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Politics as War: The Ideology of the Attack on Indigenous Territorial Rights

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Section 3 of the volume *Traditional Peoples and Biodiversity in Brazil*, with the title “Difficulties in the Enforcement of Territorial Rights” (Carneiro da Cunha et al., 2021a), is valuable for bringing together the main definitions of these rights and summarizing their history, especially that of the last 30 years; and for opening a panorama of issues to be explored, whether for understanding the various meanings that surround these rights, or for contributing to their fulfillment. A structural question also emerges from this section: a repetitive political action that is carried out in the practice of granting territorial rights claimed by indigenous peoples and quilombolas with one hand and trying to take them away (or not enforce them) with the other hand. This article will focus on the ideology that underlies this practice of giving and taking.

Such ideology is based on a way of doing politics as war (Mbembe, 2018). Treating indigenous peoples and quilombolas as enemies, politics as war suppresses lives, deforests, destroys an entire epistemological and existential universe. It gives continuity to an eternal colonizing project, which today is conducted by enterprises such as: agribusiness, mining, and governmental projects designated as economic and social development. Allied to these enterprises are: gold miners, land grabbers (*grileiros*), loggers, drug and wildlife traffickers, and militias (organizations of gunmen who act on the outskirts of the State, but with the leniency and, in many cases, the direct participation of the State itself).

The practical action of these subjects and enterprises consummates the dispute in the legal realm, which can be visualized in the table in the volume that gathers the legal landmarks related to the rights of indigenous peoples, quilombolas and traditional populations (Carneiro da Cunha et al., 2021b: 43-47). In the table are the main instruments for protecting indigenous lands, but also those that undo this protection, exposing a war that has as its weapons: laws, decrees, ordinances, and other legal instruments. An overview of the timeline shown in the table allows us to verify another fact: that after the enactment of the Federal Constitution of 1988 (CF 88), the attacks on territorial rights began to escalate. This is what the texts that make up the section 3 detail.

The delay regarding the territorial rights of quilombola communities, guaranteed by art. 68 of the Transitory Constitutional Dispositions Act of CF 88, is paradigmatic. In 1995, a bill was presented to regulate this right respecting the demands of a coalition of social organizations (Arruti 2021). In 2001, when it was to be sanctioned by President Fernando Henrique Cardoso, the law was vetoed in favor of a decree that questioned the collective ownership of the land, thus denying the recognition of the quilombolas as communities and favoring the individual right of private property, and instituted a “time frame limit” legal theory (*marco temporal*), specifically, the obligation to prove occupation of the land since the year 1888 (when slavery was abolished by law in Brazil) to the year of the enactment of the Constitution, 1988. In 2003, President Luís Inácio Lula da Silva issued a second decree, which mirrored the vetoed law, restoring quilombola rights; however, its enforcement was blocked by a lawsuit that was filed

with the Federal Supreme Court (STF) questioning its constitutionality, by the then Liberal Front Party (*Partido da Frente Liberal* - PFL). It would take thirty years before quilombola territorial rights could emerge from legal insecurity, when the STF, in 2018, finally dismissed the lawsuit, establishing a decision whose importance is summarized thus by Carlos Marés:

“The decision not only declared the constitutionality of the decree, but recognized that the constitutional rule is self-applicable, therefore independent of law for its application, besides that, the rights established therein are collective and there is no time reference for occupation. Additionally, the decision recognized that, regardless of the decree, it is possible to expropriate private lands to constitute the collective territory of the community” (2021a, p. 32).

The period after approval of CF 88 shows that the game is also heated in the arena of public policy execution. The text in the volume that deals with the self-demarcation of the Sawre Muybu Indigenous Land (*terra indígena* - TI), a Land targeted by hydroelectric interests, illustrates this (Molina, 2021). However, it is from the institutional coup of 2016 and the election, in 2018, of the extreme right-wing candidate, Jair Bolsonaro, that public policies start to be used directly and systematically against indigenous peoples, in a politics as war widely announced in his speeches, since before he was sworn in. However, for these speeches to make sense, they need to be read together with those that expose the ideology that underlies this political project. In the following statement there is a synthesis of it:

*“We want the Indian integrated into society. [...] in Brazil, many people want to sentence you to be isolated within an Indian land as if [you] were something rare that has to stay within a zoo. [...] As far as I am concerned, you will be emancipated. The American Indian lives largely from casino royalties. You, here, can live not only on royalties from ore, but from the exploitation of biodiversity, as well as from royalties from possible hydropower plants that could be built on your land, so you are as Brazilian as we are and have every right to exploit your land.”*¹

The strong ideas here are: integrate and emancipate. As the texts in the volume show, these ideas were, however, replaced by CF 88, specifically by the chapter “About the Indians” (*Dos Índios*), comprised of two articles: art. 231, which recognizes indigenous peoples’ languages, customs, social organization and traditions, and the original right to the lands they have traditionally occupied, establishing the Union as the guarantor and executor of these rights; and article 232, which grants indigenous peoples the right to defend themselves in court.

Article 232 is the one that dismantles the idea of “emancipation” and does so by overturning the guardianship (*tutela*) statute, established in chapter II of law 6001 of 1973, a law that is still in place even though its fundamental principles have been replaced by the Constitution. The guardianship established that indigenous people had no civil or legal autonomy, being under the “responsibility” of FUNAI (National Indian Foundation, the federal department of indigenous affairs). In short, with the end of the guardianship, the idea of emancipation falls apart.

The sharpness of the right to land, guaranteed by article 231, is detailed in the text “Demarcation of indigenous lands and its obstacles” by Marés (2021b), in which he calls attention to a fundamental aspect of the constitutional text, namely, that the recognition of the original right to land is not restricted to a land/territorial right, it is about the very right of these peoples to exist, and this is what should prevail, regardless of whether the Indigenous Lands are demarcated or not. In Marés’ words: “what is recognized is the right to be a people and, consequently, the obligation to demarcate”. (2021b, p. 18).

The concepts “integrate” and “emancipate”, however, are part of a legislation elaborated by the civil-military dictatorship, defined in the aforementioned Law 6001, in which the military explicitly sought to construct a non-place for the indigenous peoples in Brazil, who were already being manifestly harassed with developmental projects, such as the construction of the Itaipu Hydroelectric dam that flooded about thirty-two villages of the Avá-Guarani

people in western Paraná (Navarra 2021: 40). Article 4 “On Principles and Definitions” of this law defines the subjects to which it applies: “isolated”, “in the process of integration”, and “integrated”. This classification institutionalized a stereotype that persists to this day, whereby the further one moves into the “integrated” category, the less one is considered to be an indigenous person. The definition of indigenous people “in the process of integration” clearly exposes the perspective of internal colonization and the non-place reserved for indigenous people in Brazil, as in the following words:

“The Indians are considered [...] [i]n the process of integration - [w]hen, in intermittent or permanent contact with foreign groups, they retain less or most of the conditions of their native life but *accept some practices and ways of existence common to other sectors of the national community, which they increasingly need for their own sustenance*” (my emphasis).

In item II of article 2, the law announces that the Union, the states and the municipalities shall “assist the Indians and indigenous communities *not yet integrated into the national communion*” (my emphasis). The law is assertive, once “integrated”, indigenous peoples while becoming dependent on “the national communion” for their livelihood, lose assistance from the state. Losing the State’s assistance implies, among other things, losing the right to have their land guaranteed, the very thing that gives them autonomy.

Actively working for the so-called “integration to the national communion” to take place in the 21st century, the Bolsonaro government has been offering many contributions to politics as war. One of them is Normative Instruction nº 9, which determines the removal of Indigenous Lands not yet approved from the Land Registry of the National Institute of Colonization and Agrarian Reform (INCRA). This paves the way to “allow [...] the certification [...] of land claims over invaded areas on indigenous lands” (Carneiro da Cunha et al. 2021b: 42). However, this case also demonstrates that the indigenous peoples have their allies, and here their defense is through the Brazilian Federal Prosecution Office (MPF) (cf. 2021b: 42).

The war-like politics, which takes place in the normative field and is felt concretely, further exposes the acute incompatibility between the indigenous worlds and the non-indigenous world that attacks it, which has, on the one hand, a multiplicity of worlds, which does not conceive the forests and everything in them as objects or things susceptible of being “exploited” and, on the other hand, a world that deals in an externalized way with the land, by exploiting what it calls “resources”. The volume points this out at several moments, but especially in the text “Collective rights versus individual rights”, in which Carneiro da Cunha and Pimentel (2021) show that, despite the fact that the concept of private property and individual rights are rooted in the Brazilian land law, when it comes to indigenous and quilombola land rights the constitutional text is based on a customary conception of collective territorial rights, seeking to accommodate the unique way these peoples conceive of territory (2021: 36–38). In its uniqueness, the idea of individual ownership of territory is inconceivable. It is this aspect that the shaman Davi Kopenawa denounces when he mimics the current president of the country as a magnified figure of “White” thought who claims to own the forests, the rivers and the underground (2021), disregarding that these entities are all living beings and that we depend on them, just as they depend on us.

As I finish this text, I am following with anguish the search for the indigenous activist Bruno Araújo Pereira and the British journalist Dom Philips, who “disappeared” in the Javari Valley region, and the discovery of their atrocious murder as a result of their militancy in defense of the life of indigenous peoples and the existence of the Amazon forest. In spite

of the brutality of this story, the image that should persist, and which is the one that gives meaning to the alliance between non-indigenous and indigenous peoples for the guarantee of the latter's territorial rights, is that of Bruno Pereira chanting a Kanamari song together with his fellow indigenous expedition members, an image that has been spread in social networks.

In the scene, the forest is not a monster, nor are there any barriers between the men in it. There is in it a knowledge that indigenous peoples and other traditional populations try to transmit to us, that we are all connected, humans and non-humans, indigenous and non-indigenous, immersed in multiple relations that are significantly expressed in the term *-kora*, which designates "territory" for the Zo'ë people (Gallois, 2021).

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