

**SOCIAL REPRESENTATIONS OF INDIGENOUS LANDS AND THE  
LEGITIMATION OF THE BRAZILIAN SUPREME FEDERAL COURT'S  
DECISION ON THE "TEMPORAL FRAMEWORK" (MARCO TEMPORAL) IN  
LIGHT OF MAX WEBER'S INTERPRETIVE SOCIOLOGY**

**REPRESENTAÇÕES SOCIAIS DAS TERRAS INDÍGENAS E LEGITIMAÇÃO DA  
DECISÃO DO STF SOBRE O MARCO TEMPORAL À LUZ DA SOCIOLOGIA  
COMPREENSIVA DE MAX WEBER**

**REPRESENTACIONES SOCIALES DE LAS TIERRAS INDÍGENAS Y  
LEGITIMACIÓN DE LA DECISIÓN DEL SUPREMO TRIBUNAL FEDERAL (STF)  
SOBRE EL "MARCO TEMPORAL", A LA LUZ DE LA SOCIOLOGÍA  
COMPRENSIVA DE MAX WEBER**



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**ABSTRACT**

For the present paper examines the decision of the Brazilian Supreme Federal Court (Supremo Tribunal Federal – STF) in RE 1.017.365/SC, which struck down the so-called “time frame” thesis for the demarcation of indigenous lands, in the light of Max Weber’s comprehensive sociology, with particular emphasis on the notion of social representation. Drawing on the concept of social action and on the centrality of the “subjectively represented meaning” in social relations, the paper seeks to identify the different value ideas that shape the representations of indigenous land in the Court’s reasoning: at times as an economic asset and an object of legal certainty for private property, at others as an original territory and a constitutive dimension of indigenous cultural identity. It is argued that culture, understood as an arena of disputes among competing representations, offers the key to understanding the Court’s decision not merely as a technical-legal application of constitutional rules, but as a moment of selection and consecration of particular value ideas in the Brazilian constitutional order. Finally, the article discusses to what extent the decision contributes to the legitimation of legal-rational domination and to the reshaping of social representations of indigenous peoples and their territories.

**Keywords:** Max Weber. Social Representation. Indigenous Lands. Time Frame Thesis. Brazilian Supreme Court.

**RESUMO**

Para o presente trabalho se analisa a decisão do Supremo Tribunal Federal no RE 1.017.365/SC, que rejeitou a tese do “marco temporal” para a demarcação de terras indígenas, a partir da sociologia compreensiva de Max Weber, com ênfase na noção de

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representação social. Partindo do conceito de ação social e da centralidade do “sentido subjetivamente representado” nas relações sociais, busca-se identificar as diferentes ideias de valor que estruturam as representações da terra indígena no julgamento: ora como bem econômico e objeto de segurança jurídica da propriedade privada, ora como território originário e dimensão constitutiva da identidade cultural dos povos indígenas. Argumenta-se que a cultura, entendida como arena de disputas entre representações em conflito, fornece a chave interpretativa para compreender a decisão do STF não apenas como aplicação técnico-jurídica de normas constitucionais, mas como momento de seleção e consagração de determinadas ideias de valor na ordem constitucional brasileira. Ao final, discute-se em que medida a decisão contribui para a legitimação da dominação legal-racional e para a reconfiguração das representações sociais acerca dos povos indígenas e de seus territórios.

**Palavras-chave:** Representação Social. Max Weber. Terras Indígenas. Marco Temporal. Supremo Tribunal Federal.

## RESUMEN

En el presente trabajo se analiza la decisión del Supremo Tribunal Federal (STF) en el RE 1.017.365/SC, que rechazó la tesis del “marco temporal” para la demarcación de tierras indígenas, a partir de la sociología comprensiva de Max Weber, con énfasis en la noción de representación social. Partiendo del concepto de acción social y de la centralidad del “sentido subjetivamente representado” en las relaciones sociales, se busca identificar las diferentes ideas de valor que estructuran las representaciones de la tierra indígena en el juicio: ora como bien económico y objeto de seguridad jurídica de la propiedad privada, ora como territorio originario y dimensión constitutiva de la identidad cultural de los pueblos indígenas. Se sostiene que la cultura, entendida como arena de disputas entre representaciones en conflicto, proporciona la clave interpretativa para comprender la decisión del STF no solo como aplicación técnico-jurídica de normas constitucionales, sino como un momento de selección y consagración de determinadas ideas de valor en el orden constitucional brasileño. Por último, se discute en qué medida la decisión contribuye a la legitimación de la dominación legal-racional y a la reconfiguración de las representaciones sociales acerca de los pueblos indígenas y de sus territorios.

**Palabras clave:** Representación Social. Max Weber. Tierras Indígenas. Marco Temporal. Supremo Tribunal Federal.

## 1 INTRODUCTION

The controversy surrounding the demarcation of indigenous lands has occupied a central place in political, legal and symbolic disputes in Brazil for decades. The thesis of the so-called "time frame" – according to which indigenous peoples would only have the right to the lands they were occupying on October 5, 1988 – condensed, in a particularly acute way, long-term conflicts over property, territory, economic development and historical justice. When the Federal Supreme Court, in the judgment of Extraordinary Appeal No. 1.017.365/SC, in a regime of general repercussion, rejects this thesis and reaffirms the original character of indigenous territorial rights, it is not only solving a technical problem of constitutional interpretation: it is intervening in an arena dense with meanings, in which different groups dispute the very meaning of "land", "property", "State" and "indigenous people".

The strictly normativist reading tends to present this type of decision as a simple application of constitutional provisions and jurisprudential precedents. However, an approach inspired by Max Weber's comprehensive sociology allows us to take a different look at the phenomenon: instead of making the judicial decision only as the product of rules, it is a matter of reconstructing it as part of a process of social action, in which situated agents — ministers, lawyers, representatives of indigenous peoples, agribusiness entities, civil society organizations — guide their conduct based on socially constructed representations and ideas of value in dispute.

In Weber, social action is defined from the meaning that the agent attributes to his conduct, to the extent that it is guided by the existence of others. The social relation, in turn, is the intertwining of actions endowed with meaning, reciprocally referred to each other. In this context, to speak of "social representation" – even if the term does not appear in a systematic way in Weber as in Durkheim or in the more recent tradition inaugurated by Moscovici – means emphasizing precisely the significant dimension of practices: what individuals and groups think, imagine, project and dispute when they act in a field of relations. Culture, far from being a prior consensus of values, appears as an arena of struggle between different ideas of value that seek to impose themselves as legitimate guides of conduct.

The STF's decision on the time frame thus offers a particularly fruitful object to articulate Weberian theory and constitutional analysis. On the one hand, because it exposes in a very clear way contrasting representations of indigenous land: sometimes as an economic asset, the basis of productivity and legal security of private property; sometimes as an original territory, a condition for the physical and cultural existence of indigenous peoples and a structuring element of the 1988 Constituent Pact itself. On the other hand, because it

highlights the role of a constitutional court as an instance of selection and consecration of certain ideas of value, to the detriment of others, within a legal order that is intended to be legitimate.

In the light of comprehensive sociology, it is less interesting to ask whether the decision is "right" or "wrong" in abstract terms, and more to inquire what meanings are mobilized by the different actors, how these meanings are articulated in legal and political narratives, and how the court contributes to stabilizing certain social representations — of the land, of indigenous peoples, of the State itself — at a given historical moment. It is, therefore, a matter of shifting the focus from the isolated "normative content" to the intersection between culture, social action and legal-rational domination.

In this perspective, the present work has as a research problem the following question: how do the different social representations of indigenous land, reconstructed from the comprehensive sociology of Max Weber, manifest themselves and are selected in the STF's decision on the time frame, and how does this contribute to the legitimation of the Brazilian constitutional order? It is based on the hypothesis that the judgment in question can be understood as a moment of dispute and selection of social representations of the indigenous land, in which ideas of value prevail that recognize the cultural and original centrality of these territories, tensioning strictly patrimonial conceptions of property and reinforcing a certain configuration of legal-rational domination.

The general objective is to analyze how the STF's decision in RE 1.017.365/SC expresses, confronts and selects different social representations of indigenous land, in the light of Max Weber's comprehensive sociology. Specifically, it seeks to: (a) present Weber's concepts of social action, subjectively represented meaning, culture and social representation, as reconstructed by the specialized literature; (b) reconstruct the main lines of argument of the STF's judgment on the time frame, identifying the actors and narratives in conflict; (c) to identify the ideas of value and social representations of the indigenous land present in the votes and in the procedural manifestations; and (d) to evaluate the extent to which the decision contributes to the legitimation of a certain constitutional reading of indigenous territorial rights and to the reconfiguration of social representations about indigenous peoples and territory in Brazilian constitutionalism.

To achieve these objectives, a qualitative approach is adopted, based on documentary analysis of the decision, votes and selected procedural documents, interpreted in the light of the Weberian conceptual framework. The article is organized into four sections, in addition to this introduction. In the first, the central elements of the notion of social representation in Weber's comprehensive sociology are reconstructed, with emphasis on the relationship

between meaning, culture and ideas of value. In the second, the legal and political context of the judgment of the time frame is presented, with emphasis on the configuration of the conflict around the indigenous land. In the third, the social representations of the indigenous land within the STF decision are analyzed, identifying convergences and tensions between the narratives in dispute. Finally, the conclusion summarizes the main results and points out possible developments for the understanding of the relationship between constitutional courts, legal culture and social representations in societies marked by historical conflicts of a colonial nature.

## 2 SOCIAL REPRESENTATION IN COMPREHENSIVE SOCIOLOGY IN WEBER

By conceptualizing "social action", Weber already defines that this action is oriented towards the other (2015, p.3), that is, the individual's action is only relevant to sociology if the course of his acts is not directed towards himself. Following this idea, the "social relation" is the "reciprocally referred behavior" (WEBER, 2015, p. 16), in which the meaning is the content of the agents' social actions. It is precisely the content of this meaning of reciprocally referred (predictable, probable) actions that is of interest to the study of social representation.

Minayo (1995, p. 89), in an article on social representation in the classics, understands this theme as "categories of thought that express reality, explain it, justify it or question it". The author understands that in Weber the theme of social representations does not appear explicit as in Durkheim, however, she demonstrates that the author opposes the objectivist idea that social representation has a power of coercion, from society to the individual (Minayo, 1995). Let us see another peculiarity in the use of terms in Weber:

Max Weber elaborates his conceptions of the field of Social Representations through terms such as "ideas", "spirit", "conceptions", "mentality", often used as synonyms, and works in a particular way on the notion of "worldview".

Thus, it can be observed that two concepts are central to understanding representations in Weber, meaning (and its content) and culture. In the presentation of the work "The 'Objectivity' of Knowledge in the Social Sciences", written by Weber, Gabriel Cohn states that Weber opposes a dominant tendency to understand culture as a consensus on a set of values:

[...] for him, the world of culture is not that dimension of social reality that gives meaning to what men do, but, on the contrary, it is that **meaningful arena in which men themselves attribute value to what they do. Culture** operates as a kind of **filter**, which **selects** within the

**set of possible experiences** those that will be considered **significant** within **certain** human groups. The important thing is not the validity of values already given, but the **men themselves as actors** who, when acting, **are guided by guidelines** that they strive to enforce also for others. What is at stake are not "values" without more, but **"ideas of value"**, which refer to the way men perceive and think about values in the actions to which they give themselves. (WEBER, 2006, p.10-11, emphasis added).

Therefore, for Weber, culture is the result of the selections that occur in disputes for the most significant ideas of value, in a certain human group and in certain situations. On the other hand, meaning in Weber (here understood as the "subjectively aimed sense" or just "aimed") is precisely content that "sustains" social action. This point is fundamental in Weber's theory and the author makes it clear that he is not dealing here with an objective meaning, already disposed *a priori*, or "objectively 'correct' or a 'true' meaning obtained by metaphysical inquiry" (WEBER, 2015, p.4). Cohn, in an opening text to "Economy and Society" (WEBER, 2015, p. xiv) states that, despite being the best expression, "subjectively aimed sense" is not an absolutely satisfactory translation, thus dealing with what would be a "Weberian terminological nightmare."

The point is that, according to Cohn (WEBER, 2015, p. xiv), the term "subjective" can obviously be confused with a psychological term (an issue totally dismissed by Weber), but the biggest problem with the expression "subjectively aimed meaning" would reside precisely in the term "targeted", which could be understood as something already objectively posed before social action. In no way is this the intention of "meaning" in social action, so Cohn warns:

[...] the meaning of action is not something already given that is in some way "aimed" by the agent as the "goal" of his action, **but it is the representation** that he, as an agent, has **of the course of his action** and that commands its execution. [...] It would be appropriate to speak of a **"subjectively represented meaning"**, to make it clear that **what counts in the action and makes it effective** is not its meaning without more, but **the way in which the agent represents it to himself when conducting it**. (WEBER, 2015, p. xiv, author's italics, emphasis added)

It is noted that the concept of "subjectively aimed meaning", the content of the social action of individuals, is reciprocally and mutually referenced in social relations. Social representation is precisely the meaning observed by the other (or others) in social relations, so it is of essential importance to understand the concepts of culture and meaning in Weber.

**In the Weberian analytical scheme, *everything* goes through the conceptions or representations that the agents (always individual, in the last instance) have of the motives, means and ends of the social actions** in which they are involved. Hence the *subjective dimension* of action. And motives, means and ends have, for the agent, a significant character. Hence the dimension of *meaning* of the action. (WEBER, 2015, p. xiv, author's italics, emphasis added)

It is important to emphasize that this meaning of action or non-action in Weber (2006, p. 16) means "*taking* a position in favor of certain values" and going against other values. The author does not understand these values as determined by laws, mathematical or logical aspirations, but they are culturally constructed. Also in "The 'Objectivity' of Knowledge in the Social Sciences", Weber reiterates that reality can only be known, for the social scientist, from the cultural significance of social actions and their "regular repetition" (2006, p. 48).

Thus, social representation in Weber is the ideas of value that condition individual actions (WEBER, 2006, p.51). Thus, it can be understood that in Weber, "culture is a finite segment of the infinite course and devoid of its own meaning [...] to which thought has conferred [...] a meaning and a signification" (WEBER, 2006, p.58), while the "men of culture", in this process, can "assume a conscious *position* before the world and give it a meaning", and it is from this meaning that their evaluations are extracted. In other words, there is a reciprocal relationship, since "cultural knowledge is conditioned by certain ideas of value" (WEBER, 2006, p.58) and "cultural reality is always knowledge subordinated to *specifically* particular *points of view*" (WEBER, 2006, p.59). Gabriel Cohn, commenting on this aspect of Weber's theory, states:

[...] the precondition without which one cannot speak of scientific knowledge of the world of meanings and values (of culture) is the capacity of men ([...] motivated by interests based on values) to attribute meaning to what does not have it *per se*. (WEBER, 2006, p.58)

Similarly, Minayo (1995, p. 92-93) understands that for Weber, social representations (or ideas of value) are conditioned by reality, and vice versa:

[...] social **life** – which consists of the daily conduct of individuals – is loaded with **cultural significance**. This meaning is **given both by the material basis and by the ideas**, within an adequate relationship, in which both **mutually condition each other**. (Minayo, 1995, p. 92-93, emphasis added).

Thus, for Weber, the ideas of value, or the conceptions (modes of perception of the individual about the significant guidelines of culture), can guide the contents, or the

"subjectively aimed meanings" of social actions (always directed to the other), so social representation is precisely the meaning observed by the other (or others) in social relations, from the moment an agent assumes a point of view, instead of another. Therefore, one must observe both the cultural significance of these social actions and the regularity (repetition) of their meanings. Finally, even the concept of social representation in Weber is reciprocal, since both social life (culturally significant) and the subjectively aimed meanings of social actions (individual) are mutually conditioned, thus, we move on to the analysis of the Case of the Time Frame of Indigenous Lands in Brazil.

### **3 THE CASE OF THE TIME FRAME (RE 1.017.365/SC) AND THE CONFLICT OVER INDIGENOUS LAND**

Extraordinary Appeal No. 1,017,365/SC, submitted to the system of general repercussion (Topic 1,031), has become the main paradigm for the definition of the legal-constitutional status of the ownership relations of areas of traditional indigenous occupation in the light of article 231 of the Federal Constitution. The lawsuit originates from a repossession action filed by the State of Santa Catarina against the Ibirama-Laklãnõ Indigenous Land, inhabited by the Xokleng people, with the presence of Guarani and Kaingang groups, in which the legality of the demarcation and the permanence of non-indigenous occupants in the area were discussed. According to the Indigenous Missionary Council (CIMI):

The time frame is a thesis that seeks to restrict the constitutional rights of indigenous peoples. In this interpretation, defended by ruralists and sectors interested in the exploitation of traditional lands, indigenous peoples would only have the right to the demarcation of lands that were in their possession on October 5, 1988, or that, on that date, were under proven physical or judicial dispute. (Mobilization, 2020).

In this understanding, the "time frame" thesis was constructed as a restrictive interpretation of article 231 of the Constitution. This formulation, initially articulated in decisions and opinions related to the Raposa Serra do Sol case and later systematized in an opinion of the Attorney General's Office, began to be claimed by agribusiness sectors and by the legislature as a criterion of legal certainty for rural property.

According to Ingo Wolfgang Sarlet (2004), legal certainty is part of the essential core of human dignity, thus functioning as a guarantee of the minimum existential conditions. This perspective illuminates the judgment of RE.1017.365/SC, in which the STF rejects the time frame thesis, reaffirming the original character of indigenous territorial rights, and such a

position can be seen as a means of preserving legal positions whose stability is indispensable for historically vulnerable groups.

This conception is particularly relevant when it comes to collective rights with strong cultural and existential density, whose effectiveness depends on continuity, predictability, and reinforced protection against state or private interference. Legal certainty, in this sense, is not limited to the protection of isolated individual acts, but encompasses the recognition and preservation of essential legal positions, especially those associated with the identity and permanence of historically vulnerable groups (SARLET, 2004).

The projection of reinforced protection on territories that constitute the material and cultural foundation of indigenous existence, recognizing that the rupture of these guarantees infringes the very structure of the Democratic State of Law, is finally established, and it is essential to point out the principle of prohibition of social regression, an element widely discussed by Sarlet (2009), which states that it participates in the Constitutional State, preventing legal achievements from being restricted by conjunctural pressures.

In this context, normative and institutional achievements are not mere circumstantial advances, but minimum levels of protection that cannot be reduced by the State without violating legitimate expectations and the integrity of the constitutional pact. This notion takes on special relevance when analyzing the protection of cultural, territorial and socio-environmental rights, since such rights, due to their collective nature, depend on legal stability to prevent conjunctural pressures from eroding fundamental guarantees that have already been consolidated (SARLET, 2009).

Thus, the protection of the environment and culture cannot be dissociated from human dignity, since both are indispensable elements for the full realization of the person and communities, given that the protection of collective identities and traditional ways of life is not ancillary or exceptional, but an integral part of the constitutional architecture aimed at preserving plurality and promoting an inclusive society (SARLET, 2013).

By setting aside the time frame, therefore, the Supreme Court prevents a restrictive interpretation from emptying the core of indigenous territorial rights, whose effectiveness derives directly from the CF/88, denying setbacks that would affect the cultural and territorial integrity of indigenous peoples and highlighting that the protection of these rights cannot be reduced based on readings that disregard their historicity and their centrality in the constituent pact.

Social, cultural and environmental rights are also part of the structuring axis of the Socio-Environmental State, in which human dignity presupposes social justice, cultural diversity and environmental preservation (SARLET, 2013). That said, by recognizing

indigenous lands as indispensable spaces for the physical, cultural and spiritual reproduction of these peoples, we are faced with the adoption of a constitutional model that goes beyond the patrimonialist logic of land and the non-result of state concessions in the face of the protection of indigenous territories.

It is also emphasized that legal certainty should not be interpreted in a merely formal or static way, but as an instrument that prevents the State from transforming historical vulnerabilities into valid legal criteria, where normative predictability and institutional trust are guarantees that should prevent structural inequalities from being naturalized or converted into limitations of rights. In contexts in which groups have been historically displaced, marginalized or prevented from fully exercising their constitutional prerogatives, legal certainty acts as a critical mechanism for containing injustices and rebuilding material equality (SARLET, 2004).

It is taken into account that the realization of fundamental rights requires a hermeneutical reading committed to the maximum protection of the legal positions that express essential values of the constitutional pact, especially when related to the dignity and identity of vulnerable groups.

The duty of progressivity, associated with the prohibition of retrogression, imposes on the interpreter a posture that favors the preservation of civilizational achievements and strengthens the community dimension of fundamental rights. Such a panorama reinforces the understanding that the legal protection of traditional territories, cultures and ways of life is not only a matter of normative technique, but a substantial element of the very idea of the material rule of law, guided by justice, inclusion and plurality (SARLET, 2009).

From the point of view of indigenous peoples and support entities, this interpretation is perceived as radically iniquitous, as it disregards the history of violent expulsions, forced removals and compulsory displacements to which several communities were subjected throughout the twentieth century, especially during the Military Dictatorship. By requiring physical presence on the date of 1988, the time frame thesis tends to "legalize" the consequences of dispossession and massacres, ignoring the fact that, until the 1988 Constitution, indigenous peoples were under state tutelage and with severe limitations to claim their rights in court.

In the judgment of RE 1.017.365/SC, the Federal Supreme Court, by a majority of 9 votes to 2, rejected the time frame thesis, stating that the recognition of the right to lands traditionally occupied by indigenous people is not subject to this rigid time criterion and must observe, instead, the so-called indigenato theory, which recognizes the original character of indigenous territorial rights prior to the State itself. In addition, the Court established a thesis

of general repercussion determining, among other points, the possibility of prior compensation to individuals in good faith for the improvements or, in certain cases, for the value of the bare land itself, under a regime of procedural separation in relation to the demarcation process.

The definition of this thesis had intense repercussions in the political, legal and economic scenario. On the one hand, it was celebrated by indigenous organizations, social movements, and a significant part of the academic community as an affirmation of the constitutional commitment to the protection of native peoples and to overcoming an interpretation that crystallized historical injustices. On the other hand, it generated a strong reaction from agribusiness sectors and parliamentary groups that defend the time frame, culminating in the approval of Law No. 14,701/2023, which sought to inscribe in ordinary law the thesis already rejected by the STF and which is currently the subject of concentrated control of constitutionality.

The case of the time frame, therefore, is not limited to the strictly legal dimension of the judgment. It condenses a broader dispute over how to narrate national history, the place of indigenous peoples in Brazilian society and the very definition of economic development. The street demonstrations, public hearings, oral arguments and parliamentary clashes that followed the trial indicate that what is at stake is not only the technical design of demarcation procedures, but the dispute of social representations about indigenous land: whether it will be seen primarily as a productive asset to be integrated into the land market or as an original territory, inseparable from the cultural identity of the peoples who inhabit it.

It is precisely in this key, in which constitutional decisions are understood as moments of condensation and selection of meanings, that RE 1.017.365/SC presents itself as a privileged object for the application of the Weberian theoretical framework outlined in the previous section. Judgment can be reconstructed as a complex social relation, in which multiple actors guide their actions based on conflicting ideas of value, producing competing representations of indigenous land and fighting to inscribe them in the constitutional order.

#### **4 SOCIAL REPRESENTATIONS OF INDIGENOUS LAND IN THE STF JUDGMENT**

The "time frame" thesis was constructed as a restrictive interpretation of article 231 of the Constitution, according to which indigenous peoples would only have the right to the demarcation of lands that were in their possession on October 5, 1988, the date of the promulgation of the constitutional text, or that, on that date, were under proven physical or judicial dispute. This formulation, initially articulated in decisions and opinions related to the Raposa Serra do Sol case and later systematized in an opinion of the Attorney General's

Office, began to be claimed by agribusiness sectors and by the legislature as a criterion of legal certainty for rural property.

#### 4.1 SOCIAL REPRESENTATIONS OF INDIGENOUS LAND IN THE STF JUDGMENT

From the perspective of Weber's comprehensive sociology, the judgment of the time frame can be analyzed as a process in which different agents — ministers, lawyers, representatives of indigenous peoples, agribusiness entities, state agencies, civil society organizations — mobilize specific social representations of indigenous land, guiding their legal and political actions by certain ideas of value. The judgment and the individual votes function, in this perspective, as privileged records of these meanings in dispute.

#### 4.2 INDIGENOUS LAND AS AN ECONOMIC ASSET AND OBJECT OF LEGAL CERTAINTY

A first constellation of representations can be identified in the emphasis given, by certain discourses, to land as an economic asset, the basis of agricultural productivity and an essential element of the legal security of private property. In this view, the stability of property titles, the predictability of rules of use and the protection of long-term investments appear as central values, often associated with the idea of national development, job creation and international competitiveness of Brazilian agribusiness.

Such representations are not limited to the interior of the Court, but permeate unsuccessful votes, manifestations of *amici curiae* linked to the productive sector, technical opinions and parliamentary pronouncements. The time frame thesis, in this context, operates as an ideal type that intends to organize the complex universe of indigenous territorial disputes based on an objective "cut-off date", capable of limiting the exposure of rural landowners to future litigation. Indigenous land is thus represented primarily as a potential space for land conflict, whose recognition must be made compatible with the preservation of already consolidated property expectations.

From the Weberian perspective, this social representation of indigenous land corresponds to a set of ideas of value that, culturally situated, guide the action of certain status groups and are of interest to a specific economic order. The defense of the time frame, in this sense, expresses an effort to rationalize legal-formal material interests, transfigured into a language of legal certainty, stability of the legal system and legitimate trust in institutions.

#### 4.3 INDIGENOUS LAND AS AN ORIGINAL TERRITORY AND CULTURAL DIMENSION OF EXISTENCE

In contrast, a second constellation of representations emerges strongly in the majority position of the STF and in the manifestations of indigenous peoples, indigenous organizations, and part of the academic community. From this perspective, indigenous land is represented as an original territory, prior to the national state itself and a condition for the possibility of the physical and cultural existence of indigenous peoples. The reference to Article 231 of the Constitution, ILO Convention No. 169 and international human rights instruments reinforces a conception of territory as a space for social, spiritual and symbolic reproduction, inseparable from collective identity.

The votes that reject the time frame tend to emphasize the historicity of the indigenous occupation, the violence of the expulsion and removal processes, as well as the impossibility of taking the photograph of October 5, 1988 as a legitimate criterion for assessing original rights. Instead, they articulate the theory of *indigenato* as recognition of a special relationship between indigenous peoples and territory, which is not to be confused with the individualistic logic of civil property. The land, in this regime of representation, is not only an economic good, but a space of memory, ancestry and future.

In the light of comprehensive sociology, this second constellation corresponds to another configuration of ideas of value, equally rooted in historical experiences and specific worldviews. The representations of land as original territory guide the action of indigenous peoples and their allies, inform strategies for political mobilization, formulation of legal demands and evaluation of state decisions. In the STF's judgment, such representations are translated into legal-constitutional language, taking shape in categories such as "original rights", "traditionally occupied possession" and "cultural pluralism".

#### 4.4 DISPUTE OF IDEAS OF VALUE AND SELECTION OF REPRESENTATIONS BY THE COURT

What RE 1.017.365/SC shows, therefore, is less the opposition between "legal technique" and "politics" and more the dispute between divergent social representations of the same reality – the indigenous land – within a specific legal field. Culture, in the Weberian sense, appears here as an arena in which these ideas of value confront each other, seeking to impose themselves as legitimate guides of state action.

By rejecting the time frame thesis and affirming the theory of *indigenato*, the STF not only applies a set of constitutional norms, but selects and enshrines one of the constellations of representations in dispute. The majority decision attributes centrality to the ideas of value

associated with historical justice, the protection of minorities and the recognition of original rights, relegating to the background conceptions that fully subordinate the indigenous territory to the logic of the security of private property. In Weberian terms, it can be said that the court actively participates in the process of cultural filtering, conferring greater legal and political significance to certain worldviews.

This selection does not imply the elimination of competing representations, which continue to guide actions and manifest themselves in other arenas, such as parliament (in the approval of Law No. 14,701/2023), the market (in the resistance of agribusiness sectors) and the justice system itself (in new litigation and legislative initiatives). It means, however, the provisional establishment of a predominant meaning within the constitutional order, with effects on the way future cases will be interpreted, how public policies will be formulated, and how society will symbolically represent indigenous peoples and their territories.

From the point of view of legal-rational domination, the decision also contributes to legitimizing the STF's role as an instance that guards the Constitution in matters of indigenous territorial rights. By basing its position on systematic, historical, and principled arguments, the Court seeks to construct a sense of legal rationality that presents itself as impersonal and universalizable, even if, as Weber's analysis shows, it is rooted in specific ideas of value. The legitimacy of the decision will depend, to a large extent, on the ability of these "defeated" or "winning" representations to be recognized, contested or incorporated by the various groups that make up Brazilian society.

## 5 FINAL CONSIDERATIONS

The analysis of the judgment of Extraordinary Appeal No. 1.017.365/SC in the light of Max Weber's comprehensive sociology allows us to shift the focus from a strictly normativist reading to an approach that privileges the significant dimension of social action and relations between groups. Instead of seeing the decision of the Federal Supreme Court only as an application of constitutional provisions related to indigenous lands, the study developed here sought to show how it is inserted in a field of symbolic disputes in which different social representations of indigenous land are mobilized, confronted and selected.

Starting from the concepts of social action, subjectively represented meaning, culture and ideas of value, reconstructed in Weber's work and in secondary literature, it was possible to interpret the case of the time frame as an arena in which, on the one hand, a representation of land is affirmed above all as an economic asset and object of legal security of property, and, on the other, a representation of the indigenous land as an original territory and an essential dimension of the physical and cultural existence of indigenous peoples. These

constellations of meaning guide the action of different status groups, inform the formulation of legal theses, and structure competing narratives about history, development, and justice.

The examination of the votes and the thesis of general repercussion established by the STF indicated that the Court, by rejecting the thesis of the time frame and adopting the theory of indigenato, contributes to the selection and consecration of certain ideas of value within the Brazilian constitutional order. The decision reaffirms the centrality of the recognition of original rights, the protection of minorities and cultural plurality, tensioning strictly patrimonial conceptions of property and reorienting the way the State should relate to indigenous peoples and their territories. In this sense, the court acts as an instance of cultural filtering, conferring greater legal significance to certain worldviews and producing effects on the future configuration of public policies and litigation.

At the same time, the persistence of political, legislative, and economic reactions contrary to the STF's understanding — as evidenced by the approval of Law No. 14,701/2023 and the actions for control of constitutionality related to it — shows that the process of dispute of representations is far from over. Culture, in a Weberian key, remains a field of open conflict, in which the ideas of value associated with indigenous land continue to be affirmed, contested, and reinterpreted as new events, decisions, and mobilizations unfold.

From a theoretical point of view, the case of the time frame reveals the fruitfulness of a reading that articulates comprehensive sociology and constitutional jurisdiction. Constitutional courts are not only organs for the technical application of norms, but privileged spaces for enunciating, stabilizing, and transforming fundamental social representations of who we are, what kind of society we want to be, and how we deal with legacies of violence and inequality. By bringing Weber closer to the study of constitutional jurisdiction in indigenous matters, a promising field of investigation on the relationship between legal culture, legal-rational domination and struggles for recognition in contexts marked by colonial histories is opened.

Finally, the analysis proposed here suggests that understanding the STF's decisions on indigenous lands requires not only mastery of dogmatic categories of constitutional law and indigenous law, but also sensitivity to the ways in which different groups represent land, property, the State, and the very idea of Brazil. In this sense, the dialogue between social theory and constitutional interpretation does not appear as an academic luxury, but as an indispensable tool to think, in a reflective way, about the foundations and effects of the legal choices that shape the future of indigenous peoples and the Brazilian democratic order itself.

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