



---

**Follow-up over Indigenous Lands in Pernambuco, Brazil:  
A Diagnosis of the Right to Property of Indigenous Peoples**

**Monitoramento das Terras Indígenas em Pernambuco, Brasil:  
Um Diagnóstico do Direito à Propriedade dos Povos Indígenas**

**Luis Emmanuel Barbosa da Cunha**

(Doutorando do PPGD/UFPE, Pesquisador do Moinho Jurídico/UFPE, Professor da Faculdade Damas)

E-mail: [cunhaluis78@hotmail.com](mailto:cunhaluis78@hotmail.com)

**Jefferson Amorim**

(Mestre em Filosofia/Universidad Jesuita de Guadalajara, Pesquisador do Instituto Humanitas/Unicap-PE)

E-mail: [jefferson.sj@gmail.com](mailto:jefferson.sj@gmail.com)

**Abstract**

This paper presents partial results of the monitoring project on the demarcation of indigenous lands in the State of Pernambuco, Brazil. The project provides for the monitoring of demarcation processes for 15 (fifteen) years, in three stages. The first stage is diagnosis. The methodology consists of identifying procedural acts through legal analysis, identifying indigenous peoples who claim ownership (right to property) of their ancestral lands and the current state of demarcation processes through information accessed through FUNAI and civil society. With this, it is possible to make an evaluation of the realization of the right to communal property and prepare the other two stages of the research in order to understand how fundamental rights of indigenous people are made effective.

**Keywords:** Collective property. Traditional people. Fundamental rights.

**Sumário**

Este artigo apresenta resultados parciais do projeto de monitoramento sobre a demarcação de terras indígenas no Estado de Pernambuco, Brasil. O projeto prevê o monitoramento dos processos de demarcação por 15 (quinze) anos, em três etapas. O primeiro estágio é o diagnóstico. A metodologia consiste em identificar atos processuais por meio de análise jurídica, identificando povos indígenas que reivindicam a propriedade (direito de propriedade) de suas terras ancestrais e o estado atual dos processos de demarcação através de informações acessadas pela FUNAI e pela sociedade civil. Com isso, fazer uma avaliação da realização do direito à propriedade comunal e preparar as duas fases seguintes da pesquisa com o objetivo de saber como os direitos fundamentais dos povos indígenas são efetivados.

**Palavras-chave:** Propriedade coletiva. Povos tradicionais. Direitos fundamentais.

**Recebido em: 10/03/2020**

**Aceito em: 05/05/2020**



## 1. Introduction

In 2018, 1988 Brazilian Federal Constitution is thirty years in force. Six years early, in 2013, the monitoring project on the demarcation of indigenous lands in Pernambuco was initiated in its first phase: the situation diagnosis. This phase is the starting point. The results of which follow. From then on, every five years, a comparative assessment of this first phase will be launched and thus evaluating the enforcement of the right to property by indigenous peoples in Pernambuco.

In general, the resumption of democratic-constitutional regularity in Brazil created expectations of achievement in various social groups that embittered significant losses during the military dictatorship (1964-1985) and historically remained invisible, without recognition and without autonomy.

The situation of indigenous peoples, from the beginnings of Brazilian initial configuration, has been one of incipient and almost non-existent social inclusion of sparse conquests and increasing challenges. In the course of the twentieth century, social rejection of indigenous culture almost annihilate them as an interpersonal identity and an expression of knowledge, beliefs, habits and customs.

The facts presented in the Figueiredo Report (*Relatório Figueiredo*) showed how indigenous people, in the middle of the 20th century, faced the same violent practices from three centuries before. 30 volumes, more than 7,000 pages with reports and photos of an almost genocidal reality, something apparently unimaginable for a country that, twenty years before, had fought against Nazi-fascism. Since then, the Figueiredo Report has been declared lost until it was rediscovered in the year of 2013. Among the violence reported against indigenous people, it may identify torture with beatings, rape, crucifixion, sales of indigenous children, reduction to the condition analogous to enslavement, murder, enforced disappearance, illegal sales of indigenous lands.

In the late 1980s and early 1990s, there was a reaction to this situation and the movement in defense of indigenous peoples gained strength. It was strengthened mainly with the support of internationally renowned personalities such as singer Sting. The indigenist action of the Villas-Boas brothers from the 1940s was significant for the establishment of this movement. Then, a process of cultural re-signification was consolidated in order to determine the indigenous as effective social actors, people with rights and no longer as a caricature.

The mark of this process of resignification is the struggle for the possession of the indigenous lands. Land that has a very special meaning important to indigenous peoples, because in addition to providing material means of subsistence in a broad sense, land is the essential means for expression of socio-cultural self identification of these peoples. One device that initially favored this struggle was certainly Article 67<sup>1</sup> of the Transitional Constitutional

<sup>1</sup> Article 67. Executive Branch shall conclude the demarcation of indigenous lands within five years of the promulgation of the Constitution.



Provisions Act (ADCT) of the 1988 Federal Constitution. Indeed, this provision reproduced Article 65<sup>2</sup> of Law 6001/1973.

The degree of effectiveness of this normative prediction was the starting point of this research, and assessing it is the major objective to be achieved, considering, in this first phase, the collection of information from the main indigenist entities that deal with the subject and publicly make available their information. The territorial definition as a factor of disaggregation of total relevance, hence the limitation of the research to the territory of the State of Pernambuco, Brazil.

## 2. Culture, Identity and Ancestral Lands

The mark of the process of indigenous resignification in Brazil is the struggle for the possession of indigenous lands. Land has a very special meaning for indigenous peoples. In addition to providing material means of subsistence (fishing, fruit collection, agriculture, livestock, medicines, building material and tool development), the land is an essential way for the expression of a special culture.

Insular lands, continental lands, plants, animals, waters (rivers, sea, rain), stones, mountains, sun, moon, clouds, stars, thunders, lightning, solstices and equinoxes, absolutely everything is present on indigenous culture and is given a meaning. It is an intrinsic relation, a combination of the physical and the metaphysical, quite different and, at the same time, ahead of the traditional juridical conception that reduces the land to a property patrimonially collectible.

Indigenous peoples have the land as part of their culture, in both material and non-material ways of perception. Although the socio-cultural expressions are a multivocal term with many meanings, being it adaptive or idealistic, culture is a system of knowledge and beliefs, an observed behavioral unit of interpersonal relations and in human relations with Nature and Environment. Although humans have a phenotypic, genetic and psychological individuality, this individuality relates to others, to environment, all influencing and being influenced simultaneously.

Thus, at first, it is not governed by a mandatory determinism, but by marked temporal characteristics that may undertake a human collective behavior influenced by Nature, or human behavior overlapping environment, modifying it significantly, or human behavior in symbiotic relation with Environment.

In this way, indigenous peoples affirm their socio-cultural expressions through knowledge about agriculture, livestock, rain cycles, animal reproduction, different forms of communication, idiomatic, linguistic, division of labor organization, division of social tasks,

<sup>2</sup> Article 65. Executive Branch shall, within a period of five years, make the demarcation of the indigenous lands, not yet demarcated.



and, especially, reproduction of this knowledge with intergenerational transmission. Thus, ethnicity is affirmed: ancestry, intergenerational links with the transfer of acquired knowledge, symbols and everything that identifies the Indigenous People. In the signing of sociocultural expressions, identity and ethnicity.

Indigenous leader's form of choice differs significantly from the political leader's choice in the 1988 Federal Constitution, and even from the choice of a company. It is not less legitimate nor effective. At the same time, both three are fully compatible in their specific areas of applicability, including in comparison to the constitutional process as the primary and paradigmatic model of Brazilian society.

Without the territory, where the forest, the fauna, the flora and the forces in the Nature are evidenced present in the exercise of the socio-cultural expressions, indigenous very much depend on the preservation of the natural resources for the intergenerational continuity. In the same way, the preservation of natural resources provides material survival by offering the means for food, housing and tooling construction.

### 3. Domestic Legal Standardization

Brazilian material law specifically aimed protecting the rights of indigenous peoples has constitutional basis. 1988 Federal Constitution and others legal regulations, as: Law 6001/1973 and Decree 1.775/1996, are basically the legal tools for the defense of indigenous rights. According to these instruments, indigenous land may be categorized as follows: (1) under study, (2) delimited, (3) declared, (4) homologated, (5) regularized, (6) interdicted and sent to real estate registration.

The responsibility of the procedural acts of demarcation of indigenous land varies among: FUNAI (Federal Government special body for indigenous) and the Minister of Justice and the President of the Republic. At that point, Decree 1,775/1996 dictates the entire legal process, from the anthropological land survey to the eviction of non-Indians, through registration in a notary's office and to the Secretariat of the Patrimony of the Federal Government (SPU).

This allows us to admit that each demarcation procedure would require at least 345 (three hundred and forty-five) days, considering the deadlines defined in the Decree. The collection of information for the production and presentation of the recognition report, the approval by the President of the Republic and the effort of resettlement of non-Indians present within the boundaries of the Indigenous Land (TI) indefinitely extend the deadline for the conclusion of the demarcation procedure.

Internally, the Federal Prosecutor, through the National Prosecutor's Council, with Resolution nº20/1996<sup>3</sup> created coordination and review chambers. The 6th Bureau is aimed at

<sup>3</sup> Available at: [http://csmfp.pgr.mp.br/documentos-e-publicacoes/resolucoes/resol\\_20\\_fev\\_1996.pdf](http://csmfp.pgr.mp.br/documentos-e-publicacoes/resolucoes/resol_20_fev_1996.pdf).



indigenous peoples and traditional communities. Since then, the 6th Bureau has been working towards the realization of the rights of traditional peoples. It is worth highlighting the publication on Territories of Peoples and Traditional Communities and Units of Conservation of Integral Protection<sup>4</sup>. In this publication, Federal Prosecutor presents the basic qualifications to recognize a traditional people: self-designation, self-recognition, organization, occupation and management of natural resources (MPF, 2014, p.93).

#### 4. International Legal Standardization

In terms of international human rights systems, Brazilian State has undertaken to comply with the treaties of the global system or United Nations system and the regional system or inter-American system on human rights. According to the global system, the United Nations Declaration on the Rights of Indigenous Peoples<sup>5</sup> (Resolution 61/295 of 13 September 2007), the Convention of Indigenous and Tribal Peoples<sup>6</sup>, Convention 169 of the International Labor Organization<sup>7</sup> (ILO), United Nations Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities<sup>8</sup> (Resolution 47/135 of 18 December 1992).

These conventional acts of first standardization (primary source) establish a series of fundamental rights for indigenous peoples, which are: self-determination, nationality and legal personality, possession of ancestral lands, free cultural and religious expression, promotion of their history, promotion and protection of individual and group identity, non-discrimination, participation in the process of economic development of the country, being consulted on development projects and healthy environment.

Complementary to the conventions, international recommendations are acts of secondary standardization (secondary sources, which are enforced when according to primary sources) with the objective of consolidating best practices, transforming the legal text into a lawful and adequate behavior. In global system, it is possible to find at least 40 recommendations addressed to the Brazilian State specifically on Indigenous Peoples<sup>9</sup>.

These are recommendations made at the level of treaty committees (treaty bodies), special rapporteurships, and the Human Rights Council through the Universal Periodic Review (UPR), sessions 2008 and 2012.

United Nations and its bodies have been significantly concerned with general violations of human rights against indigenous peoples, such as: access to poverty reduction programs,

<sup>4</sup> Available at: <http://6ccr.pgr.mpf.mp.br/documentos-e-publicacoes/manual-de-atuacao/manual-de-atuacao-territorios-de-povos-e-comunidades-tradicionais-e-as-unidades-de-conservacao-de-protecao-integral>.

<sup>5</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement>.

<sup>6</sup> Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Indigenous.aspx>.

<sup>7</sup> Available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169).

<sup>8</sup> Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>.

<sup>9</sup> Available at: <http://www.observadh.sdh.gov.br/portal/sistema/encontre-as-recomendacoes>.



indigenous human rights defenders, access to consultation processes, access to traditional territories and natural resources, completion of demarcation, social inclusion, access to justice; fight impunity, promoting and protecting economic, social and cultural rights, right to education, fight against discrimination, opportunity to work, participation of women in public life, and protection of indigenous children, especially those with disabilities.

In addition to the global normative standardization, recommendations have a primordial function of making these rules adapt to the time and space. It becomes easier to make expectations of enforcement, to prevent litigations and others conflicts and to make legislations enforced. Thus regional system, follows another nature of action. At the outset, the Protocol of San Salvador<sup>10</sup>, which prohibits discrimination when accessing to economic, social and cultural rights, stands out.

In addition to the Convention, as an effective tool, the Inter-American Court on Human Rights judgments on right to property of Indigenous Lands are highlighted. The jurisprudence of the Court was consolidated in recognizing the right to property of Indigenous Lands from the collective paradigm, the land as a means of expressing a social, economic, cultural and religious complexity. More than merely patrimonial, the land for the natives is ethnic identification.

Among the most important decisions regarding this issue are: Case of Indigenous Peoples *Kuna de Madungandí* and *Emberá de Bayano* against Panamá (2014)<sup>11</sup>, Case of the *Kichwa* Indigenous People of Sarayaku against Ecuador (2012)<sup>12</sup>, Case of the *Xákmok Káse* Indigenous People (2010)<sup>13</sup>, Case of the *Sawhoyamaxa* Indigenous People (2006)<sup>14</sup> and the Case of the *Yakye Axa* Indigenous People (2005)<sup>15</sup>, all against Paraguay.

In Brazil, the case of the precautionary measures granted to the Indigenous Peoples due to the construction of the *Belo Monte* Hydroelectric Power Plant, Case of the Indigenous Peoples of the *Rio Xingu*<sup>16</sup> is emblematic. The Report of Admissibility 125/10 of *Raposa Serra do Sol*<sup>17</sup>, Report 98/09<sup>18</sup> of Admissibility and Report 44/15<sup>19</sup> of Merit of the *Xukuru* People also follow this paradigmatic profile.

To reinforce, the acceptance of the *Xukuru* Case to be processed in the Inter-American Court on Human Rights<sup>20</sup>, with a decision rendered on March, 5th, 2018<sup>21</sup>, is also another step towards consolidating indigenous people as rights holder.

<sup>10</sup> Available at: <http://www.oas.org/juridico/spanish/Tratados/a-52.html>.

<sup>11</sup> Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_284\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_284_esp.pdf).

<sup>12</sup> Available at: [http://corteidh.or.cr/docs/casos/articulos/seriec\\_245\\_ing.pdf](http://corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf).

<sup>13</sup> Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_214\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_214_ing.pdf).

<sup>14</sup> Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_146\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_146_ing.pdf).

<sup>15</sup> Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_125\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_125_ing.pdf).

<sup>16</sup> Available at: <https://www.cidh.oas.org/medidas/2011.port.htm>

<sup>17</sup> Available at: <http://www.oas.org/pt/cidh/decisiones/admisibilidades.asp>

<sup>18</sup> Available at: <http://cidh.oas.org/annualrep/2009port/Brasil4355.02port.htm>

<sup>19</sup> Available at: <http://www.oas.org/es/cidh/decisiones/corte/2016/12728FondoEs.pdf>

<sup>20</sup> Available at: <http://www.oas.org/es/cidh/prensa/comunicados/2016/053.asp>.

<sup>21</sup> Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_346\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_346_esp.pdf)



## 5. Indigenous Peoples in Pernambuco

Indigenous peoples in Pernambuco are not uniformly recognized. From the institutional point of view, in relation to the number of existing peoples, this number ranges from seven to eleven peoples, considering the fact that some extrapolate frontiers between Brazilian states, such as: the *Fulni-ô* inhabiting Pernambuco and Alagoas, and the *Truká*, between Pernambuco and Bahia.

FUNAI	FUNDAJ	ANAI	CIMI	NEPE
Atikum	Atikum	Atikum	Atikum	Atikum
Fulni-ô	Fulni-ô	Fulni-ô	Fulni-ô	Fulni-ô
Kambiwá	Kambiwá	Kambiwá	Kambiwá	Kambiwá
Kapinawá	Kapinawá	Kapinawá	Kapinawá	Kapinawá
Pankararu	Pankararu	Pankararu	Pankararu	Pankararu
Pankará		Pankará	Pankará	Pankará
			Pankaiucá	
Pipipã		Pipipã	Pipipã	Pipipã
Truká	Truká	Truká	Truká	Truká
Tuxá		Tuxá	Tuxá	Tuxá
Xukuru		Xukuru	Xukuru	Xukuru
Xukuru de Cimbres				

Figure 1: Institutions and indigenous people recognized. From authors.

The most important institutions that have developed knowledge from indigenous peoples: FUNAI: *Fundação Nacional do Índio* (federal government body)<sup>22</sup>; FUNDAJ: *Fundação Joaquim Nabuco* (federal government body)<sup>23</sup>; ANAI: *Associação Nacional de Ação Indigenista* (civil society)<sup>24</sup>; CIMI: *Conselho Indigenista Missionário* (Catholic Church)<sup>25</sup>; NEPE: *Núcleo de Estudos e Pesquisas sobre Etnicidade da UFPE* (Federal University of Pernambuco)<sup>26</sup>; ISA: *Instituto Socioambiental* (civil society)<sup>27</sup>.

<sup>22</sup> Available at: <http://www.funai.gov.br/index.php/indios-no-brasil/terras-indigenas>

<sup>23</sup> Available at: [http://basilio.fundaj.gov.br/pesquisaescolar/index.php?option=com\\_content&view=article&id=649&Itemid=188](http://basilio.fundaj.gov.br/pesquisaescolar/index.php?option=com_content&view=article&id=649&Itemid=188)

<sup>24</sup> Available at: [http://www.anai.org.br/povos\\_pe.asp](http://www.anai.org.br/povos_pe.asp)

<sup>25</sup> Available at: [http://www.cimi.org.br/site/pt-br/?system=paginas&conteudo\\_id=5719&action=read](http://www.cimi.org.br/site/pt-br/?system=paginas&conteudo_id=5719&action=read)

<sup>26</sup> Available at: <http://www.ufpe.br/nepe/povosindigenas/>

<sup>27</sup> Available at: <http://ti.socioambiental.org/pt-br/#!/pt-br/terras-indigenas/pesquisa/uf/PE>




---

## 6. Situation regarding the Right to Property of Indigenous Lands

All twelve indigenous peoples in Pernambuco have different situations on enforcement of right to land. This fifth item is dedicated to describe this particular situation of each people. So, the next item is dedicated to analyze, conclude and recommend.

### 6.1. Atikum

According to FUNDAJ, population is estimated about 4,631 persons. However, this information contrasts with those provided from NEPE: 5,139 persons. And also from ANAÍ: 6,940. It is worth mentioning that it is estimated 2,483 are outside the original lands.

The diversity of data and information about the number of individuals in this town may be understood considering the criteria used in the counting, as may be expressed by ANAÍ data that takes into account the percentage of the population that is not in the territory of the ancestral lands.

The situation of the lands inhabited by the Atikum became Homologated / Registered. In this way, there is an area registered equivalent to 16,290 hectares regularized. It draws attention to the land situation of these people. Its territory is located in the perimeter of the geographic region marked by the *Caatinga* biome. Another attention to the predominance of planting, commercialization and consumption of illicit drugs, which makes the region known as *Polígono da Maconha* (Area of Marijuana).

According to FUNDAJ and NEPE, the indigenous territory of the Atikum people is currently an Intrusive Area due to the presence of non-indigenous inhabitants. Another complicating factor is the recognized area is also *Quilombolas Area (Conceição das Creoulas - Afro-Brazilians)*.

According to FUNAI, Atikum lands are considered regularized. ISA has considered homologated, then for registration and SPU (federal body to register all assets and equity of the Union).

### 6.2. Fulni-ô

According to FUNDAJ, estimated population: 4,232 individuals. This information contrasts with ANAI: 4,261 individuals, which 475 were outside the area. According to NEPE: 3,229. The land situation of the Fulni-ô: under identification and homologation. All area reaches about 11,500 hectares.



The region is considered as an intrusive area, being located in *Caatinga* biome. It includes not only rural area, but also urban region. The region is crossed by power transmission lines of the São Francisco Hydroelectric Company (CHESF), *quilombola* areas, archaeological sites and public and private enterprises. All 11,500 hectares are divided into 427 individual sites, most of which are leased to non-Indians.

According to FUNAI, Fulni-ô lands are considered regularized (indigenous reservation) and in study the traditionally occupied part. According to ISA, this is an indigenous area under review.

### 6.3. *Kambiwá*

According to ANAI, it was estimated the existence of 3,250 individuals belonging to this group indigenous people in the region. This data contrasts with the estimates presented by FUNDAJ: 2,911 individuals. NEPE: 2,576 individuals.

It should be emphasized that this divergence of data about the Kambiwá people may possibly occurred due to the type of criteria for counting, since there is in that specific group the existence of a group of dissidents occupying the same region, known as Pipipã people. For the analysis, we will use the data found for each group separately.

The landed situation became homologated/registered. The extension covers an area of 31,495 hectares, and part of the area is *Serra Negra* Biological Reserve, which is used by indigenous people for rituals. Part of registered area is *Caatinga* biome, and is currently constituted as an intrusive area. This area is part of *Polígono da Maconha* (Area of Marijuana), very dangerous area where drugs dealers plant and distribute marijuana. In 2002, with the dissidence and formation of the Pipipã group, this group started to claim lands inside Kambiwá lands. According to FUNAI, Kambiwá lands are considered regularized. According to ISA, it is land approved for registration and SPU.

### 6.4. *Kapinawá*

According to FUNDAJ: population estimated at 3,283. ANAI: 2,487. NEPE: 2,297. Territorial extension: 12,403 hectares. Not being different from others areas, the lands of the Kapinawá people are also considered as intruded area. Located in a *caatinga* biome and archaeological site. The territory is part of *Polígono da Maconha* (Area of Marijuana). The situation requires attention by the existence of preservation area: *Catimbau* National Park. According to FUNAI, Kapinawá land is considered regularized. According to ISA: approved for registration and SPU.



### 6.5. Pankararu

According to ANAI and NEPE, Pankararu lands extension: 15,920 hectares, divided two huge areas: Pankararu land and *Entre Serras* Pankararu Land. FUNDAJ estimates 6,959 indigenous people. Pankararu lands are considered as intruded area, located in a *caatinga* biome and *Polígono da Maconha* (Area of Marijuana). According to FUNAI, Pankararu lands are considered regularized. According to ISA: approved, then for registration and SPU.

### 6.6. Pankawiká

Pankawiká lands are under identification since 2003. FUNAI does not recognize Pankawiká as Indigenous people. According to ISA, indigenous land is under identification.

### 6.7. Pankará

According to FUNDAJ: population of 2,558 people. The land is under identification since 2010. No data were found about the claimed extension. The land is around *Polígono da Maconha* (Area of Marijuana). It is considered as intruded area. It is also located in a region considered as a *quilombola* area. According to FUNAI, Pankará indigenous people is known as Pankará from *Serra da Arapuá* and its land is under study. According ISA: land under identification.

### 6.8. Pipipã

According to FUNDAJ, estimated 1,195 people. According to National Health Foundation: 185 individuals. No data were found regarding the extension of the territory. The area claimed is part of the *Serra Negra* Conservation Unit. Other socioenvironmental occurrences are: intruded area, *Caatinga* biome, existence of private enterprises and deforestation and *Polígono da Maconha* (Area of Marijuana). According to FUNAI: area under study. According to ISA: under identification.

### 6.9. Truká

Truká Indigenous People is divided into two groups. According to FUNDAJ: in *Nossa Senhora de Assunção Lands*: estimated population of 5,791 people, in area of 5,769 hectares. Plus, islands extention: 1,592 hectares. They are considered intrusive area, *Caatinga* biome, also located in *Polígono da Maconha* (Area of Marijuana). The fight for Truká Indigenous



lands, Mozenir Araújo, indigenous Truká leadership, was assassinated on August, 23, 2008. According to FUNAI, Truká lands are considered regularized (1,592 hectares) and declared (5,769 hectares). According to ISA, both Truká Lands are declared indigenous land.

### 6.10. *Tuxá*

According to FUNDAJ, estimated population of 161 people. Extension: 140 hectares, It is considered as indigenous domain. This area was acquired by the São Francisco Hydroelectric Company (CHESF) for the resettlement of Tuxá due to construction of *Itaparica* Dam. According to FUNAI, Tuxá in Pernambuco is considered regularized. According to ISA, it is reserved indigenous land.

### 6.11. *Xukuru*

In 1865, Imperial Government of Brazil promised to Xukuru People the demarcation lands if *xukurus* fought for Brazil against Paraguay (Paraguay War). *Xukurus* fought and died for Brazil but Imperial Government did not keep its promise.

According to FUNDAJ, estimated 12,009 people. Extension: 27,555 hectares, and other área 1,160 hectares. It is considered intrusive área, *caatinga* biome, with the presence of religious tourism in the region. There were four murders since 1998: *Cacique* Xicão, 1998, José Everaldo Rodrigues, 1992; Geraldo Rolim, 1995, Chico Quelé, 2001.

According to FUNAI and ISA, Xukuru land is considered regularized (27,555 hectares), and considered Indigenous Reservation (1,166 hectares).

## 7. Conclusions

It is therefore concluded, as diagnosis, that:

1. The demarcation procedure established by Decree 1,775/1996 generates unpredictability about future acts and legal uncertainty for the exercise of rights by indigenous peoples. The procedure as a whole does not guarantee the legal possession of recognized and even registered lands;

2. Information on the regulation of Indigenous Lands in Pernambuco provided by FUNAI through its website indicates an advanced stage of regularization, but this does not provide personal and collective security, environmental protection and conditions worthy of survival and sociocultural expressions for indigenous people;



3. According to FUNAI, 72% of the Indigenous Lands in Pernambuco were regularized between 2013 and 2015. On the other hand, for specifically civil society entities, 63% of the Indigenous Lands are intrusive, 27%, still in under identification and 10%, under reservation. There is a state of widespread insecurity threatening the peaceful exercise of right to property by indigenous peoples;

4. According to national and international legislation, Brazilian State is under violation of Human Rights of indigenous peoples in Pernambuco.

Thus, Federal Government must:

1. expressly recognize that the possession of Indigenous Lands according to the traditional way of life of indigenous peoples, according to the jurisprudence of the Inter-American Court of Human Rights;

2. conclude, within a reasonable time, anthropological studies and update the number of the indigenous population in Pernambuco, including the percentage of indigenous living in traditional lands and percentage outside these lands, to provide policies for indigenous peoples, as well as establishing policies of coexistence with *quilombolas*;

3. revise Decree No. 1,775 and to take into consideration the concept of reasonable term according to jurisprudence of the Inter-American System of Human Rights;

4. approve the demarcation procedures in progress and those still to be instituted in order to make Article 67 of the ADCT in the Federal Constitution enforced;

5. register non-Indians present in indigenous lands, promote indemnified and sustainable disinvestment for those in good faith, preventing further intrusions and retaliation against indigenous people;

6. develop a program of permanent monitoring of Indigenous Lands recognized, demarcated or registered in order to guarantee the peaceful possession.

## References

ALTO COMISSARIADO DAS NAÇÕES UNIDAS PARA OS DIREITOS HUMANOS. Povos Indígenas. Disponível em: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Indigenous.aspx>. Acesso em 7 Mar. 2019.

\_\_\_\_\_. Minorias. Disponível em: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>. Acesso em 7 Mar. 2019.

ANAI. Povos Indígenas em Pernambuco. Disponível em: [http://www.anai.org.br/povos\\_pe.asp](http://www.anai.org.br/povos_pe.asp). Acesso em 8 Mar. 2019.



BRASIL. Observatório das Recomendações Internacionais. Disponível em: <http://www.observadh.sdh.gov.br/portal/sistema/encontre-as-recomendacoes>. Acesso em 7 Mar. 2019.

\_\_\_\_\_. Terras Indígenas. Disponível em: <http://www.funai.gov.br/index.php/indios-no-brasil/terras-indigenas>. Acesso em 8 Mar. 2019.

\_\_\_\_\_. Relatório Figueiredo. Disponível em: <http://www.mpf.mp.br/atuacao-tematica/ccr6/dados-da-atuacao/grupos-de-trabalho/violacao-dos-direitos-dos-povos-indigenas-e-registro-militar/docs-1/relatorio-figueiredo/relatorio-figueiredo.pdf>. Acesso em 8 Mar. 2019.

CIMI. Pesquisa sobre Povos Indígenas. Disponível em: [http://www.cimi.org.br/site/pt-br/?system=paginas&conteudo\\_id=5719&action=read](http://www.cimi.org.br/site/pt-br/?system=paginas&conteudo_id=5719&action=read). Acesso em 8 Mar. 2019.

COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS. Cautelares 2011. Disponível em: <https://www.cidh.oas.org/medidas/2011.port.htm>. Acesso em 8 Mar. 2019.

\_\_\_\_\_. Relatório 4355/02. Disponível em: <http://cidh.oas.org/annualrep/2009port/Brasil4355.02port.htm>. Acesso em 8 Mar. 2019.

\_\_\_\_\_. Relatório 44/15. Disponível em: <http://www.oas.org/es/cidh/decisiones/corte/2016/12728FondoEs.pdf>. Acesso em 8 Mar. 2019.

\_\_\_\_\_. Comunicado 53/2015. Disponível em: <http://www.oas.org/es/cidh/prensa/comunicados/2016/053.asp>. Acesso em 8 Mar. 2019.

\_\_\_\_\_. Relatório 98/09. Disponível em: <http://www.oas.org/pt/cidh/decisiones/admisibilidades.asp>. Acesso em 8 Mar. 2019.

CORTE INTERAMERICANA DE DIREITOS HUMANOS. Caso dos Povos Indígenas Kuna de Madungandí e Emberá de Bayano contra Panamá. Disponível em: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_284\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_284_esp.pdf). Acesso em 8 Mar. 2019.

\_\_\_\_\_. Caso do Povo Indígena Kichwa de Sarayaku contra Equador. Disponível em: [http://corteidh.or.cr/docs/casos/articulos/seriec\\_245\\_ing.pdf](http://corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf). Acesso em 8 Mar. 2019.

\_\_\_\_\_. Caso do Povo Indígena Xákmok Káse. Disponível em: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_214\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_214_ing.pdf). Acesso em 8 Mar. 2019.

\_\_\_\_\_. Caso do Povo Indígena Sawhoyamaya. Disponível em: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_146\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_146_ing.pdf). Acesso em 8 Mar. 2019.

\_\_\_\_\_. Caso do Povo Indígena Yakye Axa. Disponível em: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_125\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_125_ing.pdf). Acesso em 8 Mar. 2019.

\_\_\_\_\_. Caso do Povo Indígena Xukuru. Disponível em: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_346\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_346_esp.pdf). Acesso em 8 Mar. 2019.



FUNDAJ. Terras Indígenas em Pernambuco. Disponível em: [http://basilio.fundaj.gov.br/pesquisaescolar/index.php?option=com\\_content&view=article&id=649&Itemid=188](http://basilio.fundaj.gov.br/pesquisaescolar/index.php?option=com_content&view=article&id=649&Itemid=188). Acesso em 8 Mar. 2019.

MINISTÉRIO PÚBLICO FEDERAL. Resolução de 20 fevereiro de 1996. Disponível em: [http://csmf.pgr.mpf.mp.br/documentos-e-publicacoes/resolucoes/resol\\_20\\_fev\\_1996.pdf](http://csmf.pgr.mpf.mp.br/documentos-e-publicacoes/resolucoes/resol_20_fev_1996.pdf). Acesso em 21 Mar. 2019.

\_\_\_\_\_. Apresentação Institucional. Disponível em: [http://6ccr.pgr.mpf.mp.br/institucional/apresentacao/apresentacao\\_txt](http://6ccr.pgr.mpf.mp.br/institucional/apresentacao/apresentacao_txt). Acesso em 21 Mar. 2019.

\_\_\_\_\_. Manual de Atuação em Territórios Tradicionais. Disponível em: <http://6ccr.pgr.mpf.mp.br/documentos-e-publicacoes/manual-de-atuacao/manual-de-atuacao-territorios-de-povos-e-comunidades-tradicionais-e-as-unidades-de-conservacao-de-protecao-integral>. Acesso em 21 Mar. 2019.

NEPE. Povos Indígenas. Disponível em: <http://www.ufpe.br/nepe/povosindigenas/>. Acesso em 8 Mar. 2019.

NEVES, Rita de Cássia Maria. 2005. Dramas e performances: o processo de reelaboração étnica Xukuru nos rituais, festas e conflitos. Tese (Doutorado em Antropologia) – Programa de Pós-Graduação em Antropologia Social, Universidade Federal de Santa Catarina, Florianópolis, 2005.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS. Declaração das Nações Unidas sobre os Direitos dos Povos Indígenas. Disponível em: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement>. Acesso em 7 Mar. 2019.

ORGANIZAÇÃO DOS ESTADOS AMERICANOS. Documentos Básicos. Disponível em: <http://www.oas.org/juridico/spanish/Tratados/a-52.html>. Acesso em 8 Mar. 2019.

SILVA, Edson. Xukuru: memórias e história dos índios da Serra do Ororubá (Pesqueira/PE), 1959-1988. 2ª edição. Recife: EDUFPE, 2017.

SOCIO AMBIENTAL. Terras Indígenas em Pernambuco. Disponível em: <http://ti.socioambiental.org/pt-br/#!/pt-br/terras-indigenas/pesquisa/uf/PE>. Acesso em 8 Mar. 2019.