



TERRITORY, ORGANIZATION AND POWER: NEW PARADIGMS ABOUT THE TERRITORIALIZATION PROCESS¹

TERRITÓRIO, ORGANIZAÇÃO E PODER: NOVOS PARADIGMAS ACERCA DO PROCESSO DE TERRITORIALIZAÇÃO

TERRITORIO, ORGANIZACIÓN Y PODER: NUEVOS PARADIGMAS SOBRE EL PROCESO DE TERRITORIALIZACIÓN

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ABSTRACT

This article analyzes the main theoretical currents in Anthropology concerning the territorial organization of indigenous peoples, articulating the debate between territoriality and territorialization with the realization of fundamental human rights. Starting from the contrast between culturalist approaches to territoriality - of a more static and ahistorical character - and processual perspectives of territorialization - which emphasize historical, political, and relational dimensions - the study demonstrates how this paradigmatic transition directly impacts the recognition of indigenous territorial rights. Through a bibliographic review spanning from classical contributions by Boas, Mauss, and Hall to contemporary debates by Oliveira, Ferreira, Barbosa da Silva, and Mura, it is argued that the adoption of the concept of territorialization not only provides a more suitable analytical framework for understanding indigenous territorial dynamics but also grounds the implementation of public policies aligned with ILO Convention 169 and the human

How to cite this article:
PEREIRA, Caio Tácito Rodrigues; Territory, organization and power: new paradigms about the territorialization process. *Journal of Socio-Environmental Law - ReDiS*, Morrinhos, Brazil, v. 03, n. 02, jul./dec., 2025, p. 01-17.

Submission date:
13/10/2025

Approval date:
10/12/2025

¹ This article is the result of discussions initiated within the scope of WG 6 – Time and Native Peoples, held during the John Monteiro Anthropology Days 2025. A preliminary development of this debate can be found in the annals of the congress, whose work title was: Legal pluralism and indigenous temporalities: rethinking "traditional occupation" from the perspective of the concept of culture and the process of territorialization.

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rights of indigenous peoples. The article is structured around three main axes: the critique of culturalist determinism, the emergence of the processual paradigm, and the implications for the realization of human rights in the context of territorial struggles.

Keywords: Indigenous peoples' rights; Human rights; Territoriality; Territorialization.

RESUMO

Este artigo analisa as principais correntes teóricas da Antropologia sobre a organização territorial dos povos indígenas, articulando o debate entre territorialidade e territorialização com a efetivação de direitos humanos fundamentais. Partindo do contraste entre as abordagens culturalistas da territorialidade - de caráter mais estático e a-histórico - e as perspectivas processuais da territorialização - que enfatizam dimensões históricas, políticas e relacionais -, o trabalho demonstra como esta transição paradigmática impacta diretamente o reconhecimento de direitos territoriais indígenas. Através de revisão bibliográfica que abrange desde contribuições clássicas de Boas, Mauss e Hall até os debates contemporâneos de Oliveira, Ferreira, Barbosa da Silva e Mura, argumenta-se que a adoção do conceito de territorialização oferece não apenas um quadro analítico mais adequado para compreender as dinâmicas territoriais indígenas, mas também fundamenta a implementação de políticas públicas alinhadas com a Convenção 169 da OIT e com os direitos humanos dos povos originários. O artigo estrutura-se em três eixos principais: a crítica ao determinismo culturalista, a emergência do paradigma processual e os desdobramentos para a efetivação de direitos humanos no contexto das lutas por território.

Palavras-chave: Direito dos povos indígenas; Direitos Humanos; Territorialidade; Territorialização.

RESUMEN

Este artículo analiza las principales corrientes teóricas de la Antropología sobre la organización territorial de los pueblos indígenas, articulando el debate entre territorialidad y territorialización con la efectivización de los derechos humanos fundamentales. Partiendo del contraste entre los enfoques culturalistas de la territorialidad - de carácter más estático y ahistorical - y las perspectivas procesales de la territorialización - que enfatizan dimensiones históricas, políticas y relaciones -, el trabajo demuestra cómo esta transición paradigmática impacta directamente en el reconocimiento de los derechos territoriales indígenas. A través de una revisión bibliográfica que abarca desde los aportes clásicos de Boas, Mauss y Hall hasta los debates contemporáneos de Oliveira, Ferreira, Barbosa da Silva y Mura, se argumenta que la adopción del concepto de territorialización no solo ofrece un marco analítico más adecuado para comprender las dinámicas territoriales indígenas, sino que también fundamenta la implementación de políticas públicas alineadas con el Convenio 169 de la OIT y con los derechos humanos de los pueblos originarios. El artículo se estructura en tres ejes principales: la crítica al determinismo culturalista, el surgimiento del paradigma procesual y las implicaciones para la efectivización de los derechos humanos en el contexto de las luchas por el territorio.

Palabras-clave: Derechos de los pueblos; Derechos; Humanos; Territorialidad; Territorialización.

INTRODUCTION

The territorial organization of indigenous populations is a notoriously complex issue in the anthropological field, whose relevance transcends the academic sphere to reach the legal and political spheres of guaranteeing fundamental human rights. Guided by international instruments such as

Convention 169 of the International Labor Organization (ILO) - which recognizes indigenous peoples' right to the territories they traditionally occupy - this discussion reveals the deep interconnection between theoretical conceptions of space and the realization of collective rights.

Within the scope of anthropological theory, two main analytical perspectives stand out to address this issue: one based on the concept of "territoriality" and the other on the concept of "territorialization". The first, of a culturalist and structuralist matrix, tends to analyze the territory as a projection of cultural and symbolic systems, often minimizing historical conflicts and forms of colonial domination. The second, which has gained strength in Brazilian anthropological studies, understands territorial formation as a historical, political, and socially constituted process, marked by power relations, cultural flows, and adaptations to specific contexts.

The current relevance of this debate is manifested in the evident dissonance between state legal categories - which often presuppose fixed and delimitable territorialities - and the empirical realities of indigenous territorial dynamics, notably fluid and processual, especially in postcolonial contexts such as the Brazilian Northeast and agricultural frontier areas. This disjunction creates serious obstacles to the full realization of the human rights of these populations, particularly with regard to the right to territory as a condition for physical and cultural reproduction. The main objective of this article is to critically analyze these two perspectives, demonstrating how the transition from the paradigm of territoriality to that of territorialization does not only represent a theoretical advance, but is an essential tool for the proper understanding and implementation of indigenous territorial rights as fundamental human rights. To develop this debate, the work is structured in three main sections: first, it explores the concept of *territoriality* from its culturalist roots in Boas and Hall and from Mauss's morphological perspective; then, it enters the paradigm of territorialization through the contributions of João Pacheco de Oliveira, Andrey Cordeiro Ferreira, Alexandra Barbosa da Silva and Fabio Mura; finally, In his final considerations, he reflects on the consequences of this debate for the policies of territorial recognition and the realization of human rights.

Through this path, it is argued that the adoption of a procedural and historical perspective of territorialization not only offers a more adequate analytical framework to understand the complex indigenous territorial dynamics, but also provides fundamental theoretical subsidies for the construction of legal and political frameworks that are more sensitive to the realities of these peoples and, therefore, more effective in guaranteeing their fundamental human rights.

1 THE CONCEPT OF TERRITORIALITY: CLASSICAL PERSPECTIVES AND THEIR LIMITS

1.1 The Culturalist Perspective and its Contradictions

The territoriality approach⁴ finds its main adhesion among anthropologists of culturalist or structuralist influence. This perspective analyzes how a group projects its cultural and symbolic system in the occupied space, tending to minimize the relevance of historical conflicts and forms of colonial domination. In this framework, territorial organization is understood as a direct derivative of how people think and behave in space, privileging cognitive and symbolic dimensions to the detriment of power relations and historical processes. According to Morin (2010), the territoriality approach emerged as a critique of the currents of environmental determinism, then popular in geography and biology in the nineteenth and twentieth centuries. Environmental determinism, defined by the author as an ideology of domination, attributed the intellectual and organizational capacity of a group to climatic factors, thus legitimizing racial hierarchies and colonial projects. It was from Franz Boas, considered the father of culturalism, that this logic began to be deconstructed. Boas postulated that it was the cultural decisions of individuals or groups that determined their organization, a perspective he called “historical possibilism” (Moran, 2010, p. 55), where the environment offered possibilities, but did not determine cultural choices. However, Morin (2010) points out that Boas himself incurred a type of cultural determinism, by denying the possibility of innovation and practical adaptation of a group to new environments, attributing the persistence of customs to “cultural inertia”. This conception implied a static view of cultures, where changes were seen as loss or contamination, rather than creative processes of adaptation:

Boas and his disciples emphasized that customs originating in a habitat could be perpetuated by 'cultural inertia' after a group moved to a new location where the custom no longer fit. As an example, he cites the expensive and complicated tents of the Chukechee, a legacy from the time when they permanently inhabited the coast (Moran, 2010, p. 56) (free translation).

This seems to be the central contradiction of Boasian thought: the tension between historical possibility and “cultural inertia.” For Boas and his disciples, such as Kroeber – who developed the theory of the superorganic (Moran, 2010, p. 57) – the formation of groups was of a fixed basis, reproducing actions based on a mental culture, which overlapped the relationship between man and

⁴ Boas and Marcel Mauss do not speak of territoriality directly, but they greatly influenced its formulation. We will try in the course of this topic to defend our point of view. We see anthropologists such as Edward Hall (1977) as a slightly different perspective from what we will list in this topic, their concept of territoriality is defined in forms of behavior and communication that result in specific social organizations: '(...) it is in the nature of animals, including man, to present the behavior we call territoriality. In doing so, they use their senses to distinguish between one space, or distance, and another. The specific distance chosen depends on the transaction; the relationship of the individuals in interaction, how they feel and what they are doing." (p.115).

the environment. Culture was conceived as a supra-organic entity with its own dynamics, independent of the individuals who experienced it.

According to Edward Hall (1977, p. 115), the Boasian equation gains a new element: the influence of public behavior in the creation of cultural spaces of group differentiation. Hall defines territoriality as forms of behavior and communication that result in specific social organizations, introducing a proxemic dimension to the analysis:

(...) it is in the nature of animals, including man, to exhibit the behavior we call territoriality. In doing so, they use their senses to distinguish between one space, or distance, and another. The specific distance chosen depends on the transaction; the relationship of individuals in interaction, how they feel and what they are doing (Hall, 1977, p. 115) (free translation).

However, Hall applies the same ahistorical notion of Boas when classifying identities and nations as given and immutable realities, naturalizing cultural differences as if they were eternal essences:

(...) There are implicit obligations to treat strangers in certain prescribed ways. Consequently, we find four main categories of relationships (intimate, personal, social, and public) and the activities and spaces associated with them. In other parts of the world, relationships tend to follow other models, such as the family/non-family common in Spain and Portugal and their former colonies, or the caste and pariah system of India. Arabs and Jews also make radical distinctions between the people they are related to and others. My work with the Arabs leads me to believe that they employ a system for the organization of informal space that is very different from what I have observed in the United States (Hall, 1977, p. 117) (free translation).

It is postulated, therefore, that among the culturalists of the Boasian tradition, territoriality delimits the relationship between subject and habitat in an ahistorical way, conditioning it through 'culture' as a central element. It is also observed that the approach is of an endoculturalist nature, which makes it difficult to analyze the territorial organization that considers the influence of other ethnic groups in the same region, processes of miscegenation or interethnic relations. Culture is treated as a closed, self-contained, self-reproducing system, ignoring precisely the flows, borrowings, and transformations that characterize cultural dynamics.

1.2 Social Morphology and Seasonality

A contemporary of Boas, but with a different perspective, Marcel Mauss (2003) proposes a new analytical concept to study the interaction of human groups in the territory: the "social morphology". In his *Essay on the Seasonal Variations of the Eskimos*, Mauss (2003, p. 425) advances

in relation to culturalism by seeking to understand the material bases of social life, defining social morphology as:

(...) the science that studies, not only to describe it, but also to explain it, the material substrate of societies, that is, the form they display when they settle on the soil, the volume and density of the population, the way in which it is distributed, as well as the set of things that serve as the basis for collective life (free translation).

In the study of the Eskimos, who shared the same ecological niche with the Athapascians and Algonquins, Mauss found that their forms of occupation and production in the territory were variable and seasonally determined. The territorial organization of the Eskimos was given by two fundamental notions: that of tribe and establishment, which operated on different scales and temporalities.

(...)They have linguistic unity along with the borders with different dialects that distinguish them (...) another criterion for distinguishing the tribe is the collective name used by all its members, whose nomenclature is, however, indeterminate. Wars between tribes are another way of existential affirmation and self-feeling – but there are few events like these known (p. 248-250) (...) The tribe does not constitute a territorial, solid, stable unit. The territorial unit is rather the establishment (a group of families clustered and united by special ties, which occupy a habitat through which they are unequally distributed according to the season of the year) (Mauss, 2010, p. 251) (free translation).

The establishment had a constant name, fixed borders, a defined space for hunting and fishing, as well as linguistic unity, religious ties and variable sizes. It was the concrete territorial unit, while the tribe represented a broader but less territorially stable unit of identification. Mauss's main thesis is that, during the winter, there was a concentration of Eskimo families, where the distinctions between tribe and settlement ceased to operate. This strategy of seasonal aggregation, an adaptation to environmental variations, demonstrated that the logic of occupation was not fixed, but responded pragmatically to ecological conditions. In this way, the Eskimos conceived their territorial organization through two distinct social structures (summer and winter), showing a remarkable organizational plasticity. Despite this important contribution on variability and adaptation, Mauss's analysis also has limitations in that it does not sufficiently incorporate historical and political dimensions into territorial transformations, treating variations as mainly ecological responses rather than the results of power relations and long-term historical processes

1.3 Limitations of the Territoriality Paradigm

Approaches based on the concept of territoriality, both in its culturalist and morphological versions, share important limitations for understanding contemporary indigenous territorial dynamics. In the first place, they tend to treat cultures as closed and self-contained systems, neglecting historical processes of contact, miscegenation and transformation. Second, they operate with an essentialist notion of ethnic identity, assuming that cultural groups are discrete and well-defined units. Finally, they underestimate the role of the State, power relations and broader economic processes in the configuration of territorialities.

These limitations become particularly problematic when applied to postcolonial contexts such as Brazil, where indigenous peoples have experienced centuries of contact, violence, forced displacement, and subaltern incorporation into regional economies. It is precisely to overcome these limitations that the paradigm of territorialization emerges in Brazilian anthropology.

2. THE PARADIGM OF TERRITORIALIZATION: HISTORICAL PROCESSES AND POWER RELATIONS

2.1 The Procedural Turn and the Critique of the Concept of Territoriality

João Pacheco de Oliveira (1998) represents a turning point in studies on indigenous territorial organization in Brazil. His work on the indigenous people of the Brazilian Northeast introduces the category of “colonial situation” as an analytical key to understanding territorial dynamics, breaking with essentialist perspectives that until then had predominated in anthropology and official indigenism. His work represented a paradigm shift in anthropological studies in Brazil, which tended to essentialize ethnic groups and their forms of occupation in time and space. The hegemonic currents described the indigenous people of the Northeast as “mestizos” or “acculturated”, but, through the notion of “historical situation” (Oliveira, 1998, p. 52), the anthropologist demonstrates that the ideological charge operated by the state agencies, by categorizing them as “mixed”, denied them access to land and ethnic recognition. Oliveira reveals how the category “mixed Indian” operated as a device of invisibilization and denial of rights, based on racializing criteria that required “cultural purity” for the recognition of indigenous identity.

While in the Amazon the indigenous populations maintained a continuous occupation and a cohesive mode of production, the Northeast was characterized by occupational flows, colonial territorial conflicts and population displacements, configuring a different type of territorial organization:

(...) Given the characteristics and chronology of the expansion of frontiers in the Amazon, indigenous peoples hold a significant part of their territories and ecological niches, while in the Northeast these areas were incorporated by previous colonizing flows, not differing much from their current possessions from the peasant pattern and being interspersed with the regional population (Oliveira, 1998, p. 53) (free translation).

These historical implications have generated diversified actions and interests in the original groups, demanding different indigenous strategies according to the regional context: If, in the Amazon, the most serious threat is the invasion of indigenous territories and the degradation of their environmental resources, in the case of the Northeast, the challenge to indigenous action is to reestablish indigenous territories, promoting the removal of non-Indians from indigenous areas, denaturalizing "mixture" as the only way of survival and citizenship (Oliveira, 1998, p. 53). Critical of the currents of ethnogenesis that postulated the indigenous identity of the Northeast as a rescue of lost "traditions", Oliveira argues that this organization is a historical consequence of the forms of colonial action in the region, which led to the creation of new sociocultural identities. Based on this, it defines the territorialization process as a multidimensional analytical framework:

(...) a process of social reorganization that implies: 1) the creation of a new socio-cultural unit through the establishment of a differentiating ethnic identity; 2) the constitution of specialized political mechanisms; 3) the redefinition of social control over environmental resources; 4) the re-elaboration of culture and the relationship with the past (Oliveira, 1998, p. 55) (free translation).

For the author, territorialization is fundamentally a political act, rescuing conceptions of political community⁵ (Weber, 2002) and ethnic group⁶ (Barth, 2000), but expanding them to include the territorial dimension as constitutive of the identity process. His analysis encompasses the social organization of groups, the mediating powers of the State and the changes in the forms of territorial exploitation as vectors of distinction and individualization, as he states: "there I meet Barth again, but without restricting myself to the identity dimension, seeing distinction and individualization as vectors of social organization" (Oliveira, 1998, p. 56).

⁵ By political community we mean that whose **action** consists in the fact that the participants reserve for themselves the orderly domination of a "sphere" (not necessarily constant at all and fixed in delimitation, but delimitable in some way) and of the action of the men situated in it in a permanent or only provisional way, having physical force prepared for the case, usually armed. The existence of a "political" community in this sense is not something given once and for all. As a *special* community, it is absent on all those occasions in which defense against the enemy can be undertaken if necessary by the simple domestic community, by the association of neighbors (...) However, a specific "political" community exists only when the community is *not* merely "economic" and, therefore, when it has legal systems that regulate things other than the economic possession of goods and the provision of services (Weber, 2002, p. 661).

⁶ Ethnic group is defined as organizational type'. 'By focusing on what is socially effective, ethnic groups come to be seen as a form of social organization.' (Barth, 2000, p. 31).

2.2 Mode of Production and Power Asymmetries

Following the conception of João Pacheco de Oliveira and incorporating the contributions of Eric Wolf (2009), Andrey Cordeiro Ferreira (2013) analyzes how the mode of production operates in the territorialization process, emphasizing the asymmetrical power relations between the State and indigenous peoples. In the work "Europe and the peoples without history" (Wolf, 2009), Wolf investigates how the capitalist mode of production was implanted in different colonial contexts, showing how the European demand for commodities integrated indigenous groups into a global economy, profoundly influencing their social and territorial organization. Ferreira (2013) interprets this relationship as a constant clash between local powers and state policies, the result of which defines specific territorial configurations:

To use Eric Wolf's (2009) terms, it is a matter of thinking about the different forms of power, an organizational power that comes from 'below' and a structural power that comes from 'above', and how these conflict and produce effects of territorial organization (Ferreira, 2013, p. 199) (free translation).

Through the case study of the construction of the Brazil-Bolivia gas pipeline in Terena territory, the author analyzes the social organization of this people in the face of a large development project imposed by the State. The government implemented the Indigenous Peoples Development Plan (PDPI), a proposal for reciprocity in exchange for the passage of the pipeline, which provided benefits such as cooperatives and community projects. However, Ferreira highlights the processes of fusion and fission of the Terena domestic groups, which did not adapt to the "community-collective" projects idealized by the State, demonstrating the resistance of indigenous organizational logics in the face of external models. An emblematic example was the fate of a cold chamber acquired through the PDPI:

(...)'cooperative' that should crystallize the organizational process in the economy did not develop. He was interrupted by various difficulties. The cold chamber was acquired and placed, symbolically, in the center of the village. However, a few years later it was soon after sold. As an object, it is representative, as it allowed the 'centralization' of fish production for commercialization. But it was replaced by another storage instrument, the horizontal freezer with a smaller capacity, but located inside the houses of macro-family units. The storage of the product of fishing is no longer like this in the 'collective community' space to be carried out in the space of the domestic group and extended families (...)The example of the cold chamber of Lalima shows how there is a tendency of the domestic group to seek its autonomy and to structure itself independently in the control of strategic resources for the extended family or neighborhood group, both in the production and circulation of agricultural items, as well as in hunting and fishing. In this case, the cold chamber that existed in the Lalima village and which was intended to store the fish collectively was resold, as it fell into disuse as the families acquired the freezers (Ferreira, 2013, pp. 187-188) (free translation).

This would be just one of the examples pointed out by the anthropologist of the group's adaptation to an external logic (of the State) in its organization. Throughout their postulation, the heads of extended families, leaders of the macro villages and village chiefs operate by the logic of reciprocity before their group, that is, the occupation of certain positions has the obligation to meet the needs of their group that varies according to the scale of power it occupies. In our reading, the ethnologist reinforces that even in an asymmetrical logic of power, the logic of reciprocity does not juxtapose or overcome logics of social organization both past and present, but reproduces it through a paradigm of interpretation that are derived from "its" categories of social organization. We believe that despite the emphasis given by the author to asymmetry in the power relation, the collation of asymmetric logics results in a separate interpretation between "logic"/state action and "logic"/ethnic group action, in such a way that the elements of social organization of the group seem like a "static interpretative filter". In the next topic we will see an approach that tries to dynamize the interpretations and actions of the groups.

2.3 Cultural Flows and Domestic Ecology

Alexandra Barbosa da Silva and Fabio Mura (2011) represent a significant advance in the paradigm of territorialization by arguing that the concept of social organization is insufficient to understand the complexity of territorial processes. His approach incorporates symbolic and cosmological dimensions and cultural flows as constitutive elements of territorial dynamics, overcoming dichotomies between materialism and culturalism. The authors are concerned with demonstrating how the occupations of two indigenous groups in radically different contexts – the Guarani-Kaiowá in Mato Grosso do Sul and the Tabajara in Paraíba – have convergences and confluences derived from the way in which domestic groups store and operate with their knowledge and practices. To do so, they use Barth's (2005) concept that culture flows freely among individuals, but social organization imposes barriers and channels certain knowledge, which can generate contestation of established paradigms: "In fact, the acts promoted by people and the events that result from them are continuously interpreted, reaching, through these processes, not only the transmission of knowledge and cultural schemes, but also their contestation" (Barth, 2005, p.104).

Among the Guarani-Kaiowá, who suffered less state intrusion until the nineteenth century, a strong shamanic cosmology reinforced exclusive ethnic boundaries and a moral framework that defines activities "proper" to the "Guarani way of being." Cattle raising, for example, is seen as an activity of the whites, and its expansion comes up against the logic of reciprocity that obliges

distribution, making it unprofitable from the capitalist economic point of view, but consistent with the Kaiowá moral economy:

(...) As the renowned shaman Atanásio Teixeira observes, the Indians can raise a few heads of cattle to obtain meat and milk, but they fail when they try to increase the number of these animals immeasurably, since it would not be in their nature to be large cattle breeders (...) the logic of reciprocity that obliges individuals to share with their relatives and allies the advantages arising from their material experiences. In these terms, raising a lot of cattle would imply having to slaughter many heads to distribute the meat among their relatives, making the enterprise unprofitable in economic terms, which is why the indigenous people, after trying, end up giving up on the company (Mura; Barbosa da Silva, 2011, pp. 107-108) (free translation).

Thus, the Kaiowá tradition of knowledge is compared on two main dimensions: the activities of domestic life and ethnic identity, producing a territorialization marked by relatively rigid ethnic boundaries. Among the Tabajara, on the other hand, a historical process of greater colonial repression, aggregation in villages, interethnic marriages and an intense flow of settlers and slaves generated a diversified cultural flow and a distinct territorial configuration. The result was the formation of a local political community that includes, in addition to the indigenous people, “quilombolas”, “settlers” and “squatters”, all sharing the same tradition of knowledge (Mura; Barbosa da Silva, 2011, p. 105). This tradition includes, for example, a moral framework that relates success in activities such as fishing and gathering to the state of “closed body” (sexual abstinence and ritual purity), showing how symbolic categories organize relations with the territory:

(...)A man goes to collect honey and has an open body, that is, if he has had sexual relations for a short time or, worse, if he has been with prostitutes, or even if he has committed adultery, the bees can sting and even kill him. On the contrary, if the body is “closed”, the individual, with a clear conscience, will not suffer anything. The same logic is valid in fishing, agriculture and hunting activities, during which, in order to be successful, certain times must be respected, to allow that, once the body is opened, it can close (Mura; Barbosa da Silva, 2011, p. 108) (free translation).

The importance of the work of these two anthropologists lies in demonstrating that: (1) a political community and traditions of knowledge can be constituted without rigid ethnic boundaries or the formation of discrete ethnic groups; and (2) studies of territorial dynamics must relate the historical process of occupation to the adaptation of groups to their socio-historical-territorial context (Mura; Barbosa da Silva, 2011, p. 105). It is also noteworthy that the way the “historical situation” is treated as a theoretical approach is not determined solely by the social organization of the groups that occupy the territory or by the public administration’s interpretation of power, but rather by the way cultural flows operate and organize the domestic life of these groups. Responses to events are entangled in multiple factors (socio-historical-territorial), generating a continuum in which it is

difficult to portray them as a mere social reorganization or as an interpretation equivalent to the values of the existing social organization in a linear and atemporal manner—an approach that will become clearer in the next section.

2.4 Kaiowá Domestic Ecology: Historical Depth and Contemporary Transformations

In a later work, “Territory and Domestic Ecology among the Kaiowá of Mato Grosso do Sul” (Mura and Barbosa da Silva, 2022), the authors deepen this analysis, showing how the Kaiowá domestic groups articulate state policies that have modified their economic activities of productive acquisition. They analyze native categories that are fundamental to understanding Kaiowá territorialization: *jeheka* (the idea of looking for something, considering the weather conditions), *tekoha* and *tendápe*.

Mura and Barbosa da Silva (2022) argue that the meaning of *tekoha* – today understood as “the place where we realize our way of being and living” – was significantly altered by the colonial imposition of settlements and fixed borders. Through research in historical sources, they demonstrate that originally the expression was always associated with *yvy* (earth) – “*yvy ore rekoha*” – suggesting that it would not be a noun or concept, but an action that would occur on earth:

These sources consist of letters drawn up by indigenous people in the Jesuit missions shortly after the Treaty of Madrid (which divided the spaces of the Portuguese and Spanish colonies), putting at risk the occupation of the lands by the Guarani at the time. (...) It happens, however, that in these letters the expression *ore rekoha* does not appear in isolation, but is always related to the term *yvy* (earth); The expression is “*Yvy Ore Rekoha*”. Therefore, *tekoha* (in its oscillating form *rekoha*), would not be a noun, a concept in itself, as it is understood today, indicating a political-territorial ordering; He would express an action that would take place on earth (YVY), the latter being the main subject. (Mura; Barbosa da Silva, 2022, p. 97) (free translation).

With the imposition of Western forms of territoriality by the colonial and national State, the meaning was transformed until the current conception: “*teko*” = 'way, way', and “there is”, a suffix that indicates, in this case, place, we have: “place where we realize our way of being and living” (Barbosa da Silva; Mura, 2022, p. 97), thus aggregating several *extended families under the same political-territorial unit*. *Tendápe*, on the other hand, refer to the specific places where extended families are located in the occupied space. In conclusion, anthropologists report that the action of occupation of the indigenous people over the *tekoha* distances itself from a rigid and fixed demarcation logic:

Tendápe, when autonomous can be considered a *tekoha*, since, as said, this is a place where the indigenous people realize their way of being and living. However, it is more common for

the tekoha to be configured by the relationship between several te'yi, thus forming a territory that would be the sum of a plurality of tendape. In this sense, the territory of a tekoha would be constituted by the exclusive spaces of the te'yi, combined with inclusive places (usually forests and fields), of common use. Being formed by the relationship between several tendape, the tehoha constitutes a local political community, whose configuration, as we have seen, can vary according to alliances and enmities between the extended families involved. Therefore, it can be seen that, contrary to an alleged rigidity, over time the space of coverage of a tekoha may also vary. The lands claimed as former occupation will have such a scope from the memories of their occupation (...) (Mura; Barbosa da Silva, 2022, p. 103) (free translation).

The authors also conclude that the Maussian social morphology is insufficient to describe the territorial dynamics, and that the “socio-ecological-cultural context” should be analyzed, considering how the social institution of the domestic group ⁷ influences the territorial dynamics of political communities that act according to the socio-territorial context, incorporating elements of different forms of organization, whether coercively or voluntarily.

2.5 The Meeting of Anthropological Categories with Human Rights

The notion of territorialization, as elaborated by authors such as João Pacheco de Oliveira (1998), refers to the process by which the nation-state imposes its spatial order, delimiting, categorizing and administering portions of the territory under its jurisdiction. In the Brazilian indigenous context, this process historically took place through the creation of reserves, settlements and, later, Indigenous Lands (TIs), spaces with fixed boundaries defined by bureaucratic-administrative criteria.

As pointed out in the memorial of the Brazilian Association of Anthropology (Mura, Moreira, Barbosa da Silva, 2020) - Memorial *Amicus Curiae* (Special Appeal 1017365, 2020) - this state action often produced enclaves of spaces cut out within effective territories of traditional use and occupation, disregarding the scale and dynamics of indigenous social organization. State territorialization operates from an impersonal logic, based on depersonalized relations and property as an alienable good, inherited from Roman agrarian law and consolidated in Brazil with the Land Law of 1850.

In contrast to this logic, anthropology contributes to the understanding of territory as a relational and dynamic category. It is not reduced to a delimited physical space, but is constituted by the social, kinship, cosmological and economic relations that a collectivity establishes with its

⁷ The domestic group can be understood as a social group whose activities are centered on the housing complex, which performs a set of tasks and which is the primary unit within which resources are gathered and allocated. Such housing complexes do not need to be geographically close, however the sharing of resource management and functions among members is what determines their constitution and morphology (See Wilk *et al.*, 1984).

environment. As the ABA memorial (2020) highlights, the indigenous territory is a corollary of the relationships that develop within it, and its occupation is marked by seasonality, mobility, and multiple and overlapping uses (housing, productive activities, environmental preservation, cultural reproduction). Indigenous “possession”, in this perspective, is fluid and expresses the exercise of a way of life, not to be confused with the owner-possession of civil law. Traditionality, therefore, does not refer to an immemorial or static time, but to a sedimentation of knowledge and experiences that gives continuity to this specific way of occupying and giving meaning to space. It is at this point that ILO Convention 169 (1989) plays a central role, by providing an international legal framework that legitimizes and protects this anthropological conception of territory. Ratified by Brazil and with constitutional status, the Convention goes on to recognize, in its Article 13, that:

1. In applying the provisions of this part of the Convention, governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship to the lands or territories, or to both, as the case may be, which they occupy or use in some way, and in particular the collective aspects of that relationship.

2. The use of the term “lands” in Articles 15 and 16 shall include the concept of territories, which covers the entire habitat of the regions occupied or otherwise used by the peoples concerned

(...)

Article 15

1. The rights of the peoples concerned to the natural resources on their lands shall be particularly protected. These rights include the right of these peoples to participate in the use, administration and conservation of the resources mentioned.

2. In the event that the State owns the minerals or subsoil resources, or has rights to other resources existing on the land, governments shall establish or maintain procedures for consulting the peoples concerned in order to determine whether and to what extent the interests of those peoples would be harmed, before undertaking or authorizing any program of prospecting or exploitation of the resources existing on their lands. The peoples concerned shall participate as far as possible in the benefits which these activities produce, and shall receive equitable compensation for any harm they may suffer as a result of these activities.

Article 16

1. Subject to the provisions of the following paragraphs of this Article, the peoples concerned shall not be transferred from the lands they occupy.

2. When, exceptionally, the transfer and resettlement of these peoples are considered necessary, they may only be carried out with their consent, granted freely and with full knowledge of the facts. Where it is not possible to obtain their consent, transfer and resettlement may be carried out only after the completion of appropriate procedures established by national legislation, including public surveys, where appropriate, in which the peoples concerned have the possibility of being effectively represented.

3. Whenever possible, these peoples should have the right to return to their traditional lands as soon as the causes that motivated their relocation and resettlement cease to exist.

4. When repossession is not possible, as determined by agreement or, in the absence of such agreements, through an appropriate procedure, these peoples shall receive, in all cases where possible, lands whose quality and legal status are at least equal to those of the lands they previously occupied, and which enable them to cover their needs and ensure their future development. When the peoples concerned prefer to receive compensation in money or goods, such compensation shall be granted with appropriate guarantees.

5. Persons transferred and resettled shall be fully compensated for any loss or damage they have suffered as a result of their displacement. (free translation).

Thus, understanding the concept of “lands” as the totality of the habitat of the regions that the interested peoples occupy or use in some other way. This broad and functional definition breaks with the static and land view of the land, aligning itself with the notion of territory as a space for life and cultural reproduction. The Convention is anchored in the principle of self-definition and respect for the “ways of creating, doing and living” of peoples, protecting precisely the territorial dynamics that the state action of territorialization often ignores or restricts.

Therefore, the realization of indigenous territorial rights demands a critical dialogue between Law and Anthropology. It is necessary to transcend the mere logic of state territorialization, which frames and limits, to embrace the conception of territory as a lived and dynamically constructed space. ILO Convention 169 provides the fundamental legal bridge for this transposition, by imposing on the State the duty to recognize and protect the integrality of indigenous habitat, as defined by its uses, customs and traditions. In this sense, guaranteeing traditionally occupied land is more than demarcating a polygon on the map; it is to ensure the conditions for the physical and cultural reproduction of a people, which implies respecting the complex, fluid and essentially dynamic relationship that it maintains with its living space.

3 FINAL CONSIDERATIONS

Almeida (2012) brings a pertinent reflection on constitutional pluralism and its application in the demarcation of traditional territories, highlighting that article 231 of the Federal Constitution (Brasil, 1988) values “permanent occupation” to characterize the “traditional” character, separating it from the notion of “immemorability”. The reflections of Mura and Barbosa da Silva (2011; 2022), however, demonstrate that occupation can follow logics that are consistent with the growth of extended families and seasonal mobility, and not with a notion of fixed and permanently occupied territory in the strict sense that the law usually operates. Legal paradigms tend to naturalize fixed territories delimited by a memory of ancestral occupation, failing to conceive territorial dynamics of a “processual” order, where cosmological paradigms profoundly influence the types of occupation. This disjunction between the legal categories and the effective territorial dynamics of indigenous peoples generates serious obstacles to the recognition of their rights, especially in contexts such as the Brazilian Northeast or areas of former colonization.

A second aspect to note is that, while Wolf (2009) states that there was the dissolution of ethnic groups in the Canadian fur trade, Mura and Barbosa da Silva (2011) present the Tabajara case, where ethnic identity was supplanted by colonial violence, but this did not prevent the creation of a local political community with strong cultural specificities. Unlike Ferreira (2013) and Wolf (2009),

whose analyses tend to privilege the relationship between ethnic group and mode of production, the approach of Barbosa da Silva and Mura (2011; 2022) opens space for the analysis of the flow of knowledge/culture as a fundamental element of dynamics and communication of social institutions, thus establishing new socio-political configurations that transcend conventional ethnic categories. This suggests that territorialization processes can occur even in contexts of apparent ethnic "dissolution," through the maintenance of traditions of knowledge, specific moral frameworks, and forms of domestic organization that recreate political community on not necessarily ethnic bases.

Finally, one of the hypotheses that we bring through the reading of this theoretical retrospective is that the regions of Brazil have a variable in the application of administrative law, either as a result of projects of economic interest/land or in their demographic density, this significantly impacts the way that political communities are structured in the territory. Finally, it remains to be discovered whether reflections on the territorial dynamics of ethnic minorities will be able to impact the generalist spirit of the constitutions and laws of nation-states.

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This version was originally presented in Portuguese and translated into Spanish with the assistance of Artificial Intelligence.

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