Journal of Socio-Environmental Law
Dossier "Territorialities and Socio-Environmental Conflicts".
jul./dec. 2025

How to cite this article:

SOUSA JÚNIOR, José Geraldo de; AMORIM, Liliane Pereira de. Law found in the streets and its relation to socio-territorial conflicts. Entrevista. **Journal of Socio-Environmental Law - REDIS,** Morrinhos, Brazil, v. 03, n. 02, jul./dec., 2025, p. XXI-XXX.

Submission date: 01/11/2025

Approval date: 01/12/2025

LAW FOUND IN THE STREETS AND ITS RELATION TO SOCIO-TERRITORIAL CONFLICTS

O DIREITO ACHADO NA RUA E SUA RELAÇÃO COM OS CONFLITOS SÓCIO-TERRITORIAIS

EL DERECHO ENCONTRADO EN LA CALLE Y SU RELACIÓN CON LOS CONFLICTOS SOCIO-TERRITORIALES

JOSÉ GERALDO DE SOUSA JÚNIOR[1]
LILIANE PEREIRA DE AMORIM[2]

Brief Biography:

José Geraldo de Sousa Júnior (Rio de Janeiro, 1947) is a jurist, professor, and researcher widely recognized for his work in the fields of human rights, citizenship, and critical legal theory. He holds a Bachelor's degree in Legal and Social Sciences and a Master's and PhD in Law from the University of Brasília (UnB). He joined the faculty of UnB in 1985, where he became a Full Professor and was elected Rector in 2008. He also served as Director of the Faculty of Law at UnB and as Director of the Department of Higher Education Policy at the Ministry of Education, in addition to holding relevant administrative positions during the administration of Cristovam Buarque in the Government of the Federal District.

[1] Bachelor's degree in Legal and Social Sciences and a Master's and PhD in Law from the University of Brasília (UnB). He is Professor Emeritus and a Full Voluntary Collaborating Researcher at the University of Brasília. He has served as Director of the Faculty of Law, Director of the Department of Higher Education Policy at SESU/MEC, and Rector of UnB. His work focuses on Legal Theory, with an emphasis on citizenship, human rights, and justice. He is co-leader of the group *Law Found on the Streets* (*O Direito Achado na Rua*), coordinates its editorial series, and is a member of the Justice and Peace Commission, the Brazilian Lawyers Institute (IAB), and the CNBB Conjuncture Analysis team. He is also a columnist for various media outlets. E-mail: jgsousa@unb.br. CV: http://lattes.cnpq.br/9749036345345037. ORCID: https://orcid.org/0000-0002-8974-2283.

[2] PhD in Law, State, and Constitution from the University of Brasília (UnB). Master's degree in Agrarian Law from the Federal University of Goiás (UFG). Bachelor's degree in Law from the State University of Piauí (UESPI). Lawyer, OAB/PI No. 20,437. Lecturer and researcher. CV: http://lattes.cnpq.br/1725268280864111. ORCID: https://orcid.org/0000-0001-9435-5790.

As the creator and main articulator of the project *Law Found on the Streets* (*O Direito Achado na Rua*), he consolidated one of the most influential Brazilian legal currents focused on recognizing rights produced through social struggles and in public spaces. With more than three decades of participation in the Federal Council of the Brazilian Bar Association (OAB), he distinguished himself in the defense of civil liberties and in the mediation of social conflicts. Author of an extensive academic body of work, editor of editorial series, and a key reference in articulating legal theory, democracy, and social emancipation, he received the title of Professor Emeritus of UnB in 2024, crowning a career marked by commitment to justice and social transformation.

1 – Law Found on the Streets and the Territories of Traditional Peoples and Communities

Liliane Pereira de Amorim: Professor, in your writings you have emphasized the importance of legal pluralism and the idea of a "law found on the streets." How do these references help to rethink the recognition of the territories of traditional peoples and communities in the face of tensions with the dominant logic of private property and economic development?

José Geraldo de Sousa Júnior: Well, *law found on the streets* is theoretically grounded in the hypothesis of legal pluralism. Later, if there is an opportunity, we can delve further into additional references related to this conception. But the theoretical hypothesis on which it is based is pluralism, which assumes that more than one legal order may coexist within the same space—sometimes coexisting cooperatively, sometimes competitively, but generally operating through exchanges. These are usually unequal exchanges of juridicity.

This territorial dimension, which lies at the foundation of pluralism and gives rise to other temporalities, animates the intersystemic dimension of rights. For example, recently the Supreme Federal Court, when examining the issue of the so-called *temporal framework* in the agribusiness-oriented thesis, incorporated the conception of Indigenous peoples according to which the framework is ancestral, because it derives from another legal system—anthropologically recognized as a juridicity inscribed in pre-state and pre-capitalist uses and traditions—which generates a juridicity that constitutes the basis of the legitimacy of their position and their claim.

And in deciding the case, Justice Fachin, for instance, stated that the interpretation should clearly be made from the tension between these two systems. Because the State produces law, but this is a legal, codified, modern law, in contrast to the temporality of ancestral law. Therefore, it cannot replace or suppress an original right that predates it. Here, then, lies the

dimension of legal pluralism, which has a more general anthropological configuration, since it involves very distinct cultures, but which in the contemporary world are often embedded in the coexistence of multiple territorialities.

For example, a quilombola territory may be in an urban space or in a rural space, but it operates under the influence of another form of sociability and of relationships between people and things, and among people themselves. There, for instance, there is no individual property right, because the right is collective, due to the strategy of sociability that survives from the very origin of the quilombola way of living together. From this even emerges another category that defines this reality, namely *quilombamento*. That is it.

Pluralism as a theoretical conception emerges between the late nineteenth and early twentieth centuries, when the State begins to take shape. At that point, the tension appears between a law that is established within a unit of centralized political power—which will become the State form—and a social fabric laden with fragmented, pluralized juridicities, configured from uses and traditions. Note that when the first Brazilian Civil Code entered into force, its final article stated that it revoked the Philippine Ordinances and, in addition, customs. That is, a modern, legal, and bureaucratic law revoking an ancient and traditional law. Yet that law does not disappear: it continues to produce effects, even when temporalities reterritorialize experiences, spaces, and political action. Does that make sense?

Liliane Pereira de Amorim: You emphasize that human rights must be read through a socio-environmental lens and not merely an individualistic one. In this sense, how do you assess the relationship between the territorial rights of traditional peoples and the struggle for socio-environmental justice in contemporary Brazil?

José Geraldo de Sousa Júnior: Well, this is a configuration of that pluralism hypothesis which, at the political level, updates traditions deeply rooted in social practices. These are social practices that carry this ancestry inscribed in their very mode of manifestation and that imply a reference to uses that organize a given community which, in some way, presents a certain homogeneity in its reproduction. It reproduces itself socially while maintaining what we call a condition of origin. That is why we speak of original peoples, of traditional peoples. These are appropriate expressions. The older, colonized, and colonizing terms are not appropriate: ancient peoples, archaic peoples, primitive peoples.

Very recently, in fact, a form of governance that has fortunately now been characterized as criminal used expressions of this kind to define public policies: “I will not demarcate a single

centimeter of territory," "I will not serve lazy people who get fat like cattle," "who no longer even reproduce because they have too many arrobas." Do you remember those expressions?

Well then, these traditional uses generate a theoretical conception according to which we are dealing with a legal system, a system of law. And for that very reason, this system needs to be lived as justice from within its own foundations.

This explains, for example, Convention No. 169, which differs from the earlier Convention No. 103. Under the model of the earlier Convention, supranational and international logic was still very much constrained by the mechanism of liberal hegemony. Therefore, it viewed these peoples as peoples who should be integrated, who should disappear, be diluted into the dominant society. But since these peoples have always claimed autonomy and titularity, this also challenged the international system, which came to recognize them. Thus, Convention No. 169 recognizes their autonomy. They are peoples with autonomy, with their own uses. It is not that they are backward.

For this reason, these systems pointed toward a core of equity that would recognize and consider autonomy, conquered through political processes. In the sense that even the foundation of justice inscribed there is something constructed from their own autonomy. That is why Convention No. 169 presupposes socio-environmental justice, because these values of consideration for nature stem from a mentality, from a way of life in which there is no separation between human identities. Everything is humanity. Animals are humanity. Nature is humanity. As such, it is mother, it nurtures, it is life, it is not a thing.

The relationship is one of belonging, isn't it? One does not exploit it: it is not a resource, it is not an input; it is a nourisher of life. Of the environment, of the generosity of what it offers as shelter and food. Life lived, life well lived.

Look at the categories that emerge from this: *good living* (*buen vivir*), *Mother Nature*, *Pachamama*, in the Andean case. Thus, Convention No. 169, for example, establishes that in relations of justice these equivalent factors must be considered and must be dialogued in order to reach understandings between different cultures, generated by also different conceptions of the world, when it comes to sharing a common life, a common heritage, isn't that so?

That is why, when it comes to original and traditional peoples, consultation is fundamental: they must be consulted, they must know the reality, they must be well informed, and they must be respected in their autonomy, free in their expression. This is what characterizes, for example, the mechanism of socio-environmental justice. And not only socio-environmental, but necessarily socio-environmental, because these are peoples who are still embedded in natural life, in the countryside.

A life that, as Ailton Krenak says, is not utility; it is existence. Life is not useful; life is the expansion of happiness, of good living. That is why today the foundational mechanism that these peoples affirm, their fundamental norm, is free, prior, and informed consultation. It has been violated, yes. It has been violated, but it is already within the legal and political horizon, therefore it is an object of dispute. It is violated, but it is also repaired, within the limits of the machinery that moves the world and that sometimes crushes people. But we also learn and transform ourselves in that process.

2 – Law Found in the Street: an emancipatory approach for universities and for the recognition of territorial rights

Liliane Pereira de Amorim: In several texts, you address the need to build an emancipatory law rooted in the social and cultural practices of peoples. What paths do you envision for the university, research, and legal practices to effectively contribute to the resistance and re-existence of quilombola, Indigenous, and other traditional communities?

José Geraldo de Sousa Júnior: On a more general and conceptual level, I naturally have my political-epistemological references. We do not think of the university as an abstraction; we think of it as situated within a social space of colonial origin.

From an epistemological standpoint, I think through the categories of decoloniality. In the field you mentioned, for example, when thinking of an intellectual from that milieu, Nêgo Bispo, I would say he is more than decolonial: he is counter-colonial. That is why I consider that thinking about the university implies founding it from the perspective that it must be an emancipatory university—one that opens space, for instance, to processes of decoloniality or counter-coloniality. The first point, to greatly abbreviate, is to decolonize curricula.

Universities, even within the colonial experiment, were created as spaces for the application of hegemonic knowledge and knowledges of the colonizer. They were epistemologically instituted with a pedagogical agenda that justified colonization. It suffices to recall debates such as whether Indigenous peoples were considered persons or not, on any continent. The colonizer constructed an academic reading that justified denying the other as a subalternized subject. Therefore, building a reference of this kind within the university requires, as a primary epistemological task, decolonizing curriculum, and pedagogical practices. Evidently, this is not about applying within the university the educational model of a quilombo

or a village, but rather instituting—through dialogue among knowledges—pedagogical practices that represent exchange among traditions and forms of knowledge.

I believe that among us, Paulo Freire worked on this better than anyone, for example. Then, a second moment is to recognize that, since coloniality implied segregation, hierarchies, discrimination, subordination… In the colonial experiment, it does not have to be a thinker explicitly committed to a liberation agenda—whether theologically, philosophically, or sociologically—to perceive this. Anyone with minimal intellectual acuity can see that colonialism among us occurred because it was racial, because it was patriarchal, because it was capitalist.

Thus, the structures of knowledge that justify hegemonies are racist, misogynistic, sexist. We are speaking today on the 13th; on the 11th we heard Justice Cármen Lúcia's vote at the Supreme Court. Neither in form nor in content did it refrain from revealing the extent to which this reaches everyone—including a woman Justice of the Supreme Court. And note: she is neither Black nor Indigenous, yet she still suffers what all those who are subordinated suffer. And it is capitalist, because it is a class condition.

This process alienated the human. To insert it into production, it was necessary to dehumanize it: to enslave it and, in the current context, to make precarious it; today, even to "platformed" it. Therefore, it is necessary for the university to review its forms of reception, access, and admission.

Affirmative action policies partially fulfilled this role, didn't they? They opened access through quotas to Black people, Indigenous peoples, quilombolas, trans people, and persons with disabilities. But did they open the curricula? No. We have seen within the university the discomfort of these new communities in the face of persistent discrimination—because of their cosmologies, their readings of the economy, and the subordination of their knowledges. Yet, because this is political, we have also seen emancipatory actions in this field. Thus, universities have opened themselves, for example, to struggles for education in quilombos.

You are from Goiás; there lies the origin of PRONERA, with education of the countryside, higher education in the countryside, special cohorts for agrarian reform settlers. I recently read that the Ministry of Education and universities are meeting to create an Indigenous university. This is not about forming a ghetto, but about creating an institutional reference. In the past, for example, in Europe, Humboldt created a university for the technological development of modernity. Why could they do it and we cannot?

Another point is to insert education not only within an elegant and dilettantish abstraction, but to create formative mediations that involve dialogue. At the university, this is favored by

extension activities, but it should not be confined to them; it must also enter research. That is why, in graduate studies, we have seen an enormous contribution—from other horizons of inquiry—regarding realities historically marginalized and excluded for not fitting within the canon of formative paradigms.

For example, the Unified Health System (SUS) developed, by law and regulation, a form of popular education for the SUS. The principles established by the popular education norm for the SUS presuppose an emancipated, democratic, participatory society—so much so that the norm states that, in addition to universality and equity, the SUS must value participatory deliberation and social control within the system. But education is grounded on certain pillars. What are these pillars? Problem-posing, rather than banking education. Dialogue. Exchange of knowledge. Love. Consider the well-being of that, right? Loving kindness as a political category inscribed in a legal regulation of a public system.

I believe the university must also open itself to this. And we already see it happening. At my university, the University of Brasília, there is an intense program, statutorily inscribed, that defines as an institutional function the defense of the environment and the realization of human rights. A programmatic support system was created for these dimensions: there are graduate programs in sustainability and in human rights, and a management structure unique in Brazil, with a Human Rights Chamber within the University Council.

That is, education is emancipatory. Of course, the UnB draws inspiration from Darcy Ribeiro's project of a university linked to society. But to be emancipatory it must be critical; it must be self-reflective. To discuss sustainability is to discuss paradigms—the economy of consumption—but also a politicized economy that, as Amartya Sen says, conceives development as freedom. That is what I think. What do you think?

Liliane Pereira de Amorim: Professor, *in light of* the perspective of **Law Found in the Street**, what instruments can be used so that the claims of social movements struggling for land are transformed into formal recognition of the right to land, highlighting their members as collective subjects of law?

José Geraldo de Sousa Júnior: The question already contains, to a large extent, my answer, because—returning to the idea—Law Found in the Street is structured epistemologically. Of course, it also has a reference on the political plane, doesn't it? In the idea of thinking about the transformation of society in the direction of emancipation.

Law as freedom, and not as a mere rule. A rule can carry possessive appropriations of regulation. Even organized crime establishes rules, but that is not law, because it does not overcome what emancipation is—namely, overcoming oppression and expropriation.

Thus, Law Found in the Street is constituted on the foundation that law is not the norm, but freedom, which is realized through norms and therefore reads rules critically to verify whether they convey emancipatory processes. To this end, Law Found in the Street articulates itself epistemologically and methodologically through three main mediations.

One of them is space. In which sociability do we situate ourselves when law acts territorially? Space. That is why Law Found in the Street is a metaphor—a metaphor of space. In our work we speak of law found in the street, in the countryside, in the waters, at crossroads, in the forest. At night. There is even a dissertation entitled *Law Found in the Night*.

Here, night is not conceived as an atmospheric or cosmic phenomenon resulting from the Earth's rotation, but as a space to produce culture, art, and economy. Night thus becomes a social space. That is one element. And what, then, is the other element with which we work? Protagonism. It is not the imaginary that changes the world; it is subjects who act—protagonists. So, no matter how strong the capacity of an individualized subject may be, it has limits. Of course, for example, if I am hungry, I have a biological impulse to nourish myself.

If President Lula feels hunger, he creates a global pact against hunger. There is this nuance. But, in general, what changes the world is the active and collective capacity of subjects who unite in a commitment that projects itself as action and moves it toward a process of transformation. What is at stake here? It cannot be an individual subject; it must be a collective subject.

So where are collective subjects constituted? They are constituted in what mobilizes and moves within the social realm. They are constituted in what we have called social movements, aren't they? Thus, in social movements that mobilize to act upon reality and transform it, right? Marx said that it is not enough to interpret the world; it is necessary to transform it, isn't that so? In praxis, therefore, a collective subject is constituted. We must see who this collective subject is.

For example, in the case of the night, the researcher identified as the subject a movement that was created to counter a real estate initiative to establish, in the city council, a "law of silence" that affected spaces of culture. They created a movement called "Who Turned Off the Sound." Its representatives and spokespersons began to negotiate with city hall to build mediations, including legislative ones, that could reconcile the interests of real estate developers—who want to sell serenity, tranquility, comfort, and security to sell properties—

with those who want to celebrate, to gather, to have an evening out, to recite poetry, and to contribute to joy and happiness.

Thus, we study space; we study the subject—and the subject is the collective subject of law. We therefore have extensive research in this field. But all right, to produce what?

These are the findings. These findings are what develop the themes of study. Many of these findings, due to decolonization and politics, enter new agendas—new agendas that emancipatory actors began to bring into the university and began to use to question academic programs. Thus, in this conception, law is found in the street, which is a line of research, a research program, a research group listed in the CNPq directory, which receives applications for master's and doctoral programs, among others. It has begun to accumulate a substantial body of dissertations and theses.

And what are these theses about? They address the *aldeamento* (village-making) of law; they address the *aquilombamento* of the legal sphere, right? Not merely a state, positive, legal law—only critically speaking—but a law that arises from the very conditions of, for example, what extractivism is—plant extractivism. It was here at the University of Brasília that Chico Mendes developed and presented his thesis. It was here at the University of Brasília that he presented his thesis when he brought together rubber tappers at a congress and proposed the concept of the extractive reserve of *florestania*, which already represents the dialogue of forest peoples.

3 – Closing:

Liliane Pereira Amorim: Professor, as always, your reflections are profoundly thought-provoking and leave us with much to reflect upon. It has been an honor to interview you. You are a major reference in Brazilian law and one of the pillars of the University of Brasília. Your contribution to science is transformative, inspiring, democratic, and inclusive. Without a doubt, this interview will contribute to the "findings" of numerous research endeavors.

REFERENCES

SOUSA JÚNIOR, José Geraldo de. **Derecho como libertad**: El Derecho Encontrado en la Calle. Experiencias populares emancipatorias de creación del derecho. 2008. Tesis (Doctorado en Derecho) – Facultad de Derecho, Universidad de Brasília, Brasília, 2008.

SOUSA JÚNIOR, José Geraldo de; MOLINA, Mônica Castagna; TOURINHO NETO, Fernando da Costa (Org.). **El derecho encontrado en la calle**: introducción crítica al derecho agrario. v. 3. Brasília: Universidad de Brasília, 1993.

SOUSA JÚNIOR, José Geraldo de et al. (Org.). **El derecho encontrado en la calle y los caminos del derecho insurgente**: calles, movimientos y horizontes de justicia. v. 9. Río de Janeiro: Lumen Juris, 2025.

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