Estufa e suas Implicações para as Metas Climáticas do Brasil* (Analysis of Greenhouse Gas Emissions and their Impacts on Brazilian Climate Goals) highlights that changes in land use accounted for 49% of Brazil's gross greenhouse gas emissions in the country in 2021, against 46% in 2020. It is followed by agriculture, with 25%, energy and industrial processes with 22%, and waste with 4%.<sup>28</sup>

Deforestation and degradation contribute considerably to greenhouse gas (GHG) emissions, accounting for around 10% of these emissions<sup>29</sup>. A key strategic pillar for mitigating the greenhouse effect is forest protection and recovery, which could potentially reduce global carbon emissions by 25%, helping to limit the rise in global temperature to 1.5°C by 2030<sup>30</sup>.

<sup>28</sup> POTENZA, Renata Fragozo et. al. *Análise das Emissões dos Gases de Efeito Estufa e suas Implicações para as Metas Climáticas do Brasil (1970-2021)*. *Observatório do Clima*, 2023, Available at: <https://energiiaeambiente.org.br/wp-content/uploads/2023/04/SEEG-10-anos-v5.pdf>. Access on April 13, 2024, p. 3.

<sup>29</sup> Information extracted from: <https://plataforma.seeg.eco.br>. Access on April 13, 2024.

<sup>30</sup> CAIRES, Luiza. Relatório do IPCC: proteger florestas barra mudança climática e garante ag-

The ratification of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992, including by Brazil, marked a turning point in acknowledging the compelling need for a gradual and continuous reduction in GHG emissions. Since then, important laws and accords have emerged from the Conferences of the Parties (COPs), most notably the Kyoto Protocol of 1997 and the Paris Accord of 2015, establishing guidelines and market frameworks to achieve the goals conceived.

One of these frameworks is REDD+<sup>31</sup>, which is being gradually designed within the scope of the Convention on Climate Change. It received special attention at COP-16, where the Cancun Safeguards were introduced in 2010, and at COP-19, which resulted in the Warsaw Framework in 2013.

According to the definition outlined in the UN Climate Convention, REDD+ projects enable developing countries to be financially rewarded<sup>32</sup> for their efforts to reduce GHG emissions associated with deforestation and forest degradation. This is achieved by assigning a financial value to the carbon stocked in the forests<sup>33</sup>, facilitating financial arrangements between those responsible for preventing deforestation or preserving forests – ranging from landowners to extractive communities and Indigenous populations – and entities interested in generating, trading, and purchasing carbon credits<sup>34</sup>.

The REDD+ is designed to motivate developed countries, which are responsible for high levels of carbon emissions, to offer economic incentives to developing countries with vast tropical forests by encouraging forest preservation and preventing deforestation<sup>35</sup>. These projects often receive funding from

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ricultura. *Jornal da USP*, August 8, 2019. Available at: <https://jornal.usp.br/ciencias/ciencias-ambientais/relatorio-do-ipcc-protoger-florestas-barra-mudanca-climatica-e-garante-agricultura/>. Access on April 13, 2024.

**31** REDD+ means Reducing Emissions from Deforestation and Forest Degradation, considering the role of conservation of forest carbon stocks, sustainable forest management, and enhancement of forest carbon stocks.

**32** The main methods for raising funds to invest in REDD+ activities and initiatives are international funding (public and private), cooperation programs (bilateral or multilateral), funds (international, national, and state-owned), donations, and carbon markets. In their turn, carbon markets encompass the trading of carbon credits, which correspond to certificates representing a given quantity of greenhouse gas (GHG) that was not emitted, or that was removed from the atmosphere (ROMÃO, Raul Protázio et. al. (Coord.). *Glossário para Entender Termos Técnicos e Palavras Difíceis sobre REDD+ e Mudanças Climáticas*. 2023. Available at: [https://www.semas.pa.gov.br/redd/wp-content/uploads/2024/02/Construcao-do-SJREDD-no-Para\\_Glossario.pdf](https://www.semas.pa.gov.br/redd/wp-content/uploads/2024/02/Construcao-do-SJREDD-no-Para_Glossario.pdf). Access on April 13, 2024, p. 15-31.

**33** Forest carbon stock means the “quantity of carbon captured from the atmosphere and stored in the forest ecosystem, mainly in the form of log, branches, leaves (living biomass), the soil and, to a lesser extent, also in the timber and plant litter”. It is estimated that 73 billion tons of such carbon are protected at the Amazon forests, with a significant portion, corresponding to 58%, located in Indigenous territories and conservation units, whereas around 20% lies in public land not intended for specific use (VIEIRA, Ima. Mercado de carbono na Amazônia é solução para a crise climática? *Jornal Resistência*, ano 46, Mar. 2023, p. 6).

**34** PACHECO, Pablo; GUZMÁN, Sergio. O que é REDD+ Jurisdicional? *Forest Trends*, 2022. Available at: <https://www.forest-trends.org/wp-content/uploads/2022/04/CARTILLA-1-POR.pdf>. Access on April 13, 2024, p. 2.

**35** PAQUETTE, Mitch. Alguns grupos indígenas duvidam do REDD+, programa do Acordo climático de Paris 2015. *Mongabay*, July 4, 2016. Available at: <https://brasil.mongabay.com/2016/07/>

private corporations that utilize the voluntary carbon market to offset their GHG emissions<sup>36</sup>.

Jurisdictional REDD+ is a strategic approach within carbon markets, applicable to specific jurisdictions – either at the national or subnational level – where a government has the authority to implement projects aimed at reducing deforestation. This model promotes carbon emission reduction goals through “performance-based” agreements, where payments are directly tied to the actual emission reduction, measured against a predetermined baseline for the entire jurisdiction. The resources generated from these initiatives allow governments to adopt measures for the conservation of protected areas, regulate timber extraction, and enhance forest management, with a particular focus on preventing deforestation for agricultural purposes<sup>37</sup>.

Additionally, REDD+ funders expect the funds to be distributed through Payments for Environmental Services (PES). This involves financially compensating landowners who agree not to deforest, encouraging farmers to replace conventional crops with the planting of trees, and rewarding communities for abandoning environmentally damaging practices, such as logging and shifting cultivation in specific areas.

## The Brazilian legislation

In 2009, Brazil made progress in the fight against climate change upon the establishment of the National Policy on Climate Change (PNMC) through Law No. 12,187/2009. This pioneering legislation outlined the country’s voluntary commitment to adopt greenhouse gas emission mitigation measures, setting an ambitious goal of reducing projected emissions by 36.1% to 38.9% by 2020, as set forth in article 12. As defined in Decree No. 11,550/2023, the Interministerial Committee on Climate Change (CIM) was tasked with monitoring and implementing these mitigating measures and the corresponding public policies.

Another significant step was taken in 2015 with the launch of the national REDD+ strategy (ENREDD+) and the establishment of the National REDD+ Commission (CONAREDD+), now regulated by Decree No. 11,548/2023. Additionally, Law No. 12,651/2012 (Forest Code) defined carbon credits as “rights to tradeable intangible and immaterial assets” (article 3, XXVII). Furthermore, article 41, paragraphs 4 and 5, of the same law established a framework for payments or incentives for environmental services to support the maintenance of Permanent Preservation Areas, Legal Reserve, and restricted-use areas. Continuing the regulation of this tool, Lei Law No. 14,119/2021 introduced the National Policy on Payment for Environmental Services (PNPSA), describing concepts, objectives, guidelines, and criteria for its effective implementation. This regime also impacted Law No. 6,015/1973 (Public Record Law) by including agreements for payment for environ-

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[alguns-grupos-indigenas-duvidam-do-redd-programa-do-acordo-climatico-paris-2015/](#). Access on April 13, 2024.

<sup>36</sup> PACHECO, Pablo; GUZMÁN, Sergio. Op. cit., p. 2.

<sup>37</sup> PACHECO, Pablo; GUZMÁN, Sergio. Op. cit., p. 3.

mental services that establish *propter rem* obligations in the list of actions subject to registration with the Real Estate Registry Office (article 167, I, “45”).

At the 78th General Meeting of the United Nations in September 2023, the Federal Government committed to reducing Greenhouse Gas emissions by 48% by 2025 and 53% by 2030, compared to 2005 emission levels<sup>38</sup>.

## Legal protection of traditional territories and environmental sustainability

### Context

In addition to biodiversity conservation, Indigenous and quilombola areas play a fundamental role in carbon sequestration and storage, making a significant contribution to climate change mitigation. Research conducted by the Woods Hole Research Center disclosed that more than 20% of the carbon stored in the world’s tropical forests is found within Indigenous territories<sup>39</sup>.

These territories, covering primary and secondary forests, savannahs, and swamps, among other ecosystems, are highly effective in capturing carbon dioxide (CO<sub>2</sub>) from the atmosphere. This process takes place through both the vegetation biomass and the soil, where the carbon is stored, contributing to reduce the concentration of greenhouse gases in the atmosphere<sup>40</sup>.

Specifically regarding the Indigenous areas in the Brazilian Amazon, these regions serve as important carbon reservoirs, storing billions of tons of carbon. The environmental preservation of these territories, where traditional communities live, plays a crucial role in preventing the release of stored carbon into the atmosphere<sup>41</sup>.

Therefore, the protection of the territorial and cultural rights of these peoples is not only as a matter of social justice but also a critical strategy for global environmental conservation and climate change mitigation. However, this protection faces challenges that affect the effectiveness and integrity of projects such as REDD+ in Brazil, sparking discussions about the collateral damage these strategies may cause to traditional people and the environment. These challenges can widen the gap between the actual outcomes and the intentions set forth in the protective legislation and the international treaties signed by the country.

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**38** GOV. AGENCY Governo amplia para 48% a meta de redução da emissão de gases de efeito estufa até 2025. Sep. 20, 2023. Available at: <https://agenciagov.ebc.com.br/noticias/202309/governo-amplia-para-48-a-meta-de-reducao-da-emissao-de-gases-de-efeito-estufa-ate-2025>. Access on April 13, 2024.

**39** PAQUETTE, Mitch. Alguns grupos indígenas duvidam do REDD+, programa do Acordo climático de Paris 2015. Mongabay, July 4, 2016. Available at: <https://brasil.mongabay.com/2016/07/alguns-grupos-indigenas-duvidam-do-redd-programa-do-acordo-climatico-paris-2015/>. Access on April 13, 2024. Op. cit.

**40** ICCA Consortium. Territories of Life: 2021 Report. Available at: <https://report.territoriesoflife.org/wp-content/uploads/2021/09/ICCA-Territories-of-Life-2021-Report-FULL-150dpi-ENG.pdf>. Access on April 13, 2024, p. 9.

**41** UNESCO. Declaração das Nações Unidas sobre os Povos Indígenas: perguntas e respostas. 2.ed. Rio de Janeiro: UNIC; Brasília: UNESCO, 2009. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000185079#:~:text=URL%3A%20https%3A%2F%2Funesdoc.unesco.org%2Fark%3A%2F48223%2Fpf0000185079%0AVisible%3A%200%25%20>. Access on April 13, 2024.

## International and national protection

The cultural rights of Indigenous people and quilombola communities are intrinsically related to their relationship with their territory. For these communities, land is not merely a material resource or economic asset; it is a fundamental element of their identity, spirituality, culture, and way of life. The boundaries of their territories often do not align with the political-administrative divisions established by the state.

However, historically, these communities have been, and continue to be, subjected to violations not only through ethnic-racial discrimination but also through the systematic pillage of their land. Law No. 601 of 1850 (Land Law) aggravated this scenario by requiring the registration of real estate transactions with the real estate registries, thereby making it difficult for traditional communities to obtain formal land titles.

The invasion of these territories highlights a historical asymmetry of power and underscores the complexity and inequality of land relations in Brazil. The collaboration between invaders and the legal and governmental elite has placed traditional communities at a disadvantage, allowing their territories to continue being usurped through practices such as land grabbing, the imposition of development projects, and even direct State interference<sup>42</sup>.

The 1988 Federal Constitution marked a significant shift by ensuring the right to land to the communities that had not previously formally claimed ownership, establishing a preemption right in favor of the traditional occupants<sup>43</sup>. This change acknowledged the original right of the Indigenous people to their traditional land (article 231) and ensured that those remaining from the quilombo communities have the right to definitive ownership of the land they occupy (article 68 of the ADCT [Act of Temporary Constitutional Provisions]).

The United Nations Declaration on the Rights of Indigenous Peoples, ratified by Brazil, acknowledges the right of Indigenous peoples to the lands, territories, and resources that they have traditionally owned, occupied, used or acquired. It emphasizes the importance of legally acknowledging and protecting such land, including those from which Indigenous peoples have been displaced or have otherwise lost<sup>44</sup>.

ILO Convention No. 169 is the most recent and comprehensive international tool concerning the life and working conditions of Indigenous and tribal people. Ratified by Brazil through Legislative Decree No. 143, which has been in effect since 2003, this binding convention mandates the acknowledgment of the collective Indigenous rights, including economic, social, and cultural aspects, as well as civil rights. In alignment with the 1988 Federal Constitution, Convention No. 169 stresses the acknowledgment of cultural diversity<sup>45</sup>, which entails respecting the

**42** MINISTÉRIO PÚBLICO DO ESTADO DE MINAS GERAIS. *Direitos dos Povos e Comunidades Tradicionais*. 2014. Available at: [https://issuu.com/asscom/docs/publicacao\\_especial\\_direitos\\_dos\\_po](https://issuu.com/asscom/docs/publicacao_especial_direitos_dos_po). Access on April 10, 2024. Op. cit, p. 10-11.

**43** Same as the previous note.

**44** UNESCO. *Declaração das Nações Unidas sobre os Povos Indígenas: perguntas e respostas*. 2.ed. Rio de Janeiro: UNIC; Brasília: UNESCO, 2009. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000185079#:text=URL%3A%20https%3A%2F%2Funesdoc.unesco.org%2Fark%3A%2F48223%2Fpf0000185079%0Avisible%3A%200%25%20>. Access on April 13, 2024.

**45** SHIRAIISHI NETO, Joaquim (Org.). *Direito dos povos e das comunidades tradicionais no Brasil: declarações, convenções internacionais e dispositivos jurídicos definidores de uma política nacion-*

special relationship between the Indigenous people and their land – a relationship that is essential for their cultural and economic survival. The convention underscores the right of Indigenous people to consultation and participation in the management and conservation of their territories, highlighting the importance of Free, Prior, and Informed Consultations (FPIC), as well as protections against evictions and forced displacement from their traditional lands.

To ensure this land right of Indigenous peoples, the federal government, through the National Indigenous People Foundation (FUNAI) carries out an Indigenous land delimitation process, establishing its real extent and protecting it from invasion. This administrative process involves several stages: identification studies by an anthropologist, FUNAI approval, consideration of objections, definition of the boundaries by the Justice, physical delimitation, presidential ratification, and land registration. The land is designated exclusively for the use of Indigenous people. Similarly, the process for granting land titles to quilombola communities is managed by the National Institute for Colonization and Agrarian Reform (INCRA). This process follows a procedure akin to that of the Indigenous land, involving identification, recognition, delimitation, and land titling (Decree No. 4,887/2003). This decree ensures the participation of these communities in all phases of the administrative process and outlines a detailed procedure. It begins with the identification and delimitation of the area by the Special Office of Racial Equality Promotion Policies and the Palmares Cultural Foundation and culminates in the collective and undivided land titling, thereby safeguarding the ethnic, cultural, and territorial rights of quilombola communities.

Law No. 13,123/2015, known as the Biodiversity Law, established the National Benefit Sharing Fund (FNRB) to recognize the value of genetic heritage and associated traditional knowledge, while also promoting their sustainable use and equitable distribution of the resulting benefits. This framework was designed as a response to the requirements of the Convention on Biological Diversity, signed during the Earth Summit in 1992 (Eco-92), to combat the loss of biodiversity and ensure a fair and equitable sharing of benefits derived from the use of genetic resources<sup>46</sup>.

However, despite the theoretical importance of the FNRB, its implementation has been facing challenges related to the lack of transparency and the presence of numerous exemptions and restrictions. These limitations have distanced the FNRB from its primary objectives, revealing a disconnect between the legislation and the effective practices for biodiversity conservation and appreciation of traditional knowledge<sup>47</sup>.

The IPCC Special Report addresses the carbon fluxes in terrestrial ecosystems, focusing on the carbon estimates in forests and the impacts of human activities such as deforestation and agriculture. One of the key points addressed is the contribution of the Indigenous peoples to reversing this concerning trend, acknowledging their critical role in the management and conservation of forests<sup>48</sup>.

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al. Manaus: UEA, 2007, p. 38.

**46** MOREIRA FOLHES, Eliane Cristina Pinto; FOLHES, Ricardo Theophilo. O Fundo Nacional de repartição de benefícios: chegou a vez da biodiversidade amazônica e de seus guardiões? *NAEA*, v. 1, n. 1, edição 567, 2023, p. 3.

**47** MOREIRA FOLHES, Eliane Cristina Pinto; FOLHES, Ricardo Theophilo. Op. cit., p. 3-4.

**48** MIRZABAEV, Alisher; WU, Jianguo (Coords.), et. al. Desertification. In: *Climate Change and*

Indeed, Indigenous and quilombola lands are recognized for their substantial contribution to biodiversity conservation. Many of these areas are located in regions of high biodiversity, such as the Amazon, the Cerrado, and the Atlantic Forest, and serve as sanctuaries for numerous species of flora and fauna, many of which are endemic and/or endangered<sup>49</sup>.

The territorial environmental management carried out by these communities, rooted in traditional knowledge passed down through generations, has proven to be highly effective in protecting these ecosystems and maintaining their resilience<sup>50</sup>. In Brazil, the “Territorial and Environmental Management Plans” (PGTAs, the acronym in Portuguese) have gained prominence, seeking to increase the protagonism of the Indigenous peoples in managing their territories and fostering dialogue with external stakeholders and initiatives – both national and international. These plans are designed to advance human rights, biodiversity conservation, the maintenance of ecosystem services, and the promotion of sustainable rural landscapes, all while seeking to materialize initiatives that improve the quality of life for these communities according to their cultural and spiritual values.<sup>51</sup>

Scientific studies consistently show that Indigenous territories are among the most well-preserved areas in the country, sheltering vast biodiversity and considerable carbon stocks, both in the vegetation and soil. This conclusion is corroborated by the 2021 study conducted by the ICCA, which resulted in the “Territories of Life” report. This report analyzes how Indigenous peoples and local communities preserve vital territories (ICCAs, the acronym for Indigenous and Community Conserved Areas), offering global perspectives on their essential role in biodiversity conservation.<sup>52</sup>

Several other studies stress the importance of the areas managed by traditional communities for environmental conservation and of the fight against climate change. For example, a study published in “Nature Sustainability” in 2018 indicated that territories managed by Indigenous people frequently show better con-

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**Land:** an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems. Available at: [https://www.ipcc.ch/site/assets/uploads/sites/4/2022/11/SRCCL\\_Chapter\\_3.pdf](https://www.ipcc.ch/site/assets/uploads/sites/4/2022/11/SRCCL_Chapter_3.pdf). Access on April 10, 2024, p. 284.

**49** BARBOSA, Vanessa. Povos Indígenas Protegem Florestas e Clima, Aponta Estudo. *Exame*, 2014. Available at: <http://exame.abril.com.br/mundo/terras-indigenas-protegem-floresta-e-clima-aponta-estudo/>. Access on April 14, 2024.

**50** The said report highlights: “The use of Indigenous and local knowledge enhances the success of SLM and its ability to address desertification (Altieri and Nicholls 2017; Engdawork and Bork 2016). [...] There are abundant examples of how Indigenous and local knowledge, which are an important part of broader agroecological knowledge (Altieri 2018), have allowed livelihood systems in drylands to be maintained despite environmental constraints. [...] Combined use of Indigenous and local knowledge and new SLM technologies can contribute to raising resilience to the challenges of climate change and desertification (high confidence)” (MIRZABAEV, Alisher; WU, Jianguo et. al. Op. cit., p. 284).

**51** P. MILLER, Robert et. al. *Planos de Gestão Territorial e Ambiental em Terras Indígenas do Brasil: Estratégias para Apoiar o Bem Viver, Culturas, Florestas e Paisagens Sustentáveis*. Available at: [https://cooperacaobrasil-alemanha.com/Indigenas/PGTAs\\_Terras\\_Indigenas\\_BR.pdf](https://cooperacaobrasil-alemanha.com/Indigenas/PGTAs_Terras_Indigenas_BR.pdf). Access on April 13, 2024.

**52** ICCA Consortium. *Territories of Life: 2021 Report*. Available at: <https://report.territoriesoflife.org/wp-content/uploads/2021/09/ICCA-Territories-of-Life-2021-Report-FULL-150dpi-ENG.pdf>. Access on April 13, 2024. Op. cit., p. 9.



servation results than the conventional protected areas, stressing the vital role of these communities in the preservation of biodiversity<sup>53</sup>.

Another research, published by the World Resources Institute, stresses the economic benefits of strengthening the role of traditional communities in environmental preservation. From a financial perspective, investing in the land security of Indigenous forest territories proves to be particularly efficient compared to other carbon capture and storage measures. This finding bolsters the economic argument for governments, climate funding agencies, civil society organizations, and other players to invest in securing Indigenous forest land ownership in Latin America<sup>54</sup>.

Thus, public policies and conservation initiatives must acknowledge and strengthen the role of the Indigenous and quilombola communities in environmental management. The implementation of REDD+ projects, for example, must ensure that these communities not only participate in the process actively but also benefit from it fairly and equitably. This includes establishing effective frameworks to ensure Free, Prior, and Informed Consent, such as grievance mechanisms that address conflicts or injustices against IPLCs (Indigenous People and Local Communities) appropriately, swiftly, and effectively. Moreover, it is crucial to emphasize the proper distribution of the financial benefits, which can enhance the resilience of these communities to climate change and promoting environmental conservation in the long term.

### **Challenges and impacts arising from the REDD+ on traditional communities**

Despite numerous studies corroborating the importance of Indigenous people and local communities in environmental preservation and the mitigation of the greenhouse effect, these communities often face severe retaliation from opposing the primary industrial drivers of biodiversity loss and the climate crisis. Hostility from dominant political and economic sectors is aggravated by gaps and flaws in the regulation and surveillance of projects such as REDD+ in Brazil. This has led to the disturbing multiplication of teratological situations, such as the generation of unreliable carbon credits, double counting, and the allocation of high-forest coverage and biodiversity-rich areas for activities like mining, wildcat mining, and oil extraction<sup>55</sup>.

Exploiting these systematic failures under the guise of environmental rhetoric, several stakeholders have been negotiating carbon credits in REDD+ projects located within the territories of traditional communities, often bypassing proper

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**53** GARNETT, Stephen T. et. al. A spatial overview of the global importance of Indigenous lands for conservation. *Nature Sustainability*, v. 1, p. 369-374, 2018. Available at: [https://e-space.mmu.ac.uk/621204/1/NATSUSTAIN-18021135%20Revised%20manuscript%20180607\\_JEF.pdf](https://e-space.mmu.ac.uk/621204/1/NATSUSTAIN-18021135%20Revised%20manuscript%20180607_JEF.pdf). Access on April 13, 2024.

**54** DING, Helen et. al. *Climate Benefits, Tenure Costs: The Economic Case For Securing Indigenous Land Rights in the Amazon*. World Resources Institute. Available at: [https://files.wri.org/d8/s3fs-public/Climate\\_Benefits\\_Tenure\\_Costs.pdf](https://files.wri.org/d8/s3fs-public/Climate_Benefits_Tenure_Costs.pdf). Access on April 13, 2024, p. 4.

**55** PACHECO, Pablo; GUZMÁN, Sergio. O que é REDD+ Jurisdicional? *Forest Trends*, 2022. Available at: <https://www.forest-trends.org/wp-content/uploads/2022/04/CARTILLA-1-POR.pdf>. Access on April 13, 2024. Op. cit., p. 5.



previous consultation protocols. As a result, so-called “paper carbons” have proliferated, with companies claiming rights over the carbon credits in vast areas of the Amazon, without properly verifying the legitimate use of the land and without meeting the conditions necessary for project certification and audit. This raises questions about the legitimacy of these transactions<sup>56</sup>.

The lack of clear and strict regulation on the trading and monitoring of carbon credits, aggravated by the absence of robust socioenvironmental safeguards, creates opportunities for speculation and abusive practices. This had led to territorial and environmental conflicts, perpetuating a pattern of expropriation and disregard for the rights of these communities within the carbon market<sup>57</sup>.

During the 2015 Paris Conference on Climate Change (COP21), REDD+ faced significant objections, especially from Indigenous groups represented by the Indigenous Environmental Network (IEN), a grassroots organization that criticizes REDD+ as part of a potentially harming market system. Tom Goldtooth, executive director of IEN, expressed significant concerns at COP21, describing REDD+ as a framework that could lead to crimes against mankind and the Earth by enabling developed countries to avoid reducing their own carbon emissions, often at the expense of the rights and traditional practices of Indigenous peoples<sup>58</sup>.

A recent report by Fundação Rosa Luxemburgo and the CPDA-AFRRJ, titled “Em nome do clima: mapeamento crítico – Transição energética e financeirização da natureza” (In the name of the climate: critical mapping – Energy transition and financialization of the nature”), highlights how the carbon credit projects are exacerbating land-related conflicts in traditional territories, threatening the way of life of local communities without delivering the promised compensations. This raises questions about the effectiveness of carbon trading policies in achieving forest conservation<sup>59</sup>. The analysis suggests that these projects, rather than contributing to the reduction of emissions and environmental conservation, are primarily focused on economic gains through private investments, often aligning with government policies<sup>60</sup>. Márcio Santilli, founder of the Socio-Environmental Institute (ISA), warns that the voluntary carbon market could be as harmful as illegal timber exploitation in terms of its predatory impacts<sup>61</sup>.

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**56** VIEIRA, Ima. A ameaça da “grilagem” do carbono florestal na Amazônia. Available at: <https://repam.org.br/ameaca-grilagem-carbono-florestal-amazonia/>. Access on April 13, 2024.

**57** Same as the previous note.

**58** PAQUETTE, Mitch. Alguns grupos indígenas duvidam do REDD+, programa do Acordo climático de Paris 2015. Mongabay, July 4, 2016. Available at: <https://brasil.mongabay.com/2016/07/alguns-grupos-indigenas-duvidam-do-redd-programa-do-acordo-climatico-paris-2015/>. Access on April 13, 2024.

**59** FUHRMANN, Leonardo. Projetos de carbono acirram conflitos de terra em territórios tradicionais. O Joio e o Trigo, March 11, 2024. Available at: <https://ojoioetrigo.com.br/2024/03/projetos-de-carbono/>. Access on April 13, 2024.

**60** GIBSON, Marina Lobo; BARROS JÚNIOR, Orlando Aleixo de; PAPAGIANNIS, Priscilla. “Financeirização da natureza e conflitos por terra e território: Redução de Emissões por Desmatamento e Degradação Florestal (REDD) e o mercado de carbono no Brasil”. In: PAIM, Elisângela Soldateli; FURTADO, Fabrina Pontes (Orgs.). *Em nome do clima: mapeamento crítico: transição energética e financeirização da natureza* [e-book]. São Paulo: Fundação Rosa Luxemburgo, 2024, p. 249.

**61** SANTILLI, Márcio. “O mercado de carbono e os desafios para o MPF”. In: *Reunião Mercado de Crédito de Carbono envolvendo povos indígenas e comunidades tradicionais*. Ministério Pú-

In Brazil, the Public Prosecution Office, through Technical Note No. 02/2023, disclosed a series of illegalities and frauds associated with carbon credit projects, including impacts on public land without the consent of relevant managing bodies. A particularly concerning issue involves the trading of carbon credits on public land that may be occupied irregularly, echoing the problem of land grabbing.

One of the main obstacles faced by traditional communities is the legal acknowledgment and delimitation of their land. Many of these communities inhabit ancestral territories that are not formally acknowledged by the State and therefore lack official ownership titles. This legal gap is often exploited by governments and corporations to appropriate traditional land, leaving it vulnerable to territorial disputes, expropriation, and invasions. Without secure land tenure, these communities face problems in negotiating their participation in REDD+ projects and ensuring that the benefits from these projects are properly distributed to them. In this context, there is a legitimate concern that initiatives such as REDD+ could be used as tools for the expropriation of Indigenous territories under the pretext of conservation<sup>62</sup>.

Indeed, the development of REDD+ programs by subnational governments is seen with distrust by some Indigenous groups, who fear that these programs may limit their involvement in and influence over decisions that directly impact their land and way of life<sup>63</sup>. In this context, REDD+ projects are also criticized for potentially centralizing territorial control in the hands of project proponents, thereby restricting the decision-making power of local communities concerning the management of their own territories and violating the right to self-determination<sup>64</sup>.

Obtaining Free, Prior, and Informed Consent from traditional communities before implementing REDD+ projects in their territories is a fundamental principle. However, in practice, this process is often inadequate or neglected, resulting in the implementation of projects without the genuine involvement or approval of the communities affected. This increases the likelihood of abusive or illicit clauses in these negotiations.

This failure is exacerbated by the lack of technical training and access to information on REDD+ and the voluntary carbon market, which restricts the ability of traditional communities to effectively participate in these mechanisms. The complexity of the processes and use of technical jargon can further exclude these communities from important decision-making, undermining their position and ability to negotiate favorable terms. Additionally, unequal access to technology directly affects the capacity of these populations to defend their territories and

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blico Federal, 2023. Available at: <https://mpf-mpbr.zoom.us/rec/share/ONz6oQDpJXZAuAoC-rBiQ9waWeROFmz7GVlfdTgkGySRlyw0ms9PAgQbyaB2uL8.97OfiurNY4nslgLF?pwd=CUAVc4y-I0UD6ADFjCi-4Aox5ytiXhbfu>. Access on May 4, 2023.

**62** PAQUETTE, Mitch. Alguns grupos indígenas duvidam do REDD+, programa do Acordo climático de Paris 2015. Mongabay, July 4, 2016. Available at: <https://brasil.mongabay.com/2016/07/alguns-grupos-indigenas-duvidam-do-redd-programa-do-acordo-climatico-paris-2015/>. Access on April 13, 2024.

**63** Ditto.

**64** PACHECO, Pablo; GUZMÁN, Sergio. O que é REDD+ Jurisdicional? *Forest Trends*, 2022. Available at: <https://www.forest-trends.org/wp-content/uploads/2022/04/CARTILLA-1-POR.pdf>. Access on April 13, 2024. Op. cit., p. 6.

ways of life, leading to territorial conflicts and raising questions about the effectiveness of rural records, such as the Rural Environmental Registry (CAR), in protecting the rights of these communities.<sup>65</sup>

The violation of the guarantee of participation and information for traditional communities in the negotiation of REDD+ projects results in the violation of their right to access the benefits arising from these projects and to participate in the governance of the project and the carbon credits generated and traded in carbon markets. Benefit distribution frameworks are often complex and can be influenced by power imbalances and corruption, resulting in benefits that are either not passed on to the communities or are distributed unevenly. Additionally, these projects may fail to equitably offer benefits and employment opportunities, promoting competition, division, and internal conflicts within the communities.<sup>66</sup>

This discussion touches on significant cultural and intellectual property issues. In some contexts, the traditional knowledge of the Indigenous communities regarding forest management and biodiversity has been used to develop REDD+ projects without proper compensation or acknowledgment. This type of exploitation not only depreciates the cultural and environmental contributions of these communities but can also lead to the inappropriate appropriation of their knowledge and loss of control over their natural resources.<sup>67</sup>

Another risk identified within the context of the REDD+ carbon projects is the potential for changes in land use that could disrupt the cultural and survival practices of the traditional communities. Restrictions on access to and use of natural resources may adversely impact their traditional activities, such as hunting, fishing, and gathering, while also altering the social and cultural dynamic of these communities.

While REDD+ carbon projects present a significant potential to contribute to environmental and social objectives in Brazil, the success of these objectives relies on the implementation of regulations that protect the rights of Indigenous peoples and local communities. This includes safeguarding against inappropriate and abusive contractual practices, the repetition of which could undermine the value of the domestic market.<sup>68</sup>

It is also important to note that even when the methodologies used in the REDD+ projects are properly implemented and monitored, they have intrinsic limitations. These project cannot fully address the primary drivers of deforestation – large-scale agriculture, cattle ranching, timber exploitation, and mining – sectors with substantial political and economic influence.<sup>69</sup>

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**65** PANTOJA RAMOS, Carlos Augusto. Carta sobre o Metaverso Agrário. July 30, 2022. Available at: <https://www.recantodasletras.com.br/e-livros/7571231>. Access on April 13, 2024, p. 8-9.

**66** PACHECO, Pablo; GUZMÁN, Sergio. Op. cit., p. 6.

**67** MOREIRA, Eliane Cristina Pinto. *A Proteção jurídica dos conhecimentos tradicionais associados à biodiversidade: entre a garantia do direito e a efetividade das políticas públicas*. Dissertation (Doctoral Degree) – Pará Federal University, 2006, p. 134-141.

**68** SANTILLI, Marcio. Op. cit.

**69** This the warning made by Barbara Bomfim, at the Workshop: Direitos Humanos e a COP-30: o olhar do MPPA sobre Mercado de Carbono no Pará (Human Rights and COP-30: the look of the Public Prosecution Office of the State of Pará on the Carbon Market in Pará). The renowned specialist identified, in light of these limitations, the potential benefits from the so-called Nature-Based

## Proactive action by the Public Prosecution Office in defending traditional communities

The gap between existing legislation and its practical application is starkly evident in the management of carbon credit projects. This disconnect poses a real risk not only to Indigenous and quilombola communities but also to the overall effectiveness of these initiatives in achieving their intended social and environmental goals. The challenges identified underscore the urgent need for action to secure rights such as Free, Prior, and Informed Consultation; the equitable distribution of benefits from these projects; thorough social and environmental impact assessments; and the protection of territorial rights to secure the preservation of traditional ways of living.

In this context, the role of the Public Prosecution Office becomes critical. Its mission includes defending human rights, protecting the State's territorial assets, and ensuring environmental conservation. Additionally, the office is responsible for protecting the rights of Indigenous and quilombola communities and promoting sustainable development.<sup>70</sup>

Recognizing its important role, the Public Prosecution Office has held meetings with government entities of the State of Pará to assess actions to safeguard human rights in light of these issues. These efforts have provided valuable insights into the regulation of Jurisdictional REDD+, as highlighted in Technical Note No. 02/2023.

One of the key points highlighted in the Technical Note concerns the requirement of Free, Prior, and Informed Consultation, as mandated by ILO Convention 169 (articles 6 and 7), to validate any carbon market projects that may affect lands occupied by traditional peoples and communities. Not only must the participation and consent of these communities be secured for initiatives that directly impact their territories and ways of life, but public policies and business practices should also be increasingly implemented to ensure respect for the human and territorial rights of these groups. This ensures that they receive a fair share of the benefits arising from carbon sequestration projects. By adopting ILO Convention 169 at the national level, Decree No. 5,051/2004 made the consent process mandatory whenever the implementation of legislative and administrative measures is expected to have a direct impact on these groups. This is aimed at the protecting their traditional territories.

This requirement aligns with the Cancun Safeguards, established under the United Nations Framework Convention on Climate Change (UNFCCC) and regulated in Brazil by CONAREDD+ Resolution No. 15/2018. According to this resolution, these safeguards are intended to ensure that Brazilian traditional peoples are provided with:

- rights to their territories;
- original rights of Indigenous peoples;

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Solutions (SbN). These solutions encompass actions intended to protect, sustainably manage, and restore natural or modified ecosystems. The purpose is to address the social challenges on an efficient and adaptable manner, providing benefits not only to the biodiversity and climate but also to the human well-being, as defined by the International Union for Conservation of Nature (IUCN) in 2016. DIAS, Barbara do Nascimento. *Com os espíritos dos antigos: a luta do povo Munduruku do médio Tapajós, pelo Território e pela Vida*. Brasília, UnB, 2021, 138 p.

**70** Nota Técnica MPPA e MPF nº 02/2023.

- ▶ social and cultural self-determination;
- ▶ protection of their unique ways of being, living, and organizing;
- ▶ recognition and reinforcement their leadership roles;
- ▶ improvement of their quality of life and the conditions for their physical and cultural reproduction.<sup>71</sup>

Free, Prior, and Informed Consultation is an essential procedure that must be upheld in all circumstances. The consent obtained through this process cannot be annulled by decisions made at a general meeting or by the independent decision of the board of any association. Additionally, the rights of minority groups to oppose the signing of agreements must also be secured.<sup>72</sup>

The landmark case of Indigenous People of Kichwa de Sarayaku v. Ecuador, adjudicated by the Inter-American Court of Human Rights (I/A Court H.R.) established an important precedent regarding the mandatory nature of Free, Prior, and Informed Consultation and the appropriate timing for such consultations. The Court clarified that the responsibility to conduct FPIC lies solely with the State, and it ruled out the possibility of delegating this obligation to private entities or those interested in obtaining consent.<sup>73</sup>

This conclusion is reinforced by the fact that agreements involving carbon credit rights are inherently of public interest, given the collective nature of the environmental assets in question and the impacts on traditional communities and territories, particularly when public forests are at stake. Therefore, due to their administrative nature, participation of the State is mandatory in such agreements.

In addition, agreements and transactions that have an environmental impact on human rights require that certification and development companies – those responsible for negotiating and signing agreements with communities and making credits available on the market – as well as carbon credit buyers, comply with the obligation to provide environmental information.<sup>74</sup> When such activities impact public rights, the active disclosure of information becomes imperative, as set forth in article 9 of the Access to Information Law.<sup>75</sup>

Therefore, in any contractual negotiations, including those related to carbon credits involving territories of Indigenous, quilombola, or other traditional communities, it is critical to strictly follow the procedure outlined in ILO Convention No. 169 and the guidelines established by the I/A Court H.R.<sup>76</sup>, along with other international regulations, such as the Cancun Safeguards. Furthermore, since agreements involving carbon credit rights are inherently connected to environ-

<sup>71</sup> Resolução CONAREDD+ n° 15, September 27, 2018, anexo único, c, 1.

<sup>72</sup> Nota Técnica MPPA e MPF n° 02/2023. Available at: [https://www2.mppa.mp.br/data/files/31/83/AA/CC/5FB4A810F7967688180808FF/NOTA\\_TECNICA\\_CARBONO%20PUBLICA-DA\\_ASSINADA.pdf](https://www2.mppa.mp.br/data/files/31/83/AA/CC/5FB4A810F7967688180808FF/NOTA_TECNICA_CARBONO%20PUBLICA-DA_ASSINADA.pdf). Access on April 13, 2024.

<sup>73</sup> CIDH. Povo Indígena Kichwa de Sarayaku vs. Equador. July 27, 2012. Available at: [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_245\\_por.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_245_por.pdf). Access on April 13, 2024.

<sup>74</sup> Nota Técnica MPPA e MPF n° 02/2023.

<sup>75</sup> Law No. 12.527, November 18, 2011. Available at: [https://www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2011/lei/l12527.htm](https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/lei/l12527.htm).

<sup>76</sup> Nota Técnica MPPA e MPF n° 02/2023.

mental services, they must comply with the provisions of the Environmental Services legislation, including mandatory filing with relevant Real Estate Registries. This ensures transparency and compliance with legal requirements concerning disclosure and specificity.<sup>77</sup>

Agreements involving carbon credit rights applicable to state-owned forests should prioritize maintaining the public ownership of these areas and must avoid any agreements that could result in the misappropriation of public assets, such as land grabbing.<sup>78</sup>

To prevent the execution of agreements that may be potentially harmful to state-owned assets and the rights of traditional peoples and communities, it is critical to take proactive measures to adapt the Rural Environmental Registries (CARs). Special attention should be given to canceling registrations of state-owned properties that are being improperly used for certification or negotiation related to carbon credits.<sup>79</sup>

To ensure the integrity of these transactions, certifying companies or businesses benefiting from carbon credits must conduct audits to certify that they respect human rights. Additionally, it is critical to establish external ombudsman offices dedicated to receiving and addressing complaints, providing timely and appropriate responses to the concerns of communities involved. This will reinforce the commitment to transparency and socioenvironmental responsibility in activities related to the carbon market.<sup>80</sup>

Another central role of the Public Prosecution Office is its authority to file public interest civil lawsuits to protect the environmental and territorial rights of traditional communities. Through these actions, the Public Prosecution Office can seek redress for environmental damage and demand the suspension of activities that violate the rights of these communities.<sup>81</sup>

Furthermore, in cases of conflicts related to REDD+ projects and the carbon market, the Public Prosecution Office and the justice system can operate as mediators to achieve consensual solutions that enforce the rights of Indigenous and quilombola communities. These actions may include facilitating intercultural dialogue between communities, companies, governments, and other players involved, with a focus on respecting the cultural specificities of traditional communities and understanding their worldviews and specific demands.<sup>82</sup>

Once the participation terms and benefit distribution models have been defined, the Public Prosecution Office must rigorously monitor the implementation of these agreements to ensure that the promises made to the communities are ful-

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**77** Law No. 6015/73, article 167, subparagraph I, “45”, which refers to agreements for payment for environmental services, whenever such agreements provide for proper remuneration obligations. Link: [https://www.planalto.gov.br/ccivil\\_03/leis/l6015consolidado.htm](https://www.planalto.gov.br/ccivil_03/leis/l6015consolidado.htm).

**78** Nota Técnica MPPA e MPF nº 02/2023.

**79** Nota Técnica MPPA e MPF nº 02/2023.

**80** MPPA e MPF. Nota Técnica MPF nº 02/2023. Available at: [https://www2.mppa.mp.br/data/files/31/83/AA/CC/5FB4A810F7967688180808FF/NOTA\\_TECNICA\\_CARBONO%20PUBLICADA\\_ASSINADA.pdf](https://www2.mppa.mp.br/data/files/31/83/AA/CC/5FB4A810F7967688180808FF/NOTA_TECNICA_CARBONO%20PUBLICADA_ASSINADA.pdf). Access on April 13, 2024.

**81** Nota Técnica MPPA e MPF nº 02/2023.

**82** Nota Técnica MPPA e MPF nº 02/2023.

ly honored. This involves closely monitoring the implementation of REDD+ projects and the allocation of funds, intervening whenever necessary to address any issues or injustices that arise.<sup>83</sup>

Finally, it is important that the Public Prosecution Office, the legislative branch, and public policymakers collaborate to strengthen legislation and policies aimed at protecting the rights of traditional communities in the context of REDD+ and the carbon market. This collaboration may include promoting legislative reforms and regulations to secure an equitable distribution of benefits, the effective protection of their territories, and facilitating the active participation of these communities in decision-making processes.

A clear regulatory framework is extremely important to ensure transparency, social participation, and equity in the implementation of these projects. Such a structure is fundamental to prevent the perpetuation of predatory practices and violation of fundamental rights.

## Conclusion

The REDD+ implementation process frequently falls short in conducting effective and meaningful consultations with Indigenous and quilombola communities, relegating them to passive spectators rather than active partners in the management of their ancestral territories. This paternalistic and unbalanced approach exacerbates social and environmental injustices, reinforcing patterns of exclusion and exploitation under the guise of environmental conservation.

Action by the Public Prosecution Office is critical to addressing these systemic failures. The Public Prosecution Office should not merely act as an observer or facilitator but as a rigorous and proactive enforcer of the law, dedicated to protecting the rights of traditional communities and ensuring that the benefits of environmental conservation are not monopolized by private interests or distorted by political agendas. This role involves taking legal action against violations of community rights and advocating for a more equitable distribution of the economic benefits generated by REDD+ projects.

Therefore, it is critical to rethink and restructure REDD+ so that it transcends being merely a carbon-offsetting market and becomes fully aligned with the principles of environmental and social justice. Achieving this requires a critical review of current policies and practices, the implementation of more rigorous and transparent regulations, and ensuring that all stakeholders – especially Indigenous and quilombola communities – are truly at the center of the decision-making process. It also necessitates that these communities benefit fairly and equitably from the resources and opportunities generated by REDD+ projects.

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**83** Nota Técnica MPPA e MPF n° 02/2023.



## THE PRINCIPLE OF INFORMATION APPLIED TO AGREEMENTS INVOLVING THE VOLUNTARY CARBON MARKET

BY MÁRCIO SILVA MAUÉS DE FARIA<sup>84</sup>

The carbon credit trade, developed within the framework of the International Climate Change Policy and increasingly expanding into the Amazon territory, has revealed situations of noncompliance with the principles and objectives that underpin this system.

Some agreements have been identified and reported by government entities, human rights organizations, and the media as instruments that violate the rights of traditional peoples in the Amazon region. These agreements contain clauses that directly contradict the protection of the socioenvironmental rights of these communities.

These concerns are detailed in a document entitled Technical Note No. 02/2023, published by the Human Rights Support Center of the Public Prosecution Office of the State of Pará and the Federal Public Prosecution Office.<sup>85</sup>

The issues identified include the existence of confidentiality clauses in the agreements, which have raised concerns, particularly from a territorial perspective.

These confidentiality clauses effectively conceal a range of series of extremely serious issues, including the overlapping of projects in public areas or areas intended for collective land use, especially those inhabited by traditional peoples.

This situation has led to what can be considered a new form of land grabbing, alongside other significant impacts such as the ethnocide of Indigenous populations, the creation of conflicts within communities due to corporate interference, the loss of livelihood caused by restrictions hunting and fishing, the distortion of traditional cultures, and the loss of autonomy over their territories.

Given the existence of such serious allegations, it becomes clear that the State may not be adequately prioritizing the defense of rights of the communities involved in the voluntary carbon credit market. Just as significant attention is devoted to environmental conservation, equal emphasis must be placed on ensuring compliance with the principles of the right to socioenvironmental information.

The overarching socioenvironmental public interest in this matter should preclude the use of contractual secrecy as a means to obscure critical issues. The imposition of confidentiality in these agreements undermines the principles of environmental information and the general duty of collaboration and protection of the environment.

### Right to Environmental Information

The right and access to information embody the ability for citizens and society to access data held by the government. Initially viewed as an aspect of freedom

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<sup>85</sup> Available at <https://www.mpf.mp.br/pa/sala-de-imprensa/documentos/2023/mercado-carbono-direitos-comunidades-nota-tecnica-mpf-mppa>.



of expression, the right to information consisted of the freedom of any citizen to seek, receive, and disseminate information and ideas of all types.

Established as a fundamental human right, the right to information emerges both as an individual freedom and as a duty of the State towards its citizens. As such, it is present in several international instruments<sup>86</sup> and is gradually incorporated into the Brazilian legal system<sup>87</sup>. As Jamile Bergamaschine Mata Diz and Ana Clara Gonçalves Discacciati<sup>88</sup> observed, “given the importance of this right, it has been gradually incorporated into the national legislation of several States to secure access to information in general. Access to information is provided for in the Universal Declaration of Human Rights, article 19, in the International Covenant on Civil and Political Rights, which includes the possibility of restricting access when duly justified and expressly provided by law (article 19, subparagraphs 2 and 3), and in the American Convention on Human Rights, article 13, thus characterized as a true fundamental right.”

Specifically, *environmental information*<sup>89</sup> may be defined as data concerning the state of the environmental or any of its physical, cultural, or social elements; the interaction between society and the environment, including activities, works, and circumstances that may impact either; and the plans, policies, programs, and actions related to environmental management.<sup>90</sup>

As Professor Paulo Affonso Machado noted: “environmental information is not only concerned with recording the history of facts but, more importantly, with shaping people’s knowledge so that they can perceive what is happening and what could happen. Once informed, people will have the opportunity to decide whether or not to intervene, because ignorance renders them civically blind.”<sup>91</sup>

Regarding sustainable development, Principle 10 of the Rio Declaration highlights the inseparability of information and participation as guiding principles of the

**86** Universal Declaration of Human Rights. Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**87** Constitution of the Federative Republic of Brazil of 1988, article 5, subparagraph XXXIII: Everyone has the right to receive from government agencies information of their private interest, or of collective or general interest, which shall be provided within the statutory period, under penalty of liability, except for information whose secrecy is indispensable for the security of society and of the State.

**88** Mata Diz, Jamile Bergamaschine. Discacciati, Ana Clara Gonçalves. O acesso à informação no direito ambiental e a Convenção de Aarhus: a efetivação do direito fundamental à participação. Pensar, Fortaleza, v. 22, n. 2, p. 581-601, May-Aug. 2017. Available at <https://repositorio.ufmg.br/bitstream/1843/40207/2/O%20acesso%20%C3%A0%20informa%C3%A7%C3%A3o%20no%20direito%20ambiental%20e%20a%20Convencao%20de%20Aarhus%20....pdf>.

**89** The Escazú Agreement adopts the following concept of environmental information: “environmental information” means any written, visual, and audible information, whether in electronic or any other recorded format, relating to the environment and its elements and natural resources, including information related to environmental risks and possible adverse impacts that actually affect or might affect the environment and health, as well as information related to environmental protection and management; article 2, c.

**90** UN. CEPAL. Acceso a la información, la participación y la justicia en asuntos ambientales en América Latina y el Caribe: hacia el logro de la Agenda 2030 para el Desarrollo Sostenible. Santiago: UN, 2018. Available at <https://www.cepal.org/es/publicaciones/43301-acceso-la-informacion-la-participacion-la-justicia-asuntos-ambientales-america>. Access on July 19, 2024, p. 55.

**91** MACHADO, Paulo Affonso. *Direito ambiental brasileiro*. 21. ed. São Paulo: Malheiros, 2013, p. 230-231.

environmental policy aimed at achieving sustainable development goals. The document states, “the best way to address environmental issues is through the participation of all interested citizens, at various levels. At the national level, everyone should have adequate access to environmental information held by government authorities, including information on materials and activities that pose a danger to communities, and the opportunity to participate in decision-making processes. States should facilitate and encourage public awareness and participation by making information available to all. Effective access to judicial and administrative proceedings, including compensation for damage and relevant remedies, must be provided.”

Given the historical development of the right to information, it is fair to assert that this right is the primary and foundational pillar of the right to democratic participation. “Access to environmental information is an essential component of the full exercise of ecological participatory democracy. Therefore, in addition to being one of the pillars of the principle of public participation, it is also a fundamental right, which, in addition to being provided for in article 5, XIV, of the 1988 Federal Constitution, holds a particularly relevant dimension in the context of environmental protection.” According to Paulo Bonavides, the right to information constitutes a fundamental right of the fourth dimension, much like the rights to democracy and pluralism. The enforcement of these rights “depends on the realization of an open society of the future, in its dimension of maximum universality, towards which the world seems to be moving in the realm of all coexistence relations”. In fact, only citizens who are duly informed and aware of reality and environmental issues are properly equipped to engage effectively in the political process. This leads to their autonomy and self-determination regarding their political-participatory condition. Access to information is directly related to the individual’s freedom. In today’s world, where information is disseminated in a disorderly and complex manner, access to accurate and comprehensive information is the key that enables individuals and communities – including environmental organizations, social movements, etc. – to participate meaningfully in the environmental political game.<sup>92</sup>

To fully comprehend this subject, it is critical to understand the Aarhus Convention. Despite being formulated within the European system of human rights protection, this convention represents a significant milestone due to its broad scope and its comprehensive provisions linking the right to environmental information directly with human rights.

According to Rafaela Neves and Eliane Cristina Pinto Moreira Folhes, the Aarhus Convention<sup>93</sup> should not be viewed merely as a “model” of the right to environmental participation and information. Instead, it should be recognized as a General Principle of Global Environmental Law, possessing an imperative and binding nature, guiding States in their duty to protect and preserve the environment.<sup>94</sup>

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**92** SARLET, Ingo; FENSTERSEIFER, Tiago. *Governança judicial ecológica e direitos ambientais de participação*. São Paulo: Expressa, 2021.

**93** Available in Portuguese at <https://unece.org/DAM/env/pp/EU%20texts/conventioninportogese.pdf>.

**94** NEVES, Rafaela Teixeira. FOLHES, Eliane Cristina Pinto Moreira. Os Princípios da Participação e Informação Ambientais e a Aplicação da Convenção De Aarhus no Direito Brasileiro. *Revista de Direito Ambiental*, v. 77/2015, p. 563-588, Jan-Mar. 2015, p. 5.

The Aarhus Convention defines environmental information as any information provided in written, visual, and oral format, whether electronically or otherwise, on the state of the elements of the environment, places of scenic and natural interest, biological diversity, energy-related factors, administrative measures, agreements, policies, legislation, environmental plans and programs, and also economic analyses affecting environmental decision-making, the state of human health and safety, conditions of human life and other physical environmental conditions that may be affected by activities or actions of an environmental nature.<sup>95</sup>

It also establishes three fundamental pillars: the right of access to environmental information, public participation in decision-making, and access to justice in environmental matters.

While Brazil has not formally incorporated the principles of the Convention into legislation, these principles have gradually been reflected in Brazilian case law, as will be demonstrated in the following section.

### **Right to environmental information according to the Theses established by the Superior Court of Justice in the judgment of Special Appeal No. 1857098 – MS. Incorporation of the principles of the Aarhus Convention**

In alignment with the principles established by the Aarhus Convention and the Escazú Agreement, the Superior Court of Justice in Brazil ruled on an important case involving the environmental agency of the municipality of Campo Grande (State of Mato Grosso do Sul). The case addressed duties to provide information regarding administrative measures in an environmental protection area.

In this specific dispute, the Public Prosecution Office of Mato Grosso do Sul filed a lawsuit demanding that the municipality's environmental agency produce and make available the necessary information regarding the actions taken for the implementation of the management plan of the protected area. The trial court ruled in favor of the Public Prosecution office, but the decision was overtuned by the appellate court.

The local court granted the requests made by the Public Prosecution Office to provide existing information but rejected the request to compel the production of environmental information. This decision failed to recognize one of the dimensions of the duty to provide information, as expressly provided for by the Escazú Agreement and the Aarhus Convention.

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<sup>95</sup> Aarhus Convention, article 2, 3, provides as follows: "Environmental information" means any information in written, visual, aural, electronic or any other material form on: (a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements; (b) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making; (c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above.

In the judgment where Justice Og Fernandes served as the reporting justice<sup>96</sup>, the Superior Court of Justice sided with the thesis supported by the Public Prosecution Office. The court established important precedents in favor of the rights to environmental information and participation, with binding effects as provided for in article 927, III, of the Code of Civil Procedure.<sup>97</sup> The key theses established by the court are provided below:

- ▶ **Thesis A:** The right to access to information under the Brazilian environmental law encompasses the following:
  - ▶ the duty to publish on the internet environmental documents held by the Government that are not subject to confidentiality (active transparency);
  - ▶ the right of any person and entity to request access to specific unpublished environmental information (passive transparency); and
  - ▶ the right to request the production of environmental information not currently available to the government (reactive transparency).
- ▶ **Thesis B:** The state's obligation to promote environmental transparency is presumed, and it is the government's responsibility to justify any cases of noncompliance, always subject to judicial review, as follows:
  - ▶ in the case of active transparency, by demonstrating adequate administrative reasons for decision not to publish;
  - ▶ in the case of passive transparency, by classifying information within strict legal grounds for confidentiality; and
  - ▶ in the case of reactive environmental transparency, by reasonably justifying the inability to produce non-existent information.
- ▶ **Thesis C:** The Brazilian registration system allows the registration of optional information of public interest on property, including environmental information.
- ▶ **Thesis D:** The Public Prosecution Office may directly request the competent registration office to record information related to its institutional functions.

The appellate decision in Special Appeal No. 1857098 – MS carefully examined the dimensions contained in the three pillars of the Aarhus Convention, which are reflected in the binding theses established by the court.

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**96** BRAZIL. Superior Court of Justice. Appellate Decision No. 1857098 – MS, Reporting Justice: Og Fernandes. Judged on May 11, 2022. Published in the State Official Gazette/Superior Court of Justice No. 3398, on May 24, 2022.

**97** Article 927. Judges and courts will observe the following: I – the decisions of the Supreme Federal Court in concentrated control of constitutionality; II – the binding precedents; III – appellate decisions on motions of assumption of jurisdiction or resolution of repetitive claims, and on judgments of repetitive extraordinary and special appeals; IV – the precedents of the Federal Supreme Court on constitutional matters, and of the Superior Court of Justice on non-constitutional matters; V – guidance of the full bench or special body to which they are linked.

One of the key highlights of the decision is the statement that the right of access to information is classified into two distinct aspects: the right of individuals to access to public information upon request (passive transparency) and the State's duty to proactively publicize the public information it holds (active transparency). The decision further emphasizes that right to access information functions in support of the right to social participation in public affairs, which is inherent to democracies. However, it also recognizes that the right to access information constitutes an autonomous right.

Furthermore, within the scope of environmental transparency, the headnote specifies that the Brazilian legal system elevates the State's duty by not only requiring the disclosure of available information but also mandating the production of environmental information when it is not already available (reactive transparency). However, this obligation should be interpreted with moderation, considering the practicality and feasibility of requests for the production of new information in relation to other aspects of public administration. The presumption of the State's duty to produce environmental information is not absolute; it is relative and may be waived by the government, provided there is an express and reasonable justification, which remains subject to court review.

Therefore, according to the procedure established in the Motion of Assumption of Jurisdiction (Code of Civil Procedure, article 927, III), Brazil incorporated the principles of the Aarhus Convention, as the reasoning behind the judgment became binding on Brazilian judges and courts. In terms of case law, Brazilian law has embraced the European standards of the convention, marking a significant acknowledgment and an important step forward in the protection and promotion of the right to environmental information.

## **State's duty of reactive environmental transparency and obligation to demand environmental information**

Considering the entire hermeneutical framework of human rights, the interpretation of the theses established by the Superior Court of Justice must be non-restrictive, particularly when addressing the duty of reactive environmental transparency. This duty should not be confined to the mere production of information initially within the State's purview. The interpretation must extend beyond this, recognizing that the generation of relevant data often necessitates actions by companies and individuals. Consequently, government authorities must demand this information from them to uphold the principles of information and participation.

Under Brazilian law, the obligation to produce data related to the environment has long been a necessary action in environmental licensing processes. It is well established that government authorities may require potentially harmful undertakings to make this information public.

Establishing this connection is vital because the obligation to produce technical data cannot be limited solely to projects and activities subject to environmental licensing. This obligation must extend to any situation where there is potential impact on the environment and the social environment, even if the concerned company questions the production of harmful effects.

In the current stage of the struggle for the acknowledgment of rights, climate justice, and socioenvironmental protection, it is necessary to recognize that there

are other private activities, not legally subject to environmental licensing, that are still capable of causing significant changes in social relations with nature, especially concerning traditional peoples. These activities, therefore, deserve the same level of scrutiny and responsibility from environmental authorities regarding information rights.

This is true, for instance, in voluntary carbon market agreements, where extensive forest areas – clearly of public interest – are subject to negotiation and exogenous influence. These agreements can significantly impact the relationships and the use of resources by traditional communities. Despite the potential consequences, such activities are currently not subject to any formal control or oversight by environmental agencies, with the exception of specific interventions by the Public Prosecution Office aimed at protecting the interests of traditional peoples and communities.

In fact, when Resolution 01/86 of the National Environmental Council was published, it established the obligation to produce information in a different constitutional scenario, where socioenvironmental rights did not yet enjoy the legal status they currently enjoy under the 1988 Constitution. Despite this, the resolution recognized the importance of producing a comprehensive assessment of the socioeconomic environment as part of the environmental licensing process. This assessment includes analyzing land use and occupation, water use, and socioeconomic, with particular emphasis on the identification of archaeological, historical, and cultural sites and monuments within the community. It also considers the relationships of dependence between local communities and environmental resources, as well as the potential future use of these resources.

Resolution 01/86 also mandates data transparency, with the exception of information protected by industrial secrecy, and promoted public participation. In this regard, article 11 stipulates that, “observing industrial secrecy, and if so requested and demonstrated by the concerned party, the RIMA [Environmental Impact Report] will be made accessible to the public. Copies of it will be available to concerned parties in documentation centers or libraries of SEMA [Special Secretariat for the Environment] and the corresponding state environmental control agency, even during the technical review period.” Moreover, government agencies should inform that they intend to receive a copy of the RIMA, or, in case they have a direct relationship with the project, obtain a copy of the RIMA to review and express an opinion on it (Paragraph 1). Additionally, when ordering the drafting of an environmental impact study and submission of the RIMA, the competent state agency or SEMA or, when applicable, the Municipality, must set a deadline for receiving comments from government agencies and other stakeholders. Furthermore, whenever necessary, a public hearing should be held to provide information on the project and its environmental impacts and to discuss the RIMA (Paragraph 2).

If every private enterprise is required to produce and provide information to environmental agencies to obtain authorization for activities that are potentially harmful to the environment, then enterprises engaged in activities of relevant environmental interest, even if not subject to licensing, should be subject to the same information requirements. This ensures that the community has access to data that allows for it to assess the legality and actual contribution to climate-related issues.

As a consequence of the judgment handed down by the Superior Court of Justice referred to above, the reactive duty of environmental information includes

the obligation to produce data of social interest, regardless of whether the data is already in the person's possession. This interpretation is the most appropriate, particularly in light of Law No. 6938/91<sup>98</sup>, which establishes that the instruments of the National Environmental Policy include, among others, guarantees of the provision of information related to the environment. The law mandates that government authorities produce such information when it does not exist (article 9, subparagraph XI).

If this technical data can be produced by government agencies, as in the specific case judged by the Superior Court of Justice, they must be required to do so. However, if the information can only be generated through technical expertise held by private individuals, then the State must require those individuals to make the information available to the public. This requirement is subject to exceptions only when legitimate grounds for refusal are demonstrated, as provided for in the instruments mentioned above.

The acknowledgment of the need to expand the right to information naturally stems from the principles of public participation, transparency, and access to information when construed along with the sustainable development goals established by the Rio 92 Summit.

In this context, article 3 of Law No. 10,650/2003, also known as the Environmental Information Law<sup>99</sup> is particularly relevant. It states that “to comply with the provisions of this Law, government authorities may demand the provision, from time to time, of any type of information by private entities through a specific system to be implemented by all SISNAMA bodies regarding the potential and actual environmental impacts of their activities, regardless of the existence or need to file any administrative proceedings.”

Furthermore, the production and provision of this information are imperative for States to determine compliance with safeguards that protect the environment and the communities involved in these agreements. States cannot simply remain inactive, assuming they lack the power/duty to demand the necessary data.

It is essential to recognize that the protection of the environment and traditional communities, a constitutional mandate imposed on the entire society, does not tolerate secret activities of any kind. This holds true even for initiatives presented under the guise of addressing climate change and sustainability, particularly when such activities have the potential to disrupt the essential relationships that underpin Brazilian socio-biodiversity.

The State must demand the production of essential information to assess the effects that carbon trade agreements may have on the pre-existing relationships within contracting communities, as well as their interactions with each other and with natural resources. Furthermore, the State has the duty to make this data public, as it is in the interest of society, which is the beneficiary of the environmental protection provision set out in article 225 of the Federal Constitution.

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**98** Law No. 6938 established the National Environmental Policy, its purposes and application and drafting framework, created the National Environmental System (Sisnama) and established the Environmental Defense Registry.

**99** Law No. 10650 provides for public access to existing data and information held by the bodies and entities that are parties to the National Environmental System (Sisnama).



## Conclusions

Article 225 of the Federal Constitution of 1988 establishes a fundamental rule of environmental protection, which, in one of its dimensions, imposes a general duty to provide environmental information.

Beyond the material defense of the environment, this article also obligates the State to promote behaviors that actively support socioenvironmental protection. Among these various responsibilities, the duty to ensure the provision and dissemination of information is paramount.

This duty of providing environmental information is strongly supported by international law frameworks, particularly the Aarhus Convention, the Escazú Agreement, and the United Nations Framework Convention on Sustainable Development.

On a domestic level, the Access to Information Law, the National Environmental Policy Act, and the Environmental Information Law further reinforce the obligation of the Brazilian State to comply with this general requirement to produce and provide environmental information.

In accordance with the theses approved by the Superior Court of Justice, the duty of environmental information comprises three key aspects. The first is of an active nature, which consists of disclosing data; the second is of a passive nature, which aims at meeting requests from stakeholders to disclose significant environmental data that has not been made public spontaneously; and, finally, that of a reactive nature, which imposes on the State the production of information that does not yet exist for subsequent disclosure to the public.

By means of a motion of assumption of jurisdiction, the Superior Court of Justice incorporated the principles of the Aarhus Convention, thus expanding the protection and promotion of socioenvironmental rights through the right to environmental information combined with the protection of human rights.

For purposes of participation in and control of the environmental policy, society has the right to information regarding state omissions in relation to certain activities, enabling the public to understand the reasons for inaction in certain situations and to challenge any decisions to cease defending the environment.

Therefore, the duty to provide information is not applicable solely to the State, as upheld by the Superior Court of Justice; albeit indirectly, it also applies to any person or institution that holds, or is required to produce, significant information essential to promoting socioenvironmental well-being.

From the perspective of the International Climate Change Policy and all international law regulations relating to information and participation, the inclusion of confidentiality clauses in carbon credit trade agreements constitutes a violation of human rights and must be prevented, especially when these agreements involve traditional communities. The State has a duty to act effectively, in collaboration with international certifying bodies, businesses, local authorities, and communities to obtain relevant data on agreements executed, disseminate it on an official website, and enable legitimate control over these practices.



## **CARBON CREDIT AGREEMENTS IN THE AMAZON: ENVIRONMENTAL INFORMATION TO TRADITIONAL AND INDIGENOUS COMMUNITIES, AND THE PUBLIC PROSECUTION OFFICE'S ROLE AS A PROTECTOR OF THE ENVIRONMENT AND COMMUNITIES**

BY LOUISE REJANE DE ARAÚJO SILVA<sup>100</sup>, JULIANA PINHO NOBRE<sup>101</sup>, AND LAYSE PEREIRA FAVACHO DA ROCHA<sup>102</sup>

This article was conceived the event “Climate Dialogues: an assembly of voices for a new future”, held by the Brazilian Biodiversity Fund (FUNBIO) in partnership with the Public Prosecution Office of the State of Pará (MPPA). The event aimed to engage professionals working in the public legal sector on the critical uses of climate change and the fight against illegal deforestation in the Amazon and Cerrado regions. It was conceived by COPAÍBAS (Community, Protected Areas, and Indigenous Peoples Project in the Brazilian Amazon and Cerrado Savannah program) and took place between January 25 and 27, 2024, in the city of Belém, State of Pará, Brazil.

The reflections described here were also based on the Workshop on Human Rights and COP 30: the perspective of the Public Prosecution Office of the State of Pará on the Carbon Market, held by the MPPA, through the Center for Operational Support to Human Rights (CAODH) and the Functional Study and Training Center (CEAF), on March 14-15, 2024. During the workshop, the Prosecution Office Technical Note No. 02/2023 was widely discussed<sup>103</sup>. The event also sought to identify opportunities for action to secure the rights of traditional communities and public assets in carbon market transactions, with a particular focus on the capital city of the State of Pará.

With a pragmatic stance, the authors draw on their experience as public prosecutors,<sup>104</sup> dedicated to defending the environment and traditional communities in the region of Abaetetuba, State of Pará, where they have direct contact with community members. This is documented in Administrative Proceeding No. SIMP 003124-921/2021, in which Amazon Carbon – Climate Change and the Municipal Environment Department appear as respondents. In this case, the Public Prosecution Office of the State of Pará monitors the legality of the project in accor-

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**100** Prosecutor, graduated from the University of the Amazon, Specialist in Tax Law, Criminal Sciences, Agrarian and Land Law, Conflict Resolution, and Positive Psychology, and Master's student on Management of Local Natural Resources and Sustainable Development of the Amazon – Environment Center of the Federal University of Pará.

**101** Prosecutor for the State of Pará, graduated from the University of the Amazon with a major in Agrarian and Land Law and Conflict Resolution.

**102** Environment Management Technician, graduated from the Federal Rural University of the Amazon, Specialist in Social Technology, holder of a Master's degree in Management of Local Natural Resources and Sustainable Development of the Amazon – Environment Center of the Federal University of Pará, PhD student in Water Engineering at the Federal University of Pará.

**103** MP. Nota Técnica nº 02/2023. Limitations and conditions of projects affecting public land and traditional territories, having territorial rights as the scope based on Human Rights assumptions. <https://www2.mppa.mp.br/areas/institucional/cao/constitucional/notas-tecnicas.htm>. Accessed on April 17, 2010.

**104** Louise Rejane de Araújo Silva and Juliana Ferreira Pinho Nobre.

dance with internal and external regulations. Additionally, one of the co-authors is a technical cartographic engineer with the Environment and Sustainability Department of the State of Pará.<sup>105</sup>

The core issue clearly revolves around the legality and legitimacy of consultations with traditional and Indigenous communities regarding carbon credit trade ventures. Practical developments raise questions on the effective use of emerging benefits (benefit sharing) and the actual return to these communities. These communities may be required to relinquish full management of their territory for extended periods, which can negatively impact their self-determination, both for the present and future generations.

This discussion will be grounded in the United Nations Sustainable Development Goals (SDGs), particularly SDGs 4,<sup>106</sup> 10<sup>107</sup>, 11<sup>108</sup>, 13,<sup>109</sup> 16<sup>110</sup>, and 17<sup>111</sup>, as well as Convention 169 of the International Labor Organization (ILO). Additionally, it will draw upon Brazil's Federal Constitution of 1988, relevant non-constitutional legislation – including the proposed bill to regulate<sup>112</sup> carbon credit trading – the Brazilian General Personal Data Protection Law<sup>113</sup>, and the Environmental Education/Information Law<sup>114</sup>. The discussion will also reference MPPA/MPF Technical Note 02/23. The purpose is to contribute towards the construction of positive discussions on this topic, achieve practical repercussions, and address environmental conflicts in the Amazon that may arise from carbon credit trade agreements, particularly those with potential inadequacies.

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**105** Layse Pereira Rocha.

**106** SDG 4 concerns Quality Education and aims at “granting access to inclusive, quality, and equitable education, and promoting lifelong learning opportunities for all”. Link: <https://brasil.un.org/pt-br/sdgs/4>.

**107** SDG 10 is linked to Reducing Inequalities and aims at encouraging measures to mitigate inequalities within and between countries. Link: <https://brasil.un.org/pt-br/sdgs/10>.

**108** SDG 11 relates to Sustainable Cities and Communities, and aims at “making cities and communities more inclusive, safe, resilient, and sustainable”. Link: <https://brasil.un.org/pt-br/sdgs/11>.

**109** SDG 13 is about Combating Climate Change and seeks to adopt “urgent measures to combat climate change and its impacts”. Link: <https://brasil.un.org/pt-br/sdgs/13>.

**110** SDG 16 is about Peace, Justice and Strong Institutions, and aims at “promoting peaceful and inclusive societies for sustainable development, providing access to justice for all, and building effective, accountable, and inclusive institutions at all levels”. Link: <https://brasil.un.org/pt-br/sdgs/16>.

**111** SDG 17 relates to Partnerships for Goals and aims to “strengthen the implementation and revitalize global partnerships for sustainable development”. Link: <https://brasil.un.org/pt-br/sdgs/17>.

**112** Bill No. 2148/2015, which establishes the Brazilian Greenhouse Gas Emissions Trading System (SBCE), and amends Law No. 12187, dated December 29, 2009, Law No. 12651, dated May 25, 2012 (Forest Code), Law No. 6385, dated December 7, 1976, Law No. 11033, dated December 21, 2004, and Law No. 6015, dated December 31, 1973 (Public Record Law). Link: [https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?codteor=1355144&filename=PL%202148/2015](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1355144&filename=PL%202148/2015).

**113** Law No. 13709, dated August 14, 2018, provides for the Brazilian General Personal Data Protection Law (LGPD). Available at: [https://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2018/lei/l13709.htm](https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/l13709.htm).

**114** Law No. 9795, dated April 27, 1999, provides for environmental education, establishes the National Environmental Education Policy and provides other covenants. Available at: [https://www.planalto.gov.br/ccivil\\_03/leis/l9795.htm](https://www.planalto.gov.br/ccivil_03/leis/l9795.htm).

## Issue

The problem at hand involves complaints from community members on the lack of transparency in carbon credit negotiations and the harassment of businesses, which are evident in the pressure exerted on residents' associations to adhere to the agreements without adequate information. Key issues often left unclear include benefit sharing, the total value of the agreements, details on the final beneficiaries of the credits, and restrictions on the use of the territory – whether for housing or activities related to local sustainable development. Additionally, these agreements typically impose long-term restrictions, often last decades, which not only compromises the current generation but also future generations. These future generations may find themselves bound by agreements made by their ancestors, potentially without receiving any tangible benefits, thereby limiting their ability to fully utilize their territory.

## Discussion

Regarding sustainable development and traditional peoples and communities, the National Policy for Sustainable Development of Traditional Peoples and Communities (PNPCT, the acronym in Portuguese) was enacted in February 2007, through Decree No. 6040.<sup>115</sup> According to this document, the National Commission for the Sustainable Development of Traditional Peoples and Communities (CNPCT, also the acronym in Portuguese) is responsible for coordinating the implementation of the PNPCT.

According to the decree, Indigenous Peoples and Local Communities (IPLCs) are “culturally differentiated groups that recognize themselves as such, have their own forms of social organization, and occupy and use territories and natural resources as a condition for their reproduction.”<sup>116</sup> With this understanding, the following negotiations may be addressed.

The issue revolves around complaints from IPLCs on the lack of transparency and inadequate distribution of benefits from the profits generated from carbon credit agreements. These concerns are compounded by other inadequacies highlighted in Technical Note No. 02/2023.

As a case study, the project of a private enterprise called “AmazonCarbon – Climate Change” is particularly noteworthy. This enterprise focuses on the remaining communities of the Caeté – Aquicaté quilombos in the municipality of Abaetetuba, near the border with Barcarena (State of Pará).

The Environmental Office of the Public Prosecution Office of the State of Pará is overseeing the implementation of this project through Administrative Proceeding No. 005/2022-MPPA/4PJA-SIMP No. 003124-921.2021, according to Ordinance No. 004/2022-MP/4ºPJA.

A review of the proceeding revealed that, according to Official Letter No. 002/2021, dated October 18, 2021, AmazonCarbon – Climate Change requested

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<sup>115</sup> Decree No. 6040, dated February 7, 2007, established the National Policy for Sustainable Development of Traditional Peoples and Communities. Available at: [https://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/decreto/d6040.htm](https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6040.htm).

<sup>116</sup> Information set out in article 3, I, Decree No. 6040, dated February 7, 2007.

guidance from the Public Prosecution Office to conduct a prior, free, and informed consultation, as stipulated by Convention No. 169 of the International Labor Organization (ILO). This consultation was intended to be carried out with the Quilombola Community of Caeté – Aquicaté, located in the rural area of Abaetetuba (State of Pará), in the Vila Caeté Region.

On October 20, 2021, the public prosecutors sent the official letter to the company, requesting information on the Environmental Impact Study (EIA) and the Environmental Impact Report (EIA/RIMA) for the project. The purpose was to assess whether the project could potentially cause socioenvironmental damage, particularly concerning the intangible aspects of the territory. There were concerns that the project might impose restrictions on how the community members use their territory, including activities such as farming and resources extraction, which are essential for their livelihood and for maintaining their traditional way of life in accordance with their ancestral customs.<sup>117</sup>

On November 19, 2021, after being notified, the company responded to the Public Prosecution Office, indicating the project was at an early stage of discussion and prior consultation with the communities, and had not yet received approval. This response implied that the documentation requested by the Public Prosecution Office of the State of Pará, specifically the EIA/RIMA, had not yet been provided.

It should be emphasized that the company submitted an “attendance list” to the office with the following heading “Prior, Free, and Informed Consultation under the terms of Convention 169 of the International Labor Organization for the implementation of a Carbon Credit Project, held on November 15, 2021, in the community of Caeté, Abaetetuba, State of Pará.” The document contains three tables listing 66 signatures, along with their respective telephone numbers, and either ID (RG) or tax ID (CPF) numbers, as recorded in the administrative proceeding.

On November 23, 2021, a community member who serves as the coordinator of the ARQUIA Association appeared at the Abaetetuba Public Prosecution Office to question whether the document filed by the company on November 19, 2021 complied with the requirements of ILO Convention 169. The community member specifically referred to the “attendance list” dated November 15, 2021, which had been submitted as evidence of prior consultation with the community. He also mentioned a document titled Minutes of Prior, Free, and Informed Consultation for the implementation of a Carbon Credit Project in the Association of the Remaining Quilombola Community of Caeté – Aquicaté, under the terms of Convention 169 of the International Labor Organization.

By means of Official Letter No. 80.262/2022, the State Secretariat for Environment and Sustainability (SEMAS/PA) reported that no licensing process had been identified in the name of AmazonCarbon – Climate Change.<sup>118</sup>

On April 25, 2022, the Public Prosecution Office of the State of Pará held meetings with the quilombola communities and social movements in their respective locations. During these meetings, the communities voiced several complaints and expressed significant distrust regarding the way in which they were consulted by

<sup>117</sup> DE OLIVEIRA FLOR, Alessandra Simone Santos; BARBOSA, Wagner Luiz Ramos. Grupo de mulheres Erva Vida de Marudá-PA: trajetória histórica e sobrevivência de uma tradição. *Revista Científica Gênero na Amazônia*, n. 5, p. 237-248, 2022.

<sup>118</sup> Administrative Proceeding, p. 53.

the company concerning the implementation of the carbon credit project. These concerns were documented in the minutes, which were subsequently included in the administrative proceeding.<sup>119</sup>

Indeed, during that meeting, the community members expressed their concerns about potential restrictions regarding their occupation and self-determination regarding their territories. They also reported fears of being harassed by the association's leaders to sign the carbon agreement. Additionally, they conveyed that they had a different understanding of local development and were happy with their way of life in harmony with nature.

Similarly, during the Human Rights Workshop and COP 30: the perspective of the Public Prosecution Office of the State of Pará on the Carbon Market, held by the MPPA, through the Center for Operational Support to Human Rights (CA-ODH) and the Functional Study and Training Center (CEAF), on March 14-15, 2024, Prosecution Office Technical Note No. 02/2023 was thoroughly discussed. The workshop also sought to identify opportunities for action to safeguard the rights of traditional communities and public assets in carbon market transactions<sup>120</sup>. In the capital city of the State of Pará, participants expressed the same concerns as the quilombola communities and Indigenous peoples, stressing the need for greater transparency regarding the terms, deadlines, and profitability of carbon agreements to ensure a fairer distribution of benefits.

MPPA/MPF Technical Note No. 02/2023<sup>121</sup> addressed both the practical and theoretical issues surrounding carbon credit agreements, emphasizing the need to minimize any secrecy imposed on the clauses of these agreements, particularly when they involve limits and conditions affecting state lands and traditional territories. The note underscored that territorial rights are a fundamental basis for Human Rights.

As a result, it is evident that environmental information must be strengthened, as it plays a crucial role in environmental education. This enhancement is necessary to better equip community members to actively and consciously exercise their right to self-determination when considering proposals for agreements that affect their territories, such as carbon credit agreements.

This is because the fundamental right to environmental education, as a teleological dimension of social practice, is essential in fostering a relationship between the individual, nature, and the community. It plays a pivotal role in the development of “[...] social values, knowledge, skills, attitudes, and abilities for conservation of the environment, which is a common good for the people and essential to a healthy quality of life and its sustainability”.<sup>122</sup>

Environmental education must elevate human activity by providing knowledge, reshaping the aesthetic dimension in relation to the environment, and

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**119** P. 61-66.

**120** <https://www2.mppa.mp.br/agenda-de-eventos/oficina-direitos-humanos-e-a-cop-30-o-olhar-do-mppa-sobre-mercado-de-carbono-no-para.htm>. Accessed on July 23, 2024.

**121** Nota Técnica 02/2023 MPPA/MPF. <https://www2.mppa.mp.br/areas/institucional/cao/constitucional/notas-tecnicas.htm>. Accessed on April 17, 2010.

**122** BRAZIL. Law No. 9795, dated April 27, 1999. Provides for the environmental education, introduces the National Environmental Education Policy and provides for other measures. **Federal Official Gazette**, Brasília, Federal District, section 1, year 137, n. 79-E, p. 1, April 28, 1999. Article 1.

transform human actions into environmental ethics. This ethical framework should respect the interdependence between human beings, living and non-living organisms, and be mindful of diverse cultures, ways of life, and biodiversity. This approach is particularly crucial in the Pan-Amazon region, where the State of Pará is located.<sup>123</sup>

In this line of thought, the fundamental right to environmental information must be assured as a pedagogical process, supported by effective actions from institutions that advocate for a balanced environment. Conduru et. al.<sup>124</sup> highlight the effectiveness of this right, emphasizing that it requires the participation of both the community and government authorities. Through meaningful dialogues, these stakeholders are given the opportunity to contribute to decisions affecting the environment.

The Public Prosecution Office as a defender of the environment, the democratic regime, equality, and dignity, plays a crucial role in combating discrimination, as mandated by the Federal Constitution and Law No. 7,347/85<sup>125</sup>. It can emerge as an important link between the agents involved, acting as a protector of quilombola and Indigenous communities. The Office can utilize such as public hearings and technical meetings, supported by experts, including researchers from educational institutions and the technical staff of the State and Municipal Environment Departments. These forums provide suitable platforms for communities to voice their concerns. Additionally, workshops aimed at educating communities about carbon credit agreements and instruments such as<sup>126</sup> Social and Participative Cartography<sup>127</sup> can further empower these communities.

Regarding its position in the legal system, according to Mazzilli<sup>128</sup>, the Public Prosecution Office defends individual unwaivable interests for the sake of social and diffuse interests, including the environment, to promote justice for all. This role aligns with the Office's mission to collaborate with other institutions that promote environmental and climate justice. In support of this perspective, Herculano<sup>129</sup> further clarifies the concept of environmental justice as a set of principles that ensures that all people – regardless of ethnic, racial, or class group – are

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**123** CONDURU, M. T. (Org.); BASTOS, R. Z. (Org.); MANESCHY, R. Q. (Org.); FLORES, M. S. A. (Org.). *Educação e informação ambiental na construção da sustentabilidade na realidade amazônica*. 1. ed. BELÉM: NUMA/UFPA, 2020.

**124** CONDURU, M. T. (Org.); BASTOS, R. Z. (Org.); MANESCHY, R. Q. (Org.); FLORES, M. S. A. (Org.). *Educação e informação ambiental na construção da sustentabilidade na realidade amazônica*. 1. ed. BELÉM: NUMA/UFPA, 2020.

**125** Law No. 7347, dated July 24, 1985, also known as the Public Interest Civil Action Law, governs public interest civil actions for liability for damage caused to the environment, consumers, property, and rights with an artistic, aesthetic, historical, tourist, and landscape value (VETOED), and provides other covenants.

**126** ATLAS Escolar. *O que é cartografia?*. IBGE, [S. l.], 2024. Available at: <https://atlasescolar.ibge.gov.br/conceitos-gerais/o-que-e-cartografia.html>. Access on Jan. 27, 2024.

**127** HERCULANO, S. O clamor por justiça ambiental e contra o racismo ambiental. *Revista de gestão integrada em saúde do trabalho e meio ambiente*, São Paulo, v. 3, n. 1, p. 1-20, 2008.

**128** MAZZILLI, H. de N. *A defesa dos direitos difusos em juízo*. São Paulo: Saraiva, 2010.

**129** HERCULANO, S. O clamor por justiça ambiental e contra o racismo ambiental. *Revista de gestão integrada em saúde do trabalho e meio ambiente*, São Paulo, v. 3, n. 1, p. 1-20, 2008.

not subjected to negative environmental consequences resulting from economic activities or federal, state, and local policies and programs, particularly those that arise from omissions.

According to the Brazilian Institute for Applied Economic Research (IPEA), the United Nations (UN) Sustainable Development Goals (SDGs) serve as directives for actions across the three dimensions of sustainable development: economic, social, and environmental. They form the main pillar of the 2030 Agenda, a global commitment undertaken by several countries, including Brazil. SDG 16 specifically aims to promote peaceful and inclusive societies by providing access to justice and information for all, particularly the most vulnerable. It also focuses on building effective institutions that better protect fundamental freedoms and promote the Democratic State Ruled by Law through the enactment and enforcement of non-discriminatory laws and policies (IPEA, 2018).<sup>130</sup>

This goal aligns with role of the Public Prosecution Office. In this context, environmental information is important for the decision-making process on environmental issues, particularly in the realm of education. The purpose is to raise awareness and mobilize the entire society<sup>131</sup>. As society gains access to reliable information and data on socioenvironmental crises and/or conflicts, can “take ownership and empower itself” to actively engage and contribute to better decisions on these issues, becoming visible.

In this sense, Conduru et. al.<sup>132</sup> emphasizes the effectiveness of the right to environmental information, highlighting that it requires the participation of the community and government authorities through dialogue, thereby providing opportunities for these stakeholders to contribute to environmental decisions, as mentioned above.

Law No. 9,795/99<sup>133</sup>, which establishes the National Environmental Education Policy, further supports this by defining, at non-constitutional legislation level, the processes through which individuals and the community build social values, knowledge, skills, attitudes, and abilities aimed at conserving the environment. This conservation is recognized as a common good essential to a healthy quality of life and sustainability.

Article 4 of that law establishes the basic principles of Environmental Education that endorse the methodology for community participation in carbon credit processes, namely:

- I. a human, holistic, democratic, and participatory approach;

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**130** IPEA. Instituto de Pesquisa Econômica Aplicada. 2030 Agenda. SDGs — National Sustainable Development Goals 2018. Available at: <http://www.ipea.gov.br/porta/publicacoes>. Access on Nov. 18, 2021.

**131** VIEIRA, Anna da Soledade. Meio ambiente e desenvolvimento sustentável: fontes para compreensão do discurso político-ambiental do governo brasileiro. *Ciência da Informação*, Brasília, v. 21, n. 1, p. 8, Jan-Abr. 1992.

**132** CONDURU, Marise Teles. et al. *Educação e informação ambiental na construção da sustentabilidade na realidade amazônica*. Belém: NUMA/UFPA: 2020.

**133** BRAZIL. Law No. 9795, dated April 27, 1999. It provides for the environmental education, introduces the National Environmental Education Policy, and sets other covenants. *Federal Official Gazette*, Brasília, Federal District, section 1, year 137, n. 79-E, p. 1, April 28, 1999.



- II. conception of environment in its entirety, considering the interdependence between natural, socioeconomic, and cultural environments from a perspective of sustainability;  
[...]
- IV. a coordinated approach to local, regional, national, and global environmental issues;  
[...]
- VIII. acknowledgement and respect for plurality and individual and cultural diversity.

As a result, the objectives of Law No. 9795/1999, as provided in article 5, show how to contribute with the community and the scholars through research, managers, and community residents, as follows:

- I. development of an integrated understanding of the environment in its multiple, complex aspects, involving ecological, psychological, legal, political, social, economic, scientific, cultural, and ethical aspects;
- II. democratic environmental information;  
[...]
- VI. promotion and strengthening of integration with science and technology;
- VII. strengthening of citizenship, self-determination of peoples, and solidarity as foundations for the future of humanity.

## Solutions

Based on this information, the following suggestions are considered appropriate as prototypes for referral solutions:

- Partnerships with universities, such as the Environment Center (NUMA) of the Federal University of Pará (UFPA), with access to instruments such as Social Cartography, so that they can seek the widest possible range of information to enforce the fundamental right to environmental education, whether in classrooms or debates that can be actively engaged in residents' associations to carry out these activities;
- Creation of socioenvironmental diagnoses on interests/objectives and purposes for the benefit of communities; identification of challenges;
- Creation of a specific protocol defining the decision-making methods, for example: how to identify problems; those entitled to vote; criteria for voting and tie-breaking, in particular how to decide, and the need to be consulted on any project involving their territory;
- Exercise to adapt the Protocol for Genuine Community Consultation under Convention 169 of the International Labor Organization – ILO, to guarantee the right to Free, Prior, and Informed Consent, built from bottom up, not the other way around;



- ▶ Additionally, businesses must respect all material and immaterial constructions of communities with regard to their buildings, living ventures, and sustainable socioenvironmental development from the perspective of communities and Indigenous peoples. This includes intangible heritage, such as their way of being, their beliefs, and relationship/belonging to nature following their ancestry and perspectives for future generations.
- ▶ Clear, accurate information on the amount of money involved in the deal and who the final beneficiaries of the carbon credit will be, so that it is possible to define the price and term of the benefits to be received by the communities.
- ▶ Resolution of any issues related to data protection, based on the consideration that the community is an integral part of the carbon credit business, not just an instrument for satisfying the interests of some corporations that may have a hidden agenda of “buying” or “paying” to continue polluting the environment, and offset it with high-profit products sold on the market at the cost of creation and disposal processes that degrade the planet.

## Conclusions

Community members must have an active voice and be consulted to have a leading role in decisions on any municipal, state, federal, and/or private enterprise interventions in their territories. To achieve adequate decision-making in the management of environmental crises, including socioenvironmental conflicts, it is critical ensure access to environmental information and understand that this is the tool they need to be legitimately consulted.

In this context, the use of a critical macro trend is as advocated to ensure that all relevant social stakeholders are identified. The goal is to establish a diagnosis on the restrictions, challenges, possibilities, and benefits of using the territory in the context of a carbon credit agreement. This approach aims to provide communities with the necessary environmental information and data, enabling them to “take ownership and empower themselves” to make informed decisions about their present and future.

# Gender and social movements in the climate crisis

BY ANDRÉIA DE MELLO MARTINS

Discussions on gender in socioenvironmental projects are increasingly expanding the incorporation of this subject into planned activities, thereby legitimizing diverse representations, enhancing governance structures that embrace diversity, and supporting actions in territories that recognize the crucial role of women. The creativity and sustainability vision that women bring to these efforts, though overlooked, play a vital role in social and economic organization, as well as in the broader political struggles for survival.

Prosecutor Lílian Regina Furtado Braga and scholar Hízabelle Vitória Baía de Araújo address the role of women in a scenario of climate change within an Indigenous ethnic group in the State of Pará. The narrative highlights both the resistance struggles against significant socioenvironmental conflicts and the solutions that emerge from understanding the specific needs of Indigenous populations. A group of women has been established to explore new viable socioeconomic possibilities that uphold the principles of their way of life while also income for the community.

## RESTLESSNESS IN THE WOMB AND IN THE EARTH: SOUNDS AND SMELLS LIKE FELLED FOREST WHO'S COMING THERE?

BY LÍLIAN REGINA FURTADO BRAGA<sup>134</sup> AND HIZABELLE VITÓRIA BAÍA DE ARAÚJO<sup>135</sup>

This work begins with an analysis of the letter titled “O que pensamos nós mulheres Munduruku?” (What do we Munduruku women think?), which was presented at the seminar “Impactos, desafios e perspectivas dos Grandes Projetos na Bacia do Tapajós” (Impacts, challenges, and perspectives of Large Projects in the Tapajós Basin). The event took place in Itaituba, State of Pará, in May 2016, and aimed to foster dialogue among various social stakeholders directly and indirectly affected by projects planned for the region, such as the São Luís do Tapajós hydro-electric plant and the Tapajós waterway.

The meeting brought together government officials, state institutions, civil society, Indigenous peoples, and traditional communities. A key highlight at that event was the in-person presence of Munduruku women, who shared the perspectives outlined in their letter.

As part of their organizational efforts, the Munduruku Indigenous women created the Wakoburum association. This association helped develop a resistance movement that operated independently of government organizations, with its own unique project and distinct characteristics, even with broader internal structures of the Munduruku people.

This women's organization focused on creating opportunities for women in the villages to generate income. Craftsmanship emerged as the chosen strategy to make their struggle visible.

In addition, workshops were held to improve product presentation techniques and optimize the use of the handcrafted pieces and materials. Through these efforts, they successfully established a space for exhibiting and selling the women's production, which also served as the office of the Wakoburum Association.

These women are proposing a letter that intertwines ancestries, recent histories, and their stand on several demands. They present themselves as warriors, actively engaging in discussions to defend their territory and advocate for citizenship and socioeconomic public policies grounded in a well-being perspective. The conflict they face in ongoing, contemporary, and persistent, particularly in relation to the violations of rights that threaten their territories.

The monster that has caused fear among Munduruku mothers is not found in the forest, nor is it a creature from the depths of the river. For the Munduruku people, “[...] Building a relationship with the forest, the rivers, and the territory as a whole also implies being in a relationship with these beings, as they are subjects that influence the world of the living. In this sense, actions carried out in the world of “humans” also have the capacity to interfere in the lives of these other beings.”<sup>136</sup>

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**135** Academic of the Law Program at Unama. Contact details: [belle.baia12@gmail.com](mailto:belle.baia12@gmail.com).

**136** DIAS, Bárbara do Nascimento. *Com os espíritos antigos: a luta do povo Munduruku do médio Tapajós pelo território e pela vida*. Brasília, 2021, p. 74. Available at: [http://icts.unb.br/jspui/bitstream/10482/41458/1/2021\\_B%C3%A1rbaradoNascimentoDias.pdf](http://icts.unb.br/jspui/bitstream/10482/41458/1/2021_B%C3%A1rbaradoNascimentoDias.pdf).

Thus, for the Munduruku to maintain a harmonious relationship with the spirits of their ancestors, the mothers of the forest, and the being connected to hunting and fishing, they must engage in respectful exchanges grounded in generosity with all these entities that have different ways of existing. It's important to emphasize that the 'engage' to which I refer to does not imply a conflict-free or entirely harmonious coexistence, nor does it exclude the possibility of predation.<sup>137</sup>

### **Foreigners entering the territory are the ones who cause unrest**

The strategic positioning they have adopted has amplified their complaints, allowing them to gain strength and reach a broader audience. This has helped society understand that the natural sounds of the forest and the river should not be drowned out by the harsh noise of chainsaws, tractors, excavators, and water pumps. These sounds represent the terror of mining and the unrest of deforestation.

### **Living in the midst of catastrophes**

The language of the Munduruku people has its origins in the Tupi language, a living language still spoken in the State of Pará. The Munduruku and Sai Cinza Indigenous territories have already been recognized, and their land regulation has been formalized. The Sawre Muybu Indigenous territory, as well as others in the Tapajós region, is currently in the process of delimitation, with the recognition and legalization process either ongoing or nearing completion.

From a historiographical perspective, Indigenous peoples in the Amazon are considered ancestors of the land, with the presence of many native populations documented during the colonization of the biome by Europeans. There are hypotheses suggesting that these native populations arrived in the Amazon from Asia, migrating to the Americas via the Bering Strait.

The Munduruku are recognized as living beyond the traditional boundaries of Mundurukania.<sup>138</sup> According to Leopoldi, the exploitation carried out by the Portuguese during the colonization period led to the extermination of several ethnic groups. The destruction of thousands of Indigenous people through military campaigns, enslavement, and mistreatment was both evident and systematic.

In the southern reaches of the Amazon River, near the mouth of the Tapajós River, Indigenous people began to settle after clashes with European colonizers, especially because they rejected the lifestyle imposed by the white colonizers.

Brazil's history has been shaped by social relations marked by the systematic use of violence against Afro-descendant and Indigenous populations. This colonial violence, as Frantz Fanon described, affects not only in the soul but also penetrates blood and muscles. It also permeates memory: history does not simply

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<sup>137</sup> Ibidem, p. 74.

<sup>138</sup> LEOPOLDI, J. S. *De caçadores-de-cabeça a índios urbanos: a saga dos índios Munduruku*. Chiado Editora, São Paulo, ed. 1, 2016.

reside in the past but in the way we tell it. Violence remains a persistent reality in Indigenous communities today.<sup>139</sup>

The fact that the Amazon rivers served as routes for the transportation of marketable products also played a significant role, particularly during the rubber boom, when the settlement of riverbank dwellers on the riverbanks greatly facilitated economic activities. “The rubber cycle in the Amazon region began at the end of the 19th century, with the extraction of latex from the rubber tree used for the production of rubber. It also influenced these migratory processes towards the riverbanks, with the first cycle between the 19th and 20th centuries. The rubber extracted in various regions of the Amazon was exported to various countries.”<sup>140</sup>

The Munduruku were a people known for their fierce warrior culture, particularly for their practice of beheading enemies, earning them the reputation of being ‘head cutters’. According to Souza and Munduruku<sup>141</sup>, the Munduruku believed that the heads of their enemies had magical powers and were fundamental elements for the survival of the tribe. The process involved a ritual: “The mummification of the heads included a ritual in which part of the preparation consisted of removing the organs from inside the head after it was cooked. A Munduruku once told me that when his ancestors were going to remove the softened teeth from the trophy head, the person doing it had to keep the teeth in his own mouth to prevent the spirits from stealing them during the act”. This tradition of being a warrior people who decapitated their enemies remains a significant part of Munduruku identity and is frequently referenced in contemporary discussion of their struggles. Chief Jairo Saw remarked: “The Mundurku people were head cutters in the past. Now, they no longer cut heads, but they still have a warrior spirit.”<sup>142</sup>

It is interesting to observe that this group of Indigenous people is distinguished in Amazonian history not only for their capacity for resistance, but especially for their belligerence and confrontation with their enemies. They actively shaped their own history, countering the passive image that traditional historiography often imposed on the Indigenous peoples in Brazil, as analyzed by Henrique and Oliveira<sup>143</sup>.

Alessandra Korap Munduruku, a female leader from the central Tapajós River, when speaking about her Munduruku people:

The Munduruku people are a warrior people. Karasakaybu and Karodaybi, our creators and ancestral warriors, give us the strength to resist. We have been resisting the attacks of the *pariwat* [non-indigenous people] for 520 years, and we will resist for another 520. We fought against diseases, invaders, hydroelectric plants,

**139** MILANEZ, Felipe. *Memórias Sertanistas*. Cem anos de indigenismo no Brasil. Edições SESC: São Paulo, 2015, p. 34.

**140** DIAS, Bárbara do Nascimento. *Com os espíritos antigos: a luta do povo Munduruku do médio Tapajós pelo território e pela vida*. Brasília, 2021, p. 20. Available at: [http://icts.unb.br/jspui/bitstream/10482/41458/1/2021\\_B%C3%A1rbaradoNascimentoDias.pdf](http://icts.unb.br/jspui/bitstream/10482/41458/1/2021_B%C3%A1rbaradoNascimentoDias.pdf).

**141** SOUSA, Wanderleia Lucena; MUNDURUKU, Mike Kiriki. *Resistência Munduruku na região do Tapajós, no século XXI. Anais do I Colóquio Internacional do Instituto de Pesquisa e Estudos Culturais e Ambientais Sustentáveis da Amazônia* – Icipeasa, Itaituba, 2018, p. 5.

**142** DIAS, Bárbara do Nascimento. *Com os espíritos antigos: a luta do povo Munduruku do médio Tapajós pelo território e pela vida*. Brasília, 2021, p. 20-21. Available at: [http://icts.unb.br/jspui/bitstream/10482/41458/1/2021\\_B%C3%A1rbaradoNascimentoDias.pdf](http://icts.unb.br/jspui/bitstream/10482/41458/1/2021_B%C3%A1rbaradoNascimentoDias.pdf).

**143** Henrique and Oliveira, 2021, p. 2.

miners, ports, soybean plantations, and the government. Today, there are nearly 14,000 Munduruku in the Tapajós basin. In the upper Tapajós, there are 140 villages. Here in the central region, there are another 12 villages. We are a great people thanks to our struggle; we are many because we resist.<sup>144</sup>

The process of plundering the Indigenous population in the Amazon is relentless. Territories invaded by gold mining, such as the villages of Alto Tapajós, – home to Maria Leusa Munduruku – or the looming threat of the hydroelectric project in São Luís do Tapajós, which could impact the village of Sawre Muybu where Aldira Akay's lives, or even the urban real estate expansion in Itaituba that affects the villages of Praia do Índio and Praia do Mangue, where Alessandra Korap's resides, have all prompted a significant response. These threats have not only galvanized the women who witnessed the unfolding catastrophe but also spurred chiefs and warriors into action.

The Ipereğ Ayü Movement was founded in 2012 in response to the violence caused by large-scale economic projects that threaten the Munduruku territory. This movement is rooted in a process of cultural revival, drawing inspiration from Munduruku cosmology and traditions, including the legacy of the warrior group led by Karodaybi. This great Munduruku warrior selected the five most skilled warriors for his protection: Pukorao Pik Pik, Pusuru Kao, Waremu Pak Pak, Surup Surup, and Wakoborün.<sup>145</sup>

The context faced by the Munduruku in their territories represents what Haraway, drawing on Ana Tsing's ideas about "Feral Biologies", describes as a limite event of catastrophe. Despite the challenges, there were still places of refuge – spaces that were once abundant and crucial for the regeneration of rich cultural and biological diversity. The true outrage, perhaps deserving of a name like the Anthropocene, lies in the destruction of space/time of refuge for both people and other beings. Like others, I believe that the Anthropocene is better understood as limit event rather than a distinct epoch<sup>146</sup>.

It is not merely a sequence of events that have impacted Indigenous territory due to the implementation of an economic enterprise that is not aligned with the life proposals of that people, or the enforcement of an inadequate policy that has caused damage to part of the forests or led to the silting of a river.

The situation carried a more severe component: it involves violence against Indigenous peoples.

The Amazonia Real website published an article titled "Miners prevent Munduruku Indigenous people from going to Brasília", on June 11, 2021. The article reported that the tires of a bus belonging to the the J Quaresma company, which was

**144** MUNDURUKU, Alessandra Korap; CHAVES, Kena Azevedo. Precisamos estar vivos para seguir na luta: pandemia e a luta das mulheres Munduruku. *Mundo Amazônico*, 11(2), 179-200, 2020. <http://dx.doi.org/10.15446/ma.v11n2.88662>.

**145** ROCHA Bruna Cigaran da; LOURES, Rosamaria Santana Paes. A expropriação territorial e o Covid-19 no Alto Tapajós, PA. In: ALMEIDA, Alfredo Wagner Berno de; MARIN, Rosa Elizabeth Acevedo; MELO, Eriki Aleixo de. *Pandemia e território*. São Luís: UEMA Edições/PNCSA, 2020. Available at: <https://api.saudeindigena.iciet.fiocruz.br/api/core/bitstreams/34d7a942-4b99-4451-89d0-9f928cc948f4/content>.

**146** HARAWAY, Donna. Antropoceno, Capitaloceno, Plantationoceno, Chthuluceno: fazendo parentes. *ClimaCom Cultura Científica* – pesquisa, jornalismo e arte I, ano 3, n. 5. Abril 2016, p. 139.

supposed to take Munduruku leaders to participate in the Terra Livre Camp (ATL, the acronym in Portuguese) in Brasília, were deliberately punctured. Police report No. 00062/2021.101716-0 was filed, indicating that there was an organized effort involving both non-indigenous people and Indigenous individuals co-opted into the illegal mining activities on Indigenous territory. The actions included plans to burn bridges, destroy, and set buses on fire, to prevent people from travelling to Brasília to protest against illegal mining. Alessandra Korap Munduruku spoke to the media, stating:

“The chiefs decided to go to Brasília, and we coordinated it with our organizations. The miners were receiving information along the road, at [kilometer] 180, where many miners were stationed, warning them that a bus was carrying Indigenous people to protest against mining. They were told to burn down the road bridges.”<sup>147</sup>

A sequence of events made it clear to civil society that there was a concerted movement to violently target the Munduruku people<sup>148</sup>. Demonstrations near the Jacareacanga airport, in the State of Pará, spread fear among the population and intimidated anyone who intended to report the illegal mining activities at that time.

On May 26, 2021, around lunchtime, miners set fire to houses in the village of Fazenda Tapajós. One of the specific targets in the village was the residence of the president of the Wakoburum Indigenous women’s group.<sup>149</sup> During this period, the house of Maria Leusa Kaba Munduruku and her mother was set on fire by miners.

A 2022 report by the Indigenous Missionary Council (CIMI) highlights a frightening increase in violence against Indigenous peoples during the four-year period from 2019 to 2022, reflecting a broader government agenda that permeated Brazilian society. The data reported by CIMI, along with updated figures obtained from official sources, reveal alarming trends: there were 407 cases of conflicts over territorial rights, involving attacks, pressure, and disputes over Indigenous territories; 1,133 cases of possessory invasions, illegal exploitation of natural resources, and various forms of damage to Indigenous heritage were documented; concerning crimes against individuals, there were 795 records murders of Indigenous people; as a result of government neglect, a shocking number of 3,552 Indigenous children under the age of four died during this period.<sup>150</sup>

It is a process of annihilation. The Anthropocene, with its relentless disruptions, has shattered the possibility of envisioning future where children could once again gather at the same table as their parents, under the old mango tree by the village stream.

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**147** AMAZÔNIA REAL. Garimpeiros impedem indígenas Munduruku irem a Brasília. Accessible at: <https://amazoniareal.com.br/garimpeiros-impedem-indigenas-munduruku-de-irem-a-brasilia/>. Access on May 19, 2024.

**148** AMAZÔNIA REAL Website. Accessible at: <https://amazoniareal.com.br/estao-enganando-nosso-povo-diz-maria-leusa-munduruku-lideranca-que-teve-casa-incendiada-por-garimpeiros/>.

**149** AMAZÔNIA REAL. Garimpeiros atacam aldeia e incendeiam casa de liderança Munduruku. <https://amazoniareal.com.br/garimpeiros-atacam-aldeia-e-incendeiam-casa-de-lideranca-munduruku/>.

**150** Relatório Violência Contra os Povos Indígenas no Brasil, do Conselho Indigenista Missionários, 2022, p. 13. Available at: <https://cimi.org.br/wp-content/uploads/2023/07/relatorio-violencia-povos-indigenas-2022-cimi.pdf>.

As pressures on the territory increase growing every day with the invasion of loggers, palm-heart harvesters, farmers, and miners, along with the encroachment of energy and mining industries, the demarcation of land – guaranteed by the Brazilian Federal Constitution for Indigenous peoples – has become the most viable means of preserving a portion of this immense heritage left by their ancestors, the Amazon. The Tapajós River “is the birthplace of the Munduruku”, says Jairo Saw (2017). “It has a rich history, with many sacred places where the greatest concentration of Munduruku once gathered to perform ceremonies and rituals”<sup>151</sup>.

The movement that Indigenous women stepping into the public arena of debate – a space traditionally occupied by chiefs, *pajés* (spiritual leaders), and warrior men – serves as a powerful catalyst for creating a new and different future.

In the Chthulucene, where living and dying well as mortal beings requires joining forces to reconstitute refuges, these women are essential for the process. This reconstitution aims for a partial but robust recovery and recomposition of biological, cultural, political, and technological systems. It is a recovery that must also embrace mourning for the irreversible losses they have endured.<sup>152</sup>

The women of Wakoburum lay out their struggles from home, from the fields, while caring for their children, crafting, and making flour. This was their daily routine in the villages: “Our time is an expert in creating absences: of the meaning of living in society, of the very meaning of the experience of life. This creates much intolerance toward those who can still savor the joy of being alive, of dancing, of singing. And yet, there are countless small constellations of people spread across the world who dance, sing, and make it rain.”<sup>153</sup>

The unrest that permeates the womb, which belongs not only to the Munduruku Indigenous people but also to the earth itself, is an alarming echo of the state of environmental degradation that plagues our planet, the country, and the Amazon region. The deafening noise and nauseating smell of felled forests are tangible evidence of the devastating impact of human activities on natural ecosystems.

## We are not afraid of the government

The relentless pursuit of resources from the forest, rivers, and soil, driven by economic expansion, has fueled the criminal exploitation of mineral and forest products, endangering the biodiversity of the Tapajós region. The sound of chainsaws cutting down trees, the roar of tractors hauling timber, and the constant hum of loaders tearing up the ground are like cries of agony, suffocation from the mother who is the home, who is the earth, the nourisher.

“Based on an assessment of the existing transport infrastructure in the region (highways, railways, waterways, ports, and airports) and considering the production chains of agribusiness commodities (sugarcane, corn, soybeans), cattle farm-

<sup>151</sup> DIAS, Bárbara do Nascimento. *Com os espíritos antigos: a luta do povo Munduruku do médio Tapajós pelo território e pela vida*. Brasília, 2021, p. 22. Available at: [http://icts.unb.br/jspui/bitstream/10482/41458/1/2021\\_B%C3%A1rbaradoNascimentoDias.pdf](http://icts.unb.br/jspui/bitstream/10482/41458/1/2021_B%C3%A1rbaradoNascimentoDias.pdf).

<sup>152</sup> HARAWAY, Donna. Antropoceno, Capitaloceno, Plantationoceno, Chthuluceno: fazendo parentes. *ClimaCom Cultura Científica* — pesquisa, jornalismo e arte I, ano 3, n. 5. April 2016, p. 141.

<sup>153</sup> KRENAK, Ailton. *Ideias para adiar o fim do mundo*. São Paulo: Companhia das Letras, 2019, p. 26.



ing, minerals (steel, aluminum, copper, iron, and manganese), wood, fertilizers, oil and its derivatives, among others, the project outlined a set of ‘potential axes of national integration’ [...] To speak of integration axes as a novelty is to highlight historical evidence. Consider that in 1972, as part of the celebrations of the 150th anniversary of Brazil’s Independence, the Central Bank issued a 500 cruzeiros bill, on the reverse side of which there was a sequence of five geographical maps of the Brazilian territory labeled ‘discovery’, ‘trade’, ‘colonization’, ‘independence’, and ‘integration’. The final map, concluding what appears to be an evolutionary line, represented the extensive road network to be built within the scope of the PIN Integration Program [...], the construction of the Teles Pires-Tapajós waterway would help ‘end the unfair situation that currently penalizes farmers’”.<sup>154</sup>

The perspective of Indigenous people in the context of the National Integration Project is overlooked, as they were not included in the integration axis of agribusiness, timber, and mining. They were not the producers who were “unfairly treated” and “penalized” by the geography of the territory that was in dispute.

The pungent smell of burning fuel that permeates the air is a constant reminder of the cost of uncontrolled exploitation. It is the smell of destruction, of irreparable loss of biodiversity, of soil erosion, and the degradation of water resources. It is also the smell of injustice, negligence, and indifference towards the populations that occupy the territory chosen for the capitalist development planned for the region.

In the letter presented by the Munduruku women in 2016, they highlighted the unfulfilled promises made by the governments. It was evident, for example, that health professionals lacked the technical capacity to work with Indigenous people and that this was the government’s responsibility. They expressed their frustration, stating they no longer wanted hear excuses; they want their problems to be resolved.

In October 2014, riverbank dweller Chico Caititu crossed the Tapajós, leaving “his place” in Montanha, on the left bank, and arrived at the Sawré Muybu Indigenous Land (IL). He was joining the Munduruku in their efforts to self-demarcate the IL. At 65 years old, he carried a hammock, a machete, and a few changes of clothes in his small “boroca” (Indigenous bag). He also brought a new pair of boots – “for clearing the landing with the Indians”.<sup>155</sup>

Through self-demarcation and the expulsion of miners from their territories, the Munduruku took the lead in identifying the marking the boundaries of their land.<sup>156</sup>

It is critical to recognize that the unrest in the womb, whether of the earth or of Munduruku mothers, is not limited to the environmental attacks that that

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**154** SCOLES, Ricardo. Caracterização ambiental da Bacia do Tapajós. In: *Ocekadí: hidrelétricas, conflitos socioambientais e resistência na Bacia do Tapajós*/Daniela Fernandes Alarcon, Brent Millikan e Maurício Torres (Org.). Santarém, PA: Programa de Antropologia da Universidade Federal do Oeste do Pará, 2016, p. 46-47.

**155** TORRES, M. Um rio de muita gente: a luta comum de vidas plurais no vale do Alto Tapajós. In: ALARCON, D. F.; MILLIKAN, B; TORRES, M. (Org.). *Ocekadí: hidrelétricas, conflitos socioambientais e resistência na Bacia do Tapajós*. 1. ed. Brasília; Santarém: International Rivers; PAA/Universidade Federal do Oeste do Pará, 2016, p. 1.

**156** AMAZÔNIA REAL. Povo Munduruku retoma autodemarcação da TI Sawré Muybu. <https://amazoniareal.com.br/autodemarcacao-munduruku>.

strike at the very heart of humanity with the poisoned arrow of death. Not knowing how to treat the problems caused by mercury contamination is not a problem that affects only the Munduruku. The effects of mercury on the health of the Amazonian population are reaching alarming proportions.

This is why the Munduruku women emphasized in their letter that health professionals did not know how to address the health problems faced by their people.

In this context of not knowing how to care, the issue goes beyond finding solutions to mercury contamination; it also involves understanding and respecting the rules and healing practices of the people themselves, which are gradually being erased.

The health-disease processes of communities are being reshaped through their interaction with political ecology. This involves interpreting the tensions that have escalated in recent decades, driven not only by the advance of neoliberal capitalism, but also by the overwhelming influence of the financial market and transnational corporations over society as a whole.<sup>157</sup>

A project to erase these populations is being perpetrated within government planning, as they are included in the neo-extractivist strategies unveiled for the local capitalist world.

This discussion revolves around the neo-extractivist development model prevailing in the countries of the so-called Global South, which involves regions with a long history of colonial domination and a subordinate role in the capitalist world-system, as analyzed by Wallerstein's (1979). These regions are characterized by the production of raw materials and global commodities. In Brazil, the most relevant economic sectors of neo-extractivism are agribusiness, mining, and the construction of associated infrastructures, such as energy production and the construction of ports, port complexes, highways, waterways, among others.<sup>158</sup>

The understanding of the needs of the Munduruku Indigenous populations has not been solidified as a reference point, and, to some extent, the complaints that women publicly raise against Indigenous health policy reflect their calls for recognition. They emphasize that midwives, *pajés*, and faith healers should be recognized as important for the health of their people because they possess knowledge about medicine passed down by their ancestors – how to heal with baths and herbs, and traditional remedies for various illnesses.

Leaders work together locally and with strategic partners to monitor mercury contamination. One of these partners is Dr. Erik Jennings, who explained in an interview with INFOAMAZÔNIA and in an article by Julia Dolce<sup>159</sup> in May 2022 how he began to observe mercury contamination among the Munduruku Indigenous people served by the Tapajós Special Indigenous Health District (DSEI):

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**157** ROCHA, Diogo Ferreira da; PORTO, Marcelo Firpo de; SOUZA, Juliana. Conflitos socioambientais na Amazônia. In: *Garimpo de ouro na Amazônia: crime, contaminação e morte*. Paulo Cesar Basta and Ana Cláudia Santiago de Vascocellos (Org.), 2023, p. 41.

**158** ROCHA, Diogo Ferreira da; PORTO, Marcelo Firpo de; SOUZA, Juliana. Conflitos socioambientais na Amazônia. In: *Garimpo de ouro na Amazônia: crime, contaminação e morte*. Paulo Cesar Basta and Ana Cláudia Santiago de Vascocellos (Org.), 2023, p. 41.

**159** INFOAMAZÔNIA. Entrevista com o médico Erik Jennings. Available at: <https://infoamazonia.org/2022/05/27/por-tras-dos-altos-niveis-de-mercuro-existem-alteracoes-sociais-ambientais-culturais-e-economica-graves>.

Tapajós DSEI is the district with the highest number of wheelchairs in Brazil, most of which are used by children. This is an important information. Is it a coincidence that this is experiencing so much environmental change? Mercury exposure can cause serious health problems. When a pregnant woman has high levels of mercury, her children can develop with a brain defects, and if the pregnancy is not terminated, the child may be born with disabilities.<sup>160</sup>

While in the villages of the upper Tapajós, Dr. Jennings, together with researchers from FIOCRUZ (Oswaldo Cruz Research Foundation), confirmed a high rate of mercury contamination. This alarming discovery has prompted the development of Indigenous health strategies to set up a flow of care that can address the needs of children and adults with symptoms of contamination.<sup>161</sup>

To treat these conditions and investigate the relationship between the pathologies and mercury contamination, the Reference Center for Mercury-Related Pathologies (CREPAM) was established in the Municipality of Santarém (State of Pará). This health care center is pioneering efforts to combat mercury-related issues in Brazil. It was specifically designed to accommodate cases identified through research conducted in the region, focusing on patients from the Tapajós River basin. These patients have been admitted to healthcare facilities due to their proximity to areas where increasing mining activity, which poses a significant risk of contaminating the population, has been identified.

Forests play a critical role in regulating climate, conserving water, protecting against natural disasters, and maintaining healthy ecosystems. However, beneath these forests lie the mineral concentrations of the Tapajós region.

The Amazon biome accounts for 72.5% of all mined area in Brazil and has witnessed rapid growth in this activity over the past decade, in particular over the past three years [...] This data becomes even more alarming when industrial mining is separated from small-scale mining activity. According to MapBiomas (2021), in 1985, industrial mining in the Amazon occupied 8,237 hectares, compared to 8,487 hectares of small-scale mining, also known as *garimpo* “[...] The most recent data from 2020 reveal a discrepant contrast, with *garimpo* now corresponding to 67.46% of all mining activity in the region, encompassing more than 100,000 hectares.”<sup>162</sup>

However, Munduruku women were already feeling the pressure that mining was exerting on their communities. As Covid-19 devastated their lives, claiming the elders from the villages, they found themselves at an advanced stage of organization. In response, they mobilized and appealed to the Inter-American Commission on Human Rights, formally filing a complaint against Brazil for its negligence in providing adequate health care to the Munduruku people.

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**160** INFOAMAZÔNIA. Entrevista com o médico Erik Jennings. Available at: <https://infoamazonia.org/2022/05/27/por-tras-dos-altos-niveis-de-mercúrio-existem-alteracoes-sociais-ambientais-culturais-e-economica-graves>.

**161** AMAZÔNIA REAL WEBSITE. Estudo revela contaminação por mercúrio de 100% dos Munduruku do Rio Tapajós, de 26 de novembro de 2020. Amazônia Real Website. Available at: <https://amazonia-real.com.br/estudo-revela-contaminacao-por-mercúrio-de-100-dos-munduruku-do-rio-tapajos/>.

**162** PINTO, Daniel de Oliveira d'El Rei. As transformações ocorridas nos territórios Kaiapó, Munduruku e Yanomami: Perspectivas de Vulnerabilidade em Saúde associadas à exploração do garimpo ilegal de ouro na Amazônia. In: *Garimpo de ouro na Amazônia: Crime, contaminação e morte*. Paulo Cesar Basta and Ana Cláudia Santiago de Vasconcellos (Org.). 1ª ed. Lorena: UK'A Editorial, 2023, p. 140.

The women of the Wakoborum Association voiced their concerns once again: “The National Contingency Plan for Human Infection by the New Coronavirus in Indigenous Peoples, as along with other measures adopted by the State, is insufficient. It fails to address the removal of unauthorized third parties from Indigenous lands, instead focusing on restricting the movement of Indigenous people in urban centers and the entry of authorized civilians into Indigenous lands. As a point of correlation, the ir complaint highlighted that the areas with the highest Covid-19 contagion were precisely those closest to the mining areas, although the virus had already begun spreading to more distant villages. In fact, according to the request, the exploitation of resources in the areas inhabited by the Munduruku People had increased exponentially in 2019 and 2020, reflecting the inadequacy of state actions and “increasingly forcing contact, including with Indigenous people in voluntary isolation (IACHR/OAS Decision).

They led demonstrations that prompted an analysis by the IACHR, which considered:

- ▶ The “severity of the situation”, referring to the serious impact that an action or inaction may have on a protected right or on the possible effect of a pending decision in a case or petition before the bodies of the Inter-American System;
- ▶ The “urgency of the situation”, determined by information showing that the risk or threat is imminent and may materialize, thus requiring preventive or protective action; and
- ▶ “Irreparable damage”, meaning the effects on rights that, by their nature, are cannot be redressed, restored, or adequately compensated (IACHR/OAS Decision).

Through the actions of these women, it became clear that, in addition to being guardians of the land, Munduruku women play fundamental roles in transmitting and preserving the traditional knowledge of their culture and in the fight to defend human rights. As a result, the IACHR ordered that the Brazilian State:

- ▶ Take the necessary actions to protect the rights to health, life, and personal integrity of members of the Munduruku Indigenous People, and implement, from a culturally appropriate perspective, preventive measures against the spread of Covid-19, as well as provide them with adequate medical care in conditions of availability, accessibility, acceptability, and quality, in accordance with the applicable international standards;
- ▶ Coordinate the actions to be taken with the beneficiaries and their representatives; and
- ▶ Report the actions implemented to investigate the facts that led to the adoption of this provisional remedy, and, thus, prevent its repetition (IACHR/OAS Decision).

In 2016, the Munduruku Female Chiefs challenged the government, declaring that they will not allow another Teles Pires to happen, asserting that they know how to both breastfeed and cut off heads.

## Perhaps Mundurukânia is the last place to live well

The letter the women wrote to express their thoughts begins with the powerful declaration: “Our forest is ill, our river is ill, our people will fight!”

The letter discusses the Munduruku women’s concerns about the government’s actions on Indigenous lands and how public policy and political action for Indigenous people are handled. They list the major difficulties in providing healthcare, including the inability of professionals to effectively work with Indigenous communities, and they place the responsibility for the ineffectiveness of public policy squarely on the government. They said: “What makes our territory sickest is the theft by the *pariwat*; they steal our water to build dams, they damage our land to get rich, they dirty our river and destroy our beaches. We have said it once, twice, we have expelled them once, we have expelled them twice, we do not want mining in our territory.”<sup>163</sup>

They revisit the harm inflicted on the territory by the white settlers, disrupting the way of life established in the villages.

The environmental crisis and the ‘catastrophe’ of our living worlds were not caused by the proliferation of meanings unleashed after Babel, but rather by the saturation of meaning and senses driven by the concept that seeks to confine and define reality. The true calamity of the hyper-reality of the world lies not in the excess of signifiers rooted in the power of language, dreams, and poetry, but in the overwhelming imposition of meaning. Fatal strategies emerge as a response from an Object World that has overwhelmed the subject of knowledge. This seduction arises from a withdrawal from meaning, leading to a descent into a void of significance.<sup>164</sup>

Through this letter, the women deliver a clear and resolute message: they are ready to be on the front lines of the fight. “We do not fear the government! It doesn’t matter how many promises the government made to come to power, nor does it matter if dam builders and mining companies support this government. We will go to Brasília, if necessary, to defend our education, our health, our territory. Today, things are not good! We will fight to improve them. The government has not yet seen the strength of Munduruku women. We can breastfeed, and we also can also cut off heads!”

This message that is deeply relevant today, especially in light of the revolutionary actions of Indigenous peoples in Brazil, as they engage in debates, confront the Brazilian government, and closely and actively monitor the decisions of Brazil’s courts.

However, in the everyday life of their communities, where life continues to unfold, the Munduruku have found another path to reestablish good living. Ac-

<sup>163</sup> Letter: O que pensamos nós mulheres Munduruku, 2016 (What we Munduruku women think, 2016).

<sup>164</sup> LEFF, Enrique. *Racionalidade ambiental: a reapropriação social da natureza*. Rio de Janeiro, Editora Civilização Brasileira, 2006, p. 126.

cording to Acosta (2016),<sup>165</sup> this involved offering multiple possibilities to rethink the logic of production, circulation, distribution, and consumption of goods.

The Munduruku Poy group was created in 2022 from the internal structures of several Munduruku villages with the aim of exploring viable socioeconomic possibilities that would uphold the principles of people's lives, generate income, address the challenges of food security, and keep the forest standing. The forest serves as a vital reference for the continuity of life.

The Brazil nut became the strategy for re-establishing good living, contributing to the construction of a territoriality that protects the common good.

The Floresta Ativa (Active Forest) Technical Assistance Program for the Saúde Alegria Project, based in Santarém, State of Pará, has become a technical partner of the Poy Collective project. Following a workshop to align the activity's goals, resources were provided to families to initiate harvesting activities. The Munduruku families returned to the Brazil nut groves as a viable alternative to countering the pressures of illegal gold mining.

Leading the process of resuming life in Mundurukânia, women are innovating: at the Wakoborum Association, they also seek out workshops to help them better present crafts produced by their families. This initiative has emerged as a potential source of income.

Mundurukânia is a place for living well!

Finally, a starting point for other narratives.

In confronting the dangers of capitalism – initially present in the form of environmentally destructive extractivism, through mining and *garimpo* – they have become protagonists of a story that reimagines the survival of their families. They also believe it is possible to mitigate the impact of social policies within their territories.

Wakoborum thus embodies much of this dual Indigenous battle: the fight for ethnic preservation, which also means defending their land and culture from the encroachment of corporations, colonizing customs, and the threat of deterritorialization.

The defense of their territory and the preservation of the fruits of the land that guarantee the survival of the people is the driving force behind the women's struggle. Losing any of these environmental assets would signify death for the Munduruku people. For these women, mining represents a harbinger of death, and it is woven into the lament song taught by elders and *pajés*, a song that invites a lost or kidnapped spirit to return:

*Karosakaybu bu tug  
Bucewi ku oje kuijuju  
Dariwa ewekuku di abibe wi, ojekuijujuuu*  
(MUNDURUKU SONG)

Wakoborum, as a Munduruku warrior artisan, inspires the movement of women who today defend life in their territory.

<sup>165</sup> ACOSTA, Alberto. *O bem-viver: uma oportunidade para imaginar outros mundos*. São Paulo: Autonomia Literária, Elefante, 2016, p. 21.

# REDD+ and Carbon Market: collective reflections on possible paths

BY ANDRÉIA DE MELLO MARTINS

We are all agents of conservation. According to the Constitution of the Federative Republic of Brazil, everyone has the right to an ecologically balanced environment, which must be conserved for present and future generations. However, with rights come duties, aimed at ensuring that the conservation of this shared living space is in fact guaranteed. Every citizen has the duty to conserve the environment, a responsibility that encompasses all forms of life and the interconnections between the natural environment and the human relations developed within it, whether from a cultural, artificial, or labor perspective.

That responsibility also lies with the Government Authorities, who have the ability to organize daily behaviors and implement public policies aimed at the common good. To achieve this, there is a division of authority and duties to ensure that the Executive, Legislative, and Judicial branches each play a role in environmental conservation. Each branch has its own methodologies and employs professionals trained to work for the benefit of the environmental agenda.

Specifically within the Brazilian justice system, there are various careers focused on environmental issues. These professionals understand that actions taken for the environment have the potential for considerable social impact, as they affect an indeterminate number of people and are, therefore, considered diffuse rights. However, although the impacts may affect such a large and indeterminate group of people, there are often social groups or people who feel the effects of environmental damage more acutely. This is particularly evident in cases involving private funding or the implementation of environmental policies.

To ensure that the legislation is respected and that both the natural environment and the people living across Brazil are safeguarded, the justice system relies on public prosecutors working in various Brazilian municipalities. These professionals, especially those located in remote areas, often have many different responsibilities and work on issues such as child protection, crime, and land regulation, among others. Some of these professionals, when circumstances allow, specialize and work on specific agrarian and/or environmental agendas.

These experiences allow these prosecutors to extend their role beyond purely legal matters, allowing them to connect with the multiple challenges related to land, ways of life, and economic development. Years of experience within prosecutors' offices often require them to be creative and devise solutions to local problems that have significant potential for state and national repercussion.

In addition to these challenges, new conflicts arise on a daily basis, especially in relation to the Amazon, which is both a focal point for conservation and a target interest due to its vast socioenvironmental wealth. The prosecutors in the State of Pará are deeply involved in this process. Their legal expertise and life experience equip them to make important contributions to the ongoing dialogue on ways



to tackle deforestation and the impacts of carbon projects in the state. Importantly, they also work to give visibility to the communities that live in the forests.

In recent years, the discussion around the potential contribution of the carbon market and REDD+ projects to environmental conservation has gained broader attention. In Brazil, this conversation has gained special prominence with the experiences observed in Pará. Pará has emerged as a key player on the global stage in the climate debate, not only because of its commitment to carbon neutrality but also due to its significant social and forest representation within the territory.

However, this vision faces obstacles in some relevant, yet often overlooked, counterpoints, such as the fair distribution of benefits and the transparency of the results of the carbon market and REDD+ in people's lives. There is an effort to expand the fight against deforestation, not only through command-and-control measures, but also by implementing actions aimed at generating income. In this context, bioeconomy and carbon projects are possible alternatives for conservation.

This sparks an important discussion within the climate agenda: the need to link environmental conservation with the quality of life of local communities by strengthening governance and ensuring social participation in decision-making processes. As various opportunities for implementing strategies to tackle climate change and combat deforestation arise, so do social and environmental conflicts, adding another layer of complexity to challenge.

In this context, the role of prosecutors and appellate prosecutors of the State Public Prosecution Office of Pará is critical in overseeing the enforcement of environmental legislation and defending the human rights of local communities. Their objective is to ensure that the benefits of existing initiatives are maximized in a socially fair and sustainable manner.

However, the topic is still relatively new within Brazilian legislation, and various socioenvironmental and economic conflicts are currently unfolding. This often complicates the establishment of a solid legal foundation and the construction of procedural narratives, which are further challenged by the complexity of addressing such sophisticated issues in a region like the Amazon, where many basic needs remain unmet.

Indeed, the State of Pará is a region rich in land and natural resources, making it a focal point of intense economic interest. As a result, numerous initiatives are directed toward the region, impacting a territory inhabited by many different communities.

Despite the climate benefits provided by forest conservation funding frameworks, the lack of regulation in the voluntary carbon market, for instance, allows all types of business activities in the region. It is evident that there is a tendency within the carbon market to prioritize the “business” aspect, which can distort the objective of the framework itself. The carbon market is intended as a tool to support the fight against climate change, and the outcomes it generates should be centered on improving the quality of life for local communities.

However, this voluntary carbon market is reaching communities that represent different social groups, many of whom are disconnected from such complex concepts. In a race to establish contact with these communities, businesses try to create connections by bargaining and demanding the right to negotiate with them. However, as seen in the discussions on the subject, while powerful corporations are discussing ways to offset their emissions, intermediaries are capturing the resources and retaining the carbon credits for themselves.



It is also clear that communities are often excluded from these discussions, either due to a lack of information, as their participation is limited to formal discussion forums, or because they are enticed to sign so-called confidential agreements. These agreements can ultimately prevent them from fully understanding their rights and duties.

All these issues were collectively addressed by a group of public prosecutors who came together to reflect on the challenges and potential solutions for the climate debate in the State of Pará. Some contributed with reports on specific cases they were working on, while others offered reflections and suggestions on possible approaches that could be undertaken.

The results of the experiential meeting of the Climate Dialogues in the state resulted in a collective consensus, but each professional who participated in the discussions brought with them a long history and significant stories to share. Some of these professionals contributed individually or in partnership with this publication, providing insights into their personal perspectives as well. However, there are still many voices yet to be heard.

## Effective rules and legal instruments

REDD+ and carbon projects are perceived worldwide as potential key solutions for combining economic development with nature conservation. However, in Brazil, there is still no consistent legislation on these issues, as existing regulations remain sparse and insufficient to address local idiosyncrasies. In the State of Pará, the effects of this lack of regulation on the carbon market is particularly evident among different social groups living in rural areas.

However, even though there is no specific legislation on the subject, there is a need for the Public Prosecution Office to operate in defense of the environment and the populations that inhabit the forests to mitigate the socioenvironmental impact of the unregulated market. This can be achieved by means of administrative proceedings, indirect action on the issue, and preventive measures whenever the interests of society are threatened. However, it is essential that there is alignment regarding the timing of such interventions.

Some actions have already been taken, such as the preparation of Technical Note No. 02/2023, which is the result of collaboration between the MPPA and the Federal Public Prosecution Office. This note reflects part of the challenges faced by traditional communities and serves as an important source of information and guidance for public prosecutors. It is essential that this technical note be widely disseminated among members of the Public Prosecution Office at both state and national levels. Furthermore, different opinions and solutions to the challenges faced should be incorporated into the technical note.

However, regulations on this topic are usually implemented at the federal level and often do not fully consider local aspects. As a result, regional actions may not be entirely effective. It is important to forward the opinions on local aspects to the National Council of the Public Prosecution Office (CNMP) to transform them into standards and/or directives with national impact. This approach enables a collaborative effort with the National Council of Justice, CONAREDD, and other specific forums.

Actual experiences and cases should be shared in detail with specific discussion forums addressing the regulation of the carbon market in Brazil, as well as

with international climate discussion forums. A financial framework with such enormous potential to bring benefits to communities must have a benefit-sharing structure grounded in clear rules and appropriate safeguards to prevent the emergence of new conflicts.

This is because current agreements have been violating the fundamental rights of traditional populations, including the rights to land, territory, identity, and legal standing. Many of these agreements contain confidentiality clauses that makes these documents inaccessible, effectively holding these populations hostage and stilling fear of the consequences of noncompliance. As a result, they rarely seek support from the Public Prosecution Office. However, these confidentiality clauses often have different defects. One such defect relates to the origin, as the subject matter generally involves public forests.

There is a residual/secondary agenda in dealing with null and/or invalid agreements. Although there are no specific governing the carbon market, existing laws on the violation of rights can be applied to render agreements that contravene public order null or invalid.

Contractual guidance is a possible path forward. Creating networks to exchange information helps institutions defending the socioenvironmental rights of forest peoples to operate in synergy, or independently, to clarify legal matters. Both the Public Prosecution Office and Civil Society Organizations (CSOs) can help communities define, during the project design phase and before agreements are signed, which areas are eligible for the generation of carbon credits. This approach allows for the protection of sacred places, which are those used for rituals or for crops, and helps avoid agreements that cover 100% of the communities' territory. These actions are crucial to ensure that communities can continue using their territories as they have always done, without compromising their traditional practices in exchange for financial support.

Communities should also be advised to always seek support, whether from the Public Prosecution Office or the Public Defender's Office, even if there are confidentiality clauses. These clauses are unlawful and clearly violate fundamental rights.

However, strategic actions can also be considered in collaboration with Brazilian developers. Several businesses identified as Brazilian developers of carbon projects currently operate in Brazil. The Public Prosecution Office can work directly with these developers, demanding commitments related to transparency, respect for human rights, and the protection of forests.

Another possible strategy is to require that agreements include provisions for external and independent auditors for carbon projects. Ideally, these auditors should be neutral Brazilian citizens, ensuring that the documents required by the certifying body and the Brazilian legal framework are thoroughly verified.

Once again, the expansion of support networks should be encouraged. Many agreements involve extensive technical language that may exceed the basic training of prosecutors and appellate prosecutors. To further expand this network, it is possible to assistance from CSOs and partners for a technical review of carbon market agreements.

## **Transparency, communication, and training**

In addition to regulatory and procedural actions, there is a clear need for conceptual accessibility on these topics. The increasing complexity of subjects like

REDD+ and the carbon market is becoming more evident, making it challenging for the general population to grasp these concepts. Therefore, participants in the dialogues recognize the importance of translating these concepts into accessible language, enabling the broader population to understand the proposals being made.

The topic should be accessible not only to the general population but also to professionals who advocate for socioenvironmental rights. It is important to make every efforts to transform complex narratives into something more easily understandable. There are multiple ways to communicate content, and investing in knowledge accessibility is critical to avoid future conflicts, even when the subject matter is complex.

In this context, training and exchange networks are extremely important for members of the Public Prosecution Office to effectively engage with the topic, whether by guiding communities or filing public interest civil lawsuits. Disseminating knowledge on topics such as valuation and pricing of carbon credits is crucial for fostering a proper understanding of the value of the assets under discussion.

Furthermore, although the ongoing development of private projects, there is still no online platform or registry that can help us grasp the full scope of the challenges. This lack of transparency in data and information hinders a comprehensive analysis of the scale and impact of these agreements on the daily lives of different social groups.

Currently, there is no platform available to consult and monitor carbon project initiatives, which has different repercussions on the daily lives of traditional communities, including socioenvironmental impacts and frequent violations of Brazilian legislation.

A carbon project registry platform could be an invaluable tool for prosecutors from all Public Prosecution Offices to work collaboratively. An online platform would allow a prosecutor in remote cities like Jacareacanga or Juruti to enter data such as recommendations and local findings on private projects, contributing to the development of a comprehensive database. Ideally, this platform could connect the entire country. However, even if it were limited to the State Pará, it would still produce significant positive regional results.

Finally, in terms of communication, it would be beneficial to draft a pedagogical instrument/report on the climate issue and related subjects. This idea, which has been addressed in the MPPA technical note, could be reviewed in more detail. Developing such a resource would enable the creation of training material in accessible language tailored for all audiences, including the Public Prosecution Office, addressing the real challenges present in the carbon market.

## Consultation and feedback mechanisms

One of the topics that provoked lengthy discussion was the consultation and feedback mechanisms, given their importance in guaranteeing free participation and their relevance as a cross-cutting issue. International Labor Organization Convention No. 169 concerning Tribal and Indigenous Peoples, also known as ILO 169, brought about a major advance in respecting the decisions of different social groups. However, the existing tools and feedback and intervention mechanisms still require improvement.

Currently, some businesses use false community consultation protocols to validate community approval and enter into carbon agreements. They take advantage of the fact that there is no single model to consult communities. However, this does not mean that the consultation can be held carelessly. Businesses must respect consultation protocols and ensure that communities receive clear information in advance, which goes beyond simply recording meeting minutes.

In this context, it is critical to develop oversight frameworks and establish clear administrative steps. Innovation is necessary, and new models for prior consultation need to be tested in more flexible formats. Even the traditional public hearing models could even be revamped. Such changes have the potential to expand the distribution of information, resulting in effective hearings throughout the territory.

In addition, there is a need for investment in the dissemination of information on socioenvironmental safeguards related to the carbon market and their implementation in private projects. This would enable the development of new protocols and ensure special attention is given to the biodiversity and social groups that depend on the forest for their livelihood and need protection. To achieve this, it is essential for prosecutors to be fully aware of the collective dimension underlying carbon issues.

## **New voices for a new future**

New solutions to complex socioenvironmental issues require cooperation and networking. Exchanging information and ideas will foster innovation and help address significant conflicts.

Representatives of the Public Prosecution Office of the State Pará offer reflections on the challenges faced in the territories in which they operate, as well as strategies for resolving emerging problems. This includes enhancing institutional capacities and developing an institutional strategy to address regional environmental issues.

Investment in cooperation between institutions and in structuring the network with the assistance of the Judicial Branch, along with holding meetings with judges, members of the State Public Prosecution Office, and the Federal Public Prosecution Office to address strategic issues (raised by the National Council of Justice and the National Council of Public Prosecution Offices), also appears to be a viable solution. In this regard, the creation of working groups to address issues based on their particular aspects, to further streamline information, seems promising path to pursue.

In order to make this happen, investments in digital tools with the aim of socializing knowledge are essential. In this sense, partnerships with civil society organizations are important, as they facilitate the dissemination of information, tools, and data. Furthermore, these partnerships can help translate information into simple, accessible concepts. By multiplying these partnerships, we can foster creative solutions for a fair, inclusive approach to climate change.

The content of the articles is the sole responsibility of the authors and does not necessarily reflect the opinion of the Brazilian Biodiversity Fund. FUNBIO is the organizer of the initiative, providing a platform for diverse representatives of the justice system to share their perspective.