



PRODIGY – Land and Resource Conflicts

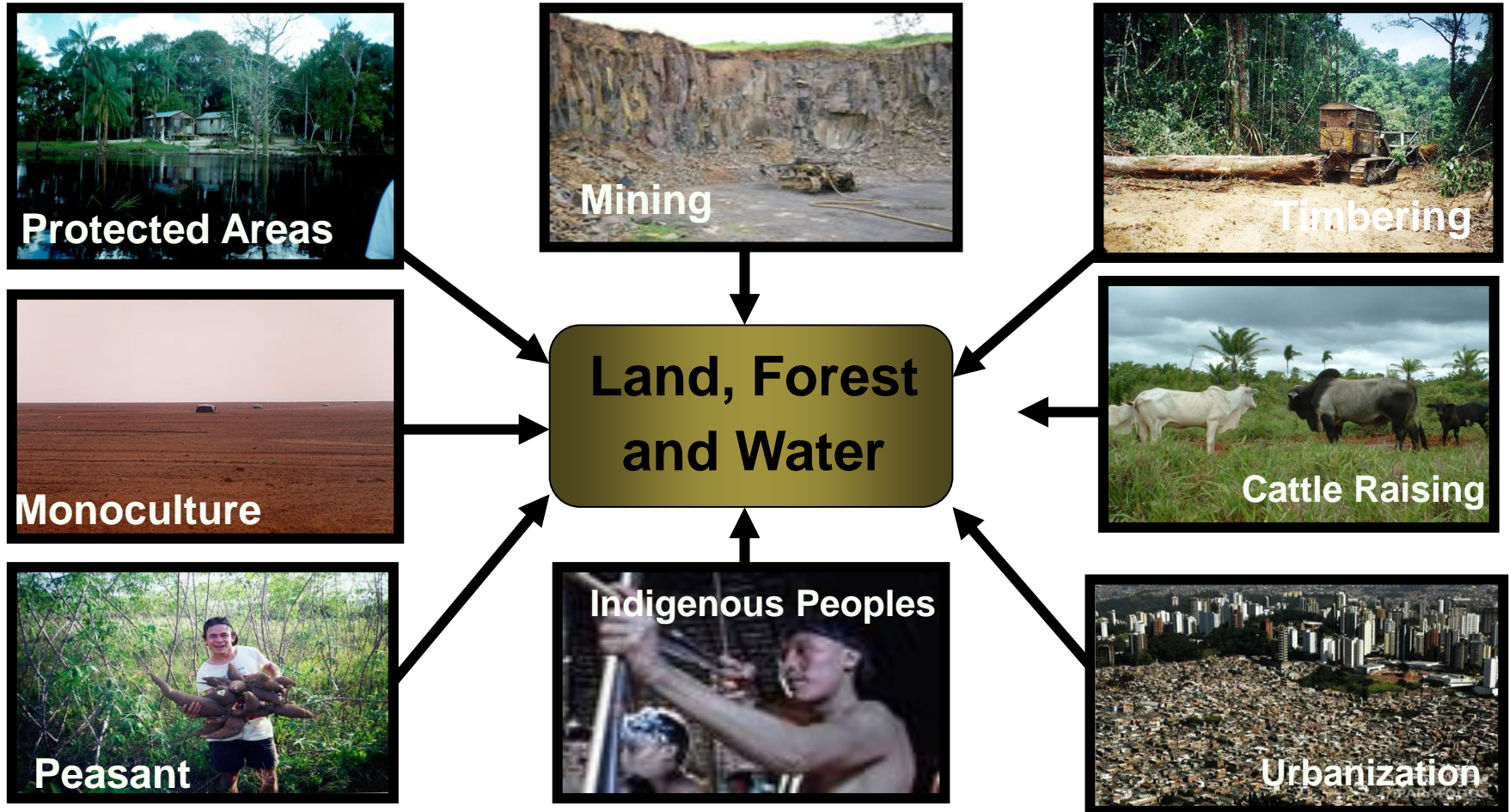
Legal Options to Secure Legal Options to Common Land Tenure: The Experience Common Property of Amazon (Brazil)

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Conflicts over Natural Resources



Common Land Tenure and Different Social Group

- river dwellers
- descendants of escaped African slaves
- indigenous

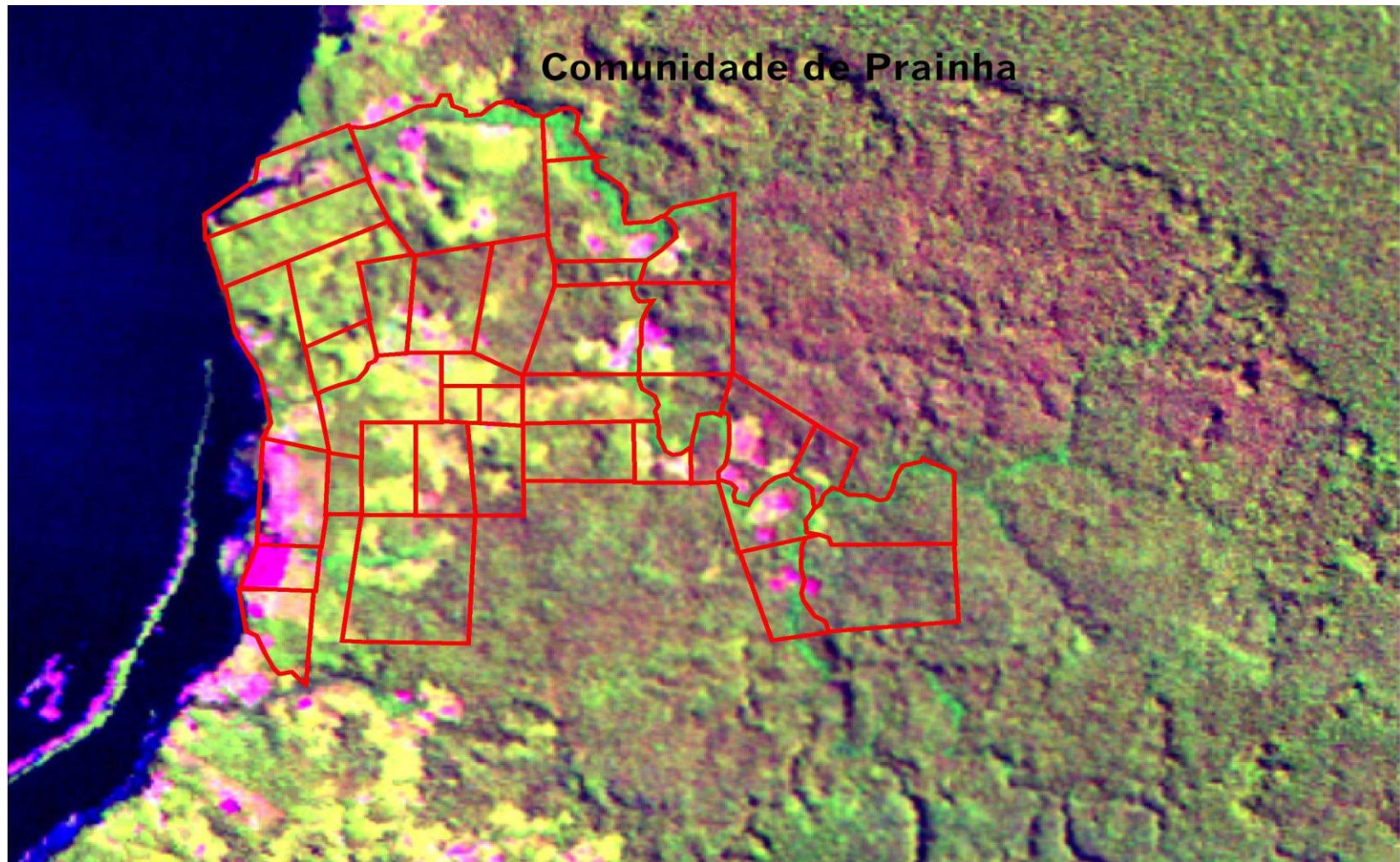
Land Tenure and Different Social Group

The distinct categories of social group in Brazilian Amazon:

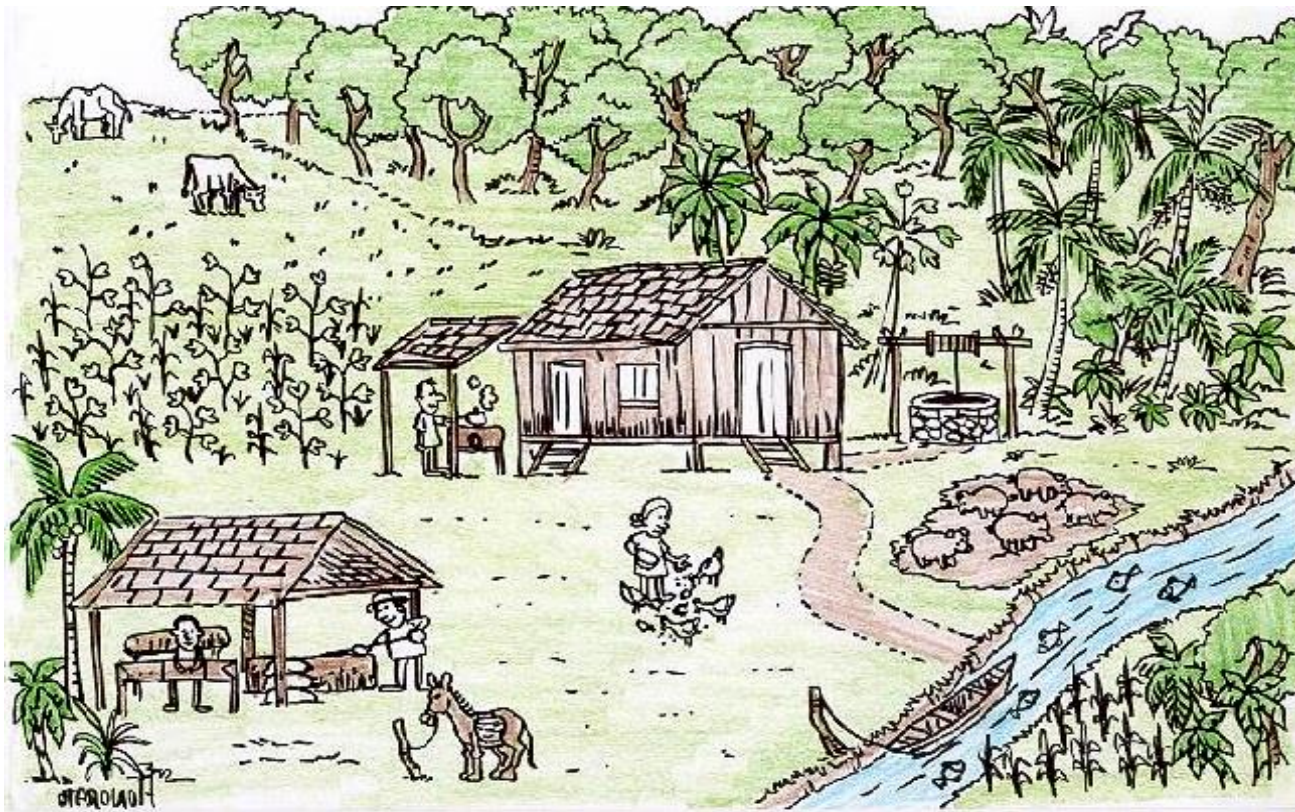
- peasant
- the rubber tappers
- river dwellers
- descendants of escaped African slaves
- indigenous

Peasant

Land Tenure Peasant



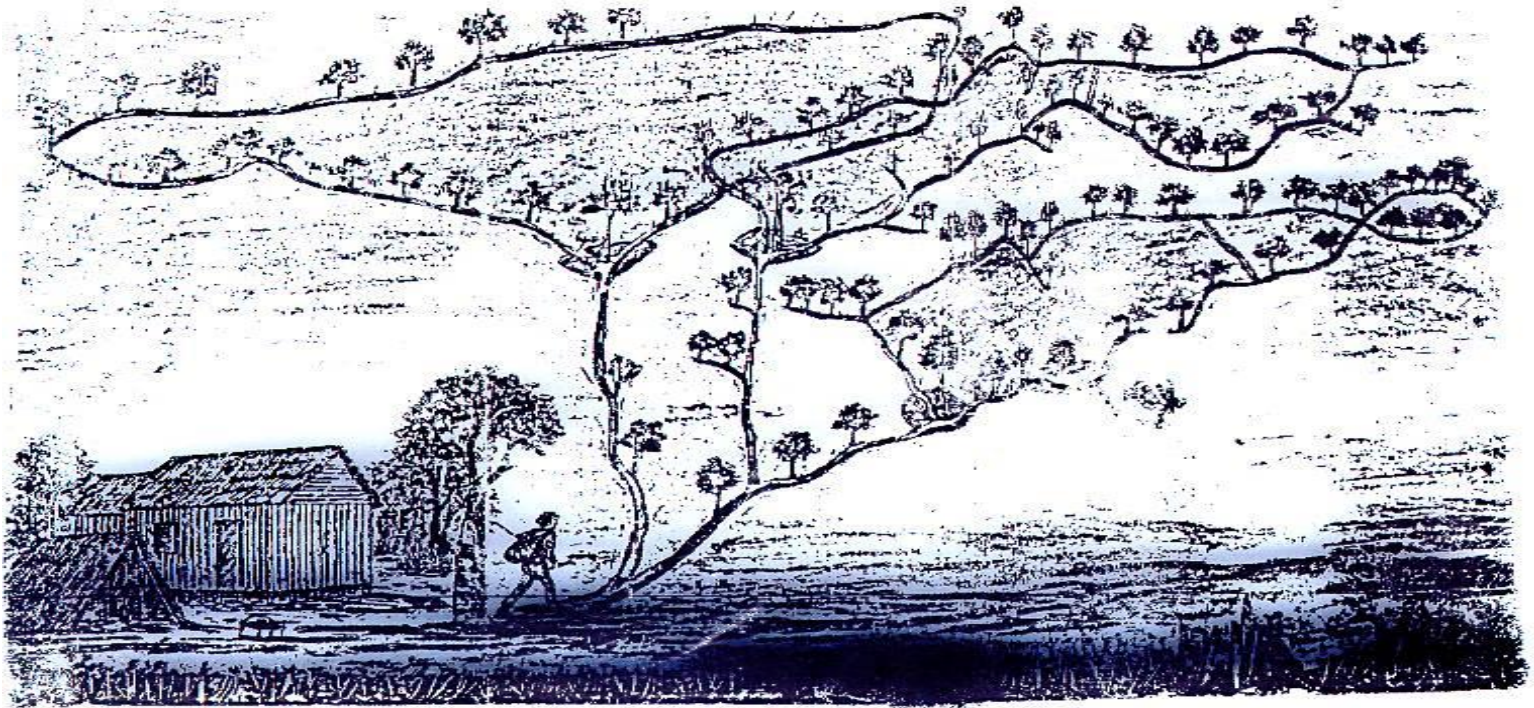
Land Tenure Peasant



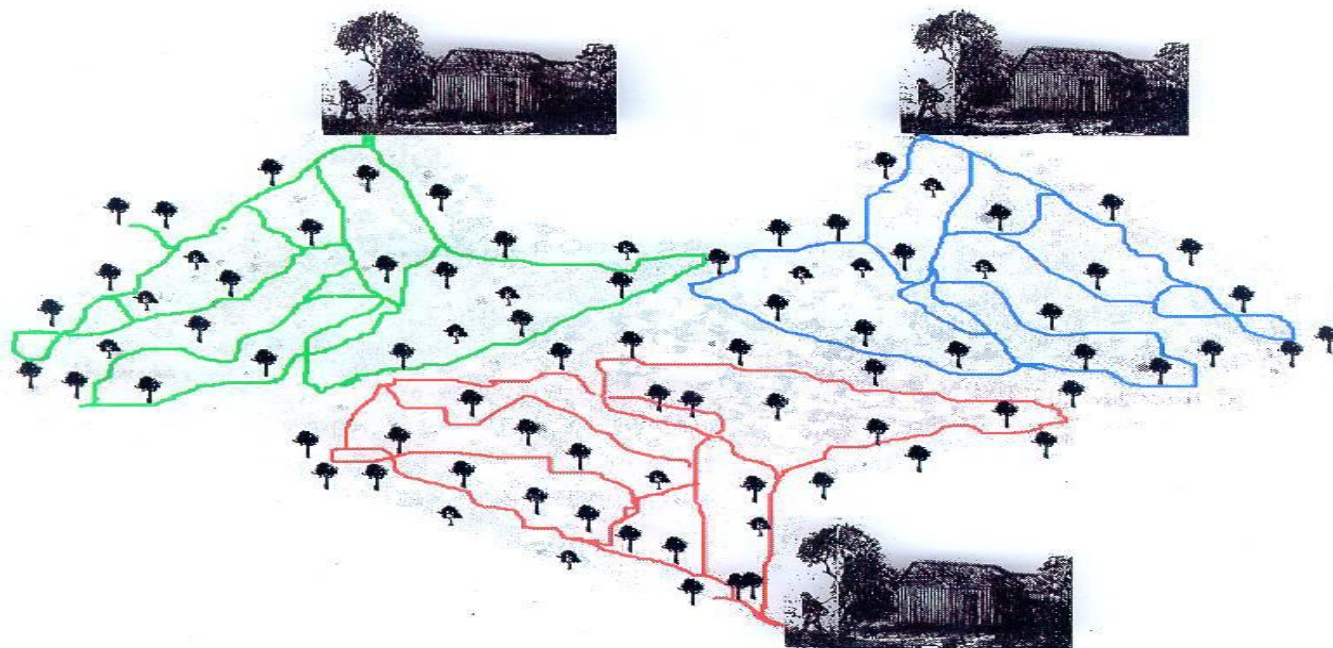
Traditional People (peasant)

Common Land Tenure

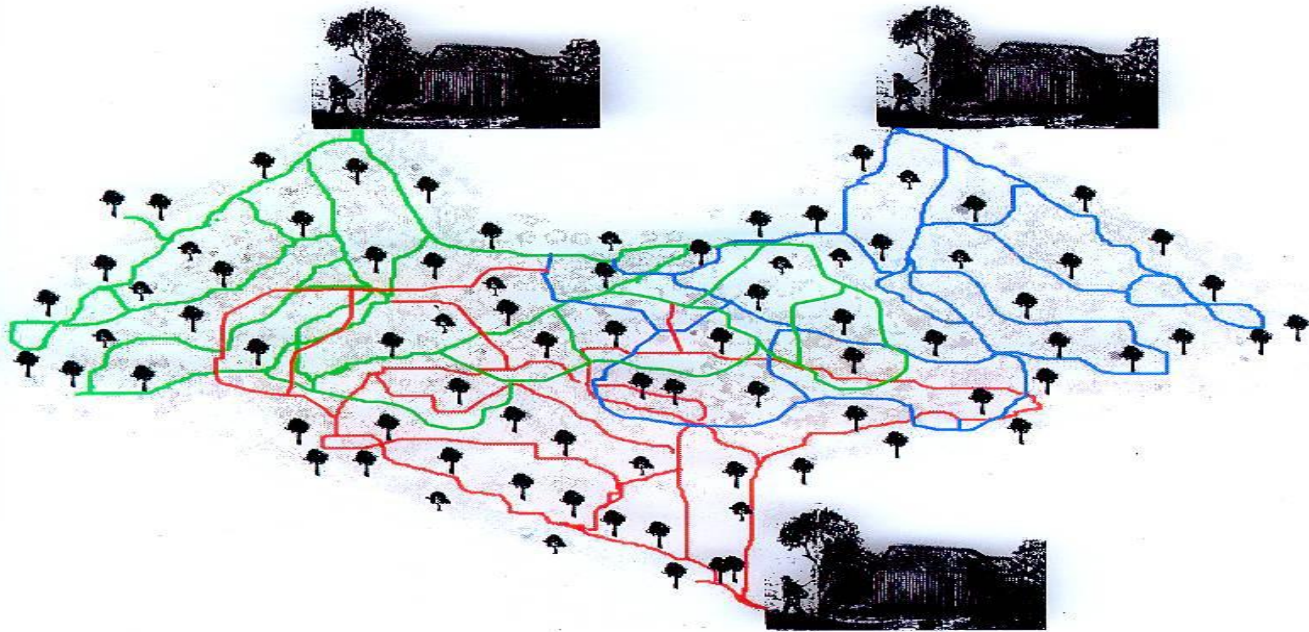
(family land tenure + common use area)



Common Land Tenure



Common Land Tenure

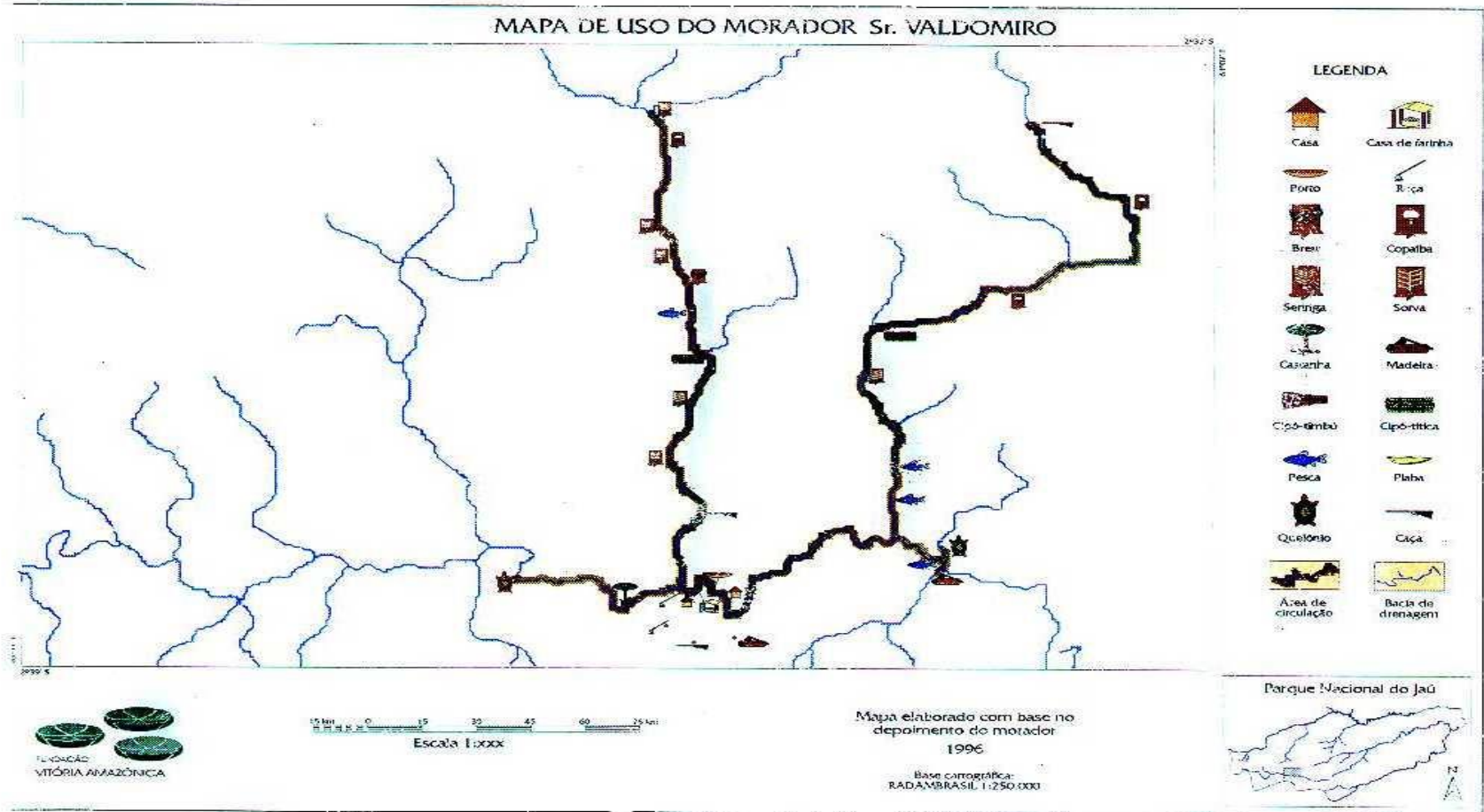


Common Land Tenure

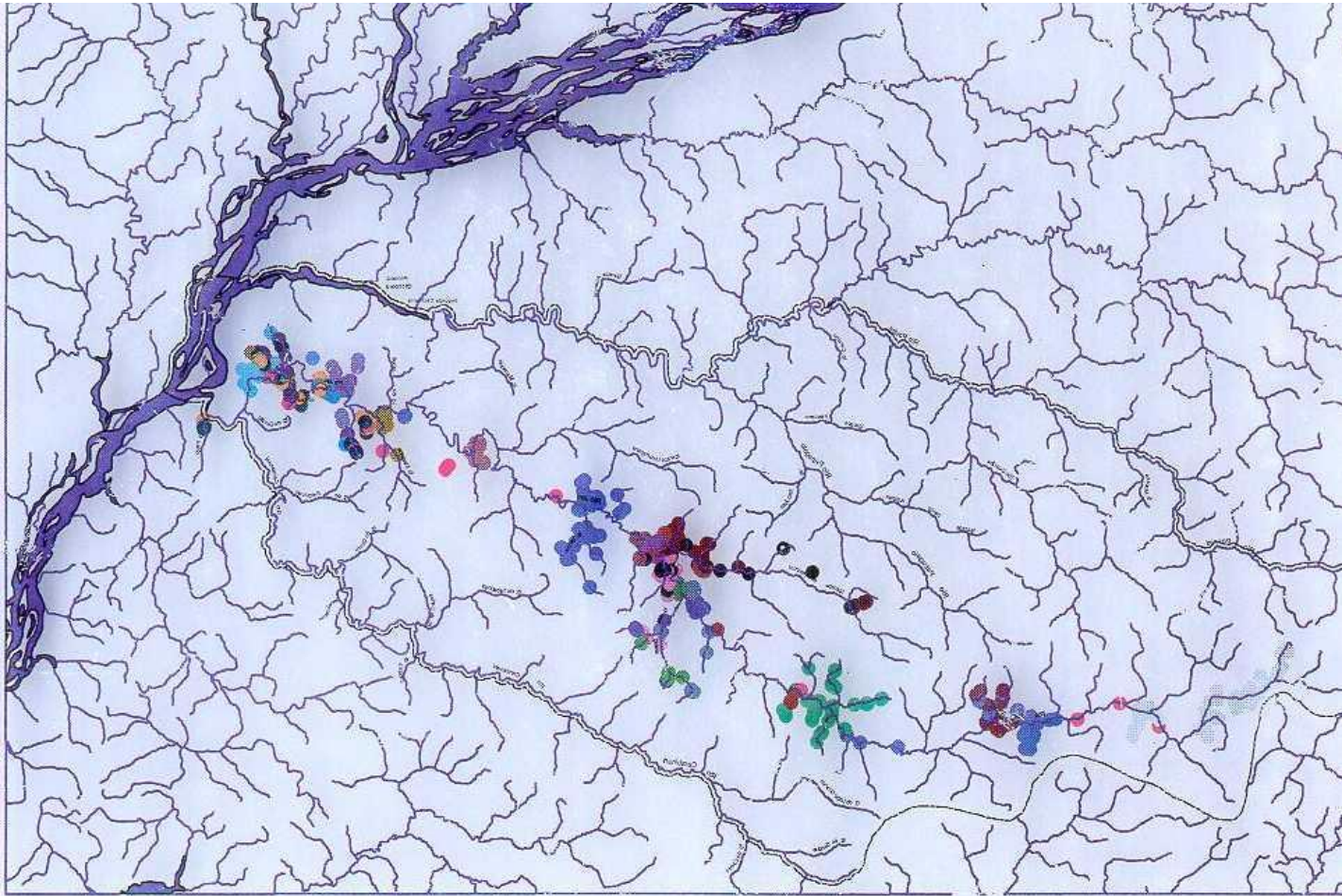
REPRESENTAÇÃO DE UMA COLOCAÇÃO UNIDADE DE MANEJO FAMILIAR DO SERINGAL – 300 a 700 hectares



Common Land Tenure



Common Land Tenure



Phase of the Floodplain: flood and dry



Characteristics of Common Land Tenure of the Floodplain

Lakes used for fishing



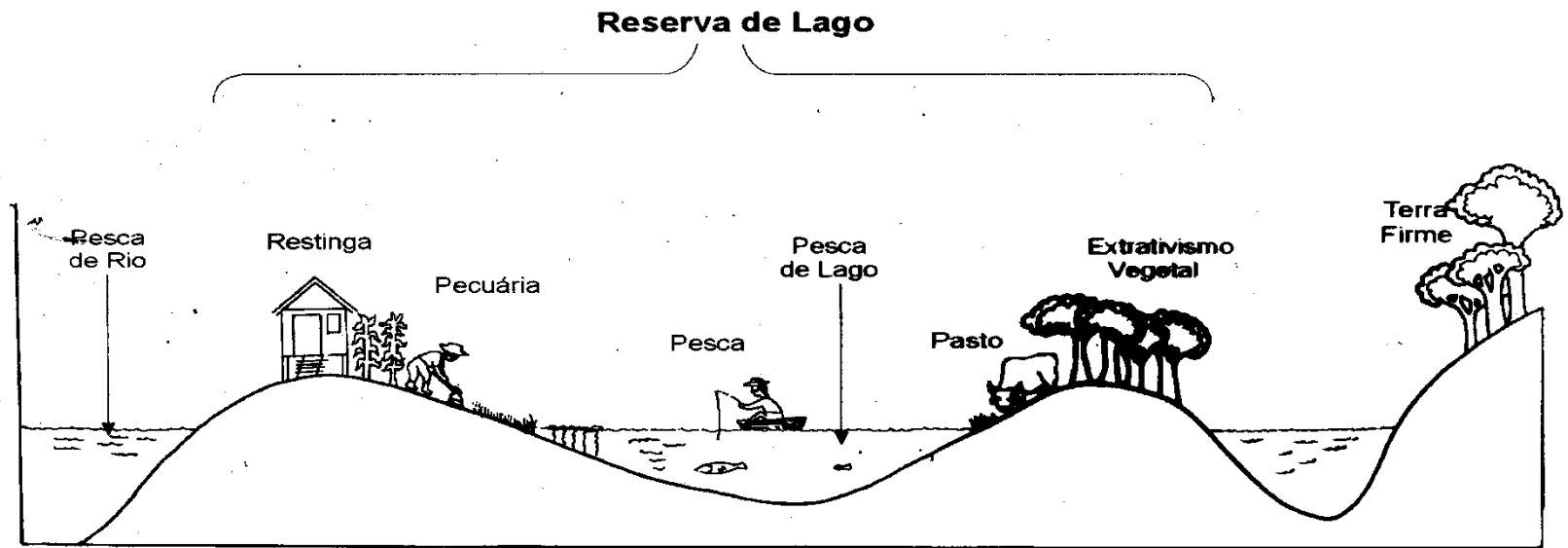
Land used for agriculture

Natural pastures used for the cattle

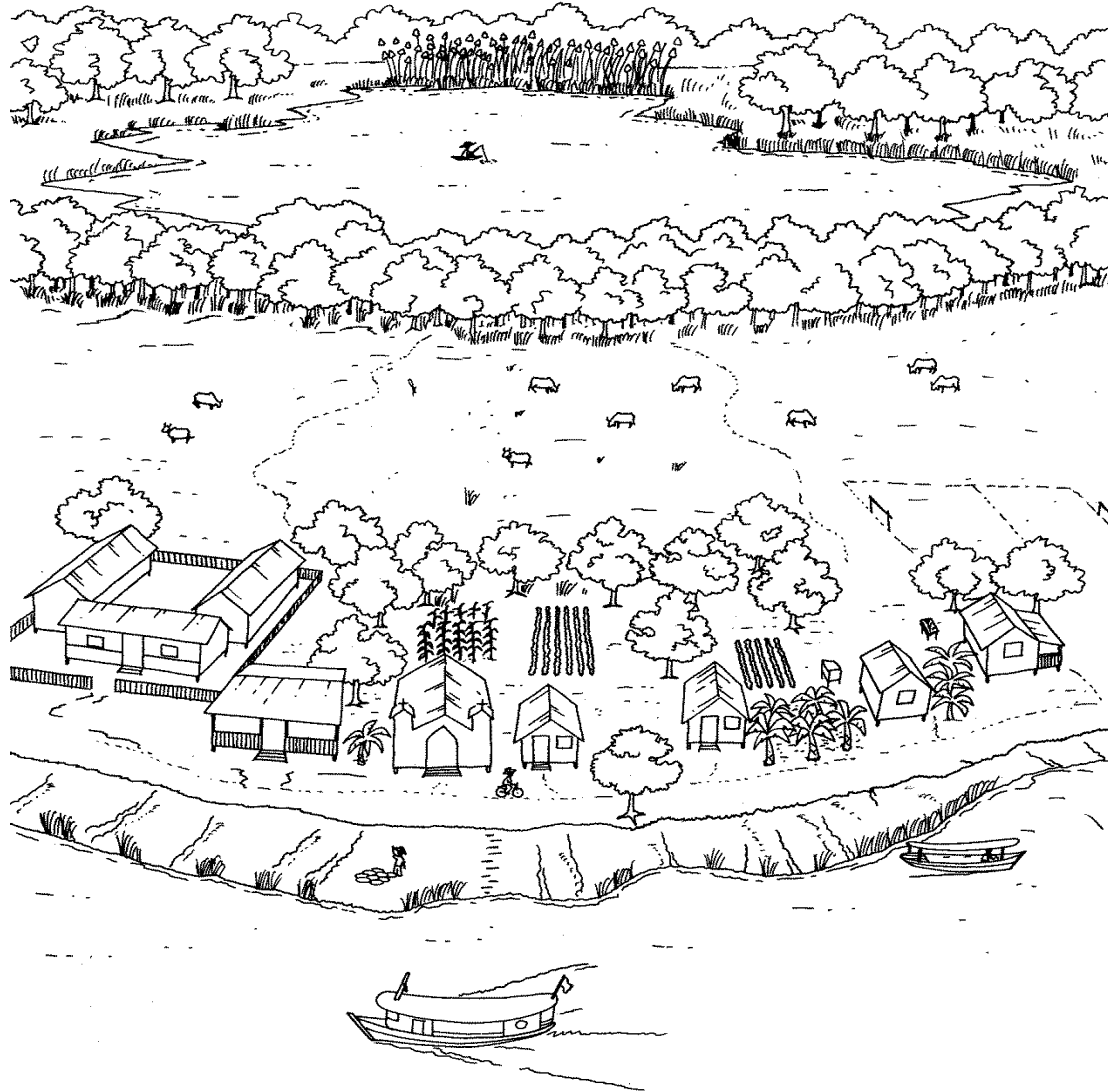


Process of Common Land Tenure at Floodplain

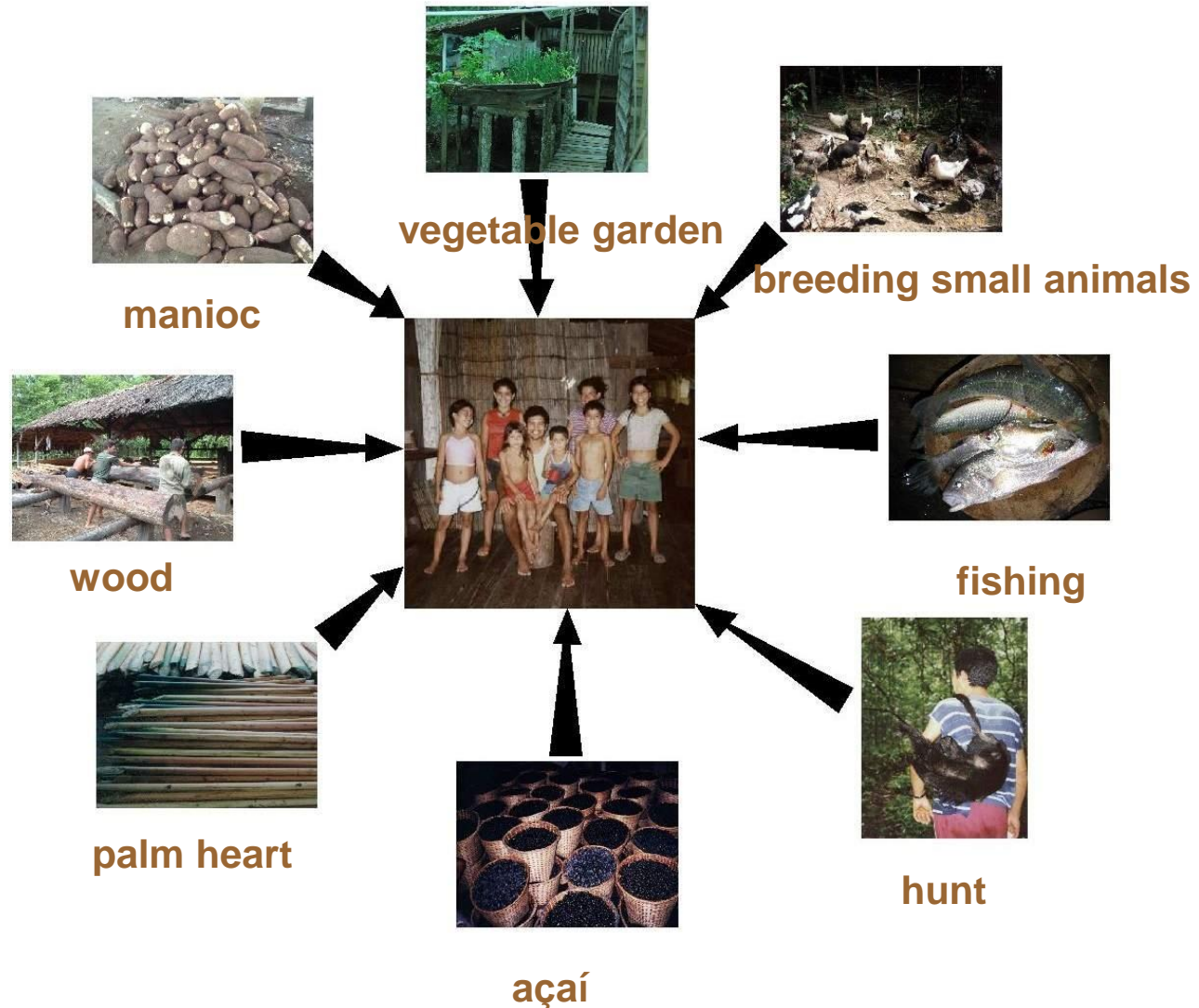
RESERVA DE LAGO COMO UM SISTEMA DE MANEJO



Common Land Tenure of the Floodplain



Agroextractivism: base of the local economy of Traditional People



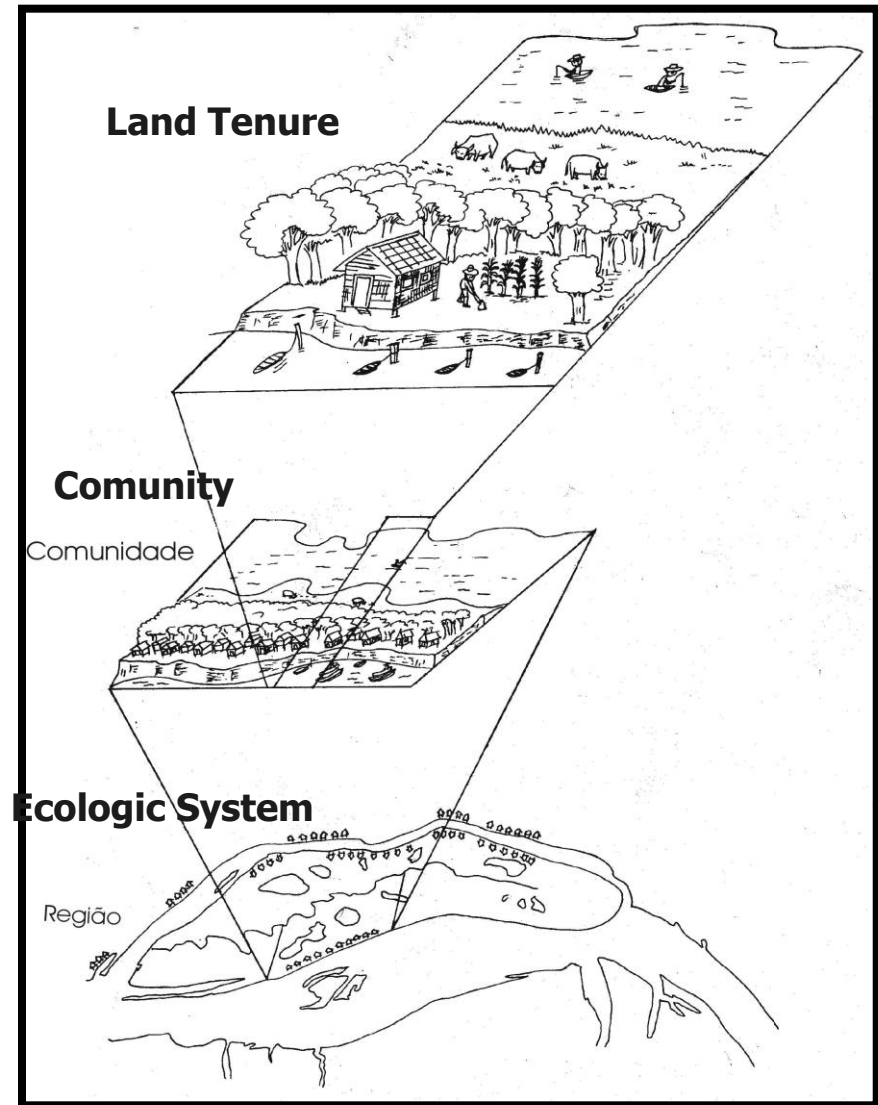
Different Level of Common Land Tenure

The process of land regularization must have two basic premises :

a) the ecological integrity of the set of environments in the floodplain (soil, vegetation cover and water resources);

b) the different patterns of agriculture and forest management, i.e. the tenure and use of resources.

The land regularization of the floodplain must respect the way natural resources are used and land tenure by the traditional people.



Juridical Category of Recognition of Common Land Tenure in Brazil (Federal Level)

- a) Extractive Reserve (RESEX)**
- b) Reserve of Maintainable Development (RMD)**
- c) Quilombola Property**
- d) Projects of Agroextractivism (PAE),**
- e) Projects of Maintainable Development (PDS)**
- f) Project of Forest Establishment (PAF)**
- g) Indigenous Land**

Juridical Category of Recognition of Common Land Tenure in Brazil (Federal Level)

<i>Tenure Regime</i>	<i>Dominium (land's domain)</i>	Regime	Juridical Category
Extractive Reserve Federal	Public	Community Concessions	Protect Area
Extractive Reserve of State	Public	Community Concessions	Protect Area
Reserve of Maintainable Development	Public	Community Concessions	Protect Area
Projects of Agroextractivism	Public	Community Concessions	Settlement Project
Sustainable Development Settlement Projects (PDS)	Public	Community Concessions	Settlement Project
Quilombola Property	Private	Community Concessions	Private Area
Indigenous Land	Public	Comunal Property	Federal Area

Legal Options to Secure Common Land Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Indigenous Lands	This areas are identified as the lands inhabited permanently, used for the productive activities and for the preservation of natural resources necessary for their physical and cultural reproduction according to their uses and traditions (article 231, § 1º of the Federal Constitution).	Indigenous People	Property of the Federal Government, with exclusive use of natural resources for the natives (article 231, § 2º of the Federal Constitution), with exception of mine resources. (Indian National Foundation) FUNAI is the entity in charge of the identification and recognition of these lands.	The natives have limited autonomy because they need previous approval of FUNAI for the economic exploration of natural resources. The use is limited to the group and they cannot sell or lease the lands.

Legal Options to Secure Common Land Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Extractive Reserve Federal (Resex)	It is an area used for traditional population who engage in extraction activities and, complimentary, in Family agriculture and small animals husbandry with the objective to protect their lifestyle and culture, as well as, to assure the sustainable use of natural resources in the protected area. The creation of these areas is under the responsibility of the State. The affected community can demand its creation and will be consulted in the cases the process is initiated by the State.	Traditional Populations	Federal or State owned areas and the use to the communities is granted by concession terms. This concession does not authorize mining.	Limited autonomy because the joint administration of the area between the community and the State. The protected area is managed by a Council formed by representatives of the traditional groups, the State and NGOs (article. 18 of the Law nº 9.985/00). They cannot sell the land but they can negotiate the value of constructions and crops under the control and previous consent of Agency in charge of the management of the area and the group's association.

Legal Options to Secure Community Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Reserves for Sustainable Development (RDS)	This protected area shelters traditional populations whose experience is based on sustainable systems of natural resources exploration developed during generations and adapted to local ecological conditions and that have an important role in the protection of the nature and the maintenance of ecological diversity. The creation of these areas is under the responsibility of the State. The affected community can demand its creation and will be consulted in the cases the process is initiated by the State.	Traditional Populations	Federal or State owned areas (article 20 of Law n° 9.985 of July 18 th , 2000) and the use to the communities is granted by concession terms. This concession does not authorize mining.	Limited autonomy because the joint administration of the area between the community and the State. The protected area is managed by a Council formed by representatives of the traditional groups, the State and NGOs (article. 18 of the Law n° 9.985/00). They cannot sell the land but they can negotiate the value of constructions and crops under the control and previous consent of Agency in charge of the management of the area and the group's association.

Legal Options to Secure Common Land Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Quilombolas' properties	<i>Quilombolas</i> communities are defined as ethnic-social groups, according to the criteria of self-identification, with a particular history, a special relation to the territory, and the presumption of an afro-descendant heritage related to the resistance of a historic suffered oppression. A <i>Quilombola</i> property is the guarantee to the group's physical, social, economic and cultural reproduction.	Quilombolas	Property of the <i>Quilombola</i> group with the issuance of a collective property title in the name of the Association who represents the community. These areas can be recognized either by the Federal or State Power though their land tenure agencies.	Limited autonomy. Necessity of previous consent of the environmental agency to explore national resources. They cannot sell the land.

Legal Options to Secure Community Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Projects of Agroextrativism (PAE)	<p>This type of settlement project allows the exploration extractive resources and the development viable economic activities, to be executed by the populations that already occupy the area or that will occupy it (Order/Incra/nº 269, October 23rd, 1996).</p> <p>The creation and land tenure regularization of this settlement project is responsibility of the Regional Superintendent of INCRA. The States can create a similar settlement project under their jurisdiction.</p>	Traditional People	State Owned areas and the use to the communities is granted by concession terms. This concession does not authorize mining.	<p>Limited autonomy. The group needs previous consent of the environmental agency to explore national resources.</p> <p>They cannot sell the land but they can negotiate the value of constructions and crops under the control and previous consent of Agency in charge of the management of the area.</p>

Legal Options to Secure Community Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Sustainable Development Settlement Projects (PDS)	This modality of settlement Project is of social, economic and environmental interest seeks to protect populations that already develop or are willing to develop activities of low environmental impact, depending on the characteristics of the area (Oder/Incra/nº 477, November 4 th , 1999). The creation and land tenure regularization of this settlement project is responsibility of the Regional Superintendent of INCRA. The States can create a similar settlement project under their jurisdiction.	Traditional People	State Owned areas and the use to the communities is granted by concession terms. This concession does not authorize mining.	Limited autonomy. The group needs previous consent of the environmental agency to explore national resources. They cannot sell the land but they can negotiate the value of constructions and crops under the control and previous consent of Agency in charge of the management of the area.

Legal Options to Secure Common Land Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Settlement Projects	<p>The creation and land tenure regularization of this settlement project is responsibility of the Regional Superintendent of INCRA. The States can create a similar settlement project under their jurisdiction.</p> <p>settlement Project is created by the Regional Superintendent of INCRA. Each family will receive an individual tract of land.</p>	Landless Peasants	State Owned areas and the use to the communities is granted by concession terms. This concession does not authorize mining.	Limited autonomy. Peasants need previous consent of the environmental agency to explore national resources. They cannot sell the land but they can negotiate the value of constructions and crops under the control and previous consent of the settlement association.

Legal Options to Secure Community Tenure

Category	Legal Definition	Beneficiary	Land Tenure	Autonomy for the use of natural resources
Forestry Settlement Projects (PAF)	<p>This type of settlement Project focus on the management of forestry resources in areas with potential for community sustainable forestry management, especially in the northern region. The products subject of exploration are: wood, medicinal plants, ornamental plants, oils, latex, fruits, seeds, roots, environmental services, ecotourism and use of genetic materials for the development of biotechnology (Order/Incra/nº 215, June 6th, 2006).</p> <p>The creation and land tenure regularization of the forestry settlement project is responsibility of the Regional Superintendent of INCRA.</p>	Traditional People	State Owned areas and the use to the communities is granted by concession terms. This concession does not authorize mining.	<p>Limited autonomy. The group needs previous consent of the environmental agency to explore national resources.</p> <p>They cannot sell the land but they can negotiate the value of constructions and crops under the control and previous consent of Agency in charge of the management of the area.</p>

