

Local Judicial Practices in a Quilombola Territory in Marajó, Pará, Brazil

Luis Fernando Cardoso e Cardoso¹, Joaquim Shiraishi Neto²

¹ Graduate Program in Political Science, Institute of Philosophy and Human Sciences (IFCH), Federal University of Pará, Belém, Pará, Brazil

² Graduate Program in Social Science, Federal University of Maranhão, São Luís, Maranhão, Brazil

Correspondence: Luis Fernando Cardoso e Cardoso, Graduate Program in Political Science, Institute of Philosophy and Human Sciences (IFCH), Federal University of Pará, Belém, Pará, Brazil.

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Abstract

This article analyzes the socio-judicial organization of a Quilombola community in the state of Pará, Brazil. Using a pluralistic judicial systems approach, we seek to understand how Quilombolas define who has local land rights and to what capacity they can use the territory. The analysis was based on ethnographic field research in the community of Bairro Alto, on Marajó island, in Pará state, Brazil. Methods included: participant observation, interviews and questionnaires. The results showed that order in the territory is maintained through local judicial practices constructed during land occupation processes, and later reorganized on the basis of social relationships involving large-scale farmers, ranchers, neighboring Quilombola communities, and the State. Judicial tenets, intrinsic to the community, guide residents' current land struggles where they are fighting to restore lands expropriated by ranchers that pertain to their original territory. Local legal practices converge with principles of article 68 of the Federal Constitution, making possible the correction of historical injustices related to land struggles in Quilombola communities.

Keywords: local law, Quilombola community, socio-judicial organization.

While the ground can be the productive element and the result of appropriation, the Earth is the great unengendered stasis, the element superior to production that conditions the common appropriation and utilization of the ground. It is the surface on which the whole process of production is inscribed, on which the forces and means of labor are recorded, and the agents and the products distributed (Deleuze & Guattari, 1983, p. 140-141).

1. Introduction

Brazil was the last country in the Americas to abolish slavery (Andrews, 2007; Hernández, 2012), and after emancipation in 1888, no compensation was made to the previously enslaved. On the contrary, freed blacks were left to their own destinies, and in the process of reestablishing their lives, many settled on hillsides near cities; others moved to distant valleys, away from farms and plantations free from interferences. Here, they occupied forests and riversides, where food supplies were in abundance, and formed black peasant societies on unoccupied lands (Almeida, 2008).

In the Amazon region, the recently emancipated established villages and communities which today are referred to as Quilombos, bearing parallels to other African descent groups in Latin America, such as Colombia, Peru, Ecuador and Bolivia, in spaces commonly perceived as inappropriate for white civilized people. Each culture, created in relation to other groups, defined its own way of being and local judicial practices that guided and organized social, interpersonal and political relationships; they also steered natural resource management practices in the environments used by these peoples.

In Pará state, where there are over 269 Quilombo communities recognized by the Palmares Cultural Foundation, regional cities have expanded rapidly since the 1970s. Ranchers and agribusiness also expanded throughout the 21st century. Today, many of these establishments encroach upon Quilombo territories in Salvaterra, Pará. In the context of contentious land conflicts, Quilombo communities are perceived as an impediment to development in Brazil, needing once again to be uprooted.

In contrast to the condition of slavery, where individuals did not have social and political rights, Quilombo communities today enjoy constitutional rights to their territories, as instituted by the Brazilian Constitution of 1988. However, to

secure their areas they need to be legally recognized as a Quilombola community. Legal recognition is the only means by which they can secure their rights and thereby curb assaults on their lands (French, 2009).

The emergence of Quilombo legal rights vis-a-vis the State has also brought contestations, where individuals and organizations contest the validity of article 68 of the Brazilian Constitution. Actions brought against Quilombo groups all have a similar aim—to invalidate Quilombola rights to their territories, and thus in turn, open up these areas to market forces, pushing Quilombolas out of their territories through land purchase, expulsion, intimidation, or even murder. The Direct Constitutionality Act [ADI], no. 3.239, of the Federal Supreme court brought forth by the Democratic Party [DEM] against degree n.4.887/2003 is the most concrete example of a process brought against communities that seeks to invalidate Quilombo rights.

The coerced removal of Quilombola groups is not simple; after all, their lands are not commodities to be bought and sold. Their territories are an inherent part of the group's sociality from which they shape their identity. Against the backdrop of the complexities of Quilombo territories and present struggles to maintain them, the current paper presents an ethnographic analysis on the social order and organization of a specific Quilombo group.

Research was conducted in the community of Bairro Alto, located 15 kilometers from the municipal center of Salvaterra, on Marajó Island in the state of Pará Brazil. The community has population of approximately 340 inhabitants, divided into 84 family groups (*unidades familiares*).¹ Fieldwork was conducted over the course of one year and methods included: participant observation, open interviews and questionnaires.

We specifically studied local judicial practices² in Bairro Alto to understand how ties—or a sense of belonging to the territory—are created and maintained. Such bonds were developed in parallel with the community, generating usufruct guidelines that symbolically define the traditionally occupied territory. The organization of the territory is based on the local judicial practices, which arose during land occupation in concert with relationships with outsiders, such as ranchers, neighboring Quilombo communities, and the State.

We also sought to understand local perceptions of inheritance; this analysis reveals that land rights are locally defined through consanguinity. As a counterpoint, we examined situations where individuals, who at times are considered as being part of the group with equal territorial rights, are excluded because they lack a consanguine relation.

Today, the community is committed to recovering part of its original territory lost in land disputes with ranchers. These claims are validated locally based on the community's judicial order, which was violated by expropriators. The group's actions, in which they press the State for recognition of their territory, are necessary to reestablish their local social order and practices. Land conflicts and Quilombola legal action in Bairro Alto can be compared to confrontations between the Enseada da Mata community in the Penalva community in Maranhão and large landholders, which led to expropriations, all occurring after the introduction of cattle into the region in 1960s (Muniz, 2009). The need for economic interventions in these regions has for the most part acted as a pretext to deny rights to these communities. In both cases, the Brazilian State must provide legal land tenure Quilombola territories to correct such situations of historical inequity.

2. Arriving, Founding and Living in the Community of Bairro Alto

In 1896, Joaquim Marinho dos Santos, a black man, descended from slaves from the countryside of Soure, Marajó island, made a long journey to city hall to request rights to the lands where he and his family had lived for generations. Thus, he embarked on an endeavor that would guarantee documentation of the lands to be passed down to his heirs for generations to come. His request was made eight years after the Aurea Law, which abolished slavery in Brazil (Leite, 2010) and provided ex-slaves their freedom came into effect.

At this time, the newly liberated, like other Brazilians and foreign immigrants, could only acquire land by means of purchase, based on the first article of the 1850 Land Law (*Lei de Terras* de 1850), which prohibits acquiring *terras devolutas*³ (free lands) by any other means other than purchase. In this way, the law prohibited random subjects from taking ownership of the Empire's unoccupied lands—something that was possible before the law was enacted (Silva, 1996).⁴ Nevertheless, we believe that Sr. Joaquim was able to legitimately register his land based on fifth article the law,⁵ which states that land possessions of first occupants who are cultivating their lands will be made legitimate, so long as they does not exceed (the size) of land grants permitted in the same or neighboring municipalities.

Silva (1996, p. 124-125), highlighting the processes involved the promulgation of the 1850 Land Law and its implications for Brazil, explains that to ease the transition from slavery to free labor, the imperial government relied on foreign immigration. However, immigration processes were expensive and needed to be paid for; thus, the solution was to sell the Crown's unoccupied lands, giving way to the 1850 policy that stated that land could only be obtained through sale.

The area that pertains to the community of Bairro Alto today was ceded to Sr. Joaquim and because it did not have a

previous owner, it was considered “nobody’s land”, a characteristic emphasized 110 years by Sr. Vicente,⁶ seventy-eight years old, “This land did not belong to anybody. It all belonged to the Union.” To Sr. Vicente, unclaimed land belongs to the State, and thus those who need land for subsistence can freely claim and occupy these spaces. The concession letter given to Sr. Joaquim indicates that he was the first occupant of the area.

Being defined as the first occupant is an important question when it comes to defining property in Brazil—both at the time the community is founded and for future generations. Analyzing how property is constructed from Kant’s perspective, Durkheim (2002, p. 181-182) discusses the importance of being the first occupant, “Once my will has been declared, no other can declare the opposite; but, conversely, if no other will has been declared, my [land] possession is freely affirmed. And as it is by occupation that the will of appropriation is affirmed, the condition of legitimacy of my appropriation is to be the first occupant.”⁷

In a vast geographic space,⁸ of lands without people (outsiders’ perceptions of Amazonia since colonial times), the State is (and was) considered the legal owner⁹ of a majority of lands in the region. At the end of the nineteenth century, the first person to claim an area was deemed its legal owner, so long as they paid the necessary fees and taxes to the government. In the case of Sr. Joaquim, the areas claimed he claimed had not been requested by the heirs of the twenty-two people named in the 1760¹⁰ donation of Marajó island by D. José I. In fact, the area chosen for the community was far from the municipal center, which at the time could be reached only after a long journey either through the forest or after a 5-hour canoe trip, rowing over small streams, and fluvial short-cuts called *furos* that lead from one river to another.

Sr. Joaquim went to the city of Soure looking to become the owner of the area where he would settle his family. Though documentation he sought to guarantee these areas to his descendants, because as Halbwachs (1980, p. 152) writes, “Similarly, in the case of a land registry or other legal certificate recalling the existence of some property right, society not only establishes a relationship between the image of a place and a document but considers that place as already linked to that person who has posted or fenced it, resided there continually, or cultivated it for his own benefit.” Similarly, Sr. Joaquim has previously delimited his area—his place of work and residence—but also needed a legal guarantee of his property.

According to Sr. Antero, a local resident of sixty-two years, Quilombola occupation in the region near Bairro Alto is so old that it can only be measured by consulting the group’s ancestors, who are unfortunately deceased. He points out, for example, that his grandmother died at 105 years of age in 1960. And her great-grandmother, who died at a similar age, had also resided in the area. Sr Antero also explains that in the time of his ancestors, family units posted signs with their names on them to designate their areas. The collective memory of each area still exists, and maintains family-based territories, since as Halbwachs (1980, p. 140) explains, “Any principle invoked as a basis for property rights gains value only if the collective memory steps into guarantee its application.”

The community of Bairro Alto was created by the act of a single man, Sr. Joaquim, with the intent of founding the community. As a result, he also instituted a social order, based on rules constituted in the dynamics of group’s social relations, both among the group and with others. These rules, we emphasize here, were not restricted to the Sr. Joaquim descendants, but instead mirror and reflect local judicial practices that involve various social groups and Quilombo communities on Marajó. As Acevedo Marin (2005) reminds us, several communities that descend from slaves came into being during in the 19th century. These groups share a sense of a common ancestry and maintain kinship relationships. The Quilombo community of Mangueira, in the municipality of Salvaterra, is considered the starting point from which dispersion occurred.

In this way, local laws took on their own formations, however, a larger set of relationships was formed under the same historic and social conditions. One well-documented example of this type of process are the *Babaçu-Nut* collectors of the Enseada da Mata Quilombo in Maranhão state. These communities, with the exception of the indigenous Gamela, were formed in the wake of the disintegration of the monoculture export system at the end of the nineteenth to the beginning of the twentieth century (Andrade, 1999; Sá 2007). Local judicial practices here in the *Baixada Ocidental Maranhense*, are based on a complex common use system; communities experimented with their own way of using land and natural resources, guaranteeing their collective existence, which today is threatened by the modernization processes occurring in the Western lowlands of Maranhão state.

Local rules not only guarantee the occupation geographical spaces and define relationships between inhabitants, but above all, allow for the development of a “legal space” that symbolizes a world of possible legal relationships among the local resident population. Halbwachs (1980, p. 141) is clear when he states: “Any principle invoked as a basis for property rights gains value only if the collective memory steps into guarantee its application.”

One of the rules constituted in the Bairro Alto, and still important today, is the way that land is passed down strictly to heirs. This rule guarantees that descendants will remain in control of the territory, eliminating the possibility that

outsiders, or those not concretely linked to the group through a consanguine relationship, will install themselves in the community. Anjos and Silva (2004, p. 70) explain: “Consanguinity acts as a territorial marker that simultaneously places individuals into family lines [genealogy] and situates their dwelling place(s) in space, bringing up questions, such as: what are rights? What spaces can be occupied and to what extent should solidarity be taken advantage of in processes of resource appropriation.”

Moreover, as Halbwachs argues (1980, p. 151), “An individual or several individuals acquire property rights only when their society grants the existence of a permanent relationship between them and an object, one as immediate as the object itself.”

However, consanguine relationships and genealogical maps alone do not guarantee on the condition of being an heir. It is also necessary that other social practices, construed within the universe of local relationships, be observed. In addition to this genealogical aspect is what (Bourdieu, 1999, p. 60-61) refers to as a *habitus* or the entrenched skills and dispositions that individuals possess as a result of their lived experiences, which allow them to navigate their specific socio-cultural environment. Within the community a set of social practices forms a *habitus*, which provides a logic to the order of things and “obeys a logic of practice, a fluid logic, that more or less defines the everyday relationship with the world (Bourdieu, 1999, p. 73).”

It is possible to affirm that a juridical ordering exists with norms and ways of defining who belongs to each social unit, starting from genealogy, which has implications for determining inheritance rights based on establishing a connection with the groups’ founder, Sr. Joaquim. However, in certain circumstances, these aspects can be made more flexible or more rigid in accordance with the situation. Inheritance, in this context, acts as a principal, which provides order or solutions for disputes centering on land access and appropriation.

Rules determine who belongs to the group and influence the social organization of the territory. And they have power in social life because local subjects take them seriously. All social groups have their own codes, which order the social sphere; societies devoid of social norms are rare. Instituting social rules, consequently, implies eliminating disorder, chaos and uncertainties, all of which could come to dominate the social life of this place.

The creation of social rules is an affirmation of culture in social life. Lévi-Strauss (2005, p. 32) in his analysis regarding incest, highlights:

The fact of being a rule, completely independent of its modalities, is indeed the very essence of the incest prohibition. If nature leaves marriage to chance and the arbitrary, it is impossible for culture not to introduce some sort of order where there is none. The prime role of culture is to ensure the group's existence as a group, and consequently, in this domain as in all others, to replace chance by organization.

This guarantee occurs though the construction of rules, or rather, by the creation of culture. However, rules are not chains resulting in blind obedience. Their practical nature allows for a degree of flexibility in their application. Yet, by no means does this practicality negate the existence of rules as fundamental in defining social relationships.

A set of authors (Geertz, 2008; Malinowski, 2004; Moore, 2001; Nader, 1997; Santos & Trindade, 2003), among other legal scholars (Dantas, 1999; Shiraishi Neto, 2013; Souza Filho, 1999), describe juridical and social order in various societies, arguing that these structures are culturally constructed. We share this understanding and take this approach in our analysis of judicial practices within the territory of Bairro Alto community. Local practices in our study area reflect cultural aspects, which are carried out with the broader objective of maintaining control of the territory and guaranteeing the ongoing constitution of the local society.

3. Ordering, Defining and Sharing the Territory

When Sr. Joaquim installed his family in the area of the study site, other families lived close-by and they shared social rules regarding rights to and appropriation of the territory. Territorial and symbolic boundaries were marked by physical boundaries, landmarks and memories that identify the limits of each family’s property (recognized by the group as a whole). In addition to these limits, families shared (and today still share) certain spaces, such as rivers for fishing and forests for hunting, collecting forest products, and establishing manioc fields.

Those who arrived, but whose origin is not known by descendants of the Sr. Joaquim, settled in strategic places that allowed them to use natural resources to further their social reproduction. The division of these nearby lands generated an identity based on territory and family. It also created a set of principles, which were based on interrelationships between social groups that forged a mutual respect for how each arranged and ordered their lands. In this way, something that we can call “a local legal ordering” was created. These men and women spent the greater part of their lives building their homes in areas that they defined as their own, determining who could use the space, not just in a physical sense, but also symbolically. In addition, they established reciprocity networks based on marriages between various families and a solidarity that made up the local organizational framework.

Thus, we argue that decisions of local judicial nature insert themselves within the realm of practices based on the social organization of the group, in the web of relationships that configure the same *habitus*. There is no separation between social life and the local judicial order in terms of in practice, as it is important to maintain the cohesion between groups. Consequently, a separate body, or set of social norms, determining which actions and attitudes are acceptable, does not exist; they are one and the same.

The imbrication of social life and legal ordering is also described by Porro et al. (2014) in their case study *Babaçu* Nut collectors in Maranhão State. In this region, the authors show how the limits of rules are sometimes made flexible and negotiated and pondered over, which guarantees that social order is always maintained. Flexibility permits the renewal of some aspects and the maintenance and re-affirmation of others—often without the subjects' plain consciousness. Local laws and codes cannot be separated from social relationships present and maintained by the group, nor from subjects external to the group. In this case, rights and norms are viscerally linked to the contexts within which they are applied—different from the modern law tradition, which created abstract categories (such as contracts, property, and the subject of rights) to give order to the relationships of exchange that constitute them.

In Bairro Alto, local law and order have a strong connection to the groups' ancestors, after all they do not live in geographic void, but are related to a physical and mythic space that constitutes and activates the groups' memory. People discuss their ancestors as if they are still concretely present in the spaces of everyday life, such as where families build their homes and establish their manioc fields, orchards etc. When residents mention an ancestor, they also cite where he/she lived, or point to physical signs of their existence—both set in the territory and in peoples' memories. Arruti (2006, p. 241) describes a parallel occurring in the universe of the Quilombo residents of Mocambo in Sergipe state:

[...] For the people of Mocambo, territory does not only serve as a guide to its narratives but is also a frame for them: what they register about the territory is memorable, what is not included is not. It is not possible to recover, beyond anything generic, where their ancestors came from or how they arrived here, because this implies going back to a time unsupported by memory, a nebulous period from which histories do not arrive and silence reigns. Therefore, we argue that memory in Macambo, is not a historical memory but a territorial memory.

In this space, the act of remembering ancestors bring them to life in the present moment. This occurs when their image is signaled, making it possible to concretely perceive them in referenced points, such as “I am going to get some fruit from our land grandfather's tree”; “over there is late Joaquim's hut”; “this mango tree is Inácia's.” Thus, ancestors are present within the Quilombo. When people talk about an ancestor, reference is always made to the geography within the territory and of the group's genealogy.

In this way, the lands pertain to social units in Bairro Alto are linked temporally. Lands do not have a single definitive owner or a group of owners. They always pertain to future generations, inherited from previous generations belonging to one's children or their descendants' children; in this way, they pertain to a place that will exist in the distant future. The present occupant is preserving the space for future generations, and with this comes a concern and care for land and its natural resources. As Halbwachs reminds us (1980, p. 142), “When a person dies leaving a natural heir, it is said that “death lays hold of life”—that is, everything continues as if there had been no interruption in the exercise of rights but a continuity between the persons of the heir and the deceased owner.”

In this same way, Godbout and Caillé (1999) see inheritance as a form of the gift economy. The authors emphasize that heirs can be called “witnesses”, since the inheriting generation “acts as a witness-generation between the previous generation and the following” (Godbout & Caillé, 1999, p. 58).

These are the common ways of conceding and denying rights to the territory—and these rules are feed by social relations that have existed since the community was founded. Lacking ancestors (formally or socially) linked to the origin of the community invalidates one's condition as an heir (with full land rights). Children born from extra-marital relationships occupy this condition since they cannot be placed into the group's genealogy. Therefore, not all can be defined as heirs of the territory—since some cannot establish a link with the founder of the locality.

Many who have lived for years in the community are not perceived as belonging to the group, as heirs; in this condition, they have a restricted use of the territory. Per the local inheritance system, both men and women can inherit lands. The spouse of an heir also acquires the right to use the territory; thus, the potential to acquire land is a factor present in the marriage strategies of both men and women without rights to land through inheritance. The possibility of acquiring land is thereby a factor at play in choosing a partner with whom to build a family.

Men with land generally opt to live with their own family independent of whether or not his partner also has her own land. This preference is explained by the fact that the onus of building the new home and acquiring all needed at the

beginning of the marriage, falls to men; furthermore, we observed that they prefer to take on this burden—it is their desire. From the husband's perspective it is better to construct a new home and family in his own space. Here, he has the added security that he will not have to abandon everything he built if the relationship comes to an end. Women, on the other hand, more easily leave their childhood areas because they only assume the burden of acquiring land (in the case their partner is lacking), but the rest is left up to her partner.

Today, however, there is a distance between men's ideal and the current situation in the territory. There are not enough lands available for new family groups due to the loss of part of the territory to neighboring ranchers and local demographic growth.

In the past, the ideal was achieved: men were the only family providers, since they had at their disposal all elements necessary for their subsistence. However, even today with increasing land scarcity, men have not changed how they view marriage and carry with them the ideal of bringing their partners back to their lands. Yet, when necessary, they will consider the possibility of living on their spouses' families' land. By contrast, in the case of the previously mentioned *Babaçu* Nut Collectors, women are predominately head of households; furthermore, many became leaders of the Interstate Movement of *Babaçu* Collectors (*Movimento Interestadual das Quebradeiras de Coco-Babaçu* [MIQCB]).

Today, residents still follow this model, however, no longer as an imperative for marriage; couples still look for a place to build a home, according to the availability of land to secure livelihoods in a way that is compatible with social reproduction. When a woman marries and goes to live on her husband's lands, she may understand that she is immediately an integral member of her husband's group with the same rights as others who belong to the community. However, her effective incorporation as a subject with rights to her spouse's lands comes after the birth of her children, and even then, there are some limitations. Yet, a child of an heir is clearly an heir; nobody will negate this condition. And separating a woman from her progeny is unthinkable. Thus, through her children, a woman who previously had no inheritance rights, conquers her right to the territory.

Women's land rights, in the condition described above, are not contested when her husband dies. All the couple's children, formally registered on birth certificates, are rightful heirs—even non-biological children. The rights of the non-registered are, on the other hand, contested. If her husband dies, the widower will act as a guardian of her deceased spouse's lands until her children can fully assume the property. These juridical practices, established and practiced locally, contradict those of the 2002 Brazilian Civil Code, which determines equal treatment for all children independent of their origin.

When a woman marries and her husband goes to live on her family's lands, he recognizes that his rights are limited—because he does not have a blood relationship with the group (even if commonly people assume, he has rights to his wife's land). He knows that the marriage alliance is not enough to make him an integral part her family unit. He understands, for example, that if the marriage ends, it is most appropriate for him to look for another parcel of land to re-build his life.

Thus, we observe what Deere (2000) discusses regarding women's rights in relation to land in Latin America. According to the author, land ownership gives a woman a decision-making power she would not have if she was not a landowner, "Land is important to create the basis of true equality between men and women. [...] land and property in general are important for women's empowerment processes, both to improve their self-esteem and their ability to participate in household decisions, decisions regarding production, and the community, etc."

That women can obtain land through marriage encourages relationship with heirs, which consequently ensures the reproduction of the family group in the husband's territory. For instance, if a woman's family is landless, in certain situations and depending on the possibilities of land access, the entire family will move with the bride to her new husband's area and thus become integrated into his family's territory.

This type of movement commonly occurs in *Bairro Alto*. Those who marry into a family are not seen as having inheritance rights to their in-law's assets, even though some claim they have rights to their spouse's land. However, this right is never claimed for the individual—only for the children born out of the relationship. Children born directly from the union are always seen as legatees; children from other marriages (but raised by the couple) do not have the same entitlements.

When a man or woman marries into a new family group, he or she gains the rights to the family's land; however, he/she is not seen as connected to the land. If the true successor dies, the husband or wife does not become the landowner, but rather becomes more of a guardian who will look after the area for future generations.

In reality, parents preserve land for the true legatees—their children—who will be future landowners. In this way, we observe that a mother's or father's assets must be passed down to their children, and thus they wait for the moment when the pass on the assets they inherited from their ancestors and what they also accumulated in their lifetimes.

Residents do not consider selling their land. It is not a commodity, but rather, Quilombolas from Bairro Alto seek to preserve their territories for the future generations.

The situation in Bairro Alto approximates that of Mozambique as observed by Negrão (2003, p. 241) in his study on land rights: “Customary inheritance rights are characterized by the absence of inheritance rights for widows and by the total division of the inheritance between the descendants of the first generation. This is because the spouse has no inheritance rights. The marriage does not provide access to the husband’s property, as these are transferred from the father solely to his descendants.”

Negrão (2003, p. 241) continues: “A total division of the inheritance means that assets and property rights are divided and attributed to the descendants of the first generation, without leftovers or reserve funds for the grandchildren. It is, therefore, a two-generation system, or a system of nuclear stabilities.”

However, for those who do not have land, marriage is a way to acquire them through the union with heirs. While this is a more concrete possibility for women, we cannot deny that it also exists for men—given that unions are not solely based on romance. Marriage encompasses elements that surpass the sentimentality that evolves the couple’s relationship. The work of Lévi-Strauss (2003, 2005) initially showed, the universe of exchange that is based on marriage. Following this, the anthropological literature is rich with analyses of marriage that go beyond a romantic view of affection, even though romanticism today is considered ideal by most all youth and adults in the community.

When a woman is an heir and brings her husband to live in her family’s territory, she has a specific power that results from being in the land of her ancestors. In the scope of power and relationships, this condition assumes a symbolic meaning that upholds the woman, providing her with security, not only based on the property, but also in the family structure—namely the fact that she is surrounded by her relatives and thus in a safe social environment.

On the other hand, when a woman moves to her husband's territory, she often feels uncomfortable being away from her land and her relatives, even if she is often just a few minutes away from her previous home. During research, a young married woman, who lived with her husband and his family (close to her own family of origin), often complained about her situation. She explained that she did not feel comfortable where she lived. She routinely told us she planned to move, even if her husband did not accept it, and that he would inevitably have to choose—either he would follow her or leave her for good.

A teacher whose husband owned land with another social unit also complained about her situation. In general, the teacher is considered an heir, with rights to the lands where she lives with her family—rights obtained because her mother was married to somebody who inherited the land. However, when her mother married, she already had five children (including the teacher). So, today while she is said to be an heir, and many recognize her as such, this is not evident in the field of social relations, in everyday life. She appears to occupy a position as an intermediate heir, which allows her to remain in the territory, but which does not allow her to make full use of the land as would be the case of an heir in the direct line of descent and also places her future in an uncertain position.

Thus, social forces define access to the territory, and being an heir is an essential within this system. Those who are not heirs suffer the consequences of the power relations between "legitimate" and "illegitimate" heirs and non-heirs. In the case of the teacher described above, although she describes herself as an heir, from the perspective of those who seek to invalidate her full rights to the territory, she is not does not occupy this position.

Power relations are established and marked by descent, as Foucault (1982, p. 787) stresses, “The exercise of power is not simply relationship between partners, individual or collective; it is in a way in which certain actions modify others. [...] Power exists only when it is put into action even if, of course, it is integrated into a disparate field of possibilities brought to bear upon permanent structures.”

Therefore, inheritance differentiates people from their position in the genealogy of the group. Being an heir is a condition that confers full belonging and the possibility of exercising power as a way of guaranteeing this condition; as described, this requirement is not fulfilled by the teacher since she is the daughter of a non-heir (the case of her biological father). Her right is partially recognized by the community, and her use of the territory is limited.

4. Final Considerations

Here, we consider the “local constitution” as the set of judicial practices maintained by the community of Bairro Alto. By using the term “constitution” we give full value to the intrinsic notions of local rights, which were constructed to order and organize the territory and the group’s social relationships. The anthropological literature on Quilombo communities, stemming from technical reports or more scholarly work, provide insights into the complexity of local judicial practices that guide the organization of Quilombo groups in Brazil. In this study, we adopted a broader perspective on the experience of these groups that were constituted in diverse social, economic and environmental contexts.

Today Quilombo communities—recognized by the State through a specific set of legislation—seek to regain territories lost in confrontation with various exploitative agents. These movement gain more and more strength in the struggle for social and territorial rights and are based on issues of justice (or injustice) linked to the exploitation of these groups' ancestors as slaves, the expropriation of their territories, and the continued situation of invisibility that they face today.

This feeling of (in)justice present in Quilombo communities is related to what Geertz (2008, p. 168) called “local judicial sensibility”, or rather what justice means in specific societies. Justice specific to each society. In the case of the Quilombos, the feeling of (in)justice is characterized by the breakdown of the local judicial order, which has suffered due to the influences of agents external to the group.

These sentiments propel the group into action, where today they are organized into social movements in dialogue with the State, to correct situations of historical injustice. Today, the State legal system, in addition to some international organizations seek to recognize the rights of ethnically distinct groups through specific laws. This dialogue provides fodder for actions toward such recognition. Perhaps the guarantee of ancestral territories for future generations is a feasible social project, one to be emphasized in the wake of new social struggles in Brazil today.

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Notes

Note 1. Unidades familiares are defined as a group of related individuals (either by blood relations or social inclusion) who live and work together and contribute to their own social, cultural, and physical production and reproduction.

Note 2. We define local judicial practices as the way in which a group or institution deliberates on the responsibilities and damages related to errors committed by its members (should this occur).

Note 3. Based on the 1850 Land Law, Silva (1996, p. 161) defines terras devolutas as those not used by the public (at national, state or municipal levels), as well as lands that are not (and never were) privately owned; those for which no legitimate land title exists.

Note 4. Law n. °601, date: September 18, 1850.

Note 5. In the case of citations in Portuguese, all translations were done by the authors into English.

Note 6. Current residents' names have been changed to respect their anonymity.

Note 7. Authors' free translation of the Portuguese into English.

Note 8. See Balé (2013) and Becker (1995) for discussions of the anthropogenic and urbanized Amazon respectively. Refer to Slater (2015) for debates on visions of the Amazon through the eyes of outsiders.

Note 9. In Marajó 74.2 percent of the lands are classified as terras devolutas and thus legally belong to the State. However, today, most of the lands are occupied by ranchers. Ranchers controlling larger tracts of land exercise great power over Quilombolas, declaring themselves as official owners of these areas. Yet, only 25.8 percent of the lands are registered as agricultural establishments (farms or ranches) according to Sustainable Territorial Development Plan of the Marajó Archipelago, formed by the Interministerial Executive Group [GEI] established through the July 26, 2006

decree.

Note 10. For many years, the Jesuits were wealthiest social group in Pará state. On their farms, they had 134,465 cows and 1,409 horses, in addition to other material riches. With their expulsion from the colony, their possessions were handed over to a local Portuguese Director, who squandered them away. On June 18, 1760, D. Jose I ordered, by royal letter, the distribution of these lands among governmental councils. Thus, twenty-two approximately equal parcels were established on Marajó island (Pará State, 1902) at this time.

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