

Intangible Cultural Heritage and Human Rights: The Case of Mining in the Brazilian Amazon

Luciana Gonçalves de Carvalho

Introduction

The advancement of public policies targeted at intangible cultural heritage (ICH) in Brazil has moved different social groups interested in receiving acknowledgment and valuation of their cultural practices and expressions. There are multiple kinds of heritage demands, related to festivities, dances, foods, languages, knowledges and crafts, among others. Some demands express tensions and disputes around the notion of heritage itself, especially concerning the rights the heritage implies.

To exemplify the tensions and disputes that are present in the heritage field, this text addresses two ongoing heritage demands in two major areas of mineral exploration in the Brazilian Amazon, both located in the state of Pará. The first case refers to the cultural heritage from Afro-descendant communities, self-declared as quilombolas, who are affected by the industrial mining of bauxite in the basin of the Trombetas river, in the city of Oriximiná. The second case addresses heritage demands articulated by social players related to gold-digging from the basin of the Tapajós river, in the city of Itaituba and its vicinities.

Both cases present significant challenges to balancing institutional practices for identification and safeguarding of ICH with ensuring human rights in Brazil, especially concerning indigenous peoples and from traditional communities, defined in the National Policy on Sustainable Development of Traditional Peoples and Communities (2007) as:

[...] culturally differentiated groups that acknowledge themselves as such, having their own forms of social organization, occupying and using territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, using knowledges, innovations and practices generated and transmitted by tradition.

The purpose of this text is to demonstrate that the specific intangible cultural heritage policy must be aware and connected to other public policies that aim at safeguarding cultural rights, must be understood in the broader picture of rights ensured in the Universal Declaration of Human Rights from 1948. In this sense, valuing the cultural heritage from the different groups that comprise the Brazilian society must be deeply associated to ensuring other fundamental rights.

This outlook derives from the Brazilian Federal Constitution and is aligned with a series of international treaties that address the protection to cultural rights within the human rights scenario. Some examples are the 2001 and 2003 conventions from the United Nations Educational, Scientific and Cultural Organization (UNESCO), addressing culture as a crucial dimension of identity and social cohesiveness, cultural pluralism as a political expression of cultural diversity, mandatory in a democratic State, and cultural diversity as an essential factor for sustainable development (UNESCO 2001, 2003).

History and context

Intangible cultural heritage policy (ICH) in Brazil came into force with the Decree number 3551, from August 4th, 2000, establishing the registration of cultural assets of immaterial or intangible nature – celebrations, forms of expression, knowledges and cultural places associated to them – and created a nationwide program with the goal of supporting and fostering the identification, recognition, safeguarding and promotion of such assets. Since the initial phase of implementing this policy – from 2000 to 2012, according to Viana, Salama and Paiva-Chaves (2015) –, the emphasis on approaching ICH as an indissociable element of the Brazilian ethnic and cultural diversity, as well as the ways of creating, making and living associated to it, has become clear.

The group of 52 elements registered by the National Historic and Artistic Heritage Institute (IPHAN) until 2023 – 9 celebrations, 12 knowledges, 16 forms of expression and 3 places – vehemently expresses the valuation of the cultural production from minorities that have been historically marginalized in the Brazilian society, like indigenous peoples, quilombola communities, umbanda center people, and other popular groups. There are, among others, indigenous rituals and craft works; dances and festivities of African origin; crafts and methods of preparing foods associated to the celebration of deities; oral and graphic expressions from Amerindian cosmologies; places with cosmic meanings; and major popular fairs. The concern with the broad guarantee of cultural rights from owners is noticed on the respective record dossiers, as established in the 1988 Federal Constitution.

Among these elements, six were registered at the Representative List of the Intangible Cultural Heritage of Humanity, and one at the List of Intangible Cultural Heritage in Need of Urgent Safeguarding. Both lists are adopted by UNESCO, and being registered on them indicates both the acknowledgment of the cultural value of the elements and the importance

of protecting them and ensuring to the respective producers the conditions to continue with their cultural practices.

In general, being registered at the record books from IPHAN or at lists from UNESCO grants visibility, adds symbolic value, and implies commitment from the State(s) about safeguarding the elements in question. In Brazil, the remarkable progresses in this field were allowed by actions and public investments that led to the formation and consolidation, within IPHAN's scope, of a specialized professional group, with the necessary theoretical-methodological and technical-administrative knowledge for identifying, registering and safeguarding intangible cultural heritage.

On the other hand, managing this heritage implied the process of modernizing the ICH policy, which required, among other measures: developing a series of goals, procedures and assessment indicators; standardizing technical-administrative procedures; and outlining actions for safeguarding the cultural sphere, with focus on the efficiency of the public apparatus (Viana, Salama and Paiva-Chaves 2015). In other words, the process of consolidating this policy has reinforced the limits of operation by IPHAN, circumscribing it to safekeeping the elements on a strict sense, through project and actions targeted at eventual issues. Therefore, it reduced the intercession by the institute concerning problems of multiple origins that affect the forms of creating, making and living by groups that produce and own the ICH and threaten not only the heritage, but its cultural rights and the Brazilian ethnic and cultural diversity itself.

Considering that most registered elements come from groups that have been historically marginalized in the Brazilian society, safeguarding them requires equating a series of inequities among complex social processes. In practice, this demands actions that go beyond the administrative sphere of cultural heritage and brush fields with their own legislations and policies, usually not articulated or even conflicting with the heritage policies, especially when it comes to the territorial and environmental rights of such groups. In this sense, the approach on cultural heritage as an element that cannot be dissociated from cultural rights, which marked the first phase of implementation of the policy on ICH in Brazil, has been threatened with reduction.

On one hand, there is a structural problem: although the Brazilian Constitution assumes the indivisibility of cultural, territorial and environmental rights, reflected on a robust infra-constitutional legislation, infra-legal regulations frequently obliterate it. Consequently, the institutional practices are separated and address separately environmental, territorial and cultural dimensions that almost invariably characterize assets registered as intangible cultural heritage in Brazil.

On the other hand, the recent strengthening of discourses and movements that, under the justification of valuing a supposed national unit, tends to deplete collective

identities adopted by minority groups in the Brazilian society, has been noticed. In a political context favorable to reviewing the environmental and territorial legislation and related to cultural diversity in Brazil, the threats to ICH increase, at the same time new demands are made to heritage management institutions by religious, professional and political groups that want to obtain their own recognition and prerogatives.

Cultural heritage and mining at the Trombetas river

The Quilombola territory Alto Trombetas II is located at the banks of the Trombetas river, in the city of Oriximiná, in the northwest part of the state of Pará. In an area with 189,657.8147 hectares, it encompasses eight communities, where nearly 300 families live. Its history takes back to the old quilombo settlements created in the 19th century, over the Trombetas river waterfalls, by Africans and Afro-descendants who rebelled against slavery. Despite being relatively isolated geographically, they kept exchange relations with hucksters and traders established in the main cities in western Pará, establishing with them a sort of “complicity of opposites” (Bezerra Neto 2001, 97), which contributed to their settlement in the region.

After slavery was abolished, a considerable part of the quilombos population migrated midstream and downstream and, throughout the 19th century, the quilombolas expanded their territorial domain. In the 1970s, however, part of their territory was occupied by Mineração Rio do Norte (MRN), a company that started exploring bauxite in the area in 1976, and then by the Biological Preserve of the Trombetas River, created in 1979.

In addition to expelling families that lived in the region, these two events imposed restrictions on access and use of the territory historically occupied by the descendants. Corralled between the environmental impacts from mining and the environmental preservation practiced by the government, the quilombolas saw the availability of natural resources indispensable to their existence gradually diminish, in such a way that their traditional ways of living would be deeply affected with the insertion in the job market as cheap labor force in mining.

With the enactment of the 1988 Federal Constitution, especially with article 68 from the Transitory Constitutional Provisions Act, granting to remaining quilombos the right to definitive ownership over occupied lands, Black settlements at the Trombetas river started working on the entitlement to their lands. Articulated with social movements, progressive sectors of the Catholic Church and non-governmental organizations, they created the Association of Remaining Quilombo Communities from the City of Oriximiná to aid in their fight for land.

In 1989, however, they were surprised with the creation of the National Forest of Saracá-Taquera, encompassing an extensive area at the right bank of the Trombetas river, where MRN already operated. Although less prohibitive than the biological preserve, the national forest also meant restrictions to access and use of natural resources for the local

population, but, paradoxically, the Brazilian government ensured the continuity of mining in the own decree that created the conservation unit (Carvalho 2018).

In 1992, the Federal Public Ministry presented to the Cultural Foundation Palmares (FCP)¹¹³ a process aiming at listing as landmarks the quilombola areas from Oriximiná, based on article 216 from the 1988 Federal Constitution, declaring as listed all documents and sites that have historical remnants of former quilombos. Acknowledging that the quilombola communities from Oriximiná had the preservation of their cultural, social and economic values threatened, FCP endorsed the request for listing.

In 1995, IPHAN opened the process aiming at conducting technical studies related to listing the Oriximiná quilombos. In the same year, the institute issued a report primarily based on three criteria—geographic, chronological, and cultural—to reject the listing.

Concerning the first criterion, it indicated considerable difficulties to outline the site to be listed, due to the vastness of the area, and the incongruence between the areas occupied by the communities and those where the first quilombos were settled in the 19th century. In relation to the second criterion, the report used the premise that settling quilombos is a phenomenon restricted to the slavery period; therefore, it disregarded communities formed after the abolition, even if due to migrations and divisions from former quilombos. Finally, concerning the third criterion, the report was based on a hermetic notion of ethnicity, reifying the quilombo as an isolate social-cultural unit that is impervious to cultural exchanges with Amerindian populations that inhabited the region (Carvalho, Pires, Santos 2022).

To conclude, the report indicates the possibility of “preserving intangible elements, identified in the ways of making and living from the communities, [...] of their unique culture, originated from peoples who settled there in the past century” (DEPROT/IPHAN, 1995, 8). Then, from 2013 to 2015, IPHAN conducted in Pará the National Inventory of Cultural References from Quilombos in Oriximiná, with the purpose of identifying and documenting the cultural assets of reference for the communities in question.

As a result of this inventory, it is worth noting that half the items identified correspond to extractivism and artisan knowledges and to places of economic and cosmological importance. This convergence is expressed in a refined conception of the culture, shared by quilombolas, that understood it as part of nature, as understood from a statement made during the research: “If we cut down the forest, the culture goes with it, because [culture] is extracting wood, straw, vines, fruits...”

113 Founded in 1988, the Cultural Foundation Palmares has the mission of promoting and preserving the cultural, historical, social and economic values resulting from Black influence in the formation of the Brazilian society, as well as valuing the Brazilian Black history, cultural and artistic manifestations as national heritage.