


## INTERCONNECTIONS BETWEEN INTERCULTURALITY, ETHNIC DIVERSITY AND HUMAN RIGHTS IN SOCIAL TRANSFORMATION: A STUDY ON NATIVE PEOPLES AND TRADITIONAL COMMUNITIES IN THE LIGHT OF THE FEDERAL CONSTITUTION OF 1988

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### ABSTRACT

This article addresses the interconnection between interculturality, ethnic diversity and human rights in social transformation, with emphasis on Native Peoples and Traditional Communities with the advances of the Federal Constitution of 1988, using a qualitative, doctrinal and bibliographic methodology explores the relationship between interculturality, ethnic diversity and human rights in the context of social transformation in Brazil, with a focus on indigenous peoples and traditional communities. The study highlights the importance of interaction between different cultures for the recognition and appreciation of ethnic diversity, which is fundamental for guaranteeing the human rights of these groups. The analysis is based on the 1988 Constitution, which is considered a significant legal framework for the affirmation of the rights of indigenous peoples and traditional communities. The text discusses how interculturality and ethnic diversity are crucial for social transformation. This includes the struggle for recognition of rights, preservation of cultures and territories, and active participation in society. The 1988 Constitution is seen as a key instrument for this transformation, as it recognizes the interculturality of Brazil and ensures fundamental rights to these groups.

**Keywords:** Ethnic Diversity. Interculturality. Social Transformation.

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## **INTRODUCTION**

The twenty-first century emerges as a stage for the convergence of diverse cultures, an era in which interculturality and the appreciation of ethnic diversity are crucial for building truly inclusive societies. In this context, this article seeks to unravel the intricate relationships between interculturality, ethnic diversity, human rights, and social transformation, focusing on the unique contribution of Brazil's native peoples and traditional communities. Under the prism of the Federal Constitution of 1988, which recognizes these groups as holders of fundamental rights, we will investigate how this legislation influences social dynamics, promoting a fairer and more sustainable society.

In an increasingly globalized world, interculturality becomes a key element for mutual understanding and acceptance between different cultures. Valuing ethnic diversity not only enriches the social fabric, but also challenges paradigms, promoting the construction of a collective identity that embraces the richness of its differences.

Within this scenario, the native peoples and traditional communities of Brazil emerge as bearers of a unique cultural heritage, based on centuries of harmonious coexistence with nature and ancestral practices. The Federal Constitution of 1988, by recognizing them as subjects of rights, marks a turning point by establishing a new legal paradigm that aims to protect their identities and ways of life.

This study is based on the principle that human rights are the backbone for any effective social transformation. By recognizing traditional communities as holders of these rights, the 1988 Constitution not only provides a robust legal basis but also drives a paradigm shift in the social fabric, fostering an environment conducive to social transformation.

In this context, this article aims to analyze how interculturality, ethnic diversity and the recognition of the rights of these communities, anchored in the Federal Constitution of 1988, play a central role in promoting social transformation. This research is justified by the need to understand the dynamics and challenges that involve the intersection of these themes, providing understanding for the promotion of a more just, sustainable and inclusive society.

## **INTERCULTURALITY AND ETHNIC DIVERSITY**

In an increasingly globalized world, interculturality becomes a key element for mutual understanding and acceptance between different cultures. Valuing ethnic diversity not only enriches the social fabric, but also challenges paradigms, promoting the

construction of a collective identity that embraces the richness of its differences. It represents a dynamic and enriching phenomenon, characterized by the constant exchange of values, traditions, and perspectives between different cultural groups.

Nestor Clacini, when dealing with the historical aspect of the theme, states that:

.../... cultural exchanges between societies coincide with the beginning of human history, from Classical Greece and the Roman Empire, with the numerous exchanges and interactions that took place in the Mediterranean, through the expansion of Europe towards America and Africa there has always been contact between different cultures (CANCLINI, 2006).

According to Luciana Vasconcelos<sup>5</sup>, social scientists realized the relevance of cultural diversity when decolonization occurred in Africa, Latin America and Asia, when emigrants from the former colonies headed to Europe. According to the author:

This migratory movement, which reached its peak in the seventies and eighties of the century. Causing a demographic transformation in some European cities, it resulted in the emergence of situations borderline of tolerance. (VASCONCELOS, 202?)

Today, the interconnection between distinct cultures has become prominent, acting as an effective counterpart to cultural homogenization. This dynamic seeks to promote a coexistence, sometimes challenging, but values ethnic diversity as a fundamental resource for social and human progress.

## INTERCULTURALITY AND MULTICULTURALISM

Before entering the theme of interculturality, it is necessary to talk about multiculturalism, which began at the end of the nineteenth century in the United States, being driven mainly by the black movement, which sought to combat racial discrimination in the country and fight for civil rights.

According to Silva and Brandim: "The precursors of multiculturalism were professors, Afro-American doctors, university professors in the area of social studies who brought through their works, social, political and cultural issues of interest to Afro-descendants". (SILVA AND BRANDIM, 2008, p.5656)

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<sup>5</sup> Available at: [home-https://pt.scribd.com/document/268477448/INTERCULTURALIDADE-Luciana-Machado-de-Vasconcelos-Podemos-Dizer-Que-Os-Intercambios-Culturais-Entre-Sociedades-Coincidem-Com](https://pt.scribd.com/document/268477448/INTERCULTURALIDADE-Luciana-Machado-de-Vasconcelos-Podemos-Dizer-Que-Os-Intercambios-Culturais-Entre-Sociedades-Coincidem-Com). Accessed on: 31 jan. 2024

Multiculturalism, also called cultural pluralism, presents a controversial concept that is subject to debate from various perspectives, mainly due to the complexity of defining what constitutes culture.

The expression multiculturalism originally designates the coexistence of cultural forms or groups characterized by different cultures within modern societies. Quickly, however, the term became a way to describe cultural differences in a transnational and global context. There are different notions of multiculturalism, not all of them in the emancipatory sense. The term presents the same difficulties and potentialities as the concept of "culture", a central concept of the humanities and social sciences and which in recent decades has become an explicit terrain of political struggles. (SANTOS; NUNES, 2014, p. 3)

It is inferred, then, that if the origin of multiculturalism is linked to the recognition of exclusions of ethnic minorities, from another vertex, interculturality in Virgílio Alvarado's concept *apud* Lopes (2011), is based on belonging,

While multiculturalism advocates the coexistence of different cultures in the same social space under the principle of tolerance and respect for difference, interculturality, by presupposing the interaction between these cultures as inevitable, proposes a political project that allows for the establishment of a dialogue between them, as a way to guarantee a real peaceful coexistence. (ALVARADO *apud* LOPES, 2011, p.1213)

That said, interculturality seeks not only tolerance towards other cultures, but also promotes dialogue between different cultural groups. This is achieved through the intervention of the State to ensure equality among participants, that is, in the protection of human rights.

Through this state protection, interculturality conveys the idea of a constant dialogue, a meeting of cultures that transcends geographical and temporal borders. In this sense, interculturality is an invitation to mutual understanding, acceptance of differences and the joint construction of a global understanding.

## ANALYSIS OF ETHNIC DIVERSITY IN THE GLOBAL CONTEXT

Ethnic diversity, far from being a mere demographic characteristic, is a reflection of history, migrations, cultural interactions and the coexistence of different groups over time, and has its challenges that include cultural misunderstandings, stereotypes and the difficulty of reconciling different values and practices, as well as prejudice and discrimination.

According to Aline Andrighetto and Rodolfo Silva:

One of the obstacles perceived in the search for peaceful and tolerant coexistence is related to the view that, not infrequently, difference is associated with inferiority and inequality, and the other becomes inferior and starts to represent a threat to the standards of certain groups. (ANDRIGHETTO; SILVA, 2013, p.7)

In the international context, ethnic diversity is an unavoidable reality, representing both a challenge and an opportunity for the development of more resilient and adaptable societies. The study of ethnic heterogeneity is not limited to identifying a range of cultural characteristics, but also encompasses the complex interactions that influence individual and collective identities. This perspective is supported by Stuart Hall, who argues about the importance of cultural identity in modernity,

In the modern world, the national cultures in which we are born constitute one of the main fontes de cultural identity. When defining ourselves, we sometimes say that we are English or Welsh or Indian or Jamaican. Obviously, in doing so we are speaking metaphorically. These identities are not literally imprinted in our genes. However, we do think of them as part of our essential nature. (HALL, 2006, p.47)

According to Homi K. Bhabha – *The Place of Culture*, it is necessary to discuss the concept of a "third space", evidenced by the identities formed and transformed through cultural differences.

The non-synchronic temporality of national and global cultures opens up a cultural space – a third space – where the negotiation of incommensurable differences creates a tension peculiar to frontier existences. (BHABBA, 2013, p. 300)

Ethnic diversity, which encompasses various cultures, traditions, and experiences, is a fundamental aspect of modern global society. Recognizing it contributes not only to valuing different identities, but also to questioning the notion of a single dominant culture. This leads to a more inclusive and just approach in the development of policies, laws and social practices, interculturality.

## THE INTERCONNECTION BETWEEN INTERCULTURALITY AND HUMAN RIGHTS

Interculturality transcends its nature as a sociological phenomenon, being deeply rooted in the foundations of human rights. This connection is emphasized by authors such as Boaventura de Sousa Santos, who in his work "*Pela Mão de Alice: o Social e o Político na Pós-Modernidade*" (1994), highlights the importance of recognizing and respecting different cultures as a path to the realization of human rights.

The abstract concept of human rights is beginning today, two centuries after its formulation, to make real sense insofar as all over the world system social groups are organizing emancipation struggles guided by it. (SANTOS, 1994, p.288)

In the same work, Santos clarifies that intercultural dialogue and, therefore, ethnic diversity is crucial to ensure equal opportunities, dignity and freedom for all individuals.

The eco-socialist paradigm as an intellectual construction stems from a very broad and, as far as possible, horizontal intercultural dialogue. The basis of this dialogue is twofold. On the one hand, fundamental human needs do not vary much in the world system, what does vary are the means to satisfy them (the *satisfactores*). Hence, one must start from an intercultural intelligibility of needs in order to achieve the intercultural intelligibility of the satisfactoriness through it. On the other hand, all cultures have a value of human dignity, which, being unique, allows for a trans-evaluative and multicultural hermeneutic. Such a hermeneutic constitutes the central challenge of the emerging paradigm. (SANTOS, 1994, p. 290)

Interculturality is not a mere sociological phenomenon; It is intrinsically linked to the fundamental principles of human rights. Recognition and respect for ethnic diversity are essential to ensure that all individuals have equal opportunities, dignity and freedom.

In this sense, Douglas Cesar Lucas states that:

Human rights are and should be understood as the common heritage of humanity, as pillars of a valid dialogue between nations, cultures and communities, capable of establishing legal and moral references to analyze the legitimacy of State power, conforming objective limits to citizenship and national sovereignty, so that these do not function as forms of production of excluding difference. (LUCAS, 2008, p. 10)

The recognition of human rights as a shared heritage for all humanity is necessary for dialogue between nations, cultures and communities. From and through them, it is possible to establish legal and moral criteria to evaluate the legitimacy of state power, defining clear limits for citizenship and national sovereignty. This is essential to ensure that these concepts are not used to exclude or discriminate.

Finally, it is observed that although diversity is a field conducive to cultural and social innovation, it is not without significant challenges. Stereotypes, prejudices, and a lack of understanding between different ethnic groups can lead to tensions. Among these ethnic groups, we highlight the native peoples and traditional communities. Building bridges of understanding between these peoples and the wider society will foster an environment in which diversity is perceived as an asset rather than a divisive, thus enriching the social fabric with its rich traditions and unique perspectives.

## **NATIVE PEOPLES AND TRADITIONAL COMMUNITIES**

The universe of native peoples and traditional communities makes the interconnection between interculturality, ethnic diversity and human rights as fundamental

pillars in social transformation. The richness of its traditions offers a panorama for understanding human plurality and the importance of the coexistence of multiple worldviews.

Indigenous peoples, in their essence, are communities that have maintained cultural and social continuity since times before the great waves of colonization and expansion of nation-states. In a Brazilian context, this translates mainly into the diverse indigenous peoples, each with their own different languages, traditions, and ways of life. Traditional communities, on the other hand, represent the persistence and adaptation of ancestral knowledge over generations. Both groups demonstrate the importance of ethnic and cultural diversity in enriching the human experience.

## CONSTITUTIONAL RECOGNITION OF RIGHTS

In the Brazilian scenario, indigenous peoples and traditional communities occupy a unique position, rooted in centuries of history and an intrinsic relationship with the territory. The Federal Constitution of 1988 marked a crucial moment by recognizing them as subjects of rights, attributing to them the title over the lands they traditionally occupy. In this sense, Manuela da Cunha states that:

The Constitution deals mainly with indigenous lands, rights over natural resources, litigation forums and procedural capacity. According to the Constitution, indigenous lands are the property of the Union and of inalienable possession and exclusive use of the Indians. (CUNHA, 2012, p.124)

Nelson Moreira explains that "the 1988 Constitution, with its directing-compromising text, intends to implement a State model that finally meets its historically (so)denied social purposes" (MOREIRA, 2009, p. 118).

This model of State, by making legal recognition of native peoples and traditional communities, represents a significant advance in the protection of their identities, cultures and ways of life, providing a legal basis for the preservation of their ancestral practices.

Segundo Paulo Leivas *et al.* :

The Federal Constitution of 1988 broke with centuries of policies and norms that aimed at the cultural assimilation of indigenous people to the way of life of the surrounding society.

In addition to enunciating, in its Preamble, that Brazilian society must be fraternal, pluralistic and without prejudice, the Federal Constitution guarantees a series of rights of indigenous people to their social organization, beliefs, customs, languages, traditions and territories and to the remnants of quilombola communities the right to ownership of the lands they are occupying. (LESSONS *et al.*, 2017, p. 315)

The Federal Constitution also clearly recognizes the rights of traditional communities, specifically including indigenous communities in articles 210<sup>6</sup>, paragraph 2, and 232<sup>7</sup>. However, the question arises as to whether these rights can be classified as fundamental, encompassing all the underlying constitutional guarantees. To this category, such as the immediate applicability provided for in paragraph 1<sup>8</sup> of article 5, and protection against changes by means of constitutional amendments, as provided for in article 60, paragraph 4. In turn, article 68 of the<sup>9</sup> Transitional Constitutional Provisions Act (ADCT) deals with the rights of the remnants of quilombo communities.

In the same vein, the Authors continue:

If there is no doubt that the Federal Constitution recognizes collective rights of traditional communities remaining from quilombos and indigenous communities – such as the aforementioned art. 210, § 2, and art. 232 – , asks whether these rights can be recognized as fundamental rights. The legal relevance of this issue stems from the various guarantees that the fundamental rights are armed with in the Federal Constitution of 1988, such as the guarantee of immediate applicability (art. 5, § 1), through which fundamental rights are applied even in the absence of regulatory legislation, and the guarantee of stony clauses (art. 60, § 4), which nullifies constitutional amendments "tending to abolish" rights protected by it. (LEIVAS, et al, 2017, p. 316)

It should be noted that it is not a matter of confronting differences in order to recognize the universality of man, the issue is delicate, since it is recognized that the rights of native peoples and traditional communities are human rights, these peoples only gained identity when these rights were recognized as fundamental. From this arises one of the values of interculturality, through these fundamental rights it is recognized, first of all, that man is free when and has the right to express his traditions and cultures.

On the subject, Douglas Cesar Lucas states that:

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<sup>6</sup> Article 210. Minimum contents will be established for elementary education, in order to ensure common basic education and respect for national and regional cultural and artistic values.

§ 1 .../...

Paragraph 2 - Regular elementary education shall be taught in Portuguese, and the indigenous communities shall also be assured the use of their mother tongues and their own learning processes

<sup>7</sup> Article 232. The Indians, their communities and organizations are legitimate parties to file a lawsuit in defense of their rights and interests, with the Public Prosecutor's Office intervening in all acts of the process.

<sup>8</sup> Article 5 - All are equal before the law, without distinction of any kind, guaranteeing to Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property, in the following terms:

.../...

Paragraph 1 - The norms defining fundamental rights and guarantees shall be immediately applicable.

<sup>9</sup> Article 68. The remnants of the quilombo communities that are occupying their lands are recognized as the definitive property, and the State must issue them the respective titles.



In the same way that it is important to defend differences, it is indispensable to protect what is universal about man, since it is precisely this universality that allows the appearance and recognition of such differences and, therefore, of their identities. (LUCAS, 2008, p. 232)

That said, native peoples and traditional communities, in addition to being depositories of a rich cultural heritage, are also heirs to the rights attributed to them by the legal system, and this estate belongs to all generations: present and future.

## THE ROLE OF COLLECTIVE SELF-IDENTIFICATION

The 1988 Constitution represented a significant milestone for traditional and indigenous communities in Brazil, by allowing access to constitutional rights through a process of collective self-identification. This approach transcends mere individuality, confirming and legitimizing the identities of these communities collectively. This form of recognition not only validates their cultural and social identities but also amplifies their visibility and influence in the political and social landscape.

According to Moreira and Pimentel:

Also called self-recognition, self-attribution and self-definition, self-identification is one of the foundations of the Rights of Traditional Peoples and Communities and implies the recognition of the right to self-determination and self-recognition without the need for state approval. However, even if independent of the State's approval, it has the obligation to develop specific policies, including binding it to the obligation to recognize self-recognition. (MOREIRA ; PIMENTEL, 2015, p. 159)

Collective self-identification works as a fundamental mechanism for the residence and affirmation of the collective identities of these groups, reinforcing community ties and contributing to the consolidation of their position in the formulation of more inclusive and representative public policies. This dynamic is crucial for the promotion of the rights of these communities, ensuring their active participation and adequate representation in different spheres of society.

In this sense, Elaine Cantarino O'Dwyer talks about the importance of self-attribution:

In Brazil, the self-attribution of ethnic identities has become an important issue in recent years, through the political organization of groups that claim recognition of the territories they occupy, as in the case of indigenous peoples and the so-called remaining quilombo communities (O'Dwyer, 2009, p. 165).

Daniela Ikawa argues that "identification should occur primarily by the individual himself, in order to avoid external identifications aimed at negative discrimination and to strengthen the recognition of difference" (IKAWA, 2008, p.129).

The right to self-identification is clearly provided for in the Brazilian legal system. A notable example of this is Convention 169 of the International Labor Organization (ILO), which Brazil ratified through Legislative Decree No. 143 of 2002.

This international document, in its article 1, item 2, recognizes a series of rights of Indigenous and Tribal Peoples, emphasizing self-identification as essential classifications for the definition of these groups. This right is a key aspect for the recognition and protection of the cultural and social identities of these peoples, ensuring that they can define themselves according to their own traditions and histories.

Self-identification as indigenous or tribal should be considered a fundamental criterion for defining the groups to which the provisions of this Convention apply (BRASIL, 2002).

It can be stated that, both from a historical and legal point of view, the remnants of quilombola communities are included in the scope of the aforementioned Convention.

Another achievement, of paramount importance for the quilombola territorial issue, was Convention No. 16911 of the International Labor Organization (ILO), edited based on the need for self-determination claimed by Indigenous and Tribal Peoples who claim control of their own ways of life and institutions (CAVALCANTE & BELTRÃO. 2016, p. 54)

Finally, the importance of collective self-identification for native peoples and traditional communities lies in its crucial role in preserving cultural identity and guaranteeing fundamental rights, such as the right to land. This practice strengthens resistance against forced assimilation and the loss of cultural identity, as well as promotes solidarity and community support.

Boaventura Santos, inserts self-determination in a renewed conception of human rights, stating that the new scenario suggests a reconfiguration of ethical and legal principles in response to contemporary social and economic changes:

But here too there are signs of the future. From the collapse of liberal ethical and legal forms in the face of some of the most serious problems we face - from social exclusion and racism to Chernobyl and AIDS - a new *jus-naturalism* is beginning to emerge based on a new conception of human rights and the right of peoples to self-determination. and on a new idea of solidarity, planetary concrete. Curiously, these signs of a new ethics and a new law are related to some of the transformations at the

level of the market principle and the principle of community mentioned above. (SANTOS, 1994, p. 91)

From all the above, it is concluded that collective self-identification is also fundamental for the transmission of ancestral knowledge and sustainable practices, contributing to the visibility and empowerment of these groups in society. It is a vital element for the dignity, respect and cultural survival of native peoples and traditional communities.

## LIMITATIONS AND ADVANCES AFTER THE 1988 CONSTITUTION

Despite the advances brought about by the 1988 Constitution in Brazil, as stated elsewhere, indigenous peoples and traditional communities face significant challenges and limitations in the recognition and protection of their rights. One of the biggest challenges is land demarcation, an often slow and controversial process that is vital for the preservation of their cultures and ways of life. The struggle for land is intrinsically linked to their physical and cultural survival, only for native peoples and traditional communities, however, there is a portion of society that attributes only economic value to these lands, as Manuela da Cunha explains:

The great bone of contention, with all false pretexts, some of which I have already mentioned, removed, is the issue of the exploitation of mineral resources and water resources in indigenous areas. Given the economic conditions, the use of water resources is in limbo, but the mineral issue is more alive than ever and probably at the origin of the attacks against the rights of the Indians. (CUNHA, 2012, p.129)

There is no legal obstacle to the exploitation of water or mineral resources on indigenous lands, as long as certain procedures are observed, which function as defense mechanisms against unbridled exploitation.

Another important aspect is the guarantee of effective participation of these communities in the decisions that affect their lives. Often, they are excluded from important decision-making processes or their voices are marginalized, or that weakens their autonomy and ability to influence policies that directly impact their lives.

Manuela da Cunha:

The 1988 Constitution prescribes special procedures when it comes to the exploitation of water and mineral resources on indigenous lands. There is no prohibition on exploiting them, but special safeguards. These safeguards consist of the need for prior authorization from the National Congress, on a case-by-case basis, after hearing the affected communities, which will have a stake in the result of the mining. (CUNHA, 2012, p.129)

Public health policies for indigenous peoples, supported by the paradigm of specificity and interculturality, have shown progress, but they also face significant challenges. These include the guarantee of constitutional rights of autonomy and self-determination of indigenous peoples, as well as the confrontation of social and health inequalities historically present among these peoples. Luciane Ferreira, understands that:

The Magna Carta, by overcoming the tutelage over the indigenous person and recognizing him as a Brazilian citizen, guaranteed indigenous peoples the right to their social organization, customs, languages, beliefs and traditions, as well as over the lands they traditionally occupy. From then on, the State's rhetoric began to operate with the ideas of cultural diversity, interculturality and indigenous protagonism. (FERREIRA, 2015, p. 217)

Indigenous health care in Brazil has been guided by movements to claim and conquer indigenous rights to health, incorporating ideals of citizenship, freedom, civil rights and democracy. In order to make the right to health effective, Law No. 9,836<sup>10</sup> of 1999 established the Indigenous Health Care Subsystem (SASI) together with the Special Indigenous Sanitary Districts (DSEIs). The latter represent a modality of structuring health services in areas defined according to ethnocultural criteria, in these terms:

Article 19-A. Health actions and services aimed at the care of indigenous populations, throughout the national territory, collectively or individually, shall comply with the provisions of this Law.

Article 19-B. An Indigenous Health Care Subsystem is established, a component of the Unified Health System (SUS), created and defined by this Law, and by Law No. 8,142, of December 28, 1990, with which it will function in perfect integration.

...

Article 19-G. The Indigenous Health Care Subsystem should be, like the SUS, decentralized, hierarchical and regionalized.

§ 1 The Subsystem referred to in the *caput* of this article shall be based on the Special Indigenous Sanitary Districts.

§ 2 The SUS shall serve as a backup and reference to the Indigenous Health Care Subsystem, and for this purpose, adaptations must be made to the structure and organization of the SUS in the regions where the indigenous populations reside, in order to provide this integration and the necessary care at all levels, without discrimination.

§ 3 Indigenous populations must have guaranteed access to the SUS, at the local, regional and specialized center levels, according to their needs, including primary, secondary and tertiary health care.

Article 19-H. Indigenous populations will have the right to participate in collegiate bodies for the formulation, monitoring and evaluation of health policies, such as the National Health Council and the State and Municipal Health Councils, when appropriate."

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<sup>10</sup> [https://www.planalto.gov.br/ccivil\\_03/leis/l9836.htm](https://www.planalto.gov.br/ccivil_03/leis/l9836.htm)

In addition to legal recognition, it is crucial to adopt holistic approaches that value the cultural and environmental contribution of these communities. They are custodians of important traditional knowledge and have a crucial role in biodiversity conservation and environmental sustainability. Therefore, it is essential that their practices and knowledge are integrated into development and conservation strategies.

In order for cultural pluralism not to be just an allegory or a folkloric character, cultural differences must be recognized and respected. Among the freedoms advocated by the Democratic Rule of Law, the one that translates into the option for a differentiated cultural model, without any type of interference or coercion, should be the desired one. Within this context, it is necessary to categorize the rights of indigenous peoples and traditional communities as Minority Rights.

## **INDIGENOUS PEOPLES AND TRADITIONAL COMMUNITIES IN THE FACE OF THE RIGHTS OF MINORITIES**

The Constitution of Brazil, in addition to establishing a Democratic State of Law, goes beyond the mere confirmation of individual rights and guarantees, also valuing collective rights. Notable examples include consumer protection (art. 5 XXXII and art. 170, (inc. V), the preservation of a balanced ecological environment (art. 225 and art. 170, item VI), cultural rights (art. 215 and 216) and the rights of indigenous peoples (arts. 231 and 232), among others.

First, we will address the concept of "minorities", understanding not only the ethnic, cultural, and social dimensions, but also how these identities are intertwined with issues of power, representation, and access to resources. Next, we will investigate the history of marginalization and the struggles faced by these groups, highlighting how systematic exclusion has shaped contemporary social dynamics.

## **RIGHTS OF INDIGENOUS PEOPLES AND TRADITIONAL COMMUNITIES AS RIGHTS OF MINORITIES**

Minority Law, as a branch of Law, should be classified as one of the Fundamental Rights. Its main focus is the set of principles, guarantees, and norms that guide the protection and implementation of collective rights or interests, through mechanisms for controlling constitutionality.

In the legal field, as well as in other areas of the social sciences and humanities, the purpose of Collective Rights is intrinsically associated with the life and behavior of man within the social group in which he lives.

Boaventura de Sousa Santos, highlights the problem of the deficiencies of cultures in the face of the dignity of the human person:

"[...]All cultures are incomplete and problematic in their conceptions of human dignity. This conception comes from the incompleteness of the existence of the plurality of cultures, the idea of completeness is at the origin of an excess of meaning that encompasses all cultures." (SANTOS, 1997, p.22).

Within this context, the need arises to develop methods of ordering and enforcing Law through legal methodology stems directly from the object of Law itself. This is because the specific characteristics of each field of law require methodological approaches that are appropriate and aligned with their particular demands, as is the case with the rights of indigenous peoples and traditional communities.

For Almeida:

Collective Law can be conceptualized as an integral part of the constitutional theory of fundamental rights, which makes up one of the blocks of the Brazilian legal system and is integrated by the set of principles, guarantees and rules that discipline diffuse rights or interests, collective rights or interests in the strict sense, homogeneous individual rights and interests and legitimate collective objective interests (ALMEIDA, 2008, p. 437).

If collective rights have emerged as a response to the traditional emphasis on individual rights, they provide a more focused legal perspective directed at promoting social justice. A key aspect of this transition in the field of law is the recognition and safeguarding of cultural diversity, reflecting the shift in focus from individual interests to those of the community. At the same time, the environmental issue, equally considered a right for all, stands out as the scenario where different cultures find space to manifest themselves and prosper.

For Souza Filho:

These new rights have as their main characteristic the fact that their ownership is not individualized, that one does not have or cannot be clear about it. They are not the result of a precise legal relationship, but only of a generic guarantee, which must be fulfilled and which, in its fulfillment, ends up conditioning the exercise of traditional individual rights. (SOUZA FILHO, 2003/2004, p. 4)

The recognition of these rights goes beyond the protection of traditional communities, also serving as a fundamental step towards the formation of a more equitable and inclusive society. Valuing and respecting the cultural identities of these communities, as established by the Federal Constitution of 1988, are essential to foster diversity and contribute to a broader and more representative national narrative

## VULNERABILITY AND MINORITIES

The vulnerability of indigenous peoples and traditional communities is historically rooted and perpetuated by centuries of exploitation and marginalization. This legacy of injustice is perpetuated through contemporary practices of land dispossession, exploitation of natural resources, and discriminatory policies, culminating in a persistent human rights crisis.

As Danielle Mamed, Dayla Pinto and Luciana Pinto observe in: The protection of vulnerable groups:

Culturally differentiated human communities, which do not share the ideals of the hegemonic society, and which seek to remain faithful to the parameters of life on which they are constituted, end up suffering various violations of their rights, either because of a cultural conception that inferiorizes them, or because of the constitution of the normative system, silent or insufficient to make their rights effective. (MAMED; DICK; PINTO, 2020, p.89)

Although the concepts of minorities and vulnerability are close, they are not identical, as will be demonstrated. To properly understand these concepts, it is essential to first discuss the constitutional principle of equality, which acts as a key driver in the fight against discrimination. In this vein, Pontes de Miranda *apud* Rios Junior states that:

What democratic peoples or those in which the State is democratic and liberal have to do, as their main goal, is to reduce human inequality. Men are unequal, but it is necessary that, instead of continuing inequality, it is made less unequal." (PONTES DE MIRANDA, 1979 *apud* RIOS JUNIOR, 2013, p. 100)

Therefore, it is possible to infer that the principle of equality arises from social reality, considering that people are not intrinsically equal. It is the responsibility of the State to identify and protect those who, due to certain factual conditions and/or biological characteristics, are in disadvantageous situations before society. For Walter Rothenburg, equality "[...] it is something that needs to be obtained from claims and achievements, and for this the Law can serve as a valuable tool" (ROTHENBURG, 2009 *apud* RIOS JUNIOR, 2013, p. 100)

The presence of vulnerable groups and minorities is a global phenomenon, not exclusive to Brazil. This is due to the natural tendency of human beings to group together with those who share similarities. Consequently, it becomes a duty of the State to recognize these differences and address them through the implementation of public policies. The objective of these policies is to achieve isonomy, ensuring equal treatment and opportunities among all members of society.

On the other hand, Flag of Mello alerts:

[...] that certain elements or characteristic traits of people or situations are insusceptible of being picked up by the norm as the root of some differentiation, a penalty of being put to the forefront of the rule of equality. (BANDEIRA DE MELLO, 2017, p.15)

The literal definition of the term minorities in the Great Houaiss Dictionary<sup>11</sup> :

"3 ANTRPOL, SOC subgroup existing within a society that considers itself and/or is considered different from the larger and/or dominant group, due to ethnic, religious, or language, customs, nationality, etc. characteristics, and that, for this reason, does not have the same rights and/or opportunities as the majority group, or is the target of discrimination or prejudice (frequent empr. In Pl.) <Fight for the rights of *women*.>"

Therefore, although there is no single definition for minorities, it is possible to point out their main characteristics: they are human groups or collectivities with their own particularities, which differentiate them in the human context in which they are, or should be, integrated, regardless of the nature of these particularities.

In Élide Séguin's view, the concept needs to be expanded:

Minorities are thought of as a numerically inferior contingent, as groups of individuals, highlighted by a characteristic that distinguishes them from the other inhabitants of the country, being in a smaller number in relation to the country's population. [...] Conceptualizing minorities is complex, since their reality cannot be restricted only to ethnic, religious, linguistic or cultural criteria. We have to weigh its legal reality against modern achievements. (SÉGUIN, 2002, p. 9)."

For Rossana Margaroto Cayres and Roberto Cidade<sup>12</sup>, the term vulnerability is closely linked to legal fragility:

Vulnerability is a term originated in discussions about Human Rights, usually associated with the defense of the rights of legally weakened individuals. Thus, a vulnerable group is a group of people who, for various reasons, have access, equal

<sup>11</sup> Available at [https://houaiss.uol.com.br/corporativo/apps/uol\\_www/v5-4/html/index.php#3](https://houaiss.uol.com.br/corporativo/apps/uol_www/v5-4/html/index.php#3), accessed on: 20 Sep. 2020

<sup>12</sup> Available in <http://conpedi.daniloir.info/publicacoes/66fsl345/9zg132z2/28D42sHuKhxrv6iS.pdf> accessed on June 13, 2020



participation made difficult to universal goods and services available to the population. (CAYRES & CIDADE, 2015)

Based on the two definitions presented, it is reasonable to say that the essential thing is to ensure these groups the right to be distinct. For this reason, they should receive differentiated treatment, including special protection by the State that welcomes them, in recognition of and respect for their differences. According to Bastos:

Minorities and vulnerable groups are not synonymous expressions, but due to the fact that their members are in the same factual situations of discrimination, intolerance and fragility, on the part of a portion of society, the conceptual differentiation becomes irrelevant and the jurisdictional protection that can be offered to these excluded becomes relevant." (BASTOS, 2011, p. 66)

Having overcome the issue of terminological differentiation between minorities and vulnerable groups, it can be stated that, although every minority has some degree of vulnerability in a certain aspect, not all vulnerable people are part of a minority. This is due to the fact that vulnerability can be situational and, as such, capable of being overcome or mitigated.

## **SOCIAL TRANSFORMATION THROUGH THE VALORIZATION OF MINORITIES**

To address the theme, "Social Transformation through the Valuing of Minorities", it is based on the premise that true social change cannot be achieved without recognizing and valuing diversity and the contributions of minorities. The inclusion and empowerment of minority groups not only benefits these groups, but also enriches society as a whole, but it is a historical achievement, and conquered, over the centuries, with much suffering, as Rui Marques explains:

The imperial expansions of the last millennium and, more recently, the colonial era designed, until the middle of the twentieth century, a world largely dominated by a few great colonial powers that sought to "civilize" the peoples and cultures they dominated. A vision that was divided between settlers and colonized, where naturally the relations between the dominant and dominated cultures led to one of two models: assimilation, transforming the colonized into as faithful a reproduction as possible of the colonizer, or another option, separating the two socio-cultural realities in a marked way, preserving the "purity" of the colonizing culture, avoiding any "contamination". This duality will be successively reproduced, albeit for other reasons, until the most recent models. (MARQUES, 2003, p. 3)

Valuing minorities, including indigenous peoples and traditional communities, is not only a matter of social justice, but also a catalyst for social transformation. By recognizing the richness present in ethnic and cultural diversity, society opens doors to a deeper and

more respectful understanding of different forms of existence. This acceptance of diversity also drives significant changes in building a more inclusive society.

## RECOGNITION OF DIVERSITY AS A DRIVER OF TRANSFORMATION

The recognition of diversity as a driver of transformation is a fundamental principle in building more inclusive, fair, and progressive societies. It is an approach that emphasizes valuing the multiple identities, cultures, experiences, and perspectives that make up the social fabric. As stated by José Márcio Barros:

It is with the political, theoretical and methodological construction of human development indicators that this relationship begins to be outlined in a purposeful way, through the expansion of the concept of development beyond economic achievement and the construction of political and cultural indicators. (BARROS, p. 5, 2007)

This recognition of diversity permeates several areas of society, profoundly impacting how we live and interact. It involves the promotion of respect, acceptance and equality, regardless of cultural, ethnic, social or any other differences. The 2004 Human Development Report, organized by UNDP, makes the following statement in its presentation:

If the world is to achieve the Millennium Development Goals and eradicate poverty, it must first successfully address the challenge of building culturally diverse and inclusive societies. Doing so successfully is a prerequisite for countries to focus appropriately on other economic growth priorities, health and education for all citizens. Human development is about being able to live the kind of life they have chosen and providing the tools and opportunities to make their choices." (UNDP, 2004)

By embracing diversity, societies can enjoy benefits such as increased creativity, innovation, and economic growth. Education plays a crucial role in promoting diversity, helping to combat prejudice and promote intercultural understanding. Nestor Garcia Canclini. (2007):

The analysis of *diversity* – and of policies aimed at addressing this issue – cannot be limited to defending the rights to speak one's own language and occupy a specific territory. We need to think *interculturally* in research, in educational, legal and coexistence policies so that the defense of the peculiar is articulated with the rights of access to national heritage and to the networks of material and symbolic exchange that connect us with the world. (CANCLINI, 2007, *online*)

In addition, the recognition of diversity is intrinsically linked to human rights and social justice, as it implies ensuring equal rights for all citizens. Canclini highlights the

importance of culture and emphasizes the importance of human rights in the search for social justice and development, in these terms:

In favor of a non-economic consideration of development, it is emphasized that culture and communications contribute to community development, education for health and well-being, the defense of human rights and the understanding of other societies. (CANCLINI, 2007, *online*)

Finally, diversity also encompasses biodiversity and the importance of preserving nature. Based on the idea that "the world's cultural diversity is a source of richness that is manifested through dialogue", UNESCO, after the events of 11 September, adopted on 2 November 2001 a significant Universal Declaration on Cultural Diversity. This statement symbolizes the affirmation of the choice of this approach as a guideline for the management of ethnic and cultural diversity.

Based on the comparison with the richness that biodiversity represents for living beings ("... Diversity, being a source of exchange, innovation and creativity, is as essential to humanity as biological diversity is to nature."<sup>13</sup>) and on the inalienable ethical principle of respect for human dignity<sup>14</sup>, this Declaration, already in its preamble, emphasizes its objective:

- "to reaffirm that culture must be considered as the sum total of the distinctive spiritual and material, intellectual and affective traits that characterize a society or social group and that it includes, in addition to the arts and letters, ways of life, ways of living together, value systems, traditions and beliefs; - To note that culture is at the heart of contemporary debates on identity, social cohesion and the development of a knowledge-based economy - To affirm that respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding, are among the best guarantees of international peace and security. - To aspire to greater solidarity based on the recognition of cultural diversity, the awareness of the unity of the human race and the development of cultural exchanges. - To consider that the process of globalization, facilitated by the rapid evolution of new information and communication technologies, although it constitutes a challenge for cultural diversity, creates conditions for a renewed dialogue between cultures and civilizations". (UNESCO, 2001, *online*)

Finally, the recognition of diversity as a driver of transformation is a holistic approach that influences all aspects of society. Valuing and embracing diversity not only enriches our lives but also drives positive change towards a more inclusive, equitable, and sustainable world, as discussed by several authors in their works.

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<sup>13</sup> Article 1 of the Universal Declaration on Cultural Diversity; UNESCO

<sup>14</sup> inscribed in article 4

## THE IMPORTANCE OF INTERCULTURAL EDUCATION

To foster social transformation, it is essential to invest in intercultural education, an approach that goes beyond merely understanding diverse cultures. The objective of this educational methodology is to dismantle prejudices, cultivate empathy and encourage mutual respect. It is crucial to stimulate interaction between traditional communities and the broader society, aiming to develop a collective awareness of the relevance of cultural preservation and respect for the rights of minorities.

Effectively promoting social transformation requires a commitment to intercultural education, a strategy that transcends a simple superficial understanding of different cultures. This educational approach is deeper and more meaningful, as it actively seeks to deconstruct harmful stereotypes and entrenched biases, thereby fostering empathy between individuals from different backgrounds and experiences. This concept is widely explored by Candau & Russo (2010) in their study on the dimensions of intercultural education in Latin America.

Equally important is the recognition that in the continent an apology for miscegenation has developed, with different denominations, such as the expression racial democracy in our country, which has configured an imaginary about the social and racial relations maintained between the different groups present in Latin American societies characterized by cordiality. Thus, the conflict is eliminated, continuing to perpetuate stereotypes and prejudices, because, if we follow the logic that the different ethnic-racial groups since the beginning of the colonization process have been integrating "cordially", we can think that the different hierarchical positions among them are due to the capacity and commitment of individuals and/or the inferiority of certain groups. This idea was disseminated in the social imaginary, contributing to societies not recognizing themselves as hierarchical, discriminatory and racist. (CANDAU; RUSSO, 2010, p. 159)

Additionally, intercultural education emphasizes the importance of mutual respect and appreciation of cultural diversity as a key pillar for developing a more harmonious and inclusive society. Bhabha (2013) in "The Place of Culture" offers valuable knowledge about cultural identity and hybridity, fundamental to understanding the complexity of intercultural interaction.

By proposing this cultural construction of *nationness* as a form of social and textual affiliation, I do not intend to deny these categories their specific histories and particular meanings within different political languages, which I seek to formulate in this chapter are the complex strategies of cultural identification and discursive interpellation that function in the name of "the people" or "the nation" and make them subjects immanent and objects of a series of social and literary narratives. My emphasis on the temporal dimension in the inscription of these political entities—which are also potent symbolic and affective sources of cultural identity—serves to displace the historicism that has dominated discussions of the nation as a cultural force. (BHABHA, 2013)

The role of intercultural education is not limited to the school environment alone; it must be a continuous and integrated practice in all aspects of social life. Boaventura Santos discusses the importance of knowledge that considers the various cultural perspectives, essential for a truly intercultural education, especially when the researcher ceases to be the object of the research and starts to collaborate with it with his existential knowledge.

Gradually, researchers from different social and ethnic-racial groups and/or committed to these social sectors begin to insert themselves in a more significant way in the different universities of the country, especially the public ones, and unleash another type of knowledge production. A knowledge carried out "by" these subjects who, when developing their research, privilege the partnership "with" social movements and extrapolate the still hegemonic tendency in the field of human and social sciences to produce knowledge "about" the movements and their subjects. (SANTOS, 2010, p. 421)

Encouraging open and respectful dialogue between traditional communities and society at large is a crucial step in this process. Interaction helps build bridges of understanding and cooperation, leading to recognition of the rich cultural tapestry that each community brings to the broader social mosaic.

Furthermore, creating a collective awareness of the importance of cultural preservation is key, and this not only enriches global cultural heritage but also ensures that the unique practices, languages, and traditions of each group are maintained and respected. Paulo Freire, in "Pedagogy of the Oppressed" (1987), argues in favor of the use of education as a tool for social transformation and cultural emancipation:

The pedagogy of the oppressed, as a humanist and liberating pedagogy, will have two distinct moments. The first, in which the oppressed unveil the world of oppression and commit themselves in praxis, to its transformation; the second, in which, once the oppressive reality is transformed, this pedagogy ceases to be of the oppressed and becomes the pedagogy of men in a process of permanent liberation. (FREIRE, 1987, p. 44)

Through intercultural education, it is possible to develop a new generation of individuals who not only tolerate, but value and celebrate differences. This approach can shape a society that better understands global interdependence and the need for solidarity and cooperation between different cultures and peoples. Intercultural education has the potential to transform not only individuals but also social, political, and economic structures, leading to a more peaceful, understanding, and sustainable world.

The Constitution of the Brazilian State of 1988 brings in its body the economic order as one of its purposes and as one of the pillars of the contemporary democratic State, well in the mold of the structural evolution that Western states underwent in the post-French Revolution.

On the other hand, recognition and respect for cultural and ethnic diversity can be the basis for strengthening local capacities and promoting development strategies that are culturally sensitive and socially just. To understand the importance of interculturality in the economic and social development of indigenous and traditional communities in Brazil, it is necessary to understand the concept of development. To Brand, Colman & Costa:

Development is a concept constructed within the Western world and directly articulated with its conceptions of progress and well-being. Development projects are initiatives that aim, under the formal aspect, to contribute to the well-being of a group or a population. They intend to contribute to people achieving a less precarious living condition in terms of housing, food security, health, education, communication, among others. It establishes concrete indices to evaluate this improvement in the life of the citizen. (BRAND; COLMAN; COSTA, 2008, p. 171)

The interaction between different cultures can promote the diversity of knowledge and practices, contributing to a more inclusive and sustainable economic development, so it is necessary to adopt mechanisms that change this situation. Mylene Cristina Santiago, Akkari & Mesquida state that:

In such a context, as long as Brazil does not reconcile and recognize its diversities, it will not be able to take into account and value all its racial and ethnic groups. A country that sustains exclusion and deprives part of its population of the right to citizenship has no way of assuming effective development, because this process presupposes participation with material and social conditions for all. (SANTIAGO; AKKARI; MESQUIDA, 2020, p.231)

The promotion of policies and programs that effectively address the needs of indigenous peoples and traditional communities depends crucially on valuing cultural diversity and establishing intercultural dialogue, carefully considering their specific traditions and modes of knowledge. In addition, the right of access to goods produced by humanity by indigenous and traditional communities has been the subject of discussion among several researchers. According to Cintia Maia e Ferreira:

In multiethnic societies, the notion of neutrality of the State, in the economic and social spheres, translates into the belief that the mere introduction of legal provisions is enough to guarantee the existence of a harmonious society, where regardless of

diversity, effective equality of access to the goods produced by humanity would be ensured to all, but discrimination occurs exactly when individuals are treated equally in different situations, and when different, in equal situations. (MAIA; FERREIRA, 2011, p. 39)

In view of these facts, it is necessary to revitalize cultural practices not only to strengthen the identity of these groups, but also to open paths for the development of sustainable economic activities based on traditional knowledge. The principles that underlie the economic structure must be directed primarily to improve the quality of life of each individual.

For Amartya Sen, in the work *Development as Freedom*:

Development must be related above all to improving the lives we lead and the freedoms we enjoy. Expanding the freedoms we have reason to value not only makes our lives richer and clearer, but also allows us to be more complete social beings, acting on our volitions, interacting with the world we live in, and influencing that world. (SEN, 2018, p. 23/24)

In this way, it is possible to combine the promotion of interculturality and respect for ethnic and cultural diversity with the economic and sustainable development of indigenous and traditional communities in Brazil, as stated elsewhere, but it is necessary to implement public policies aimed at this specific purpose.

## **FINAL CONSIDERATIONS**

This article demonstrated the inseparable relevance of interculturality, ethnic diversity and human rights in the context of social transformation in Brazil, reinforcing the importance of the Federal Constitution as a watershed in the protection and recognition of the rights of Indigenous Peoples and Traditional Communities, establishing a framework for the promotion of a more inclusive and just society.

The need for respectful cultural interaction and the recognition of ethnic diversity as crucial elements for the preservation of cultural identity and for the strengthening of democracy and the economic and social development of these communities was proven. This recognition not only safeguards cultural traditions and practices, but also contributes to social cohesion and the economic and cultural enrichment of the country.

The importance of continuous and proactive efforts to ensure that the rights stipulated in the Constitution are effectively practiced and respected was also proven, highlighting that social transformation is a dynamic and constant process, and the

protection of the rights of indigenous peoples and traditional communities is a key element for the advancement of this process.

The need for more research and public policies focused on strengthening intercultural relations and promoting ethnic diversity was demonstrated. This not only favors the groups directly affected, but also contributes to cultural richness and the development of a fairer and more equitable Brazil.

Finally, it was proven that the appreciation of cultural diversity is an essential pillar for the construction of a harmonious and progressive future in the country.



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