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KILOBOS OF BRAZIL

Identity and Land Entitlement

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As a result of the Afro-Brazilian social movement's pressure, Brazil's postdictatorship constitution, promulgated in 1988, included a provision granting land rights to the surviving kilombo communities that exist throughout the country. Although these communities were formed in many different ways, judicial interpretation of the constitutional provision has restricted the right to those deemed to be descended from groups that escaped or rebelled violently against enslavement. This interpretation violates the original intention of the provision and raises the issue of how to define the collective identity of Afro-Brazilian kilombo communities. Bureaucratic procedures designed to ensure proof of rebellion or escape, as well as interagency conflicts in land tenure administration, further complicate the implementation of the constitutional right. The 3rd World Conference Against Racism instigated political pressure to overcome these obstacles and interagency cooperation may herald positive changes in the future.

Keywords: *Kilombo communities in Brazil; Afro-Brazilian community land rights; Afro-Brazilian collective land use; Afro-Brazilian ethnic identity*

In this way, abolition was only the first step toward the emancipation of the Brazilian people. The arbitrariness, ignorance, violence, poverty, and prejudice that slave society created still weigh upon us. While it is fair to commemorate the Thirteenth of May, it is nevertheless imperative not to allow the celebration to blur our vision to the point of turning the freedom it symbolizes into a myth at the service of oppression and the exploitation of labor.

—Emilia Viotti da Costa

THE ORIGIN AND RECOGNITION OF KILOMBO COMMUNITIES' LAND RIGHTS

In Brazil, slavery was abolished under the banner of the liberal doctrine that attributes to all human beings the natural right to freedom, property, and equality before the law (Costa, 1982, p. 18). However, not until 100 years after the abolition of slavery did the Brazilian Constitution include in its content the right of recognized descendants of enslaved Africans to ownership of their land as *kilombo community survivors*.

This is, undoubtedly, an advance for the government and an achievement for the Brazilian black movement, which fought hard to include this long-demanded right. In Article 68 of its Act of Transitory Provisions, the Federal Constitution of October 5, 1988, known as the Citizens' Constitution, created a new legal entity: surviving kilombo communities. Article 68 reads (Brazil, 1994),

Survivors of kilombo communities occupying their lands are recognized as definitive owners, and the State shall issue them relevant title deeds. (p. 126)

Recognition of these communities is restricted today by the convention of attributing to the term *kilombo* the same meaning the colonizers gave it. Under this conventional concept of kilombo, the Federal Constitution is supposed to only acknowledge the property rights of descendants of enslaved Africans whose territories were created as a result of insurrection and escape, as in Palmares; other forms of resistance would not be considered. Also, most kilombo lands are areas of common use. This collective form of ownership is not compatible with individual land appropriation, by which each family receives a plot or parcel.

The social groups classified today as surviving kilombo communities formed their territories in different ways (Almeida, 1996; Cruz, 1991): by escaping to set up kilombo or mocambo communities; from donations made when plantations were divided up; from the breaking up of estates belonging to religious orders, so-called saints' or holy lands; by buying (Sales, 1984); in return for provid-

ing religious services; in return for military services rendered to authorities in times of severe social crisis or war (Sales, 1984).

Therefore, it is not uncommon that challenges and even protests against the preference given to one status in detriment of the others have been raised by different sectors of civil society and by some state agencies, such as the Federal Public Prosecution Service and certain universities, for example.

SURVIVING KILOMBO COMMUNITIES

Several surveys have been undertaken on the number of surviving kilombo communities existing in Brazil, on a regional (Sociedade Maranhense de Direitos Humanos, 2002) and a national basis (Anjos, 1999). In its first research initiative, undertaken in 2000, the Palmares Cultural Foundation, agency of the Ministry of Culture in charge of African-descendant affairs, pointed to the existence of 743 communities, with a population of 2 million, occupying an area of 30.5 million hectares. Another inventory, completed in December 2002, recorded 1,296 kilombo communities, spread throughout 22 Brazilian states (Linhares, 2003). Some 42 of those were given title deeds between 1995 and 2002 by the Palmares Cultural Foundation, by the National Institute of Colonization and Land Reform (INCRA), and by state governments. Of the communities recorded, 3.79% are in the midwest region, 25.81% in the north, 55.79% in the northeast, 13.14% in the southeast, and 1.47% in southern Brazil.

These statistics are quite dynamic; new studies and findings by local and regional organizations continually reveal an increasing number of these communities. It is quite possible that more than 3,000 surviving kilombo communities may be found in Brazil. Whereas some are being recognized and titled, others appear on the scene claiming action from official agencies, requesting basic public utilities or solutions to territorial problems. Furthermore, a number of states have become interested in recognizing their surviving kilombo communities, including Pará, São Paulo, Rio Grande do

Sul, Mato Grosso, Pernambuco, and Rio de Janeiro. The governments of the first three have passed legislation recognizing kilombos and created working groups to proceed on their land rights and issue their titles. These facts have contributed significantly to gathering further information about new kilombos.

These black communities are generally found to have large areas for collective use, whose conservation is a strategy of social reproduction of the group itself. There are gallery forest areas, which, when conserved, protect bodies of water that are of great utility in the everyday lives of the various families living on that land. These areas also very often contain forest species whose fruit is part of the staple diet of these populations.

There are other plants that provide for shelter and food for forest and fresh water fauna. Conservation of these plant species has a direct influence on the reproduction of wild animals and fish.

The territories also include areas of common use, known locally as natural pastures, winter pastures, cooling grounds, grazing land, meadows, copses, and fields penetrating natural forest lands. These are conserved as a supply source of fine quality timber for building houses, vessels, furniture, and other locally used utensils. In addition to these purposes, plants used for medicinal and religious purposes are found growing in these forests (Linhares, 2000, pp. 194-199).

Common areas of extractive plant usage (as in rubber and maple syrup) have very relevant significance in the context of the peasant economy, notably among those who inhabit these black communities. Examples of this are Brazil nut production in the State of Pará and babassu and jaborandi production in Maranhão.

Common usage orchards are found in some kilombo communities. Surface water, such as rivers, lakes, springs, lagoons, straits, swamps, and other bodies of water, is also of common use.

Another feature of the black communities is the balance maintained among the activities in their traditional productive structure. In this arrangement, fishing, hunting, agriculture, extractive plant usage, and livestock farming alternate by season, with less than considerable effect on some resources of nature in detriment to others. This method of production tends to change only as originally

available resources dwindle, generally due to outside action. In this event, the community tends to move more toward activities where natural resources are more abundant or their economic use more beneficial.

This factor is not only confirmed by the black rural dwellers themselves, but they also consider that it differentiates them from other social groups. In Pará, for example, they say that they use the land differently from Northeasterners, people from Ceará and other states of the Northeast region who migrate to Maranhão and settle in territories belonging to the black communities.

In short, the territories occupied by these traditional populations generally have no need for the intervention of land reform agencies with regard to their internal spatial organization. This structure is already traditionally established. What it does require is more detailed study by land reform agencies, which need to acquire a clearer understanding of the rational use of natural resources by these populations. This is the only way to understand the importance of these lands for these social groups and, thereby, to avoid disastrous interventions. It is encouraging that some nongovernmental organizations and some state agencies have been willing to respect and dedicate attention to the local culture in these territories, an attitude that has brought about encouraging results in understanding their practices and what they represent.

KILOMBO COMMUNITY LAND ENTITLEMENT

Land entitlement of surviving kilombo communities requires a series of procedures, which include a simple statement of their existence in an inventory, mapping, official identification or recognition, and issue and official registration of the title deed. Technical reports by experts, researchers, and social scientists are of crucial importance to the process of official identification and recognition for purposes of land entitlement.

The inventory identifies the community by name and states the county and state where it is located. To identify and recognize the group as a surviving kilombo community, research or ethnographic

survey of its history and cultural, economic, and social relations are also necessary. To this information are added geographic and demographic data, memory, genealogy, history, economy (extractivist, handcraft, commercial, productive, and other activities), political and social organization, religion, and cultural expressions. Based on these data, it is decided whether or not a given group qualifies as a surviving kilombo community.

At the end of this procedure, a final report is issued and published in the daily federal legal compendium. Publication of the final report is the administrative act that completes the process of surviving kilombo communities' land entitlement. If entitlement is recognized, the deed is issued and registered on behalf of the community, which generally is represented by an association it has created as its legal agent.

REDEFINING THE CONCEPT OF KILOMBO

The urgency of effectively implementing the constitutional land right has presented experts and researchers with the task of giving new meaning to the concept of kilombo. How can one justify the idea that rural black communities, whose existence is the result of one historic fact—the enslavement of Africans in Brazil, are treated differently (granted or denied legal status as surviving kilombo communities) when they share the same general characteristics and life experience (with slight variations in ecological environments) and are characterized by similar social and historic features? What are the scientifically correct parameters that can lead a social scientist or jurist to say that one rural black community should be considered by cultural or ethnic criteria, whereas another can be addressed only in the legal terms of strictly administrative land tenure procedure?

Political, scientific, and technical considerations have caused conflicts in the different fields of action (Bourdieu, 1989, pp. 28-29) in which this question is raised. From the viewpoint of the social movement, to speak of kilombos is to speak of rural black communities in general. Faced with a low level of political repre-

sentation, the black movement resorted to creativity to include this right of tenure in the 1988 Constitution. The phrase, “surviving kilombo communities,” was a result of political negotiations in which the black movement was forced to make concessions. Among scholars and specialists on this matter, there are those who are familiar with this history and have no difficulty understanding the meaning of the land right that the social movement was seeking to implement. These scholars endeavored to update the concept and give it scientific grounding in accordance with current reality. Other scholars do not perceive this meaning and seek to understand the concept by reference to earlier historians who defined the word *kilombo* from their understanding of the Palmares experience. Others in the government sphere prefer to restrict their understanding of kilombo to the classic concept because they believe that an updated scope would extend the property right to a large number of rural black communities and its practical implementation would burden the public coffers.

This last group is certainly the main obstacle to implementation of the practical activities required for recognizing surviving kilombo communities and consolidating the constitutional right.

In the intellectual field, black movement activists who study the issue use different terms, with different meanings, to address the same question. Therefore, kilombos, mocambos, rural black communities, black lands (*terra de preto*), surviving kilombo communities, and other correlated names are terms created by distinct groups with different, often local, viewpoints, who are addressing the same subject and referring to a single social situation.

Plantation owners and their contemporaries restricted the word *kilombo* to the action of runaway slaves (Moura, 1993), but today’s black activists prefer the term *rural black community*, which minimizes the importance of how these social groups were formed. It recognizes their property rights independently of the way in which the territory where they work or live was originally formed.

In the context of constitutional law, jurists have been followed by legislators in preferring to institutionalize the use of the expression “kilombo community survivors” (*remanescentes de comunidades de quilombos*), which favors the notion of an individual right over

one pertaining to the ethnic group. When the black movement uses the working notion adopted by the 1988 Federal Constitution, it proceeds to change the terminology, preferring to classify them as "surviving kilombo communities" (*comunidades remanescentes de quilombos*), thereby prioritizing the ethnic group collectively, as a whole (Oliveira, 1976). The social movement acts on the premise that most areas occupied by those social groups, notably those of common use, have only use value (Marx, 1982), because their presumed indivisibility would prevent them from being put on the market.

Because at a time of struggle for broader understanding of their rights there is a very high demand among rural black communities for recognition of the territories they occupy and only one formal instance in which those rights can be legally recognized, a situation of social tension arises. In the context of the land entitlement recognition process, these legal working notions tend to confront each other and perhaps are en route to collision, because they entail conflicting interests that the bureaucracy has not immediately settled.

Jurists have failed to reach an agreement on this. This is because, although recognition of black communities' land rights is a recent issue despite a major effort to establish legal procedures, there are still disagreements on the administrative procedures to be adopted concerning which is the most suitable agency to handle the matter, and the different concepts on the meaning and formal definition of kilombo.

There is a tendency for the judiciary, when judging cases of recognition of lands occupied by rural black communities, to ask for material evidence to prove their tenure. This procedure rests on the old or colonial definition of the kilombo as an isolated community formed by runaway black slaves belonging to some production establishment. These jurists believe that the history of these communities' creation can be summed up in material evidence. Ruins, boundary marks, and objects found on the land are supposed to be archeological evidence of longstanding occupation.

This procedure implicitly attributes to archeologists and historians the last word in deciding the judicial identification of kilombo

community survivors' territory. Theoretically, these professionals would be responsible for compiling such material, whether by collecting objects of historic use by these social groups or by organizing and engaging in excavations for this purpose.

Veiga Rios (1997) has introduced another line of thought that emphasizes ties of affinity and of lineage with fugitive slaves. On the other hand, Salustiano da Silva (1997) has based his ideas on very different parameters from those of Veiga Rios and the king of Portugal's representatives in 1740. In Salustiano's thought, the characteristics that define surviving kilombo communities would be the social agents' self-definition, longtime tenure, a common geographic base, family work units, a name of the territory that indicates ethnic identity, and maintaining a relationship of harmony with natural resources.

In exploiting what this jurist calls a common geographic base, natural resources are used harmoniously, that is, apparently without creating conflict. The term *common geographic base* denotes a propensity of those social groups to conserve their territories without individual allotments, combining areas of common use with areas of family production.

According to countless historians, kilombo dwellers engaged in social relations, mainly barter, with the surrounding slave society. This fact defeats the notion of their social isolation that permeates the more restrictive concepts of kilombo (Carneiro, 1966; Freitas, 1982, 1983; Moura, 1993). Indeed, the conventional concept of kilombo created by these and other historians is modeled on the Palmares Republic, which was undoubtedly the most important kilombo in Brazil, and other similar kilombos that, in the same way, became extinct. This means that all the research done by these historians is based on secondary data from archives. No mention is made in their writings of data collected from the contemporary surviving groups. This fact may have contributed to their failure to observe other forms of tenure and resistance among rural black communities deriving from slavery in Brazil.

Hence, the only image and concept of kilombo to be imprinted on the imagination of the Brazilian people and circumscribed in the

meanders of official history are those of fugitive slaves in faraway mountainous places of difficult access, very often erroneously referred to as isolated black communities.

There are many other aspects of this discussion, which we consider to be rich and fertile, in the sense of reviewing or giving a new meaning to the term *kilombo* in the effort to update the concept and classification of so-called surviving kilombo communities. The effort to build a concept of rural black communities adequate to their reality accompanies and depends on new research as well as the need and effort to pass legislation regulating Article 68.

KILOMBOS: GOVERNMENT, CIVIL SOCIETY, AND LEGISLATION

Since the 1970s, the black movement in Brazil has been working with the rural black communities, such as Cafundó in São Paulo State (Lavergne & Silva, 1980); Cedro, Mineiro, and other communities in the State of Goiás (Baiocchi, 1983); and the terras de pretos (black lands) in the State of Maranhão. In the 1980s, this work increased and spread to several states, being particularly intense in Maranhão. It was also articulated nationally with the creation in 1980 of the Zumbi Memorial, which brought together black movement organizations, federal universities, and government agencies dealing with historic and cultural heritage in tribute to the great leader of the Palmares Kilombo, with the idea of calling the attention of the Brazilian people to the African side of their cultural identity by reference to the historic and contemporary reality of kilombos. The Zumbi Memorial fought for the expropriation of the Serra da Barriga, site of Palmares, and the creation there of a National Pole of African-Brazilian culture and emancipation. It promoted the institution of November 20 as National Black Consciousness Day (Nascimento, 1983, 1985; Nascimento & Larkin Nascimento, 1992, 2000; Santos, 1994).

In 1981, the Zumbi Memorial held its national convention in Maranhão and visited several rural black communities, there called

terras de pretos. In 1986, 2 years before the 1988 Constitution, the first meeting of rural black communities was held in Maranhão.

From these national mobilization efforts flowed the social movement's work during the 1988 National Constituent Assembly, joining with other forces of Brazilian society to demand and pressure members of Congress to include in the Constitution the tenure rights of rural black communities. At the same time, it articulated with the Ministry of Culture the creation of the Abolition of Slavery's Centennial Commission and the Advisory Council for Afro-Brazilian Affairs, forerunner of the Palmares Cultural Foundation.

In addition to consolidating the Palmares Foundation in 1989, the social movement headed by the Zumbi Memorial succeeded in expropriating the lands of Palmares at Serra da Barriga, State of Alagoas.

With its origin in the activities of the black movement congregated in the Zumbi Memorial, the Palmares Cultural Foundation implicitly inherited the land issue of kilombo communities as a subject of its administration. This authority was officially attributed to the foundation by Provisional Measure No. 1.911-11, dated October 26, 1999, which incorporated this competence to the attributes of the Ministry of Culture. The latter, in turn, delegated it to the FCP president, under Administrative Rule No. 447/99.

In the early 1990s, the first actions were taken to claim recognition of rural black communities as ethnic groups for the purpose of inclusion in Article 68: Frechal, Mirinza County, Maranhão; Rio Trombetas, State of Pará (Amazon region); and Rio das Rãs, State of Bahia. In the early 1990s, the black movement of Maranhão obtained the first recognition of a kilombo community, as an extractivist reserve, called the Frechal Kilombo Extractivist Reserve.

In fact, the social movement, aware of the government's delay in implementing the terms of Article 68, soon began legal action to recognize these ethnic groups, because the immediate threat of loss or takeover of their lands made the effort to secure their rights a banner of great symbolic force. The process began within the social movement and included (a) an anthropological and historic study, called an anthropological report; (b) the agronomic report, contain-

ing a survey of agricultural and economic activities along with the blueprint and descriptive brief; and (c) a petition addressed to the Federal Public Ministry, requesting it to require the competent agency of the executive branch to recognize the kilombo's land rights and issue the final title deed of ownership, in accordance with the constitutional provision. To this legal instrument was added a public registry inquiry into the possible existence and legitimacy of other deeds of title to lands within the boundaries of kilombo territories.

Called to action by the Federal Public Ministry, the Palmares Foundation and the Institute of Land Reform and Settlement (INCRA), an agency of the Ministry of Agrarian Development, were taken by surprise and left somewhat perplexed. This legal process included a component that, until then, the Brazilian land agencies had failed to observe: the historic or longstanding tenure and the ethnic component that characterized these rural black communities.

Throughout official history, more precisely after the abolition of slavery, these social groups had been forgotten by government agencies, their specific characteristics lost in the vast implications of land reform measures. Thus, for example, both INCRA and the Brazilian Institute of Geography and Statistics (IBGE) use the categories *rural property* and *establishment*, respectively, refusing to accept other modes of preexisting ownership. Kilombos were invisible to the eyes of public authorities and beyond the reach of the legal instruments regulating the *modus operandi* of official agencies. Their lands were violently seized by neighboring landowners who took advantage of the precarious legal situation of the communities (Lavergne & Silva, 1980). Thus, Almeida (1996) calls attention to

situations that were prevailing by way of social conflict and did not correspond exactly to the guiding criteria of those classifying categories. Such situations contradict both already instituted legal precepts and guidance manuals for handling and using natural resources. (p. 1)

This situation derives from the fact that the dominant class has, to a certain extent, accepted the marginalization of these social groups as a natural situation, as if they had no basic rights. Only a few such social groups so had acquired ownership of the lands on which they had lived and worked for centuries, generally after facing violent conflicts with a number of other would-be owners. This attitude, among others, may have contributed to the fact that it was not until 100 years after the abolition of slavery that the Brazilian State recognized, and then only partially, the land rights of these social groups. Although the Federal Constitution determines the right of ownership and the issue of final title deeds in favor of surviving kilombo communities, to date the budget funds allocated toward enforcing this constitutional provision have been entirely insufficient. Moreover, there is no legislation providing compensation for cancellation of good faith occupation or ownership title in kilombo territories.

These misadventures contributed, we believe, to recognition of Frechal not as a surviving kilombo community but as an extractivist reserve. In the same way, the Palmares Cultural Foundation was included in this process by the force of the social movement as well as gaps and indecision verified within the state apparatus. Although it is the institution most qualified to indicate which groups should or should not be recognized as kilombos, the Palmares Cultural Foundation continued lacking the means to be technically prepared and institutionally equipped.

In 1995, two Workers Party members of parliament in the National Congress, Congressman Alcides Modesto and Senator Benedita da Silva, simultaneously set in motion the legislative regulation of Article 68. Congressman Modesto introduced Bill No. 627-A/95 and Senator Silva introduced Bill No. 129/95. They also began a public process of consultation with specialists and professionals from different schools of thought.

Professor João Pacheco de Oliveira, then chairman of the Brazilian Anthropology Association, addressed then Senator Benedita da Silva by letter dated May 22, 1995, in response to her inquiry about

the bill of law regulating Article 68 of the 1988 Federal Constitution's ADCT:

The concept of kilombo survivors as 1) descendants of the first occupants of those lands and 2) rural workers who maintain their homes there (Article 2) is not, in our opinion, sufficient to consolidate the higher intentions of the bill. Adopting the criterion of home to define a group may neglect important segments of that population who are temporarily absent from the community because of seasonal work or to acquire benefits (e.g. education), but who are still emotionally bound to the values of their communities of origin, where their social economic obligations and interests continue. Anthropological literature on African towns has shown society how unsuitable the concept of detribalization is when a member of the native ethnic group is no longer regarded as part of a community, being legally classified as an individual worker. By means of such an artifice, the British colonial administration tried to minimize the demographic importance of the native population and justify the expropriation of lands belonging to these collective groups.

The professor concludes, further on, by expressing a viewpoint of collective dimension in agreement with the professional association (Oliveira Filho, 1997):

In short, surviving kilombo communities cannot be defined in biological and racial terms, but as social creations, which are based on common tenure and enjoyment of a given territory, and on the preservation and reelaboration of a cultural heritage and unique identity. (pp. 83-85)

Jurists, sociologists, anthropologists, archeologists, historians, and other scholars were invited to give their opinions on the concept and the procedures for recognition and land regulation of the ethnic territories occupied by black peasants throughout Brazil (Almeida & Mourão, 1976).

Several schools of thought were represented and offered their comments on the concept of kilombo and the administrative procedures that should be institutionalized when recognizing kilombo territories. There was a recurring question that implied a political dispute: Which government agency is most qualified and, there-

fore, competent to proceed technically with formal recognition: INCRA, because the issue at hand is strictly a land ownership problem, or the Palmares Cultural Foundation, because it is one of ethnic and cultural scope?

PALMARES CULTURAL FOUNDATION/MINC AND INCRA/MDA: THE STATE IN CONFLICT

In 1995, INCRA, probably under pressure from the social movement, created its Special Kilombola Project. It then went on to issue title deeds to the lands of the Boa Vista surviving kilombo community in Oriximiná county and to others in the State of Pará.

In 1995, the Palmares Cultural Foundation embarked on an intense process of involvement in the issue. It formed partnerships with universities, social movement organizations, and state agencies, instructing various processes of recognition and awarding title deeds to surviving kilombo communities.

The response came from the political sphere in 1999, when the president of the republic published a series of provisional measures and other administrative acts that attributed to the Palmares Foundation the competence of regulating and implementing Article 68.

Since then, the Palmares Cultural Foundation, albeit still without the financial and institutional resources necessary to do so, has played the leading role in enforcing the constitutional provision. However, part of the social movement was wholly in favor of INCRA's involvement, because this agency has resources to pay for improvements on the land and can also resort to expropriation in the social interest. Consequently, the surviving kilombo communities whose land claims were handled by INCRA, beginning in 1995, in partnership with certain black movement organizations, did not inherit land claims or social disputes arising from them, in contrast with what happened in the case of those given title deeds by the Palmares Cultural Foundation.

The 3rd World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance in Durban, South Africa, in 2001, caused the Brazilian government to adopt a num-

ber of measures designed to diminish inequalities between blacks and whites. The Ministry of Agrarian Development, which includes INCRA, was the first to begin an internal affirmative action program, appointing an activist from the black movement to run it.

During the Durban Conference, which was attended by the chairs of INCRA and the Palmares Foundation, INCRA expropriated the Mimbó kilombo, in Amarante County, State of Piauí. Immediately after INCRA took this measure, the president of the republic published Decree No. 3912, consolidating the position of the Palmares Cultural Foundation in charge of awarding title deeds to Brazilian kilombo communities.

Since the Durban Conference, INCRA and the Palmares Cultural Foundation have endeavored to find a way of working together. These efforts led to the 1st National Meeting of Titled Kilombo Communities, held in Brasilia in December 2001. It is evident that these agencies can work together, because the former is very well equipped to address land tenure issues, whereas the latter can deal with ethnic and cultural questions. However, at this writing, few benefits have materialized for the kilombolas.

DISCUSSION OF THE CONCEPT IN THE INTELLECTUAL FIELD

In our view, the correct treatment of land occupied by descendants of enslaved Africans in Brazil is beyond the focus given by Article 68 of the ADCT/CF. This provision, as other authors have commented, addresses only a fraction of the occurring situations. Various scholars have made enormous efforts to update the concept of kilombo in an effort to see that the legal provision considers all pertinent situations.

Rural black communities in Brazil cannot be regarded solely as a result of the social relations established during the colonial period, nor merely as a consequence of slavery's abolition. No matter how long they have been established, they must be seen in the way their ancestors, in fact, are represented: as actors who maintain a princi-

ple of autonomy, establishing exchange relations with surrounding society. Social relations effectively established by the communities today should be kept as a reference. And, from the perspective of these constantly redefined relations, the groups should be seen as subjects asserting an identity and thus countering the notion of the slave as a “thing.” Unless these relations of ethnic assertion are observed as a whole, the coherence of the overall process of building identity is lost.

Some professionals, notably those in government agencies dealing with the regulation of land ownership and use, insist on characterizing these situations from a purely technical viewpoint based on a narrow notion of land tenure. Not only is this an inadequate approach, to say the least, but also the internal working method of the agencies is not capable of considering these territories as the result of a process of ethnic assertion.

Almeida (1996) queries the restrictive nature of the legal concept of kilombo community survivor in the 1988 Federal Constitution when he criticizes the conceptual foundations that guide what he calls a colonial matrix (p. 17). Almeida states,

The emphasis is always on the kilombola as a runaway slave who is very far away from the domains of the large properties. However, in the context of the rupture pointed out above, some slaves did not escape, and maintained their independence within the bounds of the large property, under various circumstances: One may have dreamed of escaping but failed to do so, another escaped but was recaptured, and yet another could not escape because he was helping others to escape and his role was to stay. So we have to consider diverse social situations, and Article 68 itself is also interpreted as being discriminatory on this matter, because it attempts to provide only partial and incidental reparation for a historic injustice. And, curiously enough, it extends the concept to one situation alone, that is, the “fugitive and far away,” when it should also embrace all other situations, including the purchase of land by families of emancipated slaves. . . . We need to free ourselves from the archeological definition, the historic definition in the strict sense of the word, and other definitions that are frozen and act as a straitjacket, that is, the colonial legal definition, the imperial legal definition and even the one that Republican legislation did not produce, because it thought that it had solved the problem by abolishing slavery, and which

remained hidden between the lines of legal texts. To put in proper proportion the force of this collective unconscious leads us to the repertory of practices and to the self-definitions of the social agents themselves, who experience and created these situations today referred to as kilombo. (p. 9)

This author finds no reason why the rural black communities should be deprived of the benefit of regulation because of a concept of kilombo created in colonial times by the forces of repression of black peoples' freedom in Brazil. Along with other scholars, he abandons once and for all the colonial concept of kilombo accepted by archeologists, historians, and jurists. A new updated concept is required that fits into the reality of the rural black communities. Because they originate from the same historic phenomenon, it is presumed that they should have equal rights. This line of thought also breaks with what could be called strict geographism and narrow land tenure perspective, that is, the tendency of certain scholars (e.g., Carneiro, 1966; Freitas, 1982, 1983; Moura, 1993) to associate the existence of a kilombo with a certain geographic location and restrict it to available public lands.

The possibilities of a new tool of interpretation and understanding are pointed out in Almeida's (1996) conclusion:

The concept of kilombo cannot be solely territorial or fixed in a single geographically defined place, historically "documented" and archeologically "excavated." It designates a process of independent work, free from submission to large landowners. In this sense, it does not matter whether it is isolated or whether it is right next to the plantation manor. There is an economic transition from slave to free peasant, which goes through the kilombo only indirectly, in the case of Frechal. What was not conceived in the place where they built the kilombo was accomplished very close by the plantation manor as its power dwindled. This is perhaps the most controversial consideration, and one that prevents traditional historians from understanding the essence of the meaning of kilombo. Such historians always want to place it in a geographic straitjacket, as if it were always isolated, far away, distant from markets and producing for subsistence. On the contrary, here we have an economic assertion of producing for the market, of linking with it and reverting land tenure domains recognized by the 1850 Lands Act, due to the fact that

the large landowners circumstantially lost power and sought a verbal agreement, promising emancipation and land, given their incapacity to provide the slaves with resources for food and production. (p. 18)

The kilombo today must be defined on new conceptual bases that contemplate self-definitions and intrinsic practices like the handling of natural resources, autonomy with respect to control of the means of production, and cultural and ethnic aspects whose definition arises from political and social relations tailored during the life span of the group under study.

Today, the different rural black communities—and they are thousands—have organized themselves in associations and other representative entities to claim legal recognition of the lands they occupy, not only under the technical argument of ownership by longevity of tenure but based on the historic insertion of African descendants in Brazilian society. This fact implies that the federal government should define a specific policy to deal with territorial questions of ethnic background. In the case of descendants of enslaved Africans, they are now claiming not only the land but also recognition of their own identity. The claim for territorial recognition is a consequence of their descent, of belonging to a social group whose history makes implicit their inclusion in property rights to the land they occupy and work today, as a result of the route their ancestors embarked on.

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