

Quilombo Communities: Historical and Legal Aspects

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Abstract— Faced with the numerous social and political struggles that take place in the Brazilian scenario, the recognition and guarantee of the rights of quilombola communities emerges as one of these necessary guidelines for the country. The present work therefore discusses legal and political aspects of these struggles, based on the interdisciplinary work of postgraduate programs in the São Francisco Valley. In the development of the research, in the bibliographic review process, it is possible to find significant scientific production, in research carried out in communities of the Sertão do São Francisco Territory (TSSF), where the concepts and realities that subsidize us to understand the quilombo in the territorial context were worked. .

I. INTRODUCTION

The quilombola communities in Brazil live a constant struggle for basic rights and for the maintenance of their territories. According to bulletin n° 3 Omission of the Brazilian State and Conflicts by Territory of the National Coordination of Quilombola Articulation (CONAQ, 2021), “the absence of a speedy process of recognition of Quilombola property causes serious consequences”, resulting in thousands of victims all over the world. over the years between indigenous people and quilombolas in conflicts over land.

The marks of this absence of the State, the struggles for land and other social rights are characteristic of the rural black communities of the Território Sertão do São Francisco (TSSF). Above all, due to non-compliance with Brazilian laws and international frameworks for the protection of traditional peoples and communities, the State ends up producing and reproducing various forms of inequity.

CONAQ concludes its bulletin n°3, stating that what is happening is a process of trivializing the life of the black quilombola population, who have been murdered and that this genocide has lasted for more than 400 years by the ruling classes, urging the need for this reality change.

CONAQ is the result of the mobilization of social movements, especially the black movement and the mobilization of quilombola communities started in the 1990s. In 1995, in the presence of more than 400 communities, due to the “I National Meeting of Black Communities Quilombola Rural Communities”, during the Zumbi dos Palmares March, the Provisional National Commission of Black Quilombola Rural Communities was created.

But it was in 1996, in the process of evaluating the national meeting that took place in Bom Jesus da Lapa, that the National Coordination of Quilombola Articulation (CONAQ) was born. Today the entity is present in twenty-

four states, representing “a universe of more than three thousand five hundred communities in all regions of the country”. (CONAQ, 2021). The entity's objectives are:

[...] fight for the guarantee of collective use of the territory, for the implementation of sustainable development projects, for the implementation of public policies taking into account the organization of quilombo communities; for quality education that is consistent with the way of life in the quilombos; the protagonism and autonomy of quilombola women; for the permanence of the young person in the quilombo and above all for the common use of the Territory, natural resources and in harmony with the environment (CONAQ, 2021).

With all the implosive attacks that the Palmares Cultural Foundation (FCP) has been suffering since the beginning of the Bolsonaro government, it is mainly in the field of symbolic violence the violation of cultural, social and ethnic rights conquered by the Brazilian people, represented mostly by the social movements.

Serving the interests of a racist and sexist extreme right, the attacks range from the attempt to change the name of Fundação Cultural Palmares to Fundação Princesa Isabel (Carta Capital, 2022) to the threat of exclusion from the FCP collection, with the argument that most of the books contained “inappropriate” content, related to the “sexual revolution, sexualization of children and banditry”. But such an initiative was prevented by a popular civil action that resulted in an injunction issued by the federal judge, which established a fine of 500 reais for each item donated or damaged (Carta Capital, 2021). However, these losses are not limited to the FCP, nor have they started now, but in the course of the political coup against which resulted in the impeachment of President Dilma.

Before her departure, the president was pressured by the National Congress and its “traditional” extremist benches to demote the National Secretariat for Policies for the Promotion of Racial Equality (SEPPIR) and the National Secretariat for Policies for Women – both had ministry status and were diluted –, today there is an emptying of all policies promoting racial equality, women and human rights, such as the “pillow up” of the Brazil Quilombola Program or the dismantling of the National Institute for Colonization and Agrarian Reform (Incra).

Incra, the body responsible for the definitive titling of the lands of quilombola communities, came from the Brazil Quilombola program since 2003, gaining strength in Brazil, from the prism of 4 axes development - Access to Land, Infrastructure and Quality of Life, Productive Inclusion and

Development Place and Rights and Citizenship – which aimed to ensure, through inter-ministerial actions, greater effectiveness of policies in quilombola territories. However, currently, all policies at the national level are compromised and, in the face of this absence, it is the organized social movement that has acted decisively.

II. UNDERSTANDING THE HISTORICAL CONTEXT OF QUILOMBOLAS COMMUNITIES

In the case of quilombola communities, it has been CONAQ, at the national level, in addition to entities at the local and state level, which have sought to guarantee the rights of quilombola communities. In the Sertão do São Francisco Territory, it is the Quilombola Articulation group that has been active in the search and struggle of these communities, which was created in the midst of the Fotoethnographic Profile research, given the perception of the difficult reality of the black quilombola communities in the region, due to the researcher, Prof. Dr. Márcia Guena dos Santos.

Created in 2011, the group, which is currently a Quilombola Articulation Extension project, works mainly in surveying demands presented by quilombola communities in the region. In addition to articulating with partner institutions for their resolution and carrying out training actions aimed at the quilombola public.

The Quilombola Articulation project is linked to the Department of Human Sciences III of the University of the State of Bahia (UNEB) and has the collaboration of several partners, such as UNIVASF, Municipality of Juazeiro da Bahia, through the Municipal Secretariats, the Municipal Council for the Promotion of Racial Equality in Juazeiro da Bahia (COMPIR), the recently created Frente Negra do Velho Chico, which has a very important collective action in the region with the demands of the black population.

The Quilombola Articulation is a fundamental initiative that has a radius of territorial articulation and that has brought governmental and non-governmental institutions closer to the quilombola communities, seeking to minimize the effects of the inequalities faced by these populations and, mainly, has representations of the quilombola communities present in the Territory. , such as the communities of Juazeiro (Alagadiço, Rodeadouro, Barrinha da Conceição, the community of Curral Novo), the municipality of Curaçá, the quilombola community Jatobá, the first to be certified by the TSSF, and the Comunidade Sítio de Lagoinha in Casa Nova – BA, research space, territory of this work.

The impacts of institutional racism are stamped, without the need for sophisticated equipment, or for long contact with these communities to verify them. Problems in garbage collection, lack of treated water in the taps, basic sanitation, quilombola education, lack of infrastructure in accesses, land grabbing, lack of identification are problems shared by quilombola communities in the Sertão do São Francisco Territory.

These are examples found from my work in the quilombola communities of the territory. There are few traces of public policies. formal school? Only in neighboring communities. School transport, problematic garbage collection, cisterns, energy?

In most communities, water tanks without a water pump for taps and without adequate treatment for consumption. Recently, communities that were awarded the Bahia Productive Public Notice, from the Bahia State Government, are starting to have access to Rural Technical Assistance. In this context, the Quilombola Articulation Group has functioned as a space to enhance the quilombola communities, as well as ensure greater visibility of their problems, so that they can be resolved by Organs competent bodies and other partnerships.

III. THE STRUGGLES FOR THE LEGAL GUARANTEES OF THE QUILOMBOLAS COMMUNITIES

Based on the Quilombola Articulation group, the Quilombola Community of Lagoinha held the 1st Forum for the Promotion of Racial Equality in the municipality of Casa Nova, with the participation of the local municipality. As a result, the Law on the Council for the Promotion of Racial Equality was approved, but the government of Casa Nova never swore in the council, creating several obstacles.

To combat racism, by which the structures are formulated, it is urgent to resume the process of institutionalization of policies for the Promotion of Racial Equality and policies to guarantee the rights of traditional peoples and communities, as recommended by the Federal Constitution in its articles 68. and 216, and in the Convention on Indigenous and Tribal Peoples 169 of 1889 of the International Labor Organization (ILO) and ratified in Brazil through decree nº 143 of June 20, 2002.

CONAQ was created based on the realization that, in different parts of the world, these peoples are not able to “enjoy fundamental human rights to the same degree as the rest of the population of the States where they live and that their laws, values, customs and perspectives have suffered”. erosion frequently”, as well as the “particular contribution of indigenous and tribal peoples to cultural diversity, the

social and ecological harmony of humanity and international cooperation and understanding;” (Brazil, 2002, s/n).

In this way, reparation policies are essential for the subsistence of these territories. However, the history of Lagoinha and the rural black communities of the TSSF demonstrate a total historical abandonment. What happens to transform this scenario is the result of collective action and especially the agency of communities.

According to Júlio Rocha (2013, p. 264-265), it was for the purpose of regulating the convention and provisions of the 1988 Constitution, in a discussion about who would be the subjects of rights of Convention 169, that Brazil published Decree 6040 /2007, which instituted the National Policy for Sustainable Development of Traditional Peoples and Communities - PNPCT, and defined PCT and its territories, as

[...] culturally differentiated groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, using knowledge, innovations and practices generated and transmitted by tradition; II - Traditional Territories: the spaces necessary for the cultural, social and economic reproduction of traditional peoples and communities, whether used permanently or temporarily, observing, with regard to indigenous peoples and quilombolas, respectively, as provided for in arts. 231 of the Constitution and 68 of the Transitional Constitutional Provisions Act. (Decree 6040, of February 7, 2007, art. 3 I and II). (Brazil, 2007).

Despite the importance of these legal frameworks, these laws are constantly disrespected, seriously compromised in the country by the 2016 coup and deepened by the far-right guidelines underway in the country. What can harm the transformations through which the quilombola communities have been experiencing, according to the author José Maurício Arruti: “those borders, (...) change in consistency, that the political arrangement internal to the communities undergoes transformations in the sense of a greater formalization and that the relationship with memory and with “traditions” also undergoes profound transformations.” (ARRUTI, 2008, p. 27).

It is in article 68 of the transitional provisions of the Federal Constitution of 1988 (ADCT/CF) that the rights of Quilombola Communities are inaugurated. However, Arruti

(2008) warns of the context of incorporation of article 68 (ADCT/CF 1988),

[...] incorporated into the Magna Carta “at the end of the day”, in an “amputated” formulation, in an improvised way, without a clear original proposal. There was a clear agreement around the idea that “article 68” should have a sense of reparation for the damages brought by the slavery process and by an abolition that was not accompanied by any form of compensation, such as access to land, but the from then on, everything was under discussion (ARRUTI, 2008, p.08).

Indeed, within the correlation of forces in which article 68 was inserted, and in the face of the challenge that would be the regulation of the transitional provisions of the Constitution, several mobilizations took place in different sectors, social and scientific, as there was a need to define the urgency the existence of the numerous rural black communities that existed throughout the country.

In this sense, neither the quilombo as a target of repression, thus identified in the colonial period, nor the quilombo only as “remaining”, could handle the complexity, both with regard to the formation of these territories and the existence of these ethnic groups spread throughout the whole world. national territory, as these “do not refer to waste, are not isolated, do not always originate in rebellious movements, are not defined by the number of members, do not make an individual appropriation of the land” (ARRUTI, 2008, p. 02)).

It was in this emerging context that the concept of contemporary quilombo was forged. The contemporary quilombo that begins to be disputed conceptually, in the process of resemanticization carried out by entities of social movements, of the black movement, coordinated by the Brazilian Association of Anthropology (ABA) in the 1990s, a historical moment in which the understanding of quilombolas gains projection as “subjects who are in a permanent relationship with other cultures and are not stationary in time”.

Therefore, the concept of quilombo is “dynamic and contemporary and is not linked only to reminiscences” (ABA, 1994, s/p).

The result of a joint work carried out by the Working Group on Black Rural Communities of the ABA, it had the mission of contributing to the recognition of all this heterogeneity that comprises quilombola communities, an approach different from that presented in the context of the constituent in 1988, seeking to remove the quilombo from the field of mere historical remnants, in the recognition of the remnants, to understand them as ethnic groups: “an

organizational type that confers belonging through norms and means used to indicate affiliation or exclusion”. (ABA, 1994, s/p).

For ABA (1994), the quilombola identity is independent of the number of its members, being explained through their collective experiences throughout life. “It is, therefore, a common historical reference, built from shared experiences and values.” (ibidem) For Arruti (2008), the processes of resemanticization are not only in the field of understanding the term, “but of successive symbolic assemblages of the quilombo, capable of explaining the basis on which the constitutional article was conceived and that justifies its formulation. vague and uninformed.” (ARRUTI, 2008, p. 03).

To understand the contemporary quilombo, Arruti points out three paradigms in which this concept is implied. The first paradigm is the attribution of the term “remainings” introduced in art. 68 of the Transitional Provisions of the Federal Constitution (ADTCF/1988), in which it presents very complex scenarios for the realization of the rights of rural black groups.

For the author, even though the term “remnants” was introduced in the constitution in a context similar to the indigenist discussion, its value was inverted by a racist, limited reading that does not understand contemporary complexities. The author states that in the midst of complexity, the term “remaining”, after re-semanticization, attributed important changes to the “quilombo”, in relation to the one presented in the 1988 Constitution.

In it, what is at stake are no longer the “reminiscences” of former quilombos (documents, remains of slave quarters, emblematic places such as Serra da Barriga, etc.) (...). Finally, in the same way that it occurs among indigenous remnants, such assumptions implied in the term place at the core of the definition of those groups a historicity that always refers to the pair memory-rights: when it comes to remnants, what is at stake is the recognition of a historical process of disrespect (ARRUTI, 2008, p. 14).

The second paradigm presented by Arruti (2008) is the term “Common Use Lands”, whose concept is supported by studies on rural black communities in the country. In these communities, “the use and control over the land would be a more collective than an individual function, its limits would be tributary to social, symbolic and environmental ties and uses, rather than the possession of documents (abstract and formal property relationship). [...]” (ARRUTI, 2008, p.15).

For the author, what allowed us to speak of a “land of common use” is the notion of community implicit in this “common”. Thus, in view of this territoriality, whose main characteristic is “common use”, there are definitions based on the different forms of “self-representation and self-denomination of peasant segments”, among these: “Terras de Santo, Terras de Índios, Terras de Relativas, Lands of Brotherhood, Lands of Heritage, and finally Lands of Black.”

They are also diverse, with regard to the recognition of the formation of these territories, ranging from the

[...] concessions made by the State in return for the provision of warrior services; the situations in which the direct descendants of large landowners, without their former power of coercion, allowed the permanence of the families of former slaves (and the forms and rules of common use) through tenures of symbolic value, as a way of not opening hand of their formal property right over them; or even in former quilombos (ARRUTI, 2008, p.16)

Thus, the author states that this “sociological reduction” promoted important links on the process of resemantization of the quilombo when it allows its materialization not only in a sense of opposing the “repressive character that marked its colonial and imperial use”, but also also the “existence of a “peasant right”, subordinated to the national legal system, whose recognition, in itself, would be capable of translating the existence of a wide variety of forms of possession.”

Likewise, it would be necessary to recognize that the denial of belonging to these “prohibited social forms” is a result of the criminalization process by the State, “which would now require a resemantization of the local self-denominations themselves”.

Thus, for the author, the contemporary category of quilombos becomes associated with the sociological reduction of local denominations under the analytical category of “common use lands” (ARRUTI, 2008). For Selma dos Santos Dealdina (2020), quilombola leader of the Argelim III community, in Espírito Santo and advisor to the state CONAQ, the paradigm “of common land use” presented by Arruti was a great milestone for the practical struggle of quilombola communities.

According to this author (2020), the identification of quilombos having territoriality and the collective use of land as structural elements, ancestrally occupied by generations and generations, was an important normative advance. In this sense, the author refers to Decree 4,887 of 2003, published by the government of President Luiz Inácio Lula

da Silva, which regulated article 68 of the 1988 DCT/CF, more specifically article 2, which defined the remnants of quilombo communities as “ ethnic-racial groups, according to criteria of self-attribution, with their own historical trajectory, endowed with specific territorial relations, with presumption of black ancestry related to resistance to the historical oppression suffered.” (BRAZIL, 2003, s/p).

In her considerations, Dealdina (2020) ponders that this same decree was the target of several coup attempts against the rights of communities. In addition to counting that for 14 years the quilombola communities lived the threat of loss of their rights, due to the unconstitutionality action of the aforementioned decree, which was filed by the Liberal Front Party (PFL), currently Democrats (DEM).

For Selma Silva, the victory in the Federal Supreme Court by the Brazilian quilombola communities, on February 8, 2018, when the Federal Supreme Court took a stand for the constitutionality of Decree 4,887, was a great victory, “a milestone in the struggle for land in Brazil and in the affirmation of the right to territory by rural black communities”.

However, he concludes, “legal victory is not enough if there are no resources committed by the executive power to ensure that the titling of territories takes place.” (DEALDINA, 2020). When it comes to ethnicity, the third paradigm presented by Arruti (2008) highlights the important role of the black movement for the regulation of article 68 of the CF/1988, reverberating in the field of legislation, and the human sciences, by definition.

The author points out that the discussion was inserted from the studies developed in the 1970s, when there was, which points to a subtle change, an inversion in the studies whose object was the rural communities that were black to the black communities that were rural.

According to Bandeira (1997 apud Arruti, 2008, p.15), it is the category of ethnicity that explains the social mechanisms of maintenance of the so-called “black territories”: they would be defined based on ethnic limits, developed “in the face of situation of alterity proposed by whites”. According to the author, when dealing with an ethnic group to designate black rural communities “historically linked to quilombos (or other forms that have corresponded to it) it should not lead to the search for “small Africas”, which could refer to an idea of resistance whose counterpart would be conservation and/or return to the past.” (ARRUTI, 1997, p. 20).

The author points out that, through the lens of ethnicity, it was proposed to replace the search for “self-evidence intrinsic to the slave ideology and the legal precepts emanating from it” (2008, p. 18) by the process of “self-attribution of a social movement that , in his public demand

for the reversal of stigma, resorts to this “more than symbolic way of denying the slave system”. Such a change in conception was the result of dynamics in several rural black communities, no longer seen only as remnants, but also emerging (ARRUTI, 1997) across the country.

Still for the author, the contemporary concept of quilombo points to social groups produced as a result of localized and dated land conflicts, linked to the dissolution of the forms of organization of the slave system (Arruti, 2008, p. 02).

It is the current process of attributing “rights” to the “remaining” quilombo communities that operates a similar type of transformation among black rural communities, also giving rise to processes of ethnogenesis. The ethnogenesis to which the author refers is an affirmative and confrontational process against ethnocide that systematically exterminates lifestyles.

IV. FINAL CONSIDERATIONS

Throughout history, the Brazilian quilombo, in its dynamism and heterogeneity, was built as an anti-racist and subversion institution to the slavery structure.

In essence, an Afro-Brazilian territory. It is, therefore, a territory that constantly seeks to disrupt from the point of view of white supremacy and segregating oppression. Far from being a simplistic institution, it is complex, multiple and transgressive.

In an undeniably racist country like Brazil, the quilombo has been a problem for the hegemonic power system for centuries. Regarding the recovery and affirmation of an ancestral black memory, in the last decade, in the Sertão do São Francisco Territory (TSSF), it is possible to identify advances from the process of self-declaration of quilombola communities and the increasing participation of professionals and/or nuclei. of the academy, through teaching, research and extension, contributing to the rescue, registration, legitimation and recognition of the value of traditional knowledge of these black communities present especially in rural areas.

As pointed out throughout the work, the following stand out in the territory: the Project “Photoethnographic Profile of Quilombola Populations of the Lower Middle São Francisco: Identities in Movement”; the Postgraduate Program in Human Ecology and Social and Environmental Management (PPGEcoH); the Graduate Program in Education, Culture and Semi-arid Territories of the State University of Bahia - (UNEB); the Professional Master's Degree of the Graduate Program in Rural Extension (PPGExR) and the Nucleus of Ethnic and Afro-Brazilian Studies Abdias do Nascimento - Ruth de Souza

(NEAFRR), both from the Federal University of Vale do São Francisco, in their academic performance, are part of a broader enterprise of construction and repercussion of knowledge in the territory. This work is developed from the meeting of social movements, notably the quilombola movements,

In the development of the research, in the bibliographic review process, it is possible to find significant scientific production, in research carried out in communities of the Sertão do São Francisco Territory (TSSF), where the concepts and realities that subsidize us to understand the quilombo in the territorial context were worked. .

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