

COMPLEXITY AS A PRESUPPOSITION FOR THE REGENCY OF TERRITORIAL SPACES: CONSERVATION UNIT AND DEMOCRATIC PARTICIPATION IN THE AMAZON

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ABSTRACT

In Brazil, the clashes over forest areas between traditional populations and rural producers are broad fields of discussion, especially in the Amazon region, where the theme of sustainable development is intrinsically affected by activities on both sides. It is in this context of complexity that this article will seek to analyze the socio-legal pluralities and the conflicts between spaces and territories, typical of the Amazon region. The problem to be investigated is whether complexity can be a theoretical assumption for legal pluralisms in protected territorial spaces in the Amazon. Through the dialectical method and the technique of bibliographic research, it is proposed to present complexity as a possible assumption for understanding legal pluralisms in protected territorial spaces in the Amazon and, more

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specifically, to meet the following specific objectives: (1) to investigate the current assumptions of the legal monism governing the law; (2) exposing complexity as a possibility of interpretation for legal pluralism in territorial spaces; (3) discuss perspectives for the interpretation of complexity in territorial spaces in the Amazon. The results identify that complexity can be a theoretical assumption for understanding legal pluralisms in protected territorial spaces in the Amazon when added to the axiological possibilities of Amerindian perspectivism.

Keywords: complexity; conservation unit; effectiveness; territorial spaces.

COMPLEXIDADE COMO PRESSUPOSTO PARA A REGÊNCIA DE ESPAÇOS TERRITORIAIS: UNIDADE DE CONSERVAÇÃO E PARTICIPAÇÃO DEMOCRÁTICA NA AMAZÔNIA

RESUMO

No Brasil, os embates acerca das áreas florestais entre populações tradicionais e produtores rurais são amplos campos de discussões, principalmente na região amazônica, onde o tema do desenvolvimento sustentável é intrinsecamente afetado por atividades de ambos os lados. É nesse contexto de complexidade que este artigo buscará analisar as pluralidades sociojurídicas e os conflitos entre espaços e territórios, típicos da região amazônica. O problema a ser investigado consiste em saber se a complexidade pode ser um pressuposto teórico para pluralismos jurídicos em espaços territoriais protegidos na Amazônia. Mediante o método dialético e a técnica de pesquisa bibliográfica, propõe-se apresentar a complexidade como possível pressuposto para a compreensão de pluralismos jurídicos em espaços territoriais protegidos na Amazônia e, mais especificamente, cumprir os seguintes objetivos específicos: (1) investigar os atuais pressupostos do monismo jurídico de regência do direito; (2) expor a complexidade como possibilidade de interpretação para pluralismos jurídicos em espaços territoriais; (3) discutir perspectivismos para a interpretação da complexidade em espaços territoriais na Amazônia. Os resultados identificaram que a complexidade pode ser um pressuposto teórico para compreensão de pluralismos jurídicos em espaços territoriais protegidos na

Amazônia quando somadas às possibilidades axiológicas do perspectivismo ameríndio.

Palavras-chave: *complexidade; efetividade; espaços territoriais; unidade de conservação.*

INTRODUCTION

Brazil has public forest areas assigned to traditional populations and agricultural producers, especially in Amazon, which raises debates on the regional sustainable development and participatory democracy. In this context, for the last decades, the country has had the opportunity of building a strategy to conciliate the conservation and protection of its biomes and human development.

The Amazon has 57 Conservation Units as a way of contributing to biodiversity protection. The creation of these new areas enabled the implementation of effective conservation and sustainable development policies, even creating new tools, such as the Sustainable Use Authorization Agreement (TAUS), which disciplines the land ownership and deliberates on local socioeconomic activities.

However, the management of Conservation Units (UCs) is also an actual space for disputes, a circumstance that weakens the access to rights and guarantees of communities, who are subject to proposals of economic development that perpetuate the logics of rights subtraction, an inheritance from colonial times. Now, with the so-called post-modernity, the strategies for hegemonic control remain in place, yet with updated forms.

With the technological creations and network possibilities (internet, apps etc.), many alternatives and structures may be created for tracking and overcoming fragilities in the management of these territories, a setting that turns the UCs a breeding ground for experimenting new types of management and participatory democracy.

With a view of creating a system to guarantee the protection of territorial spaces towards the maintenance of biological diversity, the Law no. 9985/2000 was issued, known as National System of Nature Conservation Units (SNUC), which established the UCs as a regime of special administration, with their own protections and guarantees.

Thus, a true occupation model came into place, based on the

appreciation of the biome and the local ways of life and existence, with a focus on well-being and conservation. As for management, it is appropriate to say that the UCs promote political action by the communities involved, favoring democratic participation in deeply complex environments – which is externalized in the form of conflicts.

Concerning the sustainability framework guiding this research, we chose redefinition of the Elkington's classic triad – social, economic, and environmental –, through Wolkmer's sustainability ethics. It is a proposal of its own that emerges from the challenges and the complex and plural interactions, typical of Latin America, revealed from what has been called the “New Latin American Constitutionalism”.

Therefore, we adopt the view in which sustainability requires a view that allows the balance of environment and human beings considered in their own groups, epistemologies, and worldviews, interconnecting the classical views (environmental, social, and economical) to the multicultural, political, and legal, under the prism of inter-culturalism and pluralism.

It is precisely in the emergence of complex issues that this work intends to focus on, mainly on confronting the legal pluralities that lie at the core of the conflicts between spaces and territories, so evident in the Amazon region. As for the guiding problem of this research, the question is whether complexity may be a theoretical assumption for legal pluralism in protected territorial spaces in the Amazon.

To answer this question, this article intends to present complexity as a possible assumption to legal pluralism in protected territorial spaces in Amazon. In addition, more specifically, (1) investigate the current assumptions of the legal monism that governs the law; (2) expose the complexity as a possibility of interpretation for legal pluralisms in territorial spaces; and (3) discuss perspectivism for the interpretation of complexity in territorial spaces in Amazon.

We used the dialectic method as an alternative proposal to the traditional legal positivism, to support a critical perspective, which aims to make legal analyses that propose the transformation of reality, understood in a concrete, historical, and dialectic way. Moreover, this research is qualitative and of theoretical character, elaborated from a bibliographical research, through the study of books, academic articles, and normative texts. The research has the goal of comprehending the study object (conservation units) and showing how the Edgar Morin's epistemology of complexity, associated to the Amerindian perspective theory by Viveiros de Castro,

must be used for the rupture with the legal monism in the framework of the new dialogical theoretical approaches required in the New Latin American Constitutionalism.

1 ASSUMPTIONS OF HEGEMONY AS FOUNDATIONS FOR LEGAL MONISM

Law is a field of Applied Social Sciences that holds a wide space for the investigation of its fundamentals, which is reflected in the debates about the hegemony imposed by the fulfillment of the directives emanated by the State. When investigating the subject “in the social sciences, there is extensive debate about the applicability and relevance of the Gramscian concepts of ‘hegemony’ and ‘domination’” (COMBAT, 2007, p. 1).

This is relevant for understanding the assumptions of “harmonization” between divergent interests from different groups who “share” the same political spaces. This matter is mostly discussed in the writings by Gramsci, in which he exposes that, more often than not, “a certain social group, who is in a subordination relationship in relation to another group, adopts the worldviews of the later, even if it is in contradiction with its practical activity” (ALVES, 2010, p. 74).

In this sense, “the preponderance of the general will over particular will” is the core of the Gramscian concept of hegemony (COMBAT, 2007, p. 4), justifying the predominance of interests, sciences, and policies of a given group, considered the ruler, over another, shaping contents of all kinds, including the historical. In fact, “the history of subaltern States is explained by means of the history of hegemonic States” (GRAMSCI, 2007a, p. 320).

As per Magalhães (2010), we need first to understand the hegemonic paradigm so that we can comprehend the revolutionary potential of the Plurinational State, appearing as a new proposal for social transformation, in which the idea of a strong dialogic, participatory, and popular democracy is added to the classic representative democracy.

The Plurinational State is a new, unique path of social transformation, alternative to the hegemonic State (MAGALHÃES, 2010). It represents a theoretical topic that acts against this totalitarian and universalistic hegemonic power, in a sort of anti-dogmatism, guided by the critical ability of thinking about the imposed State model (BOBBIO; MATTEUCCI; PASQUINO, 1998).

Relativism itself has contributed to an understanding of differences in customs, which no longer allows one civilization to easily justify its superiority over another (BOBBIO; MATTEUCCI; PASQUINO, 1998). Such relativism “accepts the pluralism of values as something positive for the entire society, the relevance of dissention, debate, and criticism, and does not withdraw in face of conflict and competition” (BOBBIO; MATTEUCCI; PASQUINO, 1998, p. 701).

As it had occurred in the Latin American territories ever since the colonial exploration times – and still can be seen to present day – a set of co-optations forms hegemony. These are whether domination by force, consent, or illusions about the existence of a bloc of alliances or historical bloc, in which a dominant class becomes the ruler (ABREU, 2014), allowing peoples to be subjected to the intellectual, moral, and cultural hegemony of other peoples (GRAMSCI, 2002b).

Meanwhile, a union does not necessarily occur, but the understanding that “the historical bloc seeks to develop answers to society’s issues according to its interests” (ABREU, 2014, p. 378), enabling the formation of a unilateral and biased thinking that permeates the State structures, the divisions in decision power and means of constructing the legal thinking. Relying on the institutionalities for the consolidation of structures of domination directed by a certain class, “the division of powers and all the discussions that took place for its establishment and the legal dogmatism derived from its advent constitute the result of the struggle between the civil and political societies of a given historical period” (GRAMSCI, 2007b, p. 235).

Whereas the concept of “hegemony” as a domination pillar, it is defined as “the capacity [...] to present itself as the bearer of general interests and to convince other States or social groups that the interests it represents are, in fact, common interests” (COMBAT, 2007, p. 4).

To Gramsci (2001, p. 21), the hegemony solidifies both in the society level and in the politics levels, both corresponding, respectively, “to the ‘hegemony’ function that the dominant group exercises over the whole society, and to that of ‘direct domination’ or command, which is expressed in the State and ‘legal’ government”.

Thus, the idea of thinking about law, of reflecting on the legal guidelines of a State, to Gramsci, it not necessarily plural. It is rather unique under the class perspective, linked to the reflections in political philosophy on “general will” and “contract” developed by Hegel and Rousseau; making

it an interesting articulation central to understanding to what extent “hegemony” and “domination” are social relations of power (COMBAT, 2007).

In deepening the hegemony concept by Gramsci, we understand that it “the idea of a leadership or direction exercised in the political, cultural, intellectual, economic, or social environment by a class, a bloc of classes or even a nation-state” grounds its development (ABREU, 2014, p. 378). This conception of nation-state “depended on the construction of a national identity, [...] of the imposition of common values that had to be shared by different ethnical groups [...] so everyone would recognize the power of the State, of the sovereign” (MAGALHÃES, 2010, p. 208).

The formation of the Nation-State closely related to the intolerance of diversity outside these standards and limits dictated by national identity, in models built for Europe (MAGALHÃES, 2010). When implemented in America, “there was no expectation [that] indigenous and Black people would behave as equals, it was better for them to stand aside or, in the case of indigenous peoples, even not to exist: million were killed” (MAGALHÃES, 2010, p. 209).

For this hegemonic state to be overcome, a critical vision is required, one that opens other paths to pluralism and the inclusion of new perspectives on the distinct types of organizations and interpretations of oneself and of the other, thus seeking a greater approximation with reality.

Understanding reality requires willingness to various world perspectives, which often result in sharp conflicts in the realm of politics and science. After all, “the critical understanding of oneself is obtained [...] through a struggle of political ‘hegemonies,’ [...] first in the field of ethics, then in that of politics, finally reaching a higher elaboration of the very conception of reality” (GRAMSCI, 1999, p. 103).

In this sense, it is essential a confrontation in “the whole cultural area over which hegemony maintains domination over values, customs, discourses, practices and rituals” (ABREU, 2014, p. 379), opening itself to the reception of counter-hegemonic ideas. These debates are vital to the understanding that the “political development of the concept of hegemony represents, in addition to political-practical progress, a great philosophical progress, [...] an ethics appropriate to a conception of the real that [...] has become critical” (GRAMSCI, 1999, p. 104).

The critical look to the understanding of the existing reality in conflict spaces, such as Latin America and especially the Amazon, opens the way to pluralism and other governance practices based on diversity, to “build a

new intellectual and moral order, that is, a new kind of society” (GRAMSCI, 1999, p. 225).

There is a mistaken belief “that local development is synonymous with harmony and absence of conflicts” (ABREU, 2014, p. 384). This requires caution, especially in cases where there are such differentiated groups living together in the same territory, as is the case of indigenous groups that need to coexist with Westernized man.

In the conception of original peoples, their rights are based on a collective sense of community, on a worldview that equates human and non-human beings, defined by their relationality or communality, in which they consider themselves beings of pluralities, diversity, reciprocity, complementarity, and shared cosmos and interactions (SALCEDO, 2019)

Based on this relativistic, critical, and antidogmatic perspective, theoretical possibilities emerge, such as the New Latin American Constitutionalism, whose primary characteristic is the rupture with the old models of State, radically excluding (MAGALHÃES, 2010), and with its models of democracy and constitutionalism (PASTOR; DALMAU, 2010).

Under this framework, “*Horizonte Pluralista*” (FAJARDO, 2012) is present, questioning the legal monism, the identity of the rule of law, and the mono-culturalism of the Nation-state. This is only possible thanks to paradigmatic changes, such as the break with the institutional supremacy of Western culture; the recognition of equal dignity of cultures; and the possibility of various types of direct participation of previously subalternized peoples, who are recognized as subjects of rights and political subjects. These allow the overcoming of the idea that only public officials represent the popular will (FAJARDO, 2006).

It is worth saying this is not about the complete abandonment of representative democracy, but rather its complementation with the missing element of legitimacy (PASTOR; DALMAU, 2010), already demanded by Bobbio (1986, p. 54) when portraying the need to expand the project of social democratization through the “occupation of new spaces previously dominated by a hierarchical and bureaucratic democracy. Today’s democratic society must make peace with pluralism and cannot admit a democracy other than pluralism, articulated from diverse and opposed groups, understood in the objective situation in which they are immersed (BOBBIO, 1986).

The pluralist horizon is formed by complex contexts, within which new constitutions emerge in Latin America, with tensions and contradictions

that require “a pluralist interpretation to rescue the limitations and resolve the tensions in favor of the realization [...] of the pluralist constitutional project” (FAJARDO, 2012, p. 173). The exercise of this interpretation comes to be understood as an exercise of power, which, in turn, is shared with the subjects now recognized, especially the indigenous peoples (FAJARDO, 2012). The social reality begins to be integrated by historically marginalized sectors (PASTOR; DALMAU, 2010); democracy demands a mediation by intercultural dialogue, which “configures itself as a ‘space and an instrument’ of new citizenships, such as the indigenous, differentiated, multicultural, dynamic, creative and participatory” (DANTAS, 2004, p. 186).

Thus, “indigenous social movements claim rights and build spaces of struggle that extrapolate the context of the national State” (DANTAS, 2004, p. 217). This means that the old idea of the State is absorbed by the collective (PASTOR; DALMAU, 2010), becoming even more relevant in the context of globalized capitalism, occasion in which the Nation-state, from an economic point of view, loses its relevance and becomes a supporting actor (OHMAE, 1996).

Globalized capitalism points to a geopolitics that tends to be of a world without borders, from which global social solutions and complete economic units emerge that do not correspond to the political borders of Nation-states; a space in which the homogeneous cultural identity itself, nationality, as a basic assumption of the nation-state, is redefined (OHMAE, 1996).

In this panorama, Nation-States continue to exist, but the idea of sovereignty and nationality are resized to the extent that the State model to which they are linked needs to be overcome (LUPI, 2000). In the field of Law, the phenomena of the world without borders have been gaining strength from the idea of a global constitutionalism (LUPI; MONTE; VIVIANI, 2014). It has emphasis on the theory of transjudicialism – in which there is communication between different legal systems and reception of experiences from other jurisdictions, especially as a discursive strategy for the defense of values such as rule of law, democracy and human rights (LUPI, 2009).

The democratic constitutionalism of the 21st century only becomes legitimate if it has strong cosmopolitan aspirations, and the contemporary multicultural constitutional state has to be able to accommodate the different worldviews and ways of organizing life (CARBONELL, 2010),

enforcing the rule of laws and not the rule of men in power (BOBBIO, 1986; CARBONELL, 2010).

The pluralistic “will to Constitution”, rather than the “will to power”, must be fulfilled and conformed to practical reality; it demands to be understood as the ought-to-be of an objective order in the complex of life relations (HESSE, 1991). In this sense, current constitutions can no longer be seen by a one-sided structure, with its “dominant social, political, and economic elements” (HESSE, 1991, p. 20); but must be interpreted to incorporate the spiritual state of its time.

In the current context and, considering the aforementioned phenomenon of transjudicialism, the New Latin American Constitutionalism is an example of inter-constitutional dialogue on the continent (DANTAS, 2019), occasion in which constituted public authorities are now required to practice multicultural dialogue (LUPI, 2009). Dialogue with the new political subjects becomes a “cognitive, methodological, hermeneutic, political, and legal proposal”, “founded on the assumption of pluralism and complexity” (DANTAS, 2004, p. 227), which demands the overcoming of the old Universalist postures.

The new interpretation of rights brings up the concept of “cognitive justice”, “inseparable from the democratic imagination” (BALDI, 2014, p. 47) and the “legal imagination”, “opening new perspectives of understanding to welcome pluralism of conceptions, intercultural dialogues, and new exercises for resolving issues” (BALDI, 2014, p. 49). Plurality then ensures that alternative solutions and paths become possible for problem solving (BALDI, 2014).

The Brazilian legal system is in this debate within the first cycle of the pluralist horizon (FAJARDO, 2012), from the recognition of multicultural rights, as well as the recognition of original peoples as subjects of law with self-determination. Moreover, the same normative system is open to the other evolutionary cycles to the Plurinational State, because “the so-called ‘Citizen Constitution’ consecrates pluralism, adding to it the adjective ‘political’, in a much more comprehensive sense” (WOLKMER, 2014, p. 72).

Legal pluralism presents itself both as a phenomenon of possibilities and dimensions of cultural universality, and as a model that fits the specificities and conditions of political societies – such as the Latin American ones –, which require a plurality inserted in material contradictions and social conflicts (WOLKMER, 2001). Alongside the subjects of rights of this pluralism, which also becomes political, is the collective subject, as a

result of the historical and peripheral community construct of emancipatory density, such as social movements (WOLKMER, 2001).

In this research, we understand that peasants, traditional farmers, *quilombolas*, indigenous people, scholars, their research groups, observatories, civil servants, and other spheres of the Legislative, Executive, and especially the Judiciary Branches, can be considered stakeholders in this process of legitimate pluralities of action in environmentally protected areas. They also need to be in constant relationship with the knowledge and experiences derived from them.

This impacts the way rights and their relationship with diversities are viewed, especially constitutional and environmental rights in the Amazon, which is why the subject of biodiversity becomes an integral part “of the international protective system of human rights and [of] the Brazilian constitutional system as a fundamental right” (OLIVEIRA NAVES; RÊGO GOIATÁ, 2017, p. 70).

Thus, it requires a look at the environmentally protected spaces with operational pluralism, aiming at the construction of socio-environmental law from the participation of the new subjects of the pluralist horizon, and by understanding the complexity inherent to these spaces of constant conflicts.

2 COMPLEXITY AS A POSSIBLE INTERPRETATION FOR LEGAL PLURALISMS IN TERRITORIAL SPACES

The SNUC in Brazil is currently regulated by the Law no. 9985/2000, originated by the time the country was officially entering a new phase in environmental protection inspired in the ECO-92 international movement. This new phase aimed not only environmental protection, but also to democratize and turn participative the public management of environmentally protected spaces, establishing a legal regime of shared management for the UCs (NETHER, 2017).

From then on, some possibilities were established in the Brazilian legal system: the transition from preservationist environmentalism to socio-environmentalism; the overcoming of the logic that separates man, culture, and nature, that is, overcoming the conflict of interests between the balanced environment and cultural rights (NETHER, 2017).

Under this view, the new legal status of protected areas brings the essence of legal pluralism, which gives greater participation to new social

actors, as well as abandons the idea of society as a “battleground of competing groups” (WOLKMER, 2001, p. 181). Thus giving the right to occupy environmentally protected areas to indigenous peoples and traditional communities and *quilombolas*, which have special cultural identification and ways of life with their territories and nature.

The fact is that the implementation of this new legal status of pairing preservationist and socio-environmental interests, as well as of shared management of protected areas, is not simple to execute, given it requires breaking with historically constructed paradigms. As an example of the hardships we argue here, we mention the research conducted within the structure of the Chico Mendes Institute for Biodiversity Conservation (ICMBio)⁴, whose results found that there are three environmentalist branches, the socio-environmentalism being the one with the least adherence of the technicians of that institution (MENEZES; SIENA; RODRÍGUEZ, 2011).

Despite this, the ICMBio technicians do not follow a single environmental line or branch, while here is a certain diversity and miscegenation of different environmental conceptions among themselves, even among those who adhere to socio-environmentalism. Depending on the professional training, there is a different understanding of the man-nature relationship and the public policies that would be appropriate for environmental protection (MENEZES; SIENA; RODRÍGUEZ, 2011).

Within the Board responsible for the Integral Protection UCs in that body, opposition to socio-environmentalism predominates and, even in the General Coordination of Extractive Reserves, which should be focused on socio-environmentalism and sustainable use of nature, there is also a division between those who are in favor and those who are against this current of opinion (MENEZES; SIENA; RODRÍGUEZ, 2011).

In this context, as emphasized by the authors (2011, p. 475), we observed that there seems to be an “influence of organizational culture and the local and regional context” in the vision of ICMBio’s employees, so that “a change of culture and/or context can then favor the implementation of socio-environmental objectives. Consequently, the understanding of the diversity of environmental aspects and the existing conflicts of ideas and interests is what will enable new approaches, public policies, and

⁴ The body in charge for proposing, implementing, managing, inspecting, and monitoring the federal UCs.

action planning for the effectiveness of the UCs (MENEZES; SIENA; RODRÍGUEZ, 2011).

Disregarding the divergence of ideas and interests involved results in the maintenance of social conflicts, often with violation of the rights of the communities involved, who are forced to leave their territories so that these can be transformed into areas of full protection of nature, without any attempt to integrate or make human permanence compatible with environmental protection. That is what happened, for example, with the creation, in 2006, of the Nascentes da Serra do Cachimbo Biological Reserve, in the state of Pará. In this case, although there was a proposal for the creation of a sustainable use UC or even a National Park within a larger area of environmental protection, the choice was for the category of Biological Reserve, one of the most restrictive UC categories, given it does not allow human permanence (ZAMADEI; HEIMANN; PIRES, 2019). As a result, tension was created with the families and residents living in the limits of the Biological Reserve, and with the rural producers of the region, who have not received compensation and have not resolved the pending conflicts in the area, which have lasted for more than a decade.

Even in the absence of most serious territorial conflicts, other internal elements of the UC itself culminate in conflicts of interest within the social network involved in managing the area. Its configuration, depending on the arrangements, the density of relations, the diversity and type of interaction among the players involved, facilitates or hinders the problems and the mobilization of resources for the achievement of its objectives (JACAÚNA, 2020).

When considering the new socio-environmental configuration of the SNUC structure, the several aspects of the internal operational structure of the environmental agencies, and the conflicts of territorial and management interests in the UCs (or those occurring in the network of different social actors involved in participatory management), we have a context of countless interests. This is why the epistemology of complexity becomes a viable key of interpretation for the pluralities involving the most diverse areas in the SNUC.

Edgar Morin developed complexity as a challenge to science, epistemology, and new modes of social organization. Complexity is not only about recognizing the complex and the existing diversities, but also about identifying a type of organization and law based on complexity (MORIN, 2005a). The new issues, visualized from the complexity viewpoint, bring

the historical and social context to science as an inseparable part of it (MORIN, 2005a) and force it to take as its object the realities previously banned by the classical science of the 17th and 19th centuries (MORIN, 2005b).

The prism of complexity “is still marginal in scientific thinking, in epistemological thinking, and in philosophical thinking” (MORIN, 2005a, p. 175), and sometimes misunderstood “as a recipe, as an answer, instead of considering it as a challenge and as a motivation to think” (MORIN, 2005a, p. 176).

Seen as a challenge, complexity requires that thought itself becomes complex, that we opt for a revolution in the structures of thought itself (MORIN, 2005a), for a transgression with the idea that complexity is an empirical phenomenon, accepting it as a conceptual and logical problem (MORIN, 2005a).

In this sense, breaking the previous rationality – the separation man-nature and culture-nature – and the limitation of shared, democratic, and popular management requires the adoption of this new complex rationality, which allows for new social interactions and new modes of environmental protection.

Edgar Morin’s complex thinking has already been adopted as an alternative proposal to think about reality and the socio-environmental issues that involve the environmental discourse, and even the new perspectives of sustainability, creating a new horizon of complex sustainability (ROCHA; LUZIO-DO-SANTOS, 2020).

Sustainability, from the perspective of complex thinking, goes beyond the three classical dimensions (social, environmental, and economic), comprehending others such as the spatial, political, cultural, and inner dimensions, all of which must be jointly analyzed (ROCHA; LUZIO-DO-SANTOS, 2020).

This line of thought of complex sustainability understands that complex thinking emerges as a response to the capitalist development project, guided by new values, knowledge, and diversities (ROCHA; LUZIO-DO-SANTOS, 2020), bringing it closer to the ethics of sustainability of the pluralist horizon (WOLKMER, 2014).

Complexity is also adopted to rethink the man-nature relationship and the new problems of a plural and interrelated society. It also allows realigning the old break between the sciences of man and the sciences of nature, which made knowledge and protection of nature a reduced anthropocentric conception (BALIM; MOTA; SILVA, 2014).

This requires that environmentally protected areas are not just technical or palliative means of environmental protection, but serve as a means to reflect on the true cause of environmental problems and assist the formulation of new answers that, in a deep and complex way, can be achieved from the complexity paradigm (BALIM; MOTA; SILVA, 2014).

Thus, as complexity aims to overcome the consequences of modern thinking, including the approximation of the man-nature relationship and the consideration of new knowledge and new social actors through socio-environmentalism, we conclude that it can and should serve as a way to understand and think about the pluralisms existing in the territorially protected spaces in the Amazon.

3 A THE ADOPTION OF PERSPECTIVISM FOR THE INTERPRETATION OF COMPLEXITY IN AMAZON TERRITORIAL SPACES

As we have seen, the SNUC emerged under the international sustainable development ideology of the 1992 Earth Summit. The fact is that this international setting, as far as environmentally protected areas are concerned, is already at a more advanced stage of development.

Since 2003, a new international setting took place, following the 5th World Parks Congress⁵ of the International Union for Conservation of Nature (IUCN), held in Durban, South Africa. At that event, there was a large indigenous participation, which historically enabled the construction of a dialogue between indigenous representatives and conservationists, as well as the adoption of a new perspective for the international policy of protected areas (STEVENS, 2014).

This dialogue, promoted by IUCN, reformulated the policy of the Convention on Biological Diversity (CBD), adopted at the time of the 1992 Earth Summit (STEVENS, 2014). During the 2004 Conference of the Parties at the CBD, decision VII/28 was adopted. This gave new direction to article no. 8 of the CBD, to address protected area policies in conjunction with indigenous peoples, recognizing that they play a role in the conservation of biodiversity in these areas and have the right to be consulted before a proposition of resettlement resulting from the creation of a UC (UNEP, 2004).

⁵ The World Parks Congress is the most important global occasion for setting international standards and guidelines for environmentally protected areas (STEVENS, 2014, p. 47).

This new paradigm dictates that protected areas should not only focus on conserving biodiversity, but also support indigenous peoples and their efforts to resist, allowing them to maintain their identities, cultures, ways of life, and intangible relationships with their territories, while also have their responsibilities defined in the management of these areas (STEVENS, 2014).

From that moment on, it was considered that the old setting of environmentally protected areas, known as the “Yellowstone model”, predominant in the 19th and early 20th centuries, was no longer compatible with the new scenario, which recognized the participation of indigenous peoples in biodiversity protection (STEVENS, 2014).

The States created the environmentally protected areas by the old paradigm; they intended to strictly protect nature and to excel in preserving biodiversity; it was believed that, to achieve this goal, the removal of human presence was necessary; and, in the aftermath, the use of legal and moral force to remove people was justified as legitimate (STEVENS, 2014).

When comparing these parameters against with the new international recognition of indigenous rights as subjects of rights in the issue under exam, it is clear that the maintenance of the old panorama would impose integration, assimilationism, the idea of colonization of territories, and the maintenance of the consequences of modernism (STEVENS, 2014).

From an environmental point of view, there is no justification for resistance in embracing this new paradigm. As Stevens (2014) shows, many protected areas, created at the expense of resettling indigenous peoples, have failed in their conservation purposes.

The author points to research that shows how most of the planet’s remaining areas of significant natural value are inhabited by indigenous peoples; how the areas protected by them are as well or even better conserved than those under strict state protection. In relation to the Amazon, indigenous reserve areas are more effective in preventing deforestation than those not inhabited by them (STEVENS, 2014).

This does not stem from a merely territorial coincidence between areas inhabited by indigenous people and areas of high biological diversity. Rather, it stems from the ways of life of these peoples, specifically their values and institutions, including spiritual beliefs, relationship with other ways of life, customary norms, collective tenure systems, collective administration, and care for lands, waters, and sacred places (STEVENS, 2014).

To fulfill this new paradigm, it is necessary not only to recognize the rights of these peoples in the conservation of biodiversity and the management of protected areas. It also requires an openness to their forms of conservation, with the structuring of a joint work that respects their territory, sovereignty, rights and responsibilities, becoming a means of reconstruction and decolonization of the indigenous-conservationist-society⁶ relationship (STEVENS, 2014).

In this respect, the recognition of complexity and the adoption of complex thinking are not enough. A step forward is needed, with a posture of decolonization of thought and the adoption of a system that truly embraces new forms, epistemologies, and knowledge in the management of protected areas. That is not only because such forms add to our limitation of modern thinking, but also rather because they will effectively allow the self-determination of the peoples and the construction of a new world that accepts alternative cosmologies.

In this sense, the Amerindian perspectivism theory developed by Viveiros de Castro seems to add to the complexity, carrying with it the idea that there are two worlds, two rationalities to consider. This paper discusses Viveiros de Castro's perspectivism from the standpoint of an "ontological turn" or "cosmopolitics". The notion of cosmopolitics adopted by Viveiros de Castro comes from Stengers (VIVEIROS DE CASTRO, 2012a), according to which:

Cosmos, as it figures in that term, cosmopolitical, designates the unknown that constitutes these multiple, divergent worlds, articulations of which they might become capable, against the temptation of a peace that would claim to be final, ecumenical, in the sense that a transcendence would have the power to require of that which is divergent that it recognize itself as only a particular expression of that which constitutes the point of convergence of all (STENGERS, 2018, p. 447).

Building on these ideas, Viveiros de Castro has been seeking "more effective methods of transfusing the possibilities realized by indigenous worlds into the global cosmopolitical circulation" (2012b, p. 152); while also believing that perspectivism can be a dialogical correspondent of a new political ontology for the world (2012a).

Ontology, for Viveiros de Castro, is "the way of being of our species" (2012a, p. 168), and this "new cosmopolitical ontology" would be a

⁶ This approach allows its extension to traditional peoples and *quilombola* communities, since both categories are also under the protective framework of the International Labor Organization (ILO) Convention 169, for having common ties in the immaterial form of relating to their identity, territory, and nature.

“*reontologization*”⁷ of our rationality, which has always been limited in the rationality of what was the “being” and the “I” (VIVEIROS DE CASTRO, 2012b), typical of individualistic, anthropocentric and hegemonic modernity.

Therefore, one would not only be trying to understand, in a complex way, the world and the new indigenous knowledges as a point of view, but allowing their cosmologies to allow the rethinking of our own assumptions of understanding the world (VIVEIROS, 2012a).

It is from this idea that Viveiros de Castro (2018) builds the possibility that the indigenous point of view is capable of modifying the non-indigenous point of view, so that it does not become limited and labeled as mere opinion, error, or ideology, but taken seriously in itself. It is, therefore, through this perspectivism as an ontological and cosmopolitan theory that the permanent decolonization of thought (VIVEIROS DE CASTRO, 2018), as rationality, is allowed and the construction of this paradigm that attempts a new horizon from different rationalities.

In addressing Viveiros de Castro’s cosmopolitan perspectivism, Szututamn (2020), allows us to understand how a complex thought must also consider different rationalities:

How to live now in a common world under the evidence of the multiplicity of possible worlds, evidence that can be connected to Amerindian multinaturalism? Instead of one world, one ontology, for various ways of knowing it, of representing it; a pulsating cosmopolitics in an open pluriverse (SZTUTUTAMN, 2020, p. 200).

This perspectivism, being a “cosmology against the State” or a “perspectivism against the State”, comes to be considered an alternative horizon to ourselves, capable of resisting hegemonic powers (SZTUTAMN, 2020), as previously exposed, by using Gramsci.

Perspectivism as a cosmopolitan proposition fits the crisis of modernity. It carries within itself the indigenous cosmologies, the conjugation of a *whole* without man-nature separation and the ontological multiplicity, giving rise not only to new ways of thinking, but also new possibilities of acting politically (SZTUTAMN, 2020), for the benefit of a more pluralistic society that considers diversity in its institutional and decisional nuances.

This perspective becomes extremely relevant for the protection of biodiversity and territorially protected spaces in the Brazilian Amazon, considering that it is the largest Brazilian biome with UC areas overlapping with indigenous lands (INSTITUTO SOCIOAMBIENTAL, 2018).

⁷ *Reontologization*, in this case, is a proposal for a new ontology, that is, a new way of being for the human species.

In addition, this perspective reinforces the defense that Law no. 9.985/2000, when understood under a pluralist orientation, imposes a deeper questioning about which human-nature configuration is most appropriate for the socio-environmental protection of a given space to be protected.

For example, its article 42 mentions the possibility of resettling indigenous peoples for the creation of protected areas. However, a perspective considering a plural and decolonized complexity poses a question. Would it be possible, while respecting the right to free, prior and informed consultation⁸, to make the presence of the peoples compatible with the objectives of the protected area, thus admitting their permanence in the territory and their full participation, not only in the protection of nature, but also in the governance and decisions of the UC to be created?

This is the only way to understand that the notes on Edgar Morin's epistemological paradigm of complexity begin to converge with the complexity of the New Latin American Constitutionalism present in relation to "the State, the subjects, the rights, the territories and the exercise of democracy" (DANTAS, 2019, p. 389).

With regard to the man-nature relationship, the new paradigm presents us with new theoretical constructions of intercultural dialogue, such as the rights of Pachamama, of Living Well and of living harmoniously with Nature, configured in Sumak Kawayay, Suma Qamaña and Ñandereko (DANTAS, 2019).

These new paradigms based on diverse cosmovisions and epistemologies break with instrumental and mechanistic ideologies (which insist on the predatory relationship of the man-nature dichotomy) in order to understand life from a constant and interrelated symbiosis, coming from a place of complexity from different beings and the elements that compose it, as occurs in indigenous cosmogonies (DANTAS, 2019).

Amerindian perspectivism, therefore, fulfills Edgar Morin's complexity with cosmopolitan (CARBONELL, 2010), participatory (PASTOR; DALMAU, 2010), decolonial (DANTAS, 2019), plural democratic (BOBBIO, 1986; FAJARDO, 2012; WOLKMER, 2014) and dialogic (DANTAS, 2004; BALDI, 2014) required in the future to be built within the transjudicial legal orders (LUPI, 2009), of the New Latin American Constitutionalism.

⁸ Understanding extracted from the paragraphs of article 42 of Law no. 9.985/2000, in light of ILO Convention 169

This subject requires updates and debates in new studies to adjust to the new environmental, constitutional, and international paradigm on environmental protection areas. As we argued, it is entirely possible to adopt Viveiros de Castro's ontological and cosmopolitan perspectivism as a theoretical reference for the interpretation of the complexities in these territorial spaces in the Amazon. This applies not only for academic and scientific spaces, but – and we emphasize – for the institutional spheres of the powers, including the Judiciary and the legal instances of social access to the law.

CONCLUSION

In a proposal based on the dialectical method, which provides an opportunity for a critical perspective of research in the legal area, this work has exposed a line of thought and discussion in Law that considers awareness of hegemonic processes and the need to rupture with them, based on the theoretical framework of the New Latin American Constitutionalism.

It even considers that the hegemonic forms existing in social and legal relations are a true starting point for facing the observable reality of existing conflicts between different worldviews and needs for plural governance of spaces and territories in the Amazon, especially in the UCs.

The starting point in the analysis of the existence of hegemonic patterns, which consolidate incommunicable monism with the Brazilian diversity of relations and conflicts, leads to an effort to search for theoretical frameworks that guide new approaches of (ac)knowledge of reality, as is the case of Morin's complexity, decolonial dialogues, and Viveiros de Castro's Amerindian perspectivism. Such frameworks can ground and justify institutional structures and public policy approaches that privilege legal pluralism.

In response to the problem that guided this study, we identify that complexity can be a theoretical assumption for legal pluralism in protected territorial spaces in the Amazon. Furthermore, if added to the axiological possibilities of Amerindian perspectivism, the reflections not only corroborate a positive affirmation, but also are politically and epistemologically legitimized through the consideration of a Latin American theoretical cradle, favoring an interpretation that is not exogenous to the concept of complexity, but inherent in Latin American thought.

Thus, from a perspective of the complexity of Amazonian relations

and peoples, and also through a counter-hegemonic effort, we understand that the UCs can be instruments of democratic and plural participation in the territories of the Amazon, aiming a state legal pluralism that goes beyond a monist view of law. Moreover, privileging the diversity so defended in the Latin American frontiers and so widespread in normative instruments, including those of an international nature, for a legitimate management and protection of the Amazon, capable of considering its specificities in terms of emancipatory development.

Finally, we conclude that this subject requires constant updates and debates to adjust the regulation of territorial environmentally protected areas in the Amazon, and perhaps throughout the Brazilian context, to the new legal paradigms that recognize the most diverse and participatory political subjects in the future to be dialogically built, not only in academic and scientific spaces, but also in institutional spheres of power.

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