

Staking Claims

Artisanal fishworkers of Brazil are mobilizing in defence of their territories through a campaign for a new bill of rights

In recent years, artisanal fishworkers and their communities in Brazil are being forced out of their traditional territories or are being subject to increasing pressure to leave their territories, multiplying the risks to their economic and cultural survival. The cause is a new wave of development, in the form of public and private investments and construction of large-scale infrastructure projects, which advance by occupying spaces whose populations and traditional uses are considered obstacles to 'progress' and the 'public interest'.

...the Constitution guarantees cultural rights and the protection of Brazilian cultural heritage...

In the face of this, the National Movement of Artisanal Fishermen and Fisherwomen has taken the initiative to draw up a bill for the recognition of their collective right to stay and use their territories. In early June 2012, the Movement launched a national campaign to collect signatures to force the entry of the bill in Parliament.

The recognition of the territorial rights of traditional communities in Brazil is based on a diverse set of legal texts. The main ones are: the 1988 Constitution; the law which created the National System of Conservation Units (protected areas) (2000); and the Decree which established the National Policy for Sustainable Development of Traditional Peoples and Communities (2007).

The Brazilian Constitution of 1988 has introduced advances in the

institution of collective rights for indigenous people and *quilombolas* (isolated communities constituted mainly of black slaves who have escaped from their masters during the slavery period (XVII – XIX)), and has provisions to guarantee the demarcation and possession of their territories. Moreover, the Constitution guarantees cultural rights and the protection of Brazilian cultural heritage in its tangible and intangible expressions, taking into account the identities of different social groups that have formed Brazilian society, including their various modes of creating and sustaining livelihoods, while also defining the obligation of the government to protect it. Further, there is a constitutional injunction that obligates that urban and rural properties be used to fulfill a social function, implying the possibility of expropriation and redistribution of land in the interests of equity and larger social compulsion.

On the other hand, the National System of Conservation Units (NSCU), created in 2000, includes two types of protected areas that provide for the permanence of traditional communities—'extractive reserves' and 'sustainable development reserves'. These categories originate from the struggle of traditional extractive populations in the Amazon region, but after the institutionalization of NSCU, they have become an important strategy in the pursuit of securing the territorial rights of communities all across the country.

Traditional rights

However, the creation of these reserves does not automatically establish rights for all traditional

*This article has been written by **Nádia Pierri** (npierri@igmail.com), Member, ICSP, Brazil, **Nandá Tereza de Azevedo** (nandatereza@igsp.br), PhD in Environment and Development and **Beatriz Mesquita** (beatrizmesquita@fundaj.gov.br), Member, ICSP, Brazil*

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Padhraic Smyth



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