



An Extractivist War on Life: Legal and Political Manoeuvres to Enable the Advance of Agribusiness Interests in the Brazilian Amazon

Giovanni Martins de Araújo Mascarenhas¹

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Abstract

Most of Brazil's greenhouse gas emissions stem from land use, land-use change, and forestry and the clearing of areas for agrarian extractivism, with the Agriculture, Forestry and other land uses sector accounting for over 73% of Brazilian GHG emissions. The expansion of agrarian extractivism in the Amazon has been accompanied by efforts to capture democracy at regional and national levels. The agribusiness/agro model reproduces the colonial extractivist system and is centred on the production of commodities as a means to facilitate the accumulation of capital in the centres of power. In order to achieve this, the proponents of agrarian extractivism seek to co-opt democracy and legitimise appropriation by deploying policies and laws as instruments of violence. This article analyses the feedback system through which agribusiness/agro influences politics and how the legal framework is then used to enable and justify extractivist practices in the Brazilian Amazon. The conclusion here is that Brazil must change its policies with respect to non-allocated public lands within its Amazon, with the aim of creating or expanding conservation unit areas, demarcating and titling traditional peoples' territories, and pursuing land reform and forms of governance that promote a complex system of reproduction of life, not capital.

Keywords Colonialism · Brazilian Amazon · Land grabbing · Deforestation · Agrarian law

✉ Giovanni Martins de Araújo Mascarenhas
giovannimascarenhas@gmail.com

¹ Research Institute For Sustainability (RIFZ/GFZ-Potsdam), Potsdam, Germany

Introduction

Brazil is the world's seventh largest greenhouse gas (GHG) emitter¹ (UNEP 2022) with most of its emissions stemming from Land Use, Land-Use Change, and Forestry (LULUCF) and agriculture and cattle farming. In 2021 (the last year for which data was available for this study), these two sectors accounted for over 73% of Brazil's total GHG emissions (SEEG 2022).

Given that agriculture, cattle farming and other land uses all require managed lands, the LULUCF and agriculture and cattle farming sectors can be bundled together as 'Agriculture, Forestry and Other Land Uses' (AFOLU). Activities in this sector can act as CO₂ sinks (afforestation, management for soil carbon sequestration), but also result in CO₂ emissions (deforestation), and non-CO₂ emissions (CH₄ from livestock, N₂O from manure storage, and agricultural soils and biomass burning) (Smith et al. 2014).

Deforestation is the largest source of GHG in Brazil and the main driver of increasing deforestation is the expansion of extensive agriculture and cattle farming activities (Pompeia 2021). Biomes such as the Cerrado, Pantanal, and the Amazon² are currently seen as agricultural frontiers or barriers for the expansion of agriculture and cattle farming (Mascarenhas et al. 2020). Thus, one third of all natural vegetation loss in Brazil (since the arrival of the Portuguese ships) has occurred over the last 37 years, with the Amazon losing 11.5% of its natural vegetation in this period) (MapBiomias 2022).

Nonetheless, the connection between LULUCF and agriculture and cattle farming goes beyond the concept of managed lands, as land-use change, especially through deforestation, is used to open spaces for croplands, cattle farming, and even mining. Thus, LULUCF and the agriculture and cattle farming sectors, as well as the AFOLU concept, cannot be solely understood as sectors of GHG emissions, as they constitute integral parts of the production system that intertwines them: the extractivist mode of production and accumulation.

Extractivism entails the removal of large volumes of naturalness³ (which is transformed into 'natural resources' through its extraction), with little or no processing, for export to the central capitalist countries (Acosta and Brand 2018). It entails the exploitation of different forms of naturalness, resources, and landscapes, including minerals, gas, fisheries, forestry, and farming,⁴ and reproduces the colonial logic in which Brazil is posited as an empty space ripe for exploitation, for the destruction of territory, livelihoods, cultures, and knowledge in order to facilitate the export of

¹ This data counts the EU 27 as one single emitter. Furthermore, in per capita GHG emissions, Brazil sits fourth highest (UNEP 2022).

² The Amazon is not only crucial to climate protection, but also a treasure trove of biological, social, cultural, and linguistic diversity (Clement et al. 2021).

³ The use of the term *naturalness* is a conscious choice to avoid using the more common terminology 'natural resources', as the latter tends to oversimplify the complexity of the debate over what nature is and places nature itself as a provider of goods with economic value. For more on this debate, see Clement et al. (2021).

⁴ See Acosta (2013).

commodities to central economies (originally the European metropolises, and subsequently the US and China), where the devastation of nature in the Global South contributes to the accumulation of capital.

This unequal exchange has two very different implications: on the one hand there is the socialisation of losses and negative externalities in the primary-exporting country to the detriment of social, cultural, and environmental systems. On the other, there are the benefits generated by extractivist economic activities which flow to the importing nations, where imported commodities are processed for higher-value products, creating added value (Acosta and Brand 2018).

Following this dual logic of extractivism, the legal framework imposes itself through different paradigms on each side of the extractivist model of production and accumulation, as.

the ‘abyssal’ cartographical lines that used to demarcate the Old and the New World during colonial times are still alive in the structure of modern occidental thought and remain constitutive of the political and cultural relations held by the contemporary world system (Santos 2007).

On ‘this side of the line’, where looting becomes accumulation, the legal framework follows the paradigm ‘regulation/emancipation’ (Santos 2007). Meanwhile, ‘on the other side of the line’, where the looting leaves its losses and externalities, the legal framework follows the paradigm ‘appropriation/violence’⁵ as exploitation is justified by an understanding that ‘on the other side of the line’ ‘there is only inexistence, invisibility and non-dialectical absence’ (Santos 2007).

The extractivist logic of looting, expropriation, and accumulation is not limited to the exploitation of nature, as it constitutes a pattern of power that structures, organises, and regulates social life as a whole around appropriation and the oligarchic exploitation of naturalness, including those human bodies used for labour. In this regard, the ‘appropriation/violence’ paradigm is imposed against the territories through different legal and political manoeuvres, creating spaces where extractivist interests become the rule, legitimising and regulating the maintenance, deepening, and advancement of extractivism.

This extractivism demands the development of legal discourses and the development of administrative and judicial institutions to provide and secure its legitimacy (Araóz 2020), it demands the expansion of territorial and symbolic fronts through new mechanisms of ecobiopolitical expropriation. In this context, this article aims to analyse how the interests behind agrarian extractivism influence the Brazilian legal framework by pushing an ‘abyssal line’ which divides two opposing States of Law in Brazil in order to enable, legitimise, and justify the advance of agrarian extractivism.

This article also considers the new *front* against which agrarian extractivism is advancing: the Brazilian Amazon. It analyses a specific law, which is an important

⁵ Santos (2007) highlights that ‘appropriation and violence take different forms along legal and epistemological abyssal lines, but in general appropriation involves incorporation, co-optation and assimilation, while violence implies physical, material, cultural and human destruction’.

instrument of the *Agro State of Law* in the Amazon, responsible for violating the general rule of law by creating exceptions to it. The focus here is on two legal rules which are subverted to facilitate the promotion of agrarian extractivist interests: the first is the Paragraph 3 of Article 183 of the Brazilian Constitution, which states that public real estate cannot be subject to adverse possession⁶; and the second is Paragraph 4 of Article 225 of the Brazilian Constitution, regulated by the Article 26 of the Forest Law, which dictates that any suppression of native vegetation in the Amazon forest area depends on the prior acquisition of a license.⁷

This article is developed in four parts. The first is focused on agrarian extractivism itself and explores the interests which underpin it. The second contrasts those interests with the idea of democracy, outlining how law is used to advance both looting and accumulation. The third part presents the Amazon as a battlefield and portrays the historical processes of land looting and appropriation in the region. Finally, the fourth part analyses Law n° 13.465/2017, the so-called ‘land tenure regularisation law’, a mechanism of the *Agro State of Law* responsible for overruling the protective rule of the law and for legitimising the takeover of the Amazon by agribusiness/agro.

The approach here is a qualitative one, in which public policies are understood as unstable and contingent outcomes of disputes between different political and social actors (Brand 2016). As such, this article aims to contribute to ongoing disputes in Brazil, reinforcing the need for changes aimed at climate, environmental, biodiversity, cultural, and social protection.

Understanding the Interests at Play: Agrarian Extractivism

Scholars have tackled extractivism from different perspectives and have defined different variants (neo-extractivism, agrarian extractivism, green extractivism and others), delimiting their analyses with respect to the resource type, its specific effects, and/or the role of the State. This article focuses on *agrarian extractivism*, which is characterised by the intense demand for naturalness and high land-use change for cattle farming and the production of crops, producing commodities with little or no added value. Furthermore, agrarian extractivism is highly dependent on the use of machinery, biocides,⁸ and trans-genetically modified organisms ‘leading to stark

⁶ Para. 3, Art. 183 of the Brazilian Constitution states that ‘Public real estate shall not be acquired by adverse possession’ (Brazil 1988).

⁷ Para. 4, Art. 225 of the Brazilian Constitution dictates that ‘The Brazilian Amazon Forest, the Atlantic Forest, the Serra do Mar, the Pantanal Mato-Grossense and the Coastal Zone are national heritage, and their use will be made, in accordance with the law, within conditions that ensure the preservation environment, including the use of natural resources’ (Brazil 1988). Furthermore, Art. 26 of the Forest Law (n° 12.651/2012) states that ‘The suppression of native vegetation for alternative land use, both in the public domain and in the private domain, will depend on the registration of the real state in the CAR (Rural Environmental Registry), dealt with in art. 29, and prior authorization from the competent state body of the Sisnama (National Environmental System)’.

⁸ Rachel Carson (2010) explains that pesticides, herbicides, and insecticides should all be named ‘biocides’ as their effects are not limited to individual species and ‘bombing poisons on the surface of Earth [makes it] unfit for life’.

socio-economic and environmental changes with a much more extractive character' (McKay 2017).

Agrarian extractivism is considered the 'progress of capitalist agriculture' as a means of production of commodities and capital accumulation. Additionally, 'any progress of capitalist agriculture is [also] the progress of appropriation', as it combines techniques of appropriation of the two natural sources of wealth: *land* and *labour* (Araóz 2020).

Capitalist agriculture is mainly known as *agribusiness* or, in Brazil, *agro*.⁹ This change (from agriculture to agribusiness and then to *agro*) is not limited to semantics: first agriculture was transformed into agribusiness, with the purpose of showcasing technology, development, and modernity. 'Agribusiness', however, was a concept that ended up creating a sensitive distinction between modern capitalist agricultural methods (monocultures with high levels of input use) and traditional and family farming. The creation of this distinction between agribusiness and traditional agriculture was harmful to agribusiness, because it pursues universal acceptance and the encompassing of traditional agriculture, transforming traditional farmers into paid workers and using their lands for the expansion of agribusiness. Thus, the solution found was to remove the 'business' element, creating 'agro', a broad and generic concept that seeks to encompass and to claim for itself all forms of producing and living in the countryside (Pompeia 2021). As Malheiro¹⁰ puts it: the so-called 'agro' removed culture from the word agriculture and put business in its place. Then, it was replaced by 'agro', as 'it was better to kill culture without ever saying that it was killed'.

Agribusiness/*agro* extends beyond the exploitation of the land and the transformation of farmers into paid workers for its pursuit of capital accumulation: it deprives farmers of their know-how, their knowledge, their culture. It creates obstacles to knowledge access, enclosing culture with production through intellectual property in agricultural methods—the 'enclosure of the commons of the mind' (Dardot and Laval 2017). By moving agriculture away from traditional farming methods and fostering dependence on imported grains and biocides, *agribusiness* guarantees corporate profits. The scientific knowledge created in laboratories and exported as *solutions* for non-existent agricultural problems is commercialised as *intellectual property* and its application must be paid for (Gonçalves 2004). All of this establishes a system of debt and a deepening dependence on imports of (biocide resistant) seeds and biocides produced by multinationals from the Global North (Mascarenhas et al. 2020).

The control of capitalist agricultural processes by corporations is the hallmark of the *corporate food regime*, which is dedicated to securing transnational routes of capital and commodities and to transforming small/family farmers into paid workers (McMichael 2016). In the context of the corporate food regime, agribusiness/*agro* appears to be governed by corporations and their capital greed (Pompeia 2021): *the modes of production and flows are not determined by a democratic system or by the*

⁹ See Caio Pompeia (2021).

¹⁰ Personal Communication 2022.

needs of the population, but by the interests of capital accumulation. Nations here do not govern food/commodities markets, but instead serve those markets, and local powerful rulers become ‘rulers of alien powers’ or ‘ventriloquists of the voice of authority that comes from above, from outside’ (Araóz 2020).

Corporations, whose interests are voiced by local powers, are guaranteed the largest share of the profits by controlling and enclosing the means of production of commodities. This agribusiness/agro system, built and controlled by big corporations, constitutes a model characterised by ecosystem degradation, monoculture expansion, biodiversity annihilation, deforestation, land grabbing, and the intensive use of pesticides and fertilisers, marked, on a global scale, by GHG emissions from AFOLU and transportation (Svampa 2019).

Under this model, enclaves emerge which isolate the exporter system from the rest of the economy, generating profit¹¹ and rents that are held in the hands of very few international corporations and local capital elites (Acosta 2013). It further creates a denationalisation of the territory, as the economy’s productive system becomes dependent on and controlled by foreign capital, specifically by large corporations from central economies (Araóz 2020).

As agribusiness aims to generate revenue through the production of commodities rather than food (Bombardi 2017), hunger problems are exacerbated. Brazil, for example, is the largest exporter of beef globally (along with numerous other commodities), and yet 33.1 million Brazilians live in hunger (Penssan 2021).

Agrarian Extractivism in the Amazon

In recent decades, the Amazon has become a target of irregular/illegal occupations and invasions directly linked to agribusiness/agro production (Acosta 2015), leading to significant deforestation. The agribusiness/agro dynamic of transnational capital and corporate control advances against the Brazilian Amazon and thrives on the deforestation and overexploitation of the environment (Pompeia 2021).

¹¹ The revenues generated by the agribusiness/agro system are used to justify its perpetuation and expansion. Arguments praising the impacts of agribusiness/agro to the Gross Domestic Product (GDP) are still used to support the claim that the country depends on the maintenance of this system. Nonetheless, the impacts of this system on GDP represent a form of ‘impoverishing growth’, where the immediate economic gain of the sale of commodities delivers momentary economic growth, while producing deep and lasting structural impoverishment (Araóz 2020). The profit generated by the agribusiness/agro system stays within the system, not reaching other segments of the population. The economic impact to the GDP doesn’t benefit the population as a whole, as argued by those linked to the agribusiness/agro sector, based on an inexplicable trickle-down economics according to which everyone would somehow benefit from the enrichment of a few (Stiglitz 2015). Furthermore, claims highlighting the sector’s contribution to Brazil’s GDP wilfully ignore the public costs generated by agribusiness/agro. This burden is imposed on the public, alongside numerous socio-environmental externalities, and includes costs related to the rescheduling, renegotiation, and cancellation of the sector’s public debts, subsidised low-interest credit, inefficient collection of territorial taxes, tax waivers, and tax exemptions as well as different forms of ‘public money that is invariably not accounted for when publishing the sector’s results’ (Chã 2016).

Corporations here take on a structural role in the advances of agribusiness/agro against the Amazon through a dynamic marked by a sequence of land hoarding, real estate speculation, deforestation, and conversion of former forest lands into pastures or agricultural lands. The active participation of these large corporations¹² in the expansion of agribusiness/agro in the Amazon ‘makes it possible to connect their more localised processes, such as land appropriation and organisation of production and marketing, with the circulation of products on a global scale’ (Malheiro et al. 2021). In this path of destruction, the Amazon is seen as a *battlefront* of agribusiness/agro, as it ‘designates the space in dispute, the war’ (Malheiro et al. 2021).

The advances of the agribusiness/agro model in the Brazilian Amazon reflect colonial notions within which the Global South is nothing but a space for appropriation in order to generate profits for actors in the Global North, supported by a few economic powers who are financially favoured in the South. The role of a provider of agricultural commodities to international markets is ‘the place reserved for Brazil in the world organisation of capital’ (Chã 2016), as its dependence on exports is the basis for the maintenance of its peripheral and colonial condition.

Agribusiness/agro and other extractivist policies impose on Brazil an unsustainable development model that combines extraordinary profits with the destruction of territories and the dispossession of populations (Svampa 2019). The resulting combination of profits and poverty, accumulation and dispossession, macro-economic growth, and the disruption of local ways of living exemplifies the so-called *paradox of plenty*, according to which those countries that are rich in naturalness often seem *fated* to remain miserable.

But the extractivist model of production and accumulation is not a matter of fate, rather it is a choice made by the ‘ventriloquists of alien power’, who represent the interests of agribusiness/agro corporations in Brazilian politics. Supported by transnational capital, extractivist relations tear democratic plans to shreds, and put communities at risk by destroying local knowledge and leaving social and environmental liabilities as its inheritance (Acosta 2013).

Governed by capital, agribusiness/agro contradicts the very idea of democracy, overshadowing notions of popular sovereignty and of basic rights (Araóz 2020). In this context, the perpetuation and expansion of agribusiness/agro demands the co-optation of democratic mechanisms for its legitimisation.

¹² ‘Thus, it is not possible to think about the expansion of soy in the Amazon without considering the structuring role of the giants in the supply of seeds and inputs, such as Bayer/Monsanto, Syngenta, Basf, Dow Chemicals, Du Pont or trading companies such as ADM, Bunge, Cargill, Louis Dreyfus. Nor is it possible to think about the expanding livestock without the structuring power of slaughterhouses linked to JBS and Marfrig’ (Malheiro et al. 2021).

The Agro State of Law: The Use of Law to Justify Deepening Extractivist Praxis

In the extractivist logic, accumulation by expropriation translates into political expropriation in such a way that the perpetuation and deepening of extractivist praxis demands the development of legal discourse and technical, legal, and administrative institutions (Araóz 2020). The legitimization of extractivism involves the development of a legal system capable of legitimating the political action of institutionalising extractivism and advancing the interests of agribusiness/agro.

Mascaro (2014) explains the importance of the use of the legal system to support capitalist praxis:

law is not a historical product of the best conscience of the jurists, nor of the best elaboration of concepts. In fact, law is constituted by the historical necessity of capitalist productive relations to establish certain instances of the reproduction of the system.

In an extractivist-driven society, ‘the State functions not only as a legal producer of the political conditions of the profitability of companies, but also assumes itself as guarantor that such conditions will not be modified’ (Araóz 2020). The State has long been ‘an active agent in the construction of markets’ (Araóz 2020) legitimising through law, policies, and discourse different waves of appropriation of the wealth and of violence against those who stand in the way of the market’s avidity for profit. Influenced by the rulers of alien power, the State hinders democracy and bends policies and legislation to the interests of capital accumulation, consolidating relationships of domination and giving them continuity (or actively working for these relationships to transform them into new more convenient arrangements) (Brand 2016).

The use of law—and political, administrative, judicial, legislative, executive acts—for the reproduction of the capitalist system is an important tool in the extractivist and capitalist ‘war against life in the Amazon’ (Malheiro 2022), as the invasion of the Amazon by agrarian extractivism reveals subterranean practices that ‘dismantle the meanings of support for the very idea of democracy’ with what seems to be a permanent State of Exception¹³ under which basic rights are suppressed, hindering environmental, climate, biodiversity, and social protection (Malheiro et al. 2021).

However, the reality of the advance of agribusiness/agro in Brazil goes beyond the concept of a State of Exception. It is, in reality, the engendering of a parallel concept of legality, to be applied to specific areas, landscapes, and populations, specifically generated to enable the deepening of extractive logic. Moreover, this parallel concept of legality extends beyond mere legality: it is put in place by a machination of economic and political interests, and it is supported by a complex cultural

¹³ The concept of State of Exception (Agamben 2004) is here understood as the form through which the Democratic State of Law becomes regulated not by law itself, but by the exceptions created within its own framework. Thus, what is considered here to be a State of Exception is not a creation of a formal suspension of the rule of law, but the implementation of different mechanisms through which law is not enforced or includes in itself its suspension, its exception, or limits its own effectiveness or scope.

industry aimed at transforming agribusiness/agro interests into the common beliefs and common objectives of the State.

Thus, this parallel legality is just one (albeit an important one) of many other elements that are organised to provide support for agribusiness/agro interests and to proliferate them throughout society and state apparatuses. In this way, due to the quantity and complexity of elements that are organised for this purpose, one can perceive the engendering of a parallel State of Law, in which all its technical, administrative, legal, and cultural apparatuses are aimed at institutionalising extractivism: it is the Agro State of Law.

In the political sphere, this Agro State of Law organises itself in such a way as to place representatives of agribusiness/agro interests in the most relevant spaces of power (local, regional, or national), as ‘the history of the agribusiness lobby in Brazil is, first and foremost, a history of privileged access to the spaces of power’ (De olho ... 2022). At the national level, the Ruralist Bench, formally constituted as the Agricultural Parliamentary Front (FPA), is the largest organised group of parliamentarians in the Brazilian parliament and is composed of politicians who ‘assume, without constraining, the defence of the [rural/agribusiness/agro] caucus’s claims, not only in plenary sessions and in committees, but in interviews with the press and in plenary demonstrations’ (DIAP 2006). The FPA is the strongest lobby group in the Brazilian Congress; it controls nearly half the seats in both the Chamber of Deputies and the Federal Senate (De olho ... 2022). This group of representatives, united through various agribusiness/agro economic interests, works to dismantle policies that aim to protect the climate, social groups, biodiversity and nature, supported by multinationals and some of the largest Brazilian corporations.

Analysing the flow of interests between politicians and agribusiness/agro companies, the report ‘The Financiers of Destruction: how multinational companies sponsor agribusiness lobby and sustain the dismantling of socio-environmental regulation in Brazil’ outlines how agribusiness/agro organises itself through its corporations in order to maintain, perpetuate, and deepen the agrarian extractivist model in Brazil (De olho ... 2022). The report focuses on agrarian extractivist lobbies, corporate efforts to influence political decision-making processes in Brazil, and the influx of capital that supports ‘the dismantling of socio-environmental regulation in Brazil’ (De olho ... 2022). It illustrates how FPA politicians work to advance the interests of companies ‘who were responsible, at the time,¹⁴ for 22 of the 50 biggest agribusiness companies operating in the country: Bayer, Basf,¹⁵ BRF, JBS, Syngenta, Bunge and Cargill’ (De olho ... 2022).

In the social sphere, the Agro State of Law organises itself and diffuses its interests throughout the population via a complex cultural industry designed to generate acceptance and construct an ideology around the importance of agribusiness/agro. It

¹⁴ Until 2019.

¹⁵ BASF has acknowledged the ‘double standard’ it adopts in Europe and countries in the Global South, exporting agrochemicals that are illegal in Europe to countries in the Global South and influencing through lobbying and financing their legislation, specific mentioning Brazil as an example in a shareholder meeting (BASF 2022).

encompasses groups of media, national and local press, radio and television—all of which are systemically identified with the ‘ideological formation of agribusiness’—responsible for manipulating perceptions and generating new ones, distributed through the population not only through marketing, but via journalistic articles and soap operas as well. In this way, mass media has gone far beyond mere marketing and propaganda to manipulate and spread ideas about agro/agribusiness. When it comes to journalism, the effects of this cultural industry range from the selection of themes to the perspective through which they are portrayed, while in the field of fiction, the tactic is generally that of inserting ideological propaganda into the plot of soap operas in such a way that the ideological propaganda is diluted by the narrative, catching viewers in the moment they find themselves disarmed of any critical filters they may have when watching television (Chã 2016).

Beyond the use of mass media, the insertion of advertisements, the manipulation of journalism, and the insertion of inbound marketing antics into television programmes, the Agro State of Law also relies on the strategic use of *educational actions* and *cultural events*¹⁶ to disseminate its ideology. These *educational actions* range from the provision of single courses to the commission and distribution of educational materials such as books to school children. *Cultural events* here include concerts, exhibitions, and events aligned with agribusiness/agro used to generate further acceptance for the sector. While exhibitions depict the sector as technological and modern, concerts foster identity and identification across different age groups (Chã 2016).

In the legal and administrative sphere, the Agro State of Law is organised in such a way as to modify the legal framework so that it reflects its interests and world view. In cases where agribusiness/agro interests face resistance capable of preventing formal changes to legislation, the administrative sphere is steered to enable only the implementation and enforcement of laws and policies that favour agribusiness/agro, leaving laws and policies that are contrary to it in a space of oblivion.

Finally, the Agro State of Law also focuses its interests spatially. Thus, despite having tentacles in the formal political, administrative, and judicial structures of the Brazilian state as a whole, the Agro State of Law defines spaces of interest, frontiers (or fronts) for agribusiness/agro expansion, fixing policies, and arranging legislation to enable and justify those specific advances.

In this agro-capitalist project of the Agro State of Law, the Amazon is not a place of life, of biodiversity, and of different forms of knowledge and ways of living, but rather a space of interest. It is a place to be taken over and ruled by the Agro State

¹⁶ Both *cultural events* and *educational actions* had government support via tax waivers. Through the Rouanet Law (Law n° 8,313 from 1991), the government admitted up to 100% of tax waivers (of up to 6% of the income tax) in cultural actions promoted by the companies in such a way that ‘the Rouanet Law becomes an unbalanced partnership [between State and private initiative]’ as ‘who has the final word is the marketing department of private companies’ (Valor Econômico 2015).

of Law, inserted into the ‘necropolitics’¹⁷ (Mbembe 2008) in which this state may decide how to confront its opposition.

This creation of the Agro State of Law, the use of the legal framework to legally support the war against life in the Amazon, reconstructs the abyssal line described by Santos (2007), which divides the world into colonies—places for looting and extraction—and metropolises, where the looting becomes hoarding and accumulation. Although Brazil, as a former colony, is already situated on *the other side of the line*—which is representative of different relations, such as the persisting international division of labour—the Amazon is the ‘periphery of the periphery’ (Acosta 2015), subjected to a logic of internal colonialism.¹⁸ It is on *the other side of the line* to the centres of capital accumulation in Brazil. Thus, to the destructive logic of extractivism, the Amazon is seen as a place where ‘there is only inexistence, invisibility and non-dialectical absence’ (Santos 2007). It is understood as a *zone of indifference*.¹⁹

The willingness to manipulate law and disrespect rights in spaces of agribusiness/agro interest comes from the desire to generate profit and the logic of capital accumulation marked by ‘legal certainty for investors and repression of populations’ (Araóz 2020). To do so, instruments of the Agro State of Law are put in place as mechanisms for adjusting the population and different forms of life in line with economic movements (Malheiro et al. 2021).

Domination has to be justified through the accepted forms of knowledge production, and the manipulation of law confirms that ‘it is necessary for those who dominate and want to continue dominating to appropriate the production of ideas to interpret and justify everything that happens according to their interests’ (Souza 2019). In this regard ‘law, like ideas, becomes an historical force when it cements society and economy together, binding subordinate groups to the interests, purposes and beliefs of the dominant class’ (Cutler 2005).

In this context, the current wave of appropriation/violence by extractivist forces against the Amazon is a joint effort by private forces and public power (Dardot and Laval 2017). The Agro State of Law acts through ‘a concerted policy machination that targets conservation areas, quilombola communities, indigenous territories’ in order to ‘consummate the deprotection of as much public lands as possible’ with the objective of transforming public lands into private lands, forested lands

¹⁷ Necropolitics assumes that ‘the ultimate expression of sovereignty resides, to a large degree, in the power and capacity to dictate who may live and who must die’ (Mbembe 2008). According to this understanding, ‘to exercise sovereignty is to exercise control over mortality and to define life as the deployment and manifestation of power’ (Mbembe 2008), a logic that perfectly suits that of internal colonialism through the definition of *zones of indifference* ‘inhabited by living beings that have a killable life’ (Malheiro 2020, p. 79).

¹⁸ It is also worth mentioning the applicable concept of auto-imperialism, of ‘a country conquering itself, invading itself’ (Moser 2016).

¹⁹ That is, a ‘region inhabited by living beings that have a killable life, in which death is not considered a crime or sacrifice, as it is excluded from the world of law and the divine world, which makes it possible to subject life to a power of death, a biopolitics that justifies the state of exception as a rule’ (Malheiro 2020).

into non-forested-lands, and to ‘make the land “productive” for entrepreneurs of agribusiness, mining and real estate speculation’ (Kopenawa and Albert 2015).

Advancing agrarian extractivism against life in the Amazon means the insertion of the practices of capitalist agriculture into the Amazonian territory. In this context, the occupation and titling of properties in the Amazon is of great importance. Disputes over land and over land titles in the Brazilian Amazon juxtapose two different models of civilization: one represented by the ancestral knowledge of Amazonian traditional peoples, and the other represented by the urge to insert bodies and spaces into the capitalist logic of production, dispossession, and accumulation, inserting the Amazon—and its multiplicities—into the capitalist logic of commodity monocultures ‘transforming regional diversity into a void: of people, technic and politics’ (Malheiro 2020).

The Battlefield: Creating Irregularities and Advancing Capitalist Agriculture Against the Amazon

Unallocated public lands²⁰ in the Amazon are the main focus of the conflict between the extractivist model and the preservation of ancestral ways of knowing, doing, and living. These are lands interpreted under Brazilian law as public, unoccupied, and lacking any specific allocation (such as the allocation for the creation of parks, conservation units, or the demarcation and titling of territories of traditional peoples).

The Amazon has 56 million hectares of forest on unallocated public lands (Moutinho 2023). Unallocated lands are the preferred target for land hoarding as the allocation of land to a specific purpose or use poses an obstacle for the subsequent recognition and regularisation of any use different from that specified. As a consequence, unallocated public lands are frequently targeted by land grabbers and deforesters for extractive exploitation and real estate speculation. In the period 2016–2020, one third of all deforestation in the Brazilian Amazon unfolded on unallocated public lands (Alencar 2021).

The appropriation and exploitation of unallocated public lands unfolds across two operations (that don’t necessarily proceed in this order): one operation consists in transforming the forested land into non-forested land through deforestation. The other operation is the ‘great transformation’ of the status of the land from the condition of *public land* to that of *private land* (Costa 2022).

These transformations are driven by economic interests: first, the conversion of forested lands into non-forested lands in itself creates a speculative real estate market, as deforested land has a higher market value due to its suitability for the cultivation of monocultures and cattle ranching (Costa 2022). Second, the transformation

²⁰ During the colonisation process, the Portuguese law of Sesmarias was applied to Brazilian territory through the Foral Letter (1531) and justified the Portuguese advance over the lands by interpreting all land as being unproductive and unoccupied, in an act of violence against the different forms of occupation that already existed long before the arrival of the Portuguese caravels (Marés 2003).

of lands for the production of commodities encourages a speculative real estate market (Conceição 2021).

Curbing the irregular occupation, tenure, and allocation of lands in the Amazon is, therefore, crucial to fighting deforestation (and for fighting for climate, social, cultural, and biodiversity protection) in Brazil. And it is not only the case that substantial areas of unallocated public land are threatened by illegal occupation, various policies have also been enacted to recognise illegal/irregular occupations in the region, rewarding invaders with ownership titles for previously unallocated public lands.

In this context, the first period of expansion in the conversion of public lands and the transformation of forest into deforested private lands coincides with the business-military dictatorship in Brazil. In the decades of 1970 and 1980, the Brazilian dictatorial government gave incentives for people from different regions to go to the Amazon in order to occupy (allegedly empty²¹) territory and *develop* the region as part of a policy that viewed the Amazon as something separate from Brazil proper that needed to be ‘integrated not to be handed out’²² (De Souza and Carodi 2019). This notion of the Amazon as a void that must be occupied in order to be protected from other countries reflected the dictatorship’s geopolitical understanding of the region. This was facilitated through incentives created under the National Integration Program (PIN) and other Integrated Colonisation Projects that sought to *fix* what was seen as a *problem*: populational surpluses in other regions (especially in the South and North-East) and the existence of unallocated public lands in the Amazon (Mathias-Pereira 1997).

In the same period (1970s and 1980s), the *green revolution*²³ resulted in an increased availability of rural labour as a consequence of mechanisation. The creation of this surplus population, which was effectively expelled from other regions following the adoption of *modernised* rural production processes, led to an increase in the flow of migrants seeking to benefit from the Colonisation Projects and Integration Programmes initiated by the business-military regime (Mathias-Pereira 1997). The growing demand for land in the region, coupled with new opportunities to gain ownership, increased its economic value and fuelled a massive expansion of the speculative real estate market (Mathias-Pereira 1997).

With the number of migrants far surpassing the capacity of these colonisation projects, this haphazard process of occupation led to a range of social and environmental problems that could only be addressed through the *regularisation of*

²¹ It is important to note that the business-military dictatorship saw the Amazon as a ‘green hell’, a place that should be tamed and destroyed to open spaces for profit, as advertisements run by the government show: < <https://quatrocincoum.folha.uol.com.br/br/galerias/a-ofensiva-da-ditadura-militar-contra-a-amazonia> >

²² This is in reference to the slogan ‘integrar para não entregar’ used by the business-military dictatorship.

²³ The ‘green revolution’ is based on a narrative that favours capitalism and the production system on which it relies. It is based on productivity gains stemming from the use of new technologies such as seeds, fertilisers and biocides. The ‘green’ is set out to contrast the Bolshevik (red revolution) and the white revolution, creating a legitimising element for the US government to push the use of biocides and transgenic seed in countries within its influence in the context of the Cold War (Pompeia 2021).

land tenure, in other words: the formal recognition of extra-legal occupations that occurred in the context of government campaigns for the ‘development’ of the Amazon.

Nonetheless, policies and laws have emerged of late that detach the need for land tenure regularisation from the context of the colonisation process and consequently assent to the regularisation of illegal invaders who hoarded state-owned forest land even in recent years. In contrast to the occupation/invasion process of the 1970s and 1980s, these recent invasions are unmistakably marked by bad faith: there aren’t open incentives for new invasions and it is well known that invading areas of the Amazon region is now (and has been for decades) illegal. Thus, the problem with land tenure regularisation in the Amazon arises from the fact that *regularisation policies add decades to the period during which invasions might somehow be justified* by the *good faith* of people who were encouraged to move to the region by government policy.

The demands of those irregularly and illegally occupying lands in the Amazon found support in a recent legal conjuncture set to deal with the matter of invasions that took place illegally and criminally many years after the described occupation process.²⁴ Regularising invasions which happened detached from the context of governmental incentives is part of a logic for advancing extractivist activities into new territories, as it retrospectively legitimises—via the legislation—the actions of those invading lands in the Amazon and grants these individuals the right to continue *economically exploiting* illegally invaded lands.

On this subject, Marcelo Brito²⁵ argues that.

It has been a century since Brazilian lands have been *griladas*,²⁶ that is, they are stolen, they are incorporated by professional thieves, which is what is happening at the moment in the process of deforestation in the Amazon

and concludes that ‘we sadly see the national congress, from time to time, enacting new land regularisation laws and amnestying thieves who took over public property’ (Tempo Quente 2022). Brito highlights that this legislation has been used to provide legal cover for the looting of public lands in Brazil, in what is called here the Agro State of Law, constituting a dynamic in which inserting new territories into the capitalist logic is more important than legality itself.

²⁴ Examples of this are Law n° 13.465/2017, Provisional Measure n° 910, and Law Projects ° 510, from 2021 and n° 3915, from 2021.

²⁵ Marcelo Brito is a former president of the ABAG (Brazilian Association for Agribusiness), which is an important association for corporate agribusiness/agro interests and a part of the Thinking Agribusiness Institute (IPA). The IPA is the formal association responsible for filtering the agribusiness/agro sector’s demands and steering them to deputies and senators who make up for the aforementioned FPA (De Olho... 2022).

²⁶ The term ‘land grabbing’ refers to the acquisition of land by means of irregular practices. Grilagem, on the other hand, is a more specific term for *illegal* practices of occupying and illicitly obtaining the land property title (Sauer and Borrás Jr 2016). Thus, throughout this study, terms like land appropriation, hoarding, looting, and others are used with the goal of highlighting also the process through which land is appropriated.

In this context, it is worth noting that data collected since the end of the business-military dictatorship shows that pasture areas in the Brazilian Amazon increased by 190% between 1985 (the year in which the business-military dictatorship ended) and 2021, and the area used for agriculture increased by 1024% in the same period. Thus, at the end of 2021, anthropic land use (which includes agriculture, cattle farming, infrastructure, and mining) already occupied 19% of the territory of the Brazilian Amazon (MapBiomass 2022).

These advances of the agribusiness/agro front are justified by the various mechanisms of the Agro State of Law. The most recent and important of those mechanisms is the change to rural tenure regularisation in the Amazon, on a federal level, which was brought by the Law n° 13.465/2017, as a result of the confirmation and sanction of the Provisional Measure²⁷ n° 759/2016.

The Use of the Agro State of Law to Advance Agrarian Extractivism in the Brazilian Amazon

Law n° 13.465/2017 is an important product of the Agro State of Law and is used to legitimise the private appropriation of illegally occupied non-allocated public lands in the Brazilian Legal Amazon.²⁸ It benefitted and conferred amnesty on persons who had invaded lands situated within the Amazon. To understand the interplay of interests behind the political process responsible for enacting the Law n° 13.465/2017 it is important to first understand the context in which Provisional Measure n° 759 was adopted.

This measure was adopted in a moment of political instability in Brazil: on 31 August 2016, Dilma Rousseff (the 36th president of Brazil) was impeached, and Michel Temer assumed the office. The new president was already under investigation for corruption himself, and was formally accused by the Federal Prosecutors Office in June 2017. The legal procedure here requires that the Chamber of Deputies vote to admit the accusation against the president with a quorum of 2/2 of its members in order for the accusation to proceed (Brazil 1988, Art. 86).

Thus, in need of support within the National Congress²⁹ to prevent the accusation from moving forward, Temer issued Provisional Measure n° 759 (which would be later confirmed and sanctioned as Law n° 13.465/2017), which dealt with a matter of great interest to the representatives of agribusiness/agro interests in Brazil: land

²⁷ Provisional Measures are instruments with force of law, authored by the President of the Brazilian Republic in case of 'relevance and urgency' and are valid for up to 120 days. After this period, if not confirmed by the National Congress, provisional measures expire. If the National Congress votes to confirm a measure, it passes into law (Brazil 1988, Art. 62). The creation of provisional measures is often used as an instrument to compel the legislative to vote or make a decision on a specific matter.

²⁸ 'Legal Amazon' is the definition for referring to the region which comprehends the whole Amazon area. It is wider than the forest itself and is constituted by 9 Brazilian States.

²⁹ The National Congress is composed of two houses, the Federal Senate and the Chamber of Deputies, the latter being responsible for admitting the accusation against the President of the Republic. (Brazil 1988, Art. 44).

tenure regularisation in the Brazilian Amazon (Pompeia 2021). In doing so, Temer sought to mobilise the largest group in National Congress—the Ruralist Bench—in support of his embattled presidency.

Law n° 13.465/2017 brought changes to the rural tenure regularisation regime, creating a legal pathway to facilitate the regularisation of illegally occupied land in the Brazilian Amazon. To do this, the law established a new cut-off date, changed the requirements for the formal recognition of occupations, reduced the amount to be paid for the land, and altered the conditions that invaders were required to fulfil.

Deadline

Law n° 13.465/2017 revised the previous cut-off date for the recognition of occupations, stipulating that lands occupied before 22 July 2008 were eligible for regularisation, *extending the previous deadline by almost four years*. The previous deadline under Law n° 11.952/2009 (1 December 2004) was arguably already too long, as it was detached from the context of irregular occupations encouraged under the dictatorial government. The data on deforestation in the Amazon in that year highlights the agrarian extractivist interests behind the legislation,³⁰ with recorded deforestation in the Amazon peaking at 27,772 km² in 2004. Following this, with the implementation of policies aimed at controlling deforestation,³¹ the rate of deforestation followed a constant downward trend, reaching 4571 km² in 2012 (PRODES 2022).

Considering that land appropriation in the Amazon is composed of two operations—the transformation of forested land into non-forested land through deforestation and the transformation of the status of the land from public land to private land—the year with the highest-ever recorded deforestation rate would also correspond to the year of the largest appropriation of public lands, as ‘the supply of non-forested-lands in a given year is equivalent to the deforestation of forested lands in the same year’ (Costa 2022).

Nonetheless, Law n° 13.465/2017 extended the existing deadline by almost four years, aligning the legislation with Decree n° 6.514/2008, enacted on 22 July 2008, which dealt with infractions and administrative sanctions related to environmental protection. The date of the Decree n° 6.514/2008 was also chosen by the Forest Law (Law n° 12.651/2012) for the creation of Rural Consolidated Areas, which are Legal Reserve areas or Permanent Preservation Areas that have been illegally deforested

³⁰ The Law n° 11.952/2009 was the result of the sanction of the Provisional Measure n° 458/2009, and Law n° 13.465/2017 was the result of the sanction of the Provisional Measure n° 759/2016. As Provisional Measures are not accompanied by a commentary explaining their rationale, researchers must analyse the context in which each Provisional Measure was issued in order to understand why particular deadlines were set.

³¹ The decrease in deforestation rates and the subsequent decrease in GHG emissions followed the implementation of policies of the Action Plan to Prevent and Control Deforestation in the Legal Amazon (PPCDAm in the Brazilian acronym), aimed at supporting inspection and control of deforestation in the Brazilian Amazon, such as DETER (Real-Time Deforestation Detection System) and PRODES (Amazon Deforestation Calculation Program).

but which—if the deforestation occurred before July 22, 2008—may continue to be economically exploited (Mascarenhas et al. 2020).

The decision to regularise invasions that took place before 22 July 2008 had three effects: first, it extended the period of regularisable invasions, legitimising through law the advance of agrarian extractivism against the Amazon; second, it made sure that the regularisable invasions could not be punished for actions against the environment on the basis of Decree n° 6.514/2008, and; finally, it guaranteed that the regularisable invasions could be classified as Rural Consolidated Areas, that is, that Permanent Preservation and Legal Reserve areas illegally deforested within these invasions may continue to be economically exploited through agro-silvopastoral activities (Brazil 2012).

Revising the deadline granted amnesty and awarded land ownership titles to people who had taken over public lands and converted forested lands into non-forested lands. The impact of extending the period for regularisable invasions goes far beyond the illegal appropriations that occurred between December 2004 and July 2008. The act of granting amnesty generates an expectation of further amnesties, and the prospect of future regularisations is sufficient for the perpetuation and propagation of illegalities in the present (Mascarenhas et al. 2020). *By extending the deadline, the law sends a signal to the illegal invaders: the deadline is not fixed, and it may be extended again in the future*, thus, even the most recent invasions are likely to be regularised eventually.

The Bolsonaro administration also sent other signals to illegal invaders. It removed 21 of the 27 superintendents from the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA), responsible for monitoring deforestation and for imposing fines, and started *giving notice* about when and where inspections on deforestation and illegal practices would take place (Ferrante & Fearnside 2019). Furthermore, the administration also had an openly anti-environmental and anti-indigenist agenda, and *nurtured expectations that invaded federal lands, including indigenous lands, would be regularised in the invaders' favour* (Pompeia 2021).

Nevertheless, this prospect of supervening legality also stems from attempts to change the legislation extending the existing deadline. In this regard, in the first year of his presidency, Bolsonaro enacted Provisional Measure n° 910, changing the deadline of invasions from 22 July 2008, as established under Law n° 13.465/2017, to 5 May 2014—an extension of almost 6 years (Brazil 2019, Art. 2).

Indeed, there are indications that the deadline may be shifted yet again. These include bill n° 510, from 2021, which proposes altering the deadline to 25 May 2012 (date of enactment of the Forest Law, n° 12.651/2012)³² and bill n° 3915, also from 2021, which proposes a deadline of 5 May 2014, the deadline adopted under Provisional Measure n° 910.³³

However, these adjustments to the deadline for the regularisation of invasions are not the only concern here. Law n° 13.465/2017 also altered other important aspects

³² Senado Federal. *Projeto de Lei n° 510, de 2021*.

³³ Câmara dos Deputados. *PL 3915/2021, 2021*.

of the regularisation legislation, in particular the requirements that must be met in order for an occupant to be granted amnesty and awarded an ownership title.

Requirements

Law n° 11.952/2009 established that occupiers of unallocated public lands must provide proof of ‘effective cultivation’, understood as ‘agricultural, agroindustrial, extractive, forestry, fishing or other similar activity undertaken in the rural property *with the objective of providing subsistence for the occupants* through production and income generation’ (Brazil 2009, Art. 2, Item V). Law n° 13.465/2017 maintained this requirement but changed its meaning in such a way that effective cultivation is now fulfilled when occupiers practice ‘agricultural, agroindustrial, extractive, forestry, fishing, tourism or *other similar activity involving the exploitation of the soil*’ (Brazil 2017, Art. 4). In other words, it is no longer necessary that these activities secure the subsistence of the occupiers, as the *requirement now focuses on any exploitation of the soil (including deforestation)*. Another requirement whose meaning was changed was that of ‘direct exploitation’, which was first defined as being the ‘economic activity carried out on a rural property, *practiced directly by the occupant* with the help of their family members or with the help of third parties, even if they are paid workers’ (Brazil 2009, Art. 2, Item III). According to the new legislation, ‘direct exploitation’ now means any

economic activity carried out on a rural property and *managed* directly by the occupant with the help of their family members, third parties, even if they are paid workers, *or through a legal entity whose capital stake the occupant is the main or full owner* (Brazil 2017, Art. 4).

With this change, the physical occupation of the land is no longer necessary as a prerequisite for regularisation. It is enough to *manage* the economic activity carried out on the land, even if this is performed through a legal entity. Essentially, the changes in the requirements have opened the door for the regularisation of lands invaded for commercial purposes, as opposed to traditional and family farming methods aimed at providing housing, subsistence, and food through the sustainable exploitation of the land.

Resolutive Conditions

Law n° 13.465/2017 made other important changes to Law n° 11.952/2009 beyond the requirements and the deadline for the occupation, especially with respect to the resolutive conditions for the regularisation of invasions and the award of ownership titles. Occupants must abide by these conditions for a period of ten years or risk forfeiting their title.

Law n° 11.952/2009 required that the title deed include details on:

- The rational and adequate use of the area;

- Registration of the Legal Reserve, with the possibility of compensation in accordance with relevant environmental legislation;
- Identification of Permanent Preservation Areas and, where applicable, a commitment to their recovery in accordance with the current legislation;
- Commitment to comply with applicable employment law;
- Payment terms and conditions (Brazil 2009, article 15).

Law n° 13.465/2017 changed these conditions and, instead of demanding the rational and adequate use of the area (Item I), the law now requires the occupant to maintain ‘the application to rural purposes through the practice of effective cultivation’ (Brazil 2017, Art. 4), which, as seen above, merely requires that the occupant exploit the soil in some form—regardless of whether this practice is rational or adequate.

Another modification with potentially deep environmental impacts is that the invader is no longer required to register the Legal Reserve and identify the Permanent Preservation Areas (Items II and III). Instead, it now suffices to generally ‘respect the environmental legislation, especially with regard to compliance with the provisions of Chapter VI³⁴ of the Law n° 12.651 of May 25, 2012’ (Brazil 2017, Art. 4).

These changes have also resulted in various social impacts, as invaders are no longer required to comply with labour legislation (Item IV). Instead, they are merely prohibited from exploiting ‘labour in a condition analogous to slavery’ (Brazil 2017, Art. 4).

The obligation to comply with the contractual conditions relating to payment (Item V) was maintained by Law n° 13.465/2017. However, the payment conditions were altered. The establishment of the amount to be paid by the invader is based on the valuation of the land, which, according to Law n° 11.952/2009, ought to

be based on the minimum value established in a reference price spreadsheet, on which indexes considering the criteria of age of the occupation, specificities of each region where the occupation is located, and the size of the area will apply (Brazil 2009, Art. 12, Para. 1).

The parameter for defining the amounts to be paid were modified by Law n° 13.465/2017, and now the amount ought to be defined as

between 10 and 50% of the minimum value of the list of values of bare land for the purposes of titling and land regularization prepared by INCRA,³⁵ based on the values of properties evaluated for agrarian reform (Brazil 2017, Art. 4).

With this change, the amount to be paid by the invader is no longer based on the established minimum amount and does not take into account aspects related to

³⁴ Chapter VI of Law n° 12.651/2012 created the Rural Environmental Registry (CAR). This system of registering occupations and rural properties is also the subject of criticism, as it is based on information declared by occupants, opening margins for inconsistencies, overlaps, and other related issues.

³⁵ INCRA is the National Institute for Colonisation and Rural Reform in Brazil.

occupancy (such as duration, regional specificities, and size of the occupied area). Instead, it ought to be fixed between 10 and 50% of a value that was already the ‘minimum value’ (Brazil 2017, Art. 4) attributed to the bare land (which is often not the case).

Furthermore, if the invader chooses to pay 100% of the fixed minimum value of the bare land, the resolutive conditions will be extinguished, releasing the invader from these obligations (Brazil 2017, Art. 4).

Research on the economic effects of the new pricing policy found that it would result in ‘the loss of government revenue due to the sale of public land below market prices’ leading to a short-term revenue loss ranging from 5 to 8 billion US\$ for 8.6 million hectares and a long-term revenue loss ranging from 16.7 to 23.8 billion US\$ for 19.6 million hectares³⁶ (Brito et al. 2019).

Area

Law n° 13.465/2017 also altered limitations to the maximum area subject to regularisation. The previous limit of 1,500 hectares was raised to 2,500 hectares (Brazil 2017, Art. 4), thus *increasing the limit of the regularisable area by 66.67%*.

That this change benefits agribusiness is obvious, as the price of land ‘weigh[s] the most in the structure of total costs per hectare’ (Gonçalves 2004). Enabling agribusiness to acquire larger holdings deeply impacts the profitability of extractivist activities, as the cost of inputs (fertilisers, biocides, and seeds) and machinery does not increase proportionally to the size of the area. Thereafter,

considering that the value of land and the extension of the cultivated area are differential factors in an agriculture governed by technological packages, the increase of the areas that can be regularised is in line with the needs (read interests) of the global commodity market (Mascarenhas et al. 2020).

The logic that underpins rural tenure regularisation in the Amazon serves the agribusiness/agro model by creating possibilities and benefits for those who appropriate and subject new lands and areas to the capitalist logic. Law n° 13.465/2017 is a mechanism of the Agro State of Law which grants amnesty to the perpetrators of crimes against the Amazon by handing out title to public lands. The Agro State of Law advances against what is a *zone of indifference* for the goal of accumulation and profit: the Amazon.

According to this logic, deforestation (and GHG emissions stemming from AFOLU) is considered a form of soil exploitation, fulfilling the requirement to practice *effective cultivation*. Not only does the invader receive this amnesty, but they also receive title to the invaded area, acquired with large subsidies from the State (subsidising the privatization of an area that was State-owned). In the end, once the invader has acquired the property title, they can then speculate on the value of the

³⁶ It is important to note that the figure given for the estimated loss of government revenue is based on the premise that all lands eligible for regularization would indeed be regularized—a scenario in which the social, environmental, biodiversity and climate impacts would far outweigh the immediate cost to the government’s bottom line.

land and/or carry out agrarian extractivist practices in what is ‘an eternal kind of primitive accumulation of capital in Brazil’ (Souza 2019).

In this way, altering legislation in order to justify these exceptions to protective rules, the Agro State of Law as exemplified by Law^o 13.465/2017, hinders efforts to protect the climate, but also makes advances against cultures, biodiversity, knowledge, and different forms of life. The crisis of our time is not just a climate crisis, but a crisis in the chosen model of civilisation and its mode of production and accumulation. This capitalist model—which created capitalist agriculture and the agribusiness/agro model—creates, maintains and deepens inequalities. Democracy, and the idea of a government by and for the population, has been distorted in Brazil in favour of capitalism.

Final Considerations

By co-opting democratic mechanisms and exploiting political crises to secure changes to legislation that are advantageous to its interests, agribusiness/agro has driven the deforestation of the Amazon and appropriation of public land. Agribusiness/agro uses ‘ventriloquists of the voice of authority that comes from above, from outside’ (Araóz 2020) to insert the interests of capitalist agriculture into the heart of political debate. Thus, the maintenance and advancement of agribusiness/agro and its logic of appropriating bodies, land, and nature for generating profit finds support in the Agro State of Law.

The Amazon and its diversity have become a battlefield in a conflict between two opposite models of civilisation: one based on the ancestral knowledge of Amazonian traditional peoples—the only one that can claim to be truly sustainable in the Amazon, as it is shaped by multiple peoples and communities that, for more than 12 thousand years, have lived in/by the forest (Malheiro et al. 2021)—and the other based on the capitalist logic of production, dispossession, and accumulation.

Law n^o 13.465/2017 epitomises this logic. As a necropolitical (Mbembe 2020) law of the Agro State of Law it is used to justify appropriation and violence against the ‘zones of indifference’ (Malheiro 2020), by legitimising illegalities perpetrated against the Amazon and its peoples. Land titles are awarded under Law n^o 13.465/2017 with the clear intention of incentivising the economic exploitation of the region through agribusiness activities that transform biodiverse lands into monocultures to the detriment of indigenous communities and ways of life. These monocultures do not contribute to food security in Brazil, where growing numbers of citizens are facing hunger, but instead supply commodities and raw materials to international markets.

In this, we can see clearly Polanyi’s conviction that rather than the economy being embedded in social relations, social relations are instead embedded in the economic system (Polanyi 2015). Agribusiness and other forms of extractivism repudiate existing social relations and override the needs of society. For agribusiness, food systems are merely a fruitful field for the accumulation of capital, the ultimate goal of the capitalist system.

One can also draw a parallel between Polanyi's criticism of the embeddedness of social relations in the economy and the use of data on GHG emissions as an indicator of sustainability. Although the data is focused on emissions, it is not the mode of production that is embedded in GHG emissions, but rather the opposite. The international debate on climate change tends to focus too much on the effects of the mode of production (such as GHG emissions and domestic material consumption), which overshadows the fact that these effects are embedded in a production/accumulation model that produces damages that far exceed those GHG emissions and that has taken over agriculture: capitalism.

Ultimately, it is capitalism that is at the heart of the defining catastrophe of the twenty-first century. More than a climate crisis, this is a humanitarian crisis, the impacts of which unequally affect naturalness, spaces, and people. And as with the climate crisis, it is often those who contributed least to its making that will be most affected. The patterns of reproduction of power and capital should be placed at the centre of the debate, as this catastrophe is a defining feature of the Capitalocene, 'the historical era shaped by the endless accumulation of capital' (Moore 2017).

Accumulation coexists with expropriation and with exploitation. Those are two sides of the same coin, two sides of the same system. It is, as with agrarian extractivism, the reproduction of a colonial system of exploitation, dividing the world into colonies and metropolises: the first are places for looting and exploitation, while the latter are places where that looting becomes accumulation. Thus, the advance of capitalist agriculture represents the advance of land appropriation and the limitation of traditional/family farmers' access to the mechanisms of agricultural reproduction. Thus, *culture is killed*, and what remains is agribusiness/agro, focused on the production of commodities (not of food). This capitalist mode of production advances, legitimised by the co-option of democratic mechanisms and the very idea of democracy, over bodies, territories, biodiversity, ways of life, and knowledge.

The Amazon is also the site of a reconstruction of this colonial logic. Vast lands that were considered unoccupied during the colonisation process—the so-called 'terras devolutas'—are now deemed to be public non-allocated lands. This status, associated with the development of political-legal discourses that legitimise the invasion and subsequent privatisation of land, is an important instrument for the advancement of capitalist agriculture against the region, as outlined in the preceding analysis of Law n° 13.465/2017.

It is necessary to oppose this logic of insertion of the Amazon into the capitalist system of capital reproduction in order to find truly sustainable alternatives to fight the ecological, climate, and social crisis of our time. This will entail a re-evaluation of the commons and an acknowledgment of both the importance of public lands and of allocating them to purposes that are consistent with the ways of life and civilisation of Amazonian traditional peoples, having as its centre the maintenance and reproduction of life, and not that of capital. If the Brazilian government wishes to combat climate change, biodiversity loss, and social inequality, it is imperative that it allocate public lands in the Amazon to the creation or expansion of conservation

units, demarcating and titling the territories of traditional peoples, land reform,³⁷ and other forms of land use as part of a complex system of the reproduction of life, and not as a space for profit and exploitation.

Opposing the Agro State of Law, opposing its logic of profit generation at all costs means resurrecting the culture of agriculture, focusing on food production based on food security and food safety, with culturally and environmentally appropriate production, aimed at strengthening local food systems, improving food security, and affirming food sovereignty.

This opposition to capitalist agriculture also involves opposition to the capitalist co-option of democracy. Democratic processes have been captured by private interests, making it necessary to rethink democracy and its relationship to the economy. In order to restore democracy and protect the Amazon, Brazilian society must safeguard popular sovereignty and participation and reaffirm the guarantee of basic rights. Taking democracy back from private interests and valuing agriculture are, in the context of the Brazilian Amazon, fundamental steps towards effective climate protection. In this context, climate protection is not limited to GHG emissions or DMC but is embedded in a reform of the capitalist mode of production and accumulation, responsible for generating the intertwining humanitarian, cultural, civilizational, and climate catastrophes of the twenty-first century.

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³⁷ Article 184 of the Brazilian Constitution provides for land reform (*reforma agrária*), with the aim of redistributing land, alleviating poverty and marginalization, addressing inequality and securing the basic right to housing and advancing other fundamental rights, such as the right to food, to a balanced environment and to the social function of the land. Only properties that do not fulfill their social function (related to the rational and adequate use of the property, the adequate use of natural resources and preservation of the environment, the observance of the provisions that regulate labor relations, and the land exploitation that favors the well-being of owners and workers) may be seized and redistributed under this provision, and this would only occur “upon prior and fair compensation” based on the real market value of the property, including compensation for improvements and tax exemption—a very different approach to that taken for the privatization of public lands under Law n° 13.465 /2017, which provides only for a percentage of the minimum value of bare land (Brazil 1988, articles 184 and 186).

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