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TERRITORIES OF LIFE AND LAND-CAPITAL: GIROLAMO DOMENICO TRECCANI'S VIEW OF THE LEGAL AMAZON

TERRITÓRIOS DE VIDA E TERRA-CAPITAL: O OLHAR DE GIROLAMO DOMENICO TRECCANI SOBRE A AMAZÔNIA LEGAL

TERRITORIOS DE VIDA Y TIERRA-CAPITAL: LA MIRADA DE GIROLAMO DOMENICO TRECCANI SOBRE LA AMAZÔNIA LEGAL

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Short Biography:

Girolamo Domenico Treccani is a Full Professor at the Federal University of Pará (UFPA). He holds a degree in Theology from the Istituto Teologico Saveriano – Pontificia Università Urbaniana (Rome, 1981) and in Law from the Federal University of Pará (1991). He holds a Master's degree in Law from UFPA (1999), a PhD in Sustainable Development of the Humid Tropics from the Center for Higher Amazonian Studies at UFPA (2005) and carried out postdoctoral internships at the Università degli Studi di Trento and at the Federal University of Goiás.

He is currently a professor at the Faculty of Law of the Institute of Legal Sciences at UFPA and works in the Graduate Programs in Law

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(PPGD), in Law and Development of the Amazon (PPGDDA/UFPA) and in Agrarian Law at the Federal University of Goiás (PPGDA/UFG). She is a member of the Amazon Human Rights Clinic (CIDHA). He performs relevant functions as a member of the Commission to Combat Land Grabbing and the Rural Land Governance Commission of the Court of Justice of the State of Pará (CGJ Ordinance No. 96/2025), in addition to serving on the Agrarian Law Commission of the OAB/PA. He is also a legal consultant to the Pro-Indian Commission of São Paulo, legal advisor to the Coordination of Associations of the Remaining Communities of Quilombos of Pará – Malungu, and legal consultant to the Federation of Agricultural Workers of the State of Pará (FETAGRI).

Her academic production and professional performance focus on the fields of Agrarian Law, land regularization, territorial conflicts, rights of traditional peoples and communities, land grabbing and registration law, with an emphasis on Amazonian contexts.

Treccani has received several honors and distinctions, including: title of Citizen of Belém (Municipality of Belém, Legislative Decree No. 59/2024), title of Citizen of the State of Pará (Legislative Assembly of the State of Pará, Legislative Decree No. 12/2009), Francisco Caldeira de Castelo Branco Medal of Merit (Municipality of Belém, Decree No. 34.916/1998), title of Officer of the Order of Merit Jus et Labor (TRT 8th Region), José Carlos Dias de Castro Human Rights Award (OAB/PA), Certificate of Recognition and Aquilombamento (Malungu), patron name of Class 010 of Law/UFPA (2019), Professor Ernesto Adolpho de Vasconcellos Chaves Medal of Academic Merit (Institute of Legal Sciences/UFPA) and Diploma of Honor of Merit from the Civil Police Academy of the State of Pará. In 2025, she was a member of the Evaluation Committee of the Safe Soil Award of the National Council of Justice (Ordinance No. 26/2025).

1 TO START...

> *Thiago Silva:* Professor Treccani, I thank you immensely for your availability. His research has pointed out that the Legal Amazon is the scene of a historical and complex dispute over the territory, marked by land grabbing, deforestation and violence against traditional peoples and communities. How do you conceptualize the idea of "capital land" and how does it contrast with the "territories of life" in the Amazon?

Girolamo Treccani: The debates on the Legal Amazon lead us, first of all, to make a fundamental distinction, which leads us to look at the subjects of rights. On the one hand, traditional peoples and communities who consider the space occupied, or, to use the expression they use, territories, in some cases, territories of life. Territory that is a term enshrined in article 13 of Convention No. 169 of the International Labor Organization (ILO), which shows how it is not exclusively a land.

Although articles 231 of the Constitution and 68 of the Transitional Constitutional Provisions Act (ADCT) use the word land, in the case of traditional peoples and communities, the most correct term is territory, precisely because it is not just any rural property. It is not a rural property codified under the terms of article 4 of the Land Statute, which uses the category of family property to identify a lot to be titled.

Actually, when talking about territory, a much broader expression is used, which goes beyond the physicality of the property, but involves identity categories. This is the place where I was born, where I grew up, where I develop my productive, cultural activities, but it is also the place of my ancestors, it is the place of my tradition, it is the place where, in addition to working, I develop broader activities, so a cultural territory.

On the other hand, we have the so-called idea of capital land, that is, land understood as a patrimonial asset intended for economic exploitation, or destined for non-exploitation, when this is in the interest of capital, that is, I can use it or not use it. In spite of several decisions of the Supreme Court, the Federal Constitution itself, in its article 186, determines that the fulfillment of the social function is only achieved when those four items that concern the productive dimension, the environmental dimension, the dimension of labor relations, the dimension of promoting well-being are fulfilled... But still, it is often unexploited land, land that is destined for speculation.

Capital land is also that property in which the holder seeks to exploit his productive potential to the maximum, to the detriment of the environment itself, for example, using pesticides, which I prefer, on the contrary, to define as pesticides. Brazil is one of the world champions in the use of pesticides. It is important to highlight how recent studies, for example, by the Instituto Escolhas, show that in the case of soybeans we did have an increase in productivity, but much, much more an increase in the size of the area and, above all, an increase in the use of pesticides.

Capital land is also a speculative good, that is, a good that yields over time by its own appreciation. Therefore, we have two absolutely contrasting realities. On the one hand, a territory of life, on the other hand, capital land.

I would like to end this point by recalling that, in the case of territories of life, whether of indigenous populations (since 2014), or of remaining Quilombo communities (since November 2023), there are decrees, norms, that determine that these ethnocultural spaces need to prepare their economic, social, and environmental development plans. Therefore, it will be rules issued by the communities themselves that will fix the use of the territory. This territory that, if there is any type of policy that implies its use, obviously needs that this policy, that these works, that these interventions, whatever they may be, including legislative, pass through the sieve of Article 6 of ILO Convention No. 169, which is the right to prior, free, and informed consultation.

2 AMAZON: BETWEEN LAND GRABBING AND MINING

Thiago Silva: In recent work, you have analyzed emblematic cases of land grabbing in Pará and demonstrated how historical failures in documentation and territorial management fuel conflicts and exclusion. What are the main mechanisms that sustain land grabbing today and what institutional obstacles make it difficult to confront?

Girolamo Treccani: About the second question, I think there is a fundamental situation to be remembered, that is, it is essential that we defend the position enshrined in the Allegation of Non-Compliance with a Fundamental Precept (ADPF) 1056 of the Federal Supreme Court, which decided this in 2023. This ADPF has some fundamental points that give us the context of my answer.

First point, remember how the land, or rather, the ownership of the land was originally public. This means that it is up to the private party to prove the due and legitimate prominence of the public assets of that property. Therefore, we can affirm that at any and all times it is not a question of the existence in Brazil of the so-called lands *a non domino*, land without an owner. If it is not proven that the land is private, and I reiterate that the burden of proof is on the private person himself, the land will certainly be public.

This does not mean, of course, that the mere absence of real estate registration makes that land public. There are several ways to prove ownership.

A second fundamental issue, which derives from ADPF 1056, is the possibility of administrative cancellation by the General Inspector of Justice of the State Courts of

Justice, or by federal judges who have registration competence, to cancel irregular registrations in the administrative sphere, therefore without the need for a judicial process.

It is in this context, therefore, that the debate on land grabbing in Brazil and especially in the State of Pará is placed. One of the issues that we have raised in recent decades, especially since the enactment of Provision No. 13/2006, of the Internal Affairs Office of the Interior Judicial Districts of the Court of Justice of the State of Pará, is a situation in which many municipalities have more paper than land. That is, when the real estate records are added, or when the areas of the National Institute of Colonization and Agrarian Reform (INCRA) are added, it is realized that many municipalities, 17 municipalities to be more precise, have many more hectares registered or registered than the territorial surface of that municipality.

Land grabbing, therefore, is associated with registration difficulties. In what sense? If, as we said, it is necessary to prove the prominence, is it essential that the private party, at the time of making the registration, and the registrar, at the time of accepting the prenotation and, subsequently, the insertion of that document in book 2, which is the property book, as determined by Law No. 6,015/1973, the public registry law, verify the document presented and compliance with the rules in force at the time of its issuance? Provision No. 13, for example, contested and blocked, and, later, the National Council of Justice (CNJ) determined the cancellation of registrations whose title, which of origin or even, did not respect the constitutional limits.

Another fundamental element, which becomes the norm as of next week, when provision 195 of 2025 of the National Council of Justice will come into force: at the time when the prenotation and, therefore, the real estate registry is made, some things need to be documental proven, for example, the Rural Environmental Registry (CAR). Through the CAR, I know the exact location of the property and, above all, the use of the property. And here it is essential to use, for example, MapBiomas to verify whether the fulfillment of the social function in its environmental dimension has been respected or not.

The second fundamental element is the certification after the Georeferencing of the property. All properties over 25 hectares and, as of the end of November 2025, all properties, regardless of their size, must have Georeferencing to be able to open the registration or transfer that property. Certification, that is, the insertion of the polygon within the Land Management System (SIGEF), of the INCRA system, where the *shapefiles* of the properties are housed , is, therefore, fundamental.

And here, unfortunately, we have problems. About 40% of the federal public lands in the Amazon are not certified. The State of Pará has incorporated about 24 million hectares into its patrimony via collection, but not a single inch of land collected by the State of Pará is in the SIGEF.

When a property is not included in the SIGEF, there is the possibility of overlapping with other areas. Today, and increasingly, we need to put the document and its spatialization in the same system. It is what Eymmy Silva calls geolaw, that is, I must make an assessment if that document is valid and I must know where it is. Therefore, territorial management that does not include, does not pay attention to the origin of the documents and their location, evidently generates conflict, and generates social exclusion.

How could we face these difficulties? First, unifying all the registries, therefore, the National Rural Property Registration System (SNCR) of INCRA, the CAR of the environmental agencies – the SICAR in this case – and all this being inserted in the National Territorial Information Management System (SINTER) and in the Digital Real Estate Registry.

Today, unfortunately, many real estate registry offices in the State of Pará have not yet fulfilled the obligation that has been included since 2009 in the Minha Casa Minha Vida Law, which is the digitization of their collection and insertion within the electronic real estate registration service or Electronic Real Estate Registration System (SREI), today within the Federal Data Processing Service (SERPI).

The possibility of verifying the entry of information within the system created by the National Organization of Registries, the RI Digital, as it is called, will certainly allow great advances. This is even more so from the entry into force of Provision No. 195/2025, we will have the possibility to inspect, as the system will be open, therefore transparent, for public consultation, all properties on the same municipal basis.

And here it is important, for example, in the case of Pará, we have 144 municipalities and 105 notary offices. That is, some notary offices whose territorial base is higher than the base of the municipality where the SREI is located. From now on, we will have a municipal base as a reference.

This, of course, will take a lot of work, because there are properties that cover more than one municipality, but from the moment the system is effectively integrated, we will have the possibility, yes, to overcome the current problems.

The SIGEF will allow us to verify the overlaps between documents, we today have a lot of overlap between private documents, but also overlaps of private properties, in quotation marks, with indigenous lands, restricted use conservation units, settlements, etc.

The improvement of the registry system will certainly be an instrument to start fighting land grabbing. This leads us to another discussion, in the same sense, which is to prioritize territorial planning, we are waiting for the publication of a presidential decree on this, because in territorial planning I have the possibility of discussing the priorities for the allocation of federal, state and municipal public lands, and defining, finally, the agrarian reform policy, the policy for the defense of the environment, and so on.

Thiago Silva: Thinking about environmental defense policies, one of the most sensitive points in the current socio-environmental debate is the expansion of mining, legal and illegal, over areas of indigenous peoples, quilombolas and other traditional communities. What direct and indirect impacts have you identified in research and how do you evaluate the role of prior, free and informed consultation in this context?

Girolamo Treccani: This issue is very relevant, when it comes to land grabbing, appropriation of lands of traditional populations, it concerns the clash between mining and the overlapping of mineral exploration on indigenous lands, quilombolas and other traditional populations. Here, we need to show how in many cases, unfortunately, mining produces long-lasting effects and absolutely undesirable effects.

Let us think, for example, about the fact that, and here the most classic example is ICOMI, there in Amapá, a process of manganese exploration for 40 years, in the 50s of the last centuries, the 1950s, 1960s, which left a hole, which left a totally devastated environment.

In other cases, we can, for example, think about the consequences of environmental disasters generated by mining, such as Mariana, Brumadinho and others. It is in this context that mining often takes on the character of destabilizing territories. And here, in Pará, I have been following recently, in the last 4 or 5 years, a process there in Santarém, the Lago Grande agroextractivist settlement project, PAE Lago Grande, where miners are coercing the residents to be able to do their research and, from there, their exploitation.

Any and all enterprises, be it mining or any project for a road, a dam, in short, any work, any norm that may have any impact on traditional territories, evidently, must have a

prior, free and informed consultation, before the beginning of all its research. And here it is fundamental, because all activities, whether mining or others, it begins as an administrative request to the competent body. It could be the Department of the Environment, it could be the department that takes care of mining, the National Department of Mineral Production (DNPM), in short. Now, this initial administrative act must be the object of consultation.

It is essential that the consultation be prior and not *a posteriori*, that it be free, that is, that it is not an instrument of coercion, as we unfortunately observe at various times. Co-optation of leaders, fomentation of division among community members, etc. Finally, the issue of information that must be done along the lines of that community. There is therefore no single model of prior, free, and informed consultation. This model depends on the type of activity, it depends on the subject, on the right.

Normally, I usually give the following example, if it is necessary to consult the Kayapó indigenous people, in the south of Pará, it is enough to consult the chief, because the structure of that people is pyramidal.

The same consultation carried out with the Indians as well, on the border between Pará and Maranhão, cannot take place because the way of organizing that people is much more horizontal, therefore, it is the council of the elders, it is the community itself that must be consulted. The consultation must be carried out by the State, be it the Union, States or Municipalities. It cannot, in any way, be outsourced or be given to any company, or any NGO, or any third party. The obligation of studies is the entrepreneurs, but the consultation must necessarily be done by the government.

3 THE LAND QUESTION

Thiago Silva: In the article you wrote about the National Territorial Information Management System (SINTER), you highlight the potential of this tool to combat land fraud. What would be the necessary steps for systems such as SINTER to effectively function as instruments of territorial justice in the Amazon?

Girolamo Treccani: Over the last decade, several information systems have been created. The Court of the State of Pará, for example, created the Geographic Information System (SIGEO), which was an instrument where technicians from the State itself, from the Court itself, made reports related to properties where there were possessory conflicts.

Other systems have been created, for example, in the case of the Land Institute of Pará (ITERPA), the Land Registry and Regularization System (SICARF) has been created in the last three, four years, probably, in my opinion, the best system that needs to be looked at more closely is SIGEF, precisely because, in the land management system, we have the possibility of verifying the location and, if applicable, highlight any overlaps between the properties.

With the creation of the National Territorial Information Management System (SINTER), we are taking another step. The fundamental issue of this and all systems is transparency, and it is that we need to overcome what, in my opinion, is a false problem. That is, evidently, the public interest prevails in all systems, therefore, the access to information law (LAI) prevails, and not the personal data protection law.

It is evident that there are sensitive data that have to be protected, however, transparency must be a fundamental instrument to ensure effective social participation, which is enshrined in article 1 of the Federal Constitution. Today, Sinter is still in its infancy. Unfortunately, in Sinter, SICAR, the Rural Environmental Registry, has not been included so far.

We need to add all this, just as we need to accelerate the integration of registration information with registration information. This is all provided for, as I said just now, in Provision No. 195/2025, of the CNJ.

Therefore, the creation of a national system that effectively allows to know who owns any property. What is the origin of this detention? What is the legal status of this detention? Is it a possession? Is it a property? If it is property, what is the real estate registration? Is this real estate registration valid? Is it originated?

In this sense, I think it is essential to remember how the Federal University of Pará, together with the State Public Prosecutor's Office, created the land GIS. The great advantage of the land GIS is that, in the same system, I have on one side the process of origin, the title, its specialization and the real estate registration. Unfortunately, no system, for now, is achieving this.

One of SINTER's goals is to achieve this. Unfortunately, we are still a long way from its implementation, but this is the way: to integrate the registers, to integrate the information, to ensure transparency, the starting point for effective national sovereignty and social participation.

In a document published a few months ago by the MDA/INCRA, when there was even talk of territorial planning, there is talk of a new system that aggregates all this

information. We await the publication of the presidential decree, because this decree guarantees, in addition to the integration of systems, the transparency of information, effective social participation.

Thiago Silva: In different interviews and here, during our dialogue, you defended the need for integration between bodies such as INCRA, ITERPA, SPU and the Judiciary. What are the main gaps in interinstitutional articulation and how to overcome them so that land regularization advances in the Legal Amazon?

Girolamo Treccani: We cannot continue to use separate actions. Today, for example, an inter-institutional, inter-federative working group was created this year, two months ago, between INCRA and ITERPA, to discuss the destination of federal public lands in the State of Pará. The Federal Heritage Secretariat has been, in recent years, identifying and certifying, de-referencing and certifying, the properties that are located on the banks of rivers, streams, where there is influence of the tide, therefore, marine land or marginal land of navigable rivers.

We cannot continue to accept isolated jobs. Federal and state land agencies need to work together, they need to define joint strategies, they need to find, therefore, a joint planning of activities. All of this is supported, supervised by the Judiciary.

I believe that the creation of the safe soil week, which the National Council of Justice started a few years ago and which is being repeated every year, is the space for this discussion. Here in the State of Pará, for example, the General Internal Affairs Office of Justice created, at the end of last year, a group called Land Governance, both rural and urban. This group includes all federal and state public land agencies. There is the State Secretariat of the Environment, there are the representatives of the different powers, including legislative, there are the representatives of Family Agriculture, the Federation of Agricultural Workers (FETAGRI), there is the representative of Agriculture, the Federation of Agriculture and Livestock (FAEPA), Corporate Agriculture, and there are, of course, the Registry of Dependencies, represented by the Association of Notaries and Registrars (ANOREG), and the Association of Municipalities. These different bodies meet every month to plan, evaluate, monitor land regulation policies, and, therefore, an inter-institutional articulation that is fundamental to be able to advance further.

We, however, always need to move towards having a better interinstitutional position. In what sense? We need to know how many enrollments there are in the State of

Pará, how many of them have been blocked, canceled, requalified, unblocked. Where are these enrollments located? What is the size, the sum of the areas of all enrollments? We need to advance in the digitization of the INCRA, ITERPA and SPU collections, advance in the spatialization of all these documents, launch all these documents in a single system, as was stated before, and we need, therefore, to define a land regularization policy that has priority to be achieved.

Today, conflicts arise precisely because of the overlapping of interests. Now, when the same territorial space is contested between several people, there must be tie-breaking criteria. Therefore, initially, indigenous lands, quilombola lands, traditional population lands, family farming, and other forms of occupation of territorial space, of course, without forgetting the conservation unit.

It is in the integrated planning of these actions that we will be able to move forward. A significant advance was made at the federal level with the creation, in August 2023, two years ago, of the Technical Chamber of Public Land Management. It is a great advance, precisely because it is a space for debate on the destination of these lands.

Unfortunately, however, in this Technical Chamber there is no participation of civil society, academia, representatives, in short, institutions such as, for example, unions, etc. In the case of Pará, we have a Technical Chamber, more or less along the lines of the federal one, which was legally established in November 2020, but so far nothing has been installed. This is what we need to continue to discuss. That is, it is not possible to continue to have an exclusive action of land agencies without the integrated participation and participation of civil society.

4 A LOOK INTO THE FUTURE

Thiago Silva: Now let us turn our eyes to the peoples who are part of this process. You have already argued that collective titling, as in the case of quilombos and settlement projects, removes land from the market and, therefore, faces resistance from sectors linked to agribusiness and mining. How to transform this perception and expand the understanding of the socio-environmental and legal value of collective titles?

Girolamo Treccani: Considering the initial debate between territory and territory of life *versus* capital land, it can be said that collective titling is the best instrument for the

protection of the remaining Quilombo communities and the environmentally differentiated settlement projects, that is, the agroextractivist settlement project (PAE), the sustainable development project (PDS), and the forest settlement project (PAF). This applies, although it is not a title in the classical sense, of recognition of possession for indigenous populations. The big difference between Quilombo and other traditional populations is that, in the case of Quilombos, there is a private land title, so the domain is transferred to the communities.

Although it is a title, it is a private property, registerable, of course, in the real estate registry office, like all other property, thus guaranteeing all forms of possessory protection. But it is a property that cannot be alienated, that cannot be subdivided, that cannot be mortgaged, etc.

In the case of environmentally differentiated settlement projects, we have the signing of a contract for the concession of the real right of use. Therefore, whether in the case of indigenous territories, quilombola territories, settlement projects, and I would add here the conservation units of direct use, such as the Extractive Reserve, the Sustainable Development Reserve, the national forests themselves, in short, modalities in which the Contract for the Concession of Real Right of Use (CCDRU) is a fundamental element in the relationship between the public power and the population itself, All of this, of course, takes these lands off the market.

Thus, collective titling, whether of quilombo or settlement, therefore, is traditional, but I would also add here the conservation units of direct use, of sustainable use, such as the Extractive Reserve, the Sustainable Development Reserve and the national and state forests themselves. In short, they are relations that have in the execution of a contract for the concession of real right of use, their formal destination from a legal point of view.

Obviously, this type of destination, this type of contract, or in the case of quilombo, this type of property, which is a *sui generis* property, because it is indivisible, inalienable, cannot be the object of mortgage, in short, all these forms of recognition and territorial rights of traditional populations remove these lands from the market and make these populations today the main victims. the main target of socio-environmental conflicts. We need to advance in the consolidation of these projects, thus signing the contracts, ensuring effective territorial protection for these populations.

Thiago Silva: Considering the current scenario, the imminence of COP 30 and the related socio-environmental agendas, at the same time, of pressure on territories, what would be your main recommendations to ensure that the Legal Amazon is not reduced to a "resource frontier" but recognized as a territory of rights?

Girolamo Treccani: The last fundamental point is the resumption of the socio-environmental debate. Unfortunately, for a long time very few indigenous lands have been recognized, quilombolas have been titled, the creation of conservation units is dwindling, the very creation of special settlement projects is not achieving what would be the right response for the recognition of territorial rights. In this frontier of resources that we all recognize as fundamental for Brazil and for the world, we need to recognize who has the right to have the right. That is, those who effectively need government support to have their territorial right recognized and defended. And here it is fundamental, therefore, that the debate be broadened, that the environmental debate be integrated with the land debate. It is not acceptable to make a separation between these two debates.

We cannot run the risk that the 30th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 30), to be held in Belém, Pará, may become an initiative where what is rotten underneath is painted green. We need, on the contrary, to show the world that the Amazon is rich in biodiversity, but it is rich in sociodiversity. There are people here. We have always had people.

That story of the military dictatorship of the Amazon, a land without men, in fact, was a non-recognition of the rights of the populations, whether indigenous, black, or cabocla, who were here and who continue to be here and who must have their rights recognized. We need, therefore, to make sure that the different local proposals for planning socio-environmental activities proposed in the plans prepared by traditional peoples and communities are effectively transformed into municipal, state, and federal public policy.

Closure:

Thiago Silva: Professor Treccani, your final reflections emphasize that the Amazon cannot be reduced to a frontier of resources, but must be recognized as a territory of rights, where traditional peoples and communities are protagonists. By stating that "the Amazon is rich

in biodiversity, but also in sociodiversity. There are people here. There have always been people", you remind us that any legitimate policy must start from this recognition.

It was an honor to hear from you and, on behalf of the Journal of Socio-Environmental Law (ReDiS), we thank you for your generosity in granting this interview. We are always available to be an instrument for disseminating the research and extensions of you and the groups you participate in.

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