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‘Traditional Peoples’ and the Struggle for Inclusive Land Governance in Brazil

Alex Shankland, Zoe Sullivan, Carlos Alberto Dayrell,
Anna Crystina Alvarenga and Deyvisson Felipe Batista Rocha

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Summary

In recent decades, Brazil has attracted international interest both for the intensity of its land conflicts and for the extent of its land governance innovations. In this report we argue that these innovations have derived from a land governance model shaped by the country’s decentralised political structures and by the nature of the interactions taking place across the boundary between state and civil society actors, including rural social movements. In recent years, particularly under the Workers’ Party (PT) governments of Presidents Lula da Silva and Dilma Rousseff, this has led to significant gains in recognition of and redistribution to some of the most marginalised of Brazil’s rural communities. However, we conclude that the model’s potential to deliver genuinely inclusive land governance has run up against certain limits. These relate to the underlying conceptualisation of land rights embedded in the country’s legal framework, and to the political economy of law-making and policy implementation in Brazil.

This study examines these issues in relation to a particular subset of the rural population, known in Brazil as *Povos e Comunidades Tradicionais* (PCTs) or ‘Traditional Peoples and Communities’. This term covers a wide range of population groups who practise natural resource management strategies on a collective basis using ‘traditional’ territorial governance mechanisms. The study focuses on land governance in the *Norte de Minas* or North of Minas Gerais State, a region where SDC’s partner organisation HEKS (Swiss Church Aid) has supported a wide range of initiatives seeking to strengthen the livelihoods and territorial rights of PCTs. The North of Minas is a frontier region between the savannah zone of central Brazil and the country’s semi-arid interior that has been the focus of a number of large-scale investments by national and international mining, forestry and agribusiness interests, as well as government initiatives to create protected areas and resettle landless farmers. The study examines the different modalities that have been used to promote inclusive land governance in the region and the range of strategies used by PCT social movements and their allies to secure their territorial rights. It concludes with a preliminary assessment of the future viability of these strategies in the radically altered national political context that has emerged since the impeachment of President Dilma Rousseff in May 2016.

Keywords: land governance; traditional peoples; social movements; Workers’ Party; Brazil; Minas Gerais.

Alex Shankland is a Research Fellow at the Institute of Development Studies.

Zoe Sullivan is a journalist and independent researcher based in Rio de Janeiro.

Carlos Alberto Dayrell is an independent researcher and former director of the Centre for Alternative Agriculture in the North of Minas (CAA).

Anna Crystina Alvarenga and **Deyvisson Felipe Batista Rocha** are researchers with the Centre for Alternative Agriculture in the North of Minas (CAA).

Contents

Summary, keywords and author notes	3
Acknowledgements	5
Acronyms and glossary	5
1 Introduction	8
2 Land tenure, conflict and ‘traditional peoples and communities’ in Brazil	10
2.1 Commodity frontier expansion and ‘traditional populations’ in Brazil	10
2.2 The legal framework for land governance	11
2.3 The evolution of policy on PCT territorial rights	12
2.4 Opposition to the expansion of PCT rights and the end of the PT era	15
3 Case study: PCT struggles for territorial rights in the North of Minas	17
3.1 The Norte de Minas region	17
3.2 PCTs of the Norte de Minas: livelihoods, identities and political organisation	19
3.3 Case study communities: geraizeiros, quilombolas and vazanteiros	21
3.3.1 Geraizeros	21
3.3.2 Quilombolas	24
3.3.3 Vazanteiros	25
4 Commonalities and differences	26
4.1 The legal and institutional framework	26
4.2 Space and territory	28
4.3 Conflicts	30
5 Land rights support strategies: lessons and prospects	32
Annexe 1 Land tenure in the Norte de Minas	38
References	39
Boxes	
Box 2.1 PCT identities	14
Box 3.1 <i>Articulação Rosalino</i>	20
Figures	
Figure 3.1 Location of case study region within Minas Gerais State and Brazil	17
Figure 3.2 Vegetation map of Minas Gerais State showing location of Norte de Minas	18
Figure 3.3 Landscape, social and cultural diversity in Northern Minas	19
Figure 3.4 Location of <i>Geraizeiro</i> case study territories	22
Tables	
Table 3.1 Case study communities and territories	22
Table A.1 Number of establishments and occupied land in the Norte de Minas	38

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Acronyms and glossary

ActionAid:	Brazilian branch of the international NGO federation focused on poverty and injustice.
AMEFA:	<i>Associação Mineira das Escolas Família Agrícolas</i> (Minas Gerais Association of Family Farm Schools) – An umbrella, non-profit organisation for Family Farm Schools.
ASA:	<i>Articulação Semiárido</i> (Semi-Arid Coalition) – A network of more than 3,000 civil society organisations working on poverty and environmental issues in Northeast Brazil's semi-arid region.
BNB:	<i>Banco do Nordeste</i> (Bank of the Northeast) – A federal investment bank tasked with promoting development in Brazil's northeastern region.
<i>Bolsa Família</i> :	The 'Family Grant' conditional cash transfer programme run by the MDS.
CAA:	<i>Centro de Agricultura Alternativa do Norte de Minas</i> (Centre for Alternative Agriculture in the North of Minas) – A regional NGO focusing on family farming, agroecology and support to social movements.
<i>Cerrado</i> :	biome dominated by woody savannah (literally 'closed' or 'dense' vegetation) characteristic of central Brazil

CBH:	<i>Comitê de Bacia Hidrográfica</i> (River Basin Committee) – multi-stakeholder body charged with oversight of a specific river basin and its water resources.
CPT:	<i>Comissão Pastoral da Terra</i> (Pastoral Commission for the Land) – Catholic Church-sponsored organisation that supports rural communities around development and land rights issues.
CRAS:	<i>Centro de Referência de Assistência Social</i> (Social Assistance and Referral Centre) – local social services and support unit supported by the Federal Ministry for Social Development and the Fight Against Hunger (MDS).
EFA:	<i>Escola Família Agrícola</i> – Rural agricultural education program for young people.
EMATER:	<i>Empresa de Assistência Técnica e Extensão Rural do Estado de Minas Gerais</i> (Minas Gerais State Rural Extension and Technical Support Corporation) – extension services agency of the Minas Gerais State Secretariat of Agriculture.
Embrapa:	<i>Empresa Brasileira de Pesquisa Agropecuária</i> (Brazilian Agriculture and Livestock Research Corporation) – Federal Government agricultural research agency.
FIAN:	FoodFirst International Action Network – International food sovereignty and peasant rights advocacy group
FCP:	<i>Fundação Cultural Palmares</i> (Palmares Cultural Foundation) – Federal Government foundation focused on Afro-Brazilian culture, responsible for registration of <i>quilombos</i> .
Fetaemg:	<i>Federação dos Trabalhadores na Agricultura do Estado de Minas Gerais</i> (Federation of Agricultural Workers of the State of Minas Gerais) – Rural labour union organisation working on land and environmental rights.
FUNAI:	<i>Fundação Nacional do Índio</i> (National Foundation for Indians) – Federal government agency responsible for protecting the lands and wellbeing of indigenous peoples.
<i>Grilagem</i> :	Term used in Brazil for land appropriation by bribery or violence that is subsequently legitimised through title fabrication or corruptly-obtained legal registration.
ICMbio:	<i>Instituto Chico Mendes de Conservação da Biodiversidade</i> (Chico Mendes Institute for Biodiversity Conservation) – Federal Government agency responsible for protected area management
IEF:	<i>Instituto Estadual de Florestas</i> (State Institute of Forests) – environmental protection and forest management agency of the Minas Gerais State Government.
INCRA:	<i>Instituto Nacional de Colonização e Reforma Agrária</i> (National Institute for Colonisation and Agrarian Reform) – Federal government rural land reform and titling agency.
ITER:	<i>Instituto de Terras do Estado de Minas Gerais</i> (Minas Gerais State Land Institute) – State government body responsible for titling of <i>Terras Devolutas</i> .
MDA:	<i>Ministério do Desenvolvimento Agrário</i> (Ministry of Agrarian Development) – Federal Government Department responsible for family farming support policies.
MDS:	<i>Ministério do Desenvolvimento Social e Combate à Fome</i> (Ministry for Social Development and the Fight Against Hunger) – Federal Government Department responsible for social protection and assistance

MPE/MPF:	Ministério Público do Estado / Ministério Público Federal – State and Federal branches of an independent department of the Judiciary tasked with acting as a watchdog for the protection of Constitutionally recognised rights.
MST:	<i>Movimento dos Trabalhadores Rurais Sem Terra</i> (Landless Rural Workers' Movement) – national movement of landless farmers which campaigns for land reform and against corporate control of agriculture.
NCP:	<i>Núcleo da Cadeia do Pequi</i> (Pequi Value Chain Centre) – A collective of cooperatives harvesting and processing native <i>Cerrado</i> fruit
<i>Norte de Minas</i> :	'North of Minas', the northernmost region of Minas Gerais State, comprising a total of 89 municipalities.
PAE:	<i>Projeto de Assentamento Agroextrativista</i> (Agro-Extractivist Settlement Project) – A land reform titling modality designed to combine individual and collective title with environmental protection.
PCTs:	<i>Povos e Comunidades Tradicionais</i> (Traditional Peoples and Communities) – Brazilian term for communities of diverse ethnic origins who practice different forms of traditional collectively-based land and/or natural resource management.
PM:	<i>Polícia Militar</i> (Military Police) – uniformed police forces controlled by Brazilian State Governments.
PMA:	<i>Polícia do Meio Ambiente</i> (Environment Police) – The division of the Military Police that focuses on environmental enforcement.
<i>Quilombo</i> :	settlement originally formed by escaped African slaves (<i>quilombolas</i> , equivalent to the English term 'maroon'), now used to describe a community claiming descent from such settlements.
RDS:	<i>Reserva de Desenvolvimento Sustentável</i> (Sustainable Development Reserve) – modality of inhabited ('direct use') conservation area co-managed by government environmental protection agencies and the 'traditional communities' inhabiting the area.
Resex:	<i>Reserva Extrativista</i> (Extractive Reserve) - modality of inhabited ('direct use') conservation area in which traditional management of non-timber forest products and other renewable natural resources is permitted
RTID:	Relatório Técnico de Identificação e Delimitação (Technical Report on Boundary Identification) – Official report (including ethnographic data as well as GIS coordinates) designed to provide the basis for recognition of <i>quilombo</i> communities.
SAM:	<i>Sul Americana de Metais</i> (South America Metals Corporation) – Minas Gerais-based mining company owned by a Chinese firm.
SEDA:	<i>Secretaria de Estado de Desenvolvimento Agrário</i> (State Secretariat for Agrarian Development) – State agency that promotes sustainable rural development in Minas Gerais.
SENAR:	Serviço Nacional de Aprendizagem Rural – An association focusing on rural education and training.
STR:	Sindicato de Trabalhadores Rurais – Rural Workers' Union.
<i>Terras Devolutas</i> :	lands belonging to the nation (literally 'Unclaimed' or 'Returned' Lands), with title rights vested in the individual States of the Brazilian Federation or (in some specific cases) in the Federal Government.
UNIMONTES:	<i>Universidade Estadual de Montes Claros</i> (State University of Montes Claros) – the main university in the <i>Norte de Minas</i> region, and a centre for research on PCTs

1 Introduction

In recent decades, Brazil has attracted international attention both for the intensity of its land conflicts and for the extent of its land governance innovations. The conflicts have claimed thousands of lives in recent decades, and Brazil continues to have the world's highest number of recorded killings of land and environmental activists.¹ The innovations have sought to mitigate or transform these conflicts by taking a variety of approaches. These approaches include new tenure models intended to balance land redistribution and environmental protection, new territorial planning institutions co-constructed by state and civil society actors and new livelihood support programmes designed to link rural land reform with urban food security. Some of the latter programmes are being exported to Africa with the support of international agencies and Brazil's own 'South-South Cooperation' activities, alongside other initiatives that seek to reproduce the 'miracle' of agribusiness-driven productivity growth in the *Cerrado* savannah zone of central Brazil (Cabral *et al.* 2013).

This study examines the land governance innovations that have arisen from conflicts over territory and natural resource use in Brazil, with a focus on the region visited during fieldwork, which lies on the frontier between the *Cerrado* and the semi-arid interior of the country's poorest region, the Northeast. It examines the ways in which interactions between social movements, their civil society allies and state actors have led to policy and institutional changes that have made it possible to protect and support some communities' territorial rights in the face of an intensifying process of encroachment by local elites and by national and international corporate interests. Access to state actors located at higher levels within Brazil's federal political structure has played a key role in this process, especially during the 13 years in which the country's Presidency was held by the Workers' Party (PT). This period came to an end as the fieldwork for this study was under way, with the May 2016 impeachment of President Dilma Rousseff, resulting in a political and policy environment that is markedly more hostile to the interests of marginalised rural communities.

Brazil is a vast country whose levels of biological, social and landscape diversity have given rise to a rich variety of traditional forms of collective natural resource management and territorial governance. Since the arrival of European settlers in 1500, this diversity has existed in sometimes violent tension with a commoditised, single owner/single crop model of land governance and resource use that is reflected in the system of formal property rights defined by Brazil's Napoleonic legal framework (Fernandes *et al.* 2012). As Brazil's commodity production frontier has advanced into the interior, it has increasingly encroached upon the territories of what are known as *Povos e Comunidades Tradicionais* (PCTs) or 'traditional peoples and communities': groups of people, often of indigenous and/or African descent, whose livelihood systems depend on collective management of diverse landscapes (Little 2002; Almeida 2006; Costa 2011). These communities have also found themselves in conflict with the conservation measures put in place to mitigate the biodiversity loss associated with corporate agriculture and resource extraction, as national parks and other conservation areas are established in their territories and impose restrictions on their livelihood systems (Almeida and Barbosa 2013).

The case study region, the *Norte de Minas* or North of Minas (the Northernmost part of Minas Gerais State) is home to a large number of different traditional territories.² These have been affected by growing domestic and international investment in irrigated agriculture, mining and

¹ Source: Global Witness data reported at <http://www.landcoalition.org/en/regions/global-including-europe/news/2015-sees-unprecedented-killings-land-and-environmental-activists-ilc-member-global-witness> (accessed 15 July 2016).

² These have been the focus of a number of ethnographic studies including Dayrell (1998), Jacinto (1998), Santos (1997), Brito *et al.* (2003), Costa (2003), Oliveira (2004), Costa (2011) and Luz de Oliveira (2011).

commercial forestry, with the latter mainly consisting of eucalyptus plantations intended for charcoal production to supply the iron ore smelting industry (Brito 2006; D'Angelis Filho 2005). The HEKS (Swiss Church Aid) programme in Brazil has long had a geographical focus on the North of Minas, and has worked extensively with social movements and support NGOs in the region to shape land governance policies that support the rights claims of traditional peoples as well as the pursuit of sustainable livelihoods within their territories.

The fieldwork for this study included visits to *Cerrado* communities who are resisting encroachment by mining and forestry companies and to riverine communities whose territories have been affected by different forms of 'resource-grabbing'. Both *Cerrado* and riverine PCTs have formed social movement organisations that have received support from HEKS and its local NGO partner CAA (*Centro de Agricultura Alternativa do Norte de Minas*, the Centre for Alternative Agriculture in the North of Minas). The study examines the vertical and horizontal alliances that connect the different communities with regional- and national-level movements and with state and federal government policy actors, resulting in campaigns that have successfully enabled some communities to secure government recognition for their territorial rights.

This recognition has been achieved by using different conservation- and land reform-based modalities, which offer different degrees of tenure security and different constraints or opportunities for developing alternative livelihood strategies. The mobilisations that secured access to these modalities have been based on a range of different class, livelihood- and ethnicity-based identities. These identities are increasingly grouped together within the broad category of 'PCTs' by the movements themselves and by Brazilian academic and policy debate, but have different historical and social roots and different degrees of legal recognition from the Brazilian state.

The study begins by reviewing the emergence of the political and policy context within which the struggle for the territorial rights of PCTs has played out in Brazil as a whole and in the North of Minas in particular. It then examines three sets of case studies from the region in the light of the overarching themes of the project: the legal and institutional framework, space and territory and conflict. The study goes on to reflect on the strategies, tactics and political economy factors that have contributed to the successes achieved by the movements supported by HEKS and CAA, and on the potential for sustaining these successes in a rapidly-changing social and political context.

The study concludes that political mobilisation was an extremely successful strategy for PCTs during the period in which the PT held power at the federal level. It helped to secure favourable government policies that have brought recognition for previously invisible communities, and redistributive measures that have reduced the poverty of the most marginalised. When their territories have been threatened with encroachment by local elites allied with national and transnational corporations, PCT movements have been able to resist by mobilising their own multi-level networks and invoking national and international rights frameworks. HEKS has helped to support these networks both by connecting them internationally and by encouraging links between social movement organisations, NGOs and academic institutions that can generate evidence to inform inclusive land governance policies.

However, the gains of the last few years have not included any substantive change in the legal framework to support community ownership of land. As a result, PCTs are still forced to choose between accepting state control of their territories via the creation of protected areas or pursuing private land titling mechanisms that may lead to the fragmentation of communities. There has also been little change in the underlying political economy of law-making and policy implementation in Brazil, and the national Congress is increasingly dominated by forces hostile to PCT rights. In the current much less favourable political

context, which includes a significant shift in government policy towards PCTs that has taken place under the interim government installed after Congress impeached President Dilma Rousseff in May 2016, these factors mean that some of the gains achieved in recent years may be reversed.

2 Land tenure, conflict and ‘traditional peoples and communities’ in Brazil

2.1 Commodity frontier expansion and ‘traditional populations’ in Brazil

Brazil has a long history of ‘agrarian dualism’, whereby the state and its civil society interlocutors alike distinguish between two polarised agricultural models, often characterised in terms of (capitalist) modernity versus (peasant and indigenous) tradition (Favareto forthcoming; Pahnke *et al.* 2015). Schneider (2016) traces dualism’s origins to the 1850 Land Law, which for the first time associated land rights with proof of purchase. State and (international) private capital flowed to commodity-producing estates with market-transacted titles, while the smallholder farming that produced the vast majority of Brazil’s food remained outside the domain of formal land title and was increasingly invisibilised. This division was intensified by the ‘conservative modernisation’ process that took place in the decades between the Vargas dictatorship in the 1930s and the end of the military regime in the 1980s (*ibid.*).

As land conflicts intensified in the densely-populated South and East of the country, the ‘conservative modernisation’ process came to include a two-pronged process of Westward territorial displacement of the agricultural commodity frontier (Graziano da Silva 1981). The first prong took modernised capitalist farming, supported by a highly successful programme of agricultural research whose centrepiece was the Tropicalisation of soybeans, into the central savannah belt, the *Cerrado* (Sawyer 2002; Mueller 2003; Eloy 2016; Nehring 2016). The second focused on relocating thousands of dispossessed smallholders to the Amazon through ‘land reform and colonisation’ projects. Both strategies were supported by copious quantities of state resources, for transport infrastructure, farm credit and research and extension systems. Both relied on the logic of individual land title instituted by the 1850 Land Law, and sought to expand agricultural commodity production, whether by small or large-scale farmers.

The expansion of the agricultural frontier into the Amazon and the *Cerrado* led to massive deforestation and widespread encroachment on indigenous lands and the territories of other long-established communities whose livelihood strategies relied on extensive and collectively-managed resource use (Oliveira 1999). This triggered a new wave of violent conflicts, which attracted the attention of Brazilian and international NGOs who were seeking to promote both social justice and environmental sustainability. During the 1980s, as Brazil’s dictatorship first sought a managed transition to civilian rule and then gave way to an increasingly vibrant democracy, NGOs and other actors such as the Catholic Church supported emergent processes of political organisation in the territories of groups who were initially classified by the state as ‘traditional populations’ and subsequently came to self-identify as ‘traditional peoples and communities’ (*Povos e Comunidades Tradicionais*, or PCTs).

As social movements of PCTs gained visibility, they began to articulate territorial claims over the areas they had long occupied without formal title. The logic of these claims was distinct from that of the land reform demands made by the other rural social movements that came to prominence during the same period, the most visible of which was the Movement of Landless

Rural Workers (*Movimento de Trabalhadores Rurais Sem Terra*, MST). The mainstream agrarian movements mobilised around class-based identities and focused their efforts on securing individual land titles and access to credit and extension services for conventional agricultural commodity production, albeit with an initial focus on collective production in the case of the MST (Favareto 2006; Wolford 2010). In contrast, the movements of PCTs not only claimed a wide range of different ethnic, landscape- and livelihood-based identities but also demanded recognition for very different forms of territoriality. These forms are defined above all by collective ownership and management of land and natural resources (Costa 2011). According to Little, these groups' logic does recognise private (individual or household) property, but sees it as located outside the realm of market transactions; instead, it is nested within the boundaries of a collective territory that is subject to a form of 'public' ownership that is distinct from that of the state (2002: 7).

2.2 The legal framework for land governance

This form of territoriality is at odds with the central logic of Brazilian property law, which is based on a public/private dichotomy of ownership that equates 'public' with 'state' and 'private' with 'market-transacted'. The 1964 Land Statute introduced the notion of the 'social function of land' as a basis for decisions on redistribution, and placed a duty on the state to ensure access to land for those living and working in rural areas via an agrarian reform process whose principles included promoting social justice as well as increasing productivity. However, this 'social function' is understood to apply to the distribution of individual titles, not to collective ownership. Similarly, land claimed through 'squatters' rights' based on continuous occupancy can be converted to formal title for individual households, but land cannot be claimed collectively by communities even when they have been managing it as a common-property resource for generations. Once land has received formal title it is available for purchase via the market, though the state may place some restrictions on land use, such as a requirement to retain a certain percentage of the native vegetation.

Historically, the state has tended to classify the remoter regions within which PCTs' territories generally lie as *Terras Devolutas* or 'unclaimed lands', a term with its origins in the Portuguese colonial system of conditional land concessions known as *sesmarias* (Abreu 1998). Under the *sesmaria* system, land that was not 'improved' (usually by being brought into agricultural commodity production) reverted to the state. Under the current legal framework the ultimate ownership of *Terras Devolutas* lies with the nation, but it is vested in the different States that make up Brazil's federal structure, with the exception of areas that are classified as essential for defence, security or environmental preservation purposes, which remain within the remit of the federal government.³ The latter category includes a narrow strip along the banks of 'federal rivers'; that is, major waterways whose courses run through more than one State.

The existence of huge areas of *Terras Devolutas* under a property régime designed to promote individual or corporate title has proved fertile ground for the widespread practice of *grilagem*, the term used in Brazil for land appropriation by bribery or violence that is subsequently legitimised through title fabrication or corruptly-obtained legal registration. It has also led the state to treat *Terras Devolutas* as priority targets for programmes of redistribution to landless peasants, in preference to privately-held (and generally more accessible and/or high-potential) lands. This tendency intensified after the overall pattern of land concentration in Brazil was left largely unaltered by the 'market-based land reform' policies heavily funded by the World Bank during the neoliberal ascendancy of the 1990s (Wolford 2005). In addition, many State governments have followed a widespread policy of issuing very large tax-free concessions of *Terras Devolutas* for periods of 25 years or more

³ As defined in Article 20 of the 1988 Constitution.

to encourage agribusiness and forestry corporations to invest in remoter regions. Where these regions have been classified as ecologically sensitive, priority has been given to the gazetting of *Terras Devolutas* as State Parks or other 'indirect-use' (i.e. no permanent human population) conservation areas, rather than to recognising the land rights of the communities who have often been living in those areas and sustainably managing their natural resources for generations.

2.3 The evolution of policy on PCT territorial rights

The generation of new land governance instruments through intense interactions between social movements and the state has become increasingly central to Brazilian land policy. Houtzager (2000) has described how engagements between rural workers' unions, the Catholic Church and parts of the bureaucracy evolved into a process of 'institutional hosting' of movements by the state after the end of the military régime. This eventually led to an almost symbiotic relationship emerging between agrarian movements (including the MST), the land reform and colonisation agency INCRA, and subsequently the Ministry of Agrarian Development (MDA). The intensification of land conflicts in the Amazon and *Cerrado* during the 1980s and early 1990s led to similar openings for the movements that had organised to provide political representation for PCTs. This created opportunities for movements to engage the state in ways that eventually shifted from confrontation towards co-management of some environmental and land governance policies through 'institutional hosting' arrangements.

The first 'institutional hosting' structure for PCTs was the *Centro Nacional de Desenvolvimento Sustentado das Populações Tradicionais* or 'National Centre for the Sustainable Development of Traditional Populations' (CNPT), set up in 1992. It was established as a department of the federal environment agency IBAMA, reflecting the fact that the discourse of 'traditional peoples and communities' entered the field of Brazilian land governance via environmental protection policy. This was due to the political impact of the alliance between Green groups and the *seringueiro* (rubbertapper) movement in the Amazon region, particularly after the assassination of *seringueiro* leader Chico Mendes in 1988 (Almeida 2005). The CNPT was mandated with negotiating the legal and policy framework for a new kind of direct use conservation area, the 'Extractive Reserve' (Resex), created in the early 1990s to protect the traditional territories of communities whose livelihoods included sustainable management of natural resources. Initially the communities covered by this policy were those who depended on Amazonian non-timber forest products such as rubber, Brazil nuts, *babaçu*⁴ and *piçava*⁵, but its remit was subsequently extended to include artisanal fisheries. This marked the beginning of a process of continuous expansion of the range of population groups who are identified and/or self-identify as PCTs (Box 2.1).

While there is now a single official label for these diverse communities, there is no single legal framework for land governance across their diverse territories. Under the 1988 Constitution indigenous lands and those of Afro-Brazilian *quilombola* (maroon) communities have a strong set of legal provisions underpinning their identification, demarcation and protection. In addition to recognising indigenous peoples' rights to their 'traditionally occupied lands', the Constitution required the state to attribute ownership of their traditional territories to *quilombola* communities, but the validity of this provision has been challenged on the grounds that there is no such thing as community ownership (as opposed to collective usufruct) under Brazilian property law. Indigenous territories are legally classified as state

⁴ *Orbignya phalerata*, a species of oil palm predominantly found in the Eastern Amazon and pre-Amazonian regions.

⁵ *Leopoldinia piassaba*, a fibre-producing palm species predominantly found in the Northwestern Amazon.

land, to which the indigenous peoples whose ancestral territory it is have only a usufruct claim, albeit an inalienable one (Almeida 2006: 73).

The struggles for territorial rights of other groups of PCTs lack this Constitutional basis, and as a result they have made creative use of a diverse range of land governance instruments adapted from existing models designed to support conservation or land reform. The most common type of land governance instrument used to grant recognition to PCT territories is conservation-based. Under the Resex model of 'direct use conservation areas', ownership is vested in the federal government but permanent usufruct rights are granted to an association formed by the territory's traditional inhabitants in exchange for its members abiding by environmental restrictions that are intended to ensure sustainability of natural resource use. This is similar to the more recent 'Sustainable Development Reserve' model, initially created by the Amazonas state government in areas of high eco-tourism potential but increasingly the focus of 'green cash transfer' programmes and other attempts to formalise carbon and biodiversity conservation co-benefits. More recently, INCRA has developed a land reform / conservation hybrid, the 'Agroextractivist Settlement Project' (*Projeto de Assentamento Agroextrativista*, PAE). This is described as an 'environmentally differentiated settlement model' in which usufruct rights are granted to individual household plots and to collective 'common use areas' in different parts of a single territory, while the federal government retains formal title to the territory as a whole.⁶ In addition to these nationally-mandated models, PCT movements have succeeded in persuading some State and Municipal governments to pass enabling legal frameworks for the recognition of their territories, without necessarily creating specific land governance models for implementing them.⁷

The current national policy on PCTs was put in place in 2007 by the government of Luís Inácio Lula da Silva of the Workers' Party (PT), Brazil's President from 2003–2010. It provides for their territories to be registered with Brazil's National System of Conservation Areas, reaffirming the fundamentally conservation-oriented logic that has governed policy on PCT land rights since the establishment of the CNPT in 1992. However, as the definition quoted in Box 2.1 shows, the policy also calls for recognition of these communities' territories in terms of social and cultural rights. Under the PT-led governments of Lula and his successor Dilma Rousseff (who took office in January 2011 and was removed by impeachment in May 2016), other framings beyond the environmental narrative became important in shaping federal government policy on PCT rights.

The culture-preservation logic that is implicit in the term 'traditional peoples' has been particularly important for policy on indigenous and *quilombola* rights. The Constitutional provisions for indigenous land rights link the environmental and cultural dimensions, referring to land as 'essential to preserving the environmental resources needed for their well-being as well as for physical and cultural reproduction, in accordance with their uses, customs, and traditions' (Article 231).⁸ This logic is also found in some subnational laws, including that passed in 2014 by Minas Gerais, the state within which the case study area is located. However, under the Lula government environmental and cultural issues were given a lower priority than poverty reduction. This was reflected in the fact that when a National Commission was established in 2006 to coordinate policies for supporting sustainable

⁶ See <http://www.incra.gov.br/assentamentoscriacao#grupo1> (accessed 15 July 2016).

⁷ The earliest such legislation was passed by Paraná State in Southern Brazil, which in 1997 recognised the rights of communities known as *faxinais* to practice "collective land use for animal husbandry and environmental preservation" in traditional pastoral zones. Paraná State's *faxinais* legislation drew on earlier municipal pasture-protection laws dating back to 1948, and the long-running struggle by movements of rural women in the eastern Amazon for access to *babaçu* palm stands in areas facing enclosure by cattle ranchers achieved its earliest successes with the promulgation of municipal laws recognising the right to sustainable use of *babaçu* (Almeida 2006).

⁸ The agency responsible for quilombola rights, the Palmares Foundation, is a Culture Ministry body originally set up in 1988 to 'promote and preserve Afro-Brazilian art and culture'; see http://www.palmares.gov.br/?page_id=95 (accessed 15 July 2016).

development in PCT territories it was not the Environment or Culture Ministry that hosted its secretariat but the Ministry of Social Development and the Fight Against Hunger (MDS), whose central mission was not territorial governance or the promotion of sustainable livelihoods but direct poverty alleviation through mechanisms such as the *Bolsa Família* (family grant) conditional cash transfer programme. This signalled that these groups were now being seen primarily as a subset of the rural poor with needs that had to be met, rather than as communities with different logics of social, economic and cultural organisation that had to be respected.

Box 2.1 PCT identities

The majority of Brazil's 'traditional peoples and communities' (PCTs) tend to be known by the natural resources on which they depend (e.g. *seringueiros*, who tap latex from wild rubber trees) or the landscape niches they occupy (e.g. *vazanteiros*, who plant their crops in the alluvial mud that becomes accessible with the seasonal drop in water levels along the Rio São Francisco). However, the category has also been applied to groups whose (self-)identification has an ethnic and/or racial basis, including indigenous peoples and *quilombolas*, the descendants of the maroon communities formed by Africans who fled from or rebelled against the system of slavery that dominated Brazilian society from the 16th century until its formal abolition in 1888. This incorporation has been controversial, with some movements and their allies (including parts of the Catholic Church) arguing that using the broad category of 'Traditional Peoples and Communities' or PCTs dilutes the historically special status of the claims of indigenous peoples and *quilombolas* to territorial and other rights.

While its scope remains the subject of political and academic debate, the category of PCTs has gained increasing currency within both civil society advocacy and government policymaking in Brazil. There are no official census data on the Brazilian PCT population, but attempts to identify the full range of rural communities potentially falling into this category have concluded that it may potentially cover several million people, who practice a diverse range of traditional land use strategies in hundreds of territories scattered across Brazil's different biomes (Almeida 2006).

The official definition of the diverse identities brought together under the heading of 'traditional peoples and communities' is as follows: 'groups that are culturally different, and that recognize themselves as such; that possess their own forms of social organization, and that occupy and use territories and natural resources as conditions for their cultural, social, religious, ancestral and economic reproduction using knowledge, innovations, and practices that have been generated and transmitted through tradition' (Decree 6040 of 7 February 2007). The list of groups classified by the government as falling within this definition now includes not only indigenous peoples, *quilombolas* and those claiming landscape- or natural resource-based identities, but also communities of Pomeranian and Roma descent.

The creation of the National Commission in 2006 and the promulgation of the National Policy in 2007 gave PCT movements and their allies an unprecedented level of national recognition. In addition, the government's rural poverty reduction policies – which included not only social transfers but also farm credit for smallholders and public purchase schemes for agroecological production – greatly improved material conditions for some of the most marginalised PCTs. The Workers' Party-led government also reinforced the legal framework for the protection of PCTs' territorial rights by incorporating both hard and soft elements of international law. These elements ranged from ILO Convention 169 on the right to free prior and informed consent of indigenous communities whose territories are affected by development projects (incorporated into Brazilian law by Federal Decree in 2004) to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and

Forests in the Context of National Food Security (agreed by the FAO with extensive Brazilian government involvement in 2012).

ILO 169 has proved particularly important for the defence of PCT rights, as Brazilian academics have argued that although it refers specifically to ‘tribal peoples’, PCTs should come within its remit because they meet the same criteria of distinctiveness and tradition as indigenous peoples and enjoy the same internationally-acknowledged right to self-identification as differentiated communities (Costa 2011). This perspective has also received some support from the Federal Public Ministry (MPF), an independent branch of the judiciary charged with upholding Constitutionally-guaranteed rights. The MPF has become an increasingly important ally for PCT movements seeking to resist encroachment on their territories, as its prosecutors have sweeping powers to bring cases not only against individual and corporate rights violators but also against civil servants found to be neglecting their duty to protect vulnerable citizens or the environment.

2.4 Opposition to the expansion of PCT rights and the end of the PT era

Despite these gains in political recognition, economic redistribution and rights protection, under the Workers’ Party-led governments of 2003–16 the PCT movements were not able to secure a stronger legal basis for collective land ownership, leaving the fundamental state/private logic of Brazilian land law unchanged. This reflected the broader political economy of law-making and policy implementation in Brazil. Although he had a strong popular mandate, Lula faced powerful opposition from entrenched political and economic interests who had considerable influence in Congress (Gómez Bruera 2013). As a result, he sought to balance the expectations of rural social movements – including those representing PCTs – with the demands of the powerful agribusiness lobby. The latter was insisting on continued support for large-scale commodity production, which was generating an ever-greater share of the export earnings that Brazil needed to fund Lula’s anti-poverty programmes, and was adamantly opposed to any change in the law that might undermine a market-based system of property rights and restrict the ability of agribusiness concerns to access new land on the commodity frontier.

This balancing effort was symbolised by the simultaneous strengthening of the agribusiness support programmes of the Ministry of Agriculture, Livestock and Food Supply (MAPA) and of the ‘family farming’ support programmes of the Ministry of Agrarian Development (MDA), thereby consolidating Brazil’s longstanding agrarian dualism (Favareto forthcoming). It was also reflected in attempts to compensate for maintaining a legal framework that privileged individual or corporate title by using other governance instruments to regulate the social and environmental functions of rural landholdings. These included limiting access to government credit for landowners who flouted environmental legislation and stronger enforcement of the Forest Code, which establishes minimum areas of native vegetation that must be left uncleared on privately-owned farms.

In addition, the Lula and Dilma Rousseff governments launched initiatives to reform the chaotic title registration system. Despite the clear legal framework favouring individual title, the cadastral infrastructure needed for a transparent and efficiently-functioning land market had long been lacking in Brazil. Titles were stored locally in registries (*cartórios*) that were notoriously prone to being burned down in areas with a strong prevalence of *grilagem*, while at the national level three different ministries maintained mutually-incompatible databases of property size and ownership. The most ambitious new initiative was the *Terra Legal* or ‘Legal Land’ programme. This focused on titling of irregularly-held small and medium-sized properties (defined as occupying up to 1,500 hectares) in the Amazon region, which had long been the focus of Brazil’s bloodiest land conflicts. Under Dilma Rousseff’s government, the land reform agency INCRA also made strides towards producing an integrated geo-referenced database of all rural properties, as a key resource for application of the social,

agricultural, environmental and taxation policies that had hitherto used different registry systems.

These changes were resisted by the cross-party *bancada ruralista* (rural caucus) agribusiness lobby in Congress, which became increasingly assertive in attempting to alter or repeal legal instruments such as the Forest Code.⁹ Members of the *bancada ruralista* were subsequently to play a leading role in the effort to impeach President Rousseff after she was narrowly re-elected in 2014.¹⁰ The Chamber of Deputies (Lower House) voted for her impeachment in April 2016, and the Senate endorsed the decision in May, while fieldwork for this study was under way. As it became evident that she was likely to lose the Congressional vote, the President began to pass a flurry of policy measures designed to appeal to the social movements who had supported Lula but become increasingly disenchanted with her government. One such measure was a decree upgrading the National Commission for Sustainable Development of Traditional Peoples and Communities to the status of a Policy Council, theoretically with greater policymaking authority. She also signed into law a number of decrees recognising *quilombola* territories, many of which had been held up in the bureaucracy for several years by lobbying from agribusiness interests.¹¹

The May 2016 vote led to Dilma Rousseff's temporary removal from office, and to her Vice-President, Michel Temer of the centre-right Brazilian Democratic Movement Party (PMDB), taking over in her stead. Although a final decision on whether Dilma Rousseff should be permanently removed from the Presidency was not due to be made by the Senate until August 2016, Temer moved quickly to put in place a very different policy platform. With the backing of the *bancada ruralista*, Temer dismantled much of the institutional architecture of federal government support for rural social movements. The Ministry for Women, Racial Equality and Human Rights, a key interlocutor for the *quilombola* movement, was abolished. Responsibility for *quilombola* territories was transferred to the Ministry of Education and Culture, now headed by a leading figure from a right-wing political party that had long campaigned to undermine the Constitutional provisions on these communities' land rights.¹² The MDA was dismembered, with its anti-poverty policies moving to the Social Development Ministry and its land governance functions being taken directly under the control of the Presidency.

Despite these setbacks, some elements of the support for PCTs put in place under the Workers' Party governments have been retained. Decree 6040, the 2007 measure that established the National Policy on Sustainable Development for Traditional People and Communities, has not been revoked. Although the National Policy Council for PCTs established in the final days of Dilma Rousseff's Presidency came under sustained attack from the conservative media early in the Temer administration, mobilisation by social movements supported by the Federal Public Ministry helped to forestall any attempt to

⁹ The *bancada ruralista* had long sought to overturn the Code's provisions for minimum areas of native vegetation to be left uncleared on private landholdings and for permanent preservation of the gallery forests occurring along watercourses in regions such as the *Cerrado*; the revised Code passed by Congress in 2012 reduced the size of mandatory protected areas and exempted landowners from penalties for past illegal deforestation, though several of its most egregious clauses were vetoed by President Dilma Rousseff after a massive mobilisation by environmental NGOs.

¹⁰ These impeachment proceedings were ostensibly brought because President Rousseff had been accused of misrepresenting the state of government finances, but they harnessed a wave of popular anger at the systemic corruption that was being revealed by an ongoing investigation into bribes paid to politicians through the state oil company Petrobrás. Although politicians from all the major parties were implicated in the scandal, the conservative media helped to focus most attention on the Workers' Party, and calls for a cleanup of politics soon became calls for her to be removed from office.

¹¹ The effectiveness of this behind-the-scenes lobbying is demonstrated by the gap between statements of policy intent and effective implementation of measures to uphold PCT rights: although no fewer than 286 *quilombos* have now had their existence certified by the government, between 2003 and 2016 the federal land reform agency INCRA completed the land registration process for just 28 of these (Instituto Socioambiental 2016).

¹² See <http://www.cartacapital.com.br/sociedade/numa-canetada-o-recuo-de-15-anos-na-politica-de-terras-quilombolas> (accessed 15 July 2016).

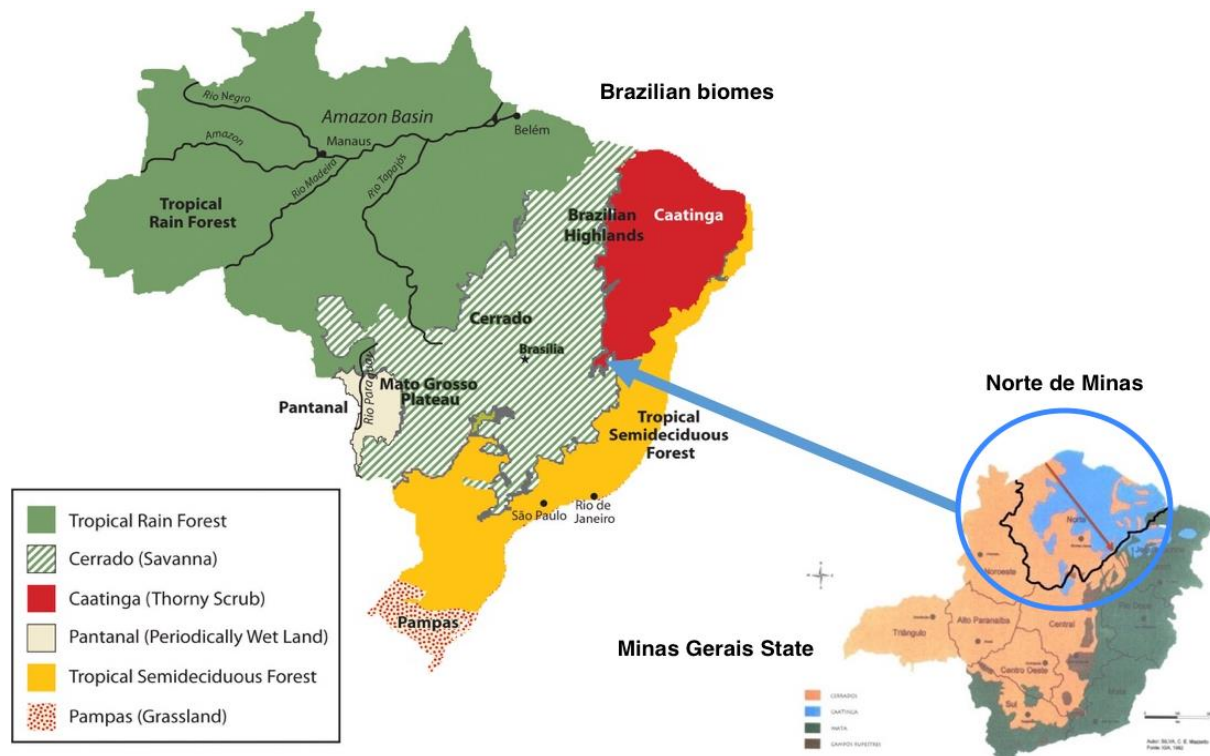
abolish it. These events demonstrate the extreme volatility of Brazil’s current political situation, in which a range of rights acquired under the Lula and Dilma Rousseff governments are perceived to be under threat, but at the same time there is substantial mobilisation to defend these rights.

3 Case study: PCT struggles for territorial rights in the North of Minas

3.1 The Norte de Minas region

The region selected for this case study in Brazil is the *Norte de Minas*, the northernmost part of the State of Minas Gerais. This is a transition zone in both socioeconomic and ecological terms, as it lies between Brazil’s rich Southeast and poor Northeast, and between the *Cerrado* savanna and the semi-arid *Caatinga*. As Figures 3.1 and 3.2 show, it contains a patchwork of both vegetation types.

Figure 3.1 Location of case study region within Minas Gerais State and Brazil



Source: authors, based on Saylor Academy (2012)¹³ and Figure 3.2.

¹³ https://saylordotorg.github.io/text_world-regional-geography-people-places-and-globalization/s09-03-brazil.html
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Figure 3.2 Vegetation map of Minas Gerais State showing location of Norte de Minas



The Norte de Minas region covers some 120,000 km² and includes 89 municipalities with a combined population of 1.6m people. Within the region there is a mix of economic prosperity and deep poverty. 31 per cent of the population lives in rural areas, almost twice the Brazilian average, with the majority occupying very small landholdings (Rodrigues *et al.* 2004). The region was the last part of the state of Minas Gerais to come under effective government control, and was notoriously lawless during the 19th and early 20th centuries, when rival rancher-politicians known as *Coronéis* ('Colonels') raised private armies to enforce their claims to political power and control over land (Viana 1935; Vasconcellos 1944; Pierson 1972).¹⁴ With the opening up of new roads and the establishment of a permanent state presence, the law of the jungle gradually gave way to the rule of law. However, the *Coronéis* maintained their power via the ballot box, just as they found new ways to gain control over land by securing formal concessions from the state government.

These concessions were managed by RURALMINAS, a state government agency created during the dictatorship to attract 'productive' projects to occupy the huge areas of *Terras Devolutas* that covered the remoter parts of the state, especially in the Norte de Minas. In the majority of these concession areas, the native *Cerrado* vegetation was cleared completely to be replaced with eucalyptus plantations. These plantations provided charcoal as a cheap fuel for the state's pig-iron industry. Meanwhile, in the lowlands, Latin America's largest irrigation scheme, *Projeto Jaíba*, was established with World Bank and Japanese government backing. It draws water from the Rio São Francisco to produce fruit for export. Concern over the scheme's environmental impact led in turn to the gazetting of over 50,000 ha of *Terras Devolutas* around the Rio São Francisco as State Parks or Biological Reserves.

The investments in RURALMINAS concessions generally resulted from alliances between local politicians and companies based elsewhere in Brazil or overseas. These alliances gave rise to complex networks linking local, regional, national and international capital. These have increased in prominence as the economy of the Norte de Minas has become more connected to global commodity circuits, enabling local elites to influence policy decisions at multiple levels. This trend is exemplified by former Minas Gerais State Governor Newton Cardoso, whose family controls a number of ranches and plantation concessions in the Norte de Minas. Cardoso has a stake in SAM, a Chinese-backed mining company active in the region. Meanwhile his son, a Federal Deputy, is sponsoring a congressional bill to lift Brazil's

¹⁴ During this period the region developed a *jagunço* (bandit) tradition that was celebrated by Brazil's greatest novelist, João Guimarães Rosa, in his 1956 epic *Grande Sertão: Veredas* (published in English translation as *The Devil to Pay in the Backlands*), and which is preserved in the oral histories of the communities of the region.

current restrictions on land ownership by foreign nationals. Additionally, these networks have been implicated in a decades-old process of illegal appropriation of *Terras Devolutas* through *grilagem* (land title fraud) that researchers have recently begun to study in more depth (Oliveira 1999, 2015). Land tenure in the region remains dramatically unequal as a result of these processes (see data in Annex 1).

3.2 PCTs of the Norte de Minas: livelihoods, identities and political organisation

Large landholdings dominate the Norte de Minas landscape. Wide expanses of pastureland alternate with extensive eucalyptus plantations in the upland parts of the region and with belts of irrigated agriculture in the lowlands. In the gaps between these – particularly on the steep hillsides and valley slopes that are less suitable for mechanised farming – large numbers of villages and clusters of small farms dot the landscape. While some family farmers are recent migrants to the Norte de Minas, including formerly landless peasants resettled by INCRA, the majority are descended from communities that have occupied the region for generations. These communities practise a diverse range of livelihood strategies, adapted to different landscape niches and often including reciprocity-based agricultural practices and collectively-managed pastoral and gathering systems which generate food for domestic consumption and income.¹⁵ This income is combined with wages earned during seasonal migrations to urban building sites or the coffee-growing zone of Southern Minas Gerais, and increasingly with government transfers (from the rural pension system and *Bolsa Família*), to provide a diversified livelihood base that is fairly resilient by the standards of a region long marked by endemic poverty and the cyclical scourge of drought. As Figure 3.3 shows, these communities claim a diverse range of identities that are linked to different parts of the highland-to-lowland and *Cerrado*-to-*Caatinga* transitions of the Norte de Minas.

Figure 3.3 Landscape, social and cultural diversity in Northern Minas¹⁶



Source: Dayrell and Lopes (2015).

¹⁵ Dried flowers, native fruit preserves and *cachaça* (sugarcane brandy) are local specialities that produce cash earnings.

¹⁶ Translation of the labels in the graphic: Title – Semi-Arid region Ethnicities. From left to right, top to bottom – *Veredeiros* and *Geralistas*; indigenous *Xakriabá*; *Vazanteiros*, fisherfolk, and *Quilombolas*; *Catingueiros*; *Geraizeiros*; *Apanha-flores* (flower gatherers). São Francisco River; Jequitinhonha River. *Cerrados* and *Veredas* (gallery forests); *Caatinga* and Dry Forests; *Cerrados* and natural grasslands. São Francisco mesas; São Francisco plains; *Serra Geral* foothills; *Espinhaço* hills and tablelands.

To the East of the Rio São Francisco, where the landscape is characterised by *Cerrado* and grasslands, the highlands of the Serra do Espinhaço mountain range are occupied by *Apanha-Flores*, who collect dried wildflowers for the export trade, and the foothills by *Geraizeiros*, who combine agriculture with cattle-raising. The lowlands are dominated by *Caatinga* thorn scrub and dry forest and occupied by *Catingueiros* who raise cattle and goats. The São Francisco floodplain is home to *Pescadores* (fishing communities), *Quilombolas* and *Vazanteiros*, who cultivate the alluvial soil that becomes accessible as a result of the seasonal drop in water level known as the *vazante*. The higher ground to the West of the Rio São Francisco is the territory of the Xacriabá indigenous people, whose traditional livelihoods are based on hunting and cassava cultivation. The Westernmost highlands of the region are dominated by a mix of open *Cerrado* and *vereda* gallery forests, occupied by *Veredeiros* and *Geralistas* whose livelihoods, like those of the *Geraizeiros*, combine agriculture with cattle-raising.

For most of the latter part of the 20th Century individual PCT communities sought to resist encroachment in isolation. This resistance generally proved unsuccessful in the face of elites who were able to mobilise key agencies of state power (including RURALMINAS and the police) in their support. From the 1990s, however, civil society actors began to help these communities to develop stronger local associations and to link these together into regional social movement organisations, which could in turn connect with the emerging national PCT movement (Dayrell 2012). The most important of these civil society actors were the Pastoral Land Commission (CPT) of the Catholic Church and CAA (*Centro de Agricultura Alternativa*), a sustainable agriculture NGO based in the regional capital Montes Claros. CAA received support from a number of European NGOs, including HEKS, which made the Norte de Minas a key focus of its Brazil programme. Universities and academics have proved other key allies. Together, NGOs and academics supported the establishment of *Articulação Rosalino*, a social movement organisation bringing together different PCTs across the region (Box 3.1).

Box 3.1 *Articulação Rosalino*

Articulação Rosalino de Comunidades e Povos (the Rosalino Convergence of Communities and Peoples) was established in 2011 and named after a Xacriabá indigenous leader who was murdered in a land conflict in 1987. It is an overarching regional organisation that brings together movements of different PCTs, including the *Movimento Geraizeiro*, *Vazanteiros em Movimento*, the Xacriabá indigenous association, the advocacy group CODECEX (Commission on Defending Extractivist Communities) and the network of *quilombola* communities of the Norte de Minas. These groups have their own individual spaces for generating proposals and planning, evaluating and monitoring activities but also come together as *Articulação Rosalino* to engage with a wider network of allies in pursuit of common agendas relating to PCT rights.¹⁷

These local-regional-national-international academic and civil society networks became a key resource for the PCT movements of the Norte de Minas in seeking to counteract the power of the local elites' multi-level networks as these encroached on PCT territories. *Articulação Rosalino* and its supporting networks also played a key role in securing the passage in 2014 of a Minas Gerais state law that protects PCTs' traditional forms of

¹⁷ This wider network includes various rural workers' unions linked to the state-level confederation FETAEMG, the Catholic Church's indigenous affairs agency (CIMI), its Pastoral Commission for Land Issues (CPT) and the regional branch of its humanitarian agency CARITAS, research groups from four different universities (UNIMONTES (University of Montes Claros), UFMG (Federal University of Minas Gerais), UFVJM (Federal University of Jequitinhona Valley) and IFNMG (Federal Institute of Northern Minas Gerais) Salinas) and from the national agricultural research agency Embrapa (Embrapa Cerrados and CENARGEN (National Center for Genetic Research and Biotechnology)), plus the Brazilian and International chapters of the FoodFirst International Action Network (FIAN).

organisation while enabling access to specific social policies. The law also recognises PCTs' land rights and provides for registration of their territories.

3.3 Case study communities: *geraizeiros*, *quilombolas* and *vazanteiros*

The fieldwork for this study was designed to include a range of different land governance modalities and traditional communities' land rights' struggle experiences. It included visits to *geraizeiro* communities in the upland Cerrado region and *quilombolas* and *vazanteiros* in the lowlands along the Rio São Francisco. Primary data collection consisted of individual interviews and focus group discussions using participatory visualisation tools such as timelines and institutional mapping, followed by open community feedback and discussion meetings.

In the following sub-sections, we present a brief summary of the experiences of land rights struggles in the areas we visited. These are broken down according to the identity of the traditional communities involved highlighting their differences in legal status, territoriality and livelihood strategies. In Section 4, we look at commonalities and differences across these experiences in the light of the three core themes of the Inclusive Land Governance project: the legal and institutional framework, space and territory, and conflicts.

3.3.1 *Geraizeiros*

The identity of the *geraizeiro* communities is linked to their occupation of the high savannah zone of the Serra do Espinhaço range, which is known as the *Gerais*. Their traditional livelihood systems combined cultivation of small plots in the steep wooded valleys that cut through the region, where there have historically been plentiful water sources, with managing the neighbouring upland plateaus characterised by *Cerrado* vegetation. The latter operated within a shared-use system, mainly for extensive cattle-raising, as well as for gathering fruit, medicinal plants, and firewood.

These plateau areas were historically classified as 'empty' *Terras Devolutas*; a designation made easier by the fact that *geraizeiro* communities did not generally build their houses on the plateaus and did not enclose their traditional grazing areas. This made it harder for them to claim ownership under a 'squatter's rights' system whose legal basis is continuous occupation by individual households. Large-scale concessions to forestry companies throughout the 1970s and 1980s led to huge areas of *Cerrado* being cleared and replanted with eucalyptus for charcoal production to feed the region's pig-iron smelters. This not only destroyed traditional cattle-raising but also caused water sources to dry up, affecting agriculture in the valley zones.

Mining activities have also expanded in traditional *geraizeiro* areas over the past decade. One project, backed by Chinese capital, has proposed to divert scarce local water resources into a chute-pipeline using water pressure to carry iron ore to a new port some 600 km away. At the same time, as the forestry concessions have begun to expire, communities have used direct action tactics to reoccupy plateau areas and prevent the renewal of concessions or their conversion into permanent corporate title. This intensification of conflicts has, in turn, attracted mediation by NGOs and state agencies and opened up opportunities for *Geraizeiro* communities' territorial rights claims to be channelled into different federal, state and municipal land governance mechanisms.

During the fieldwork we collected primary data on the experiences of four different *Geraizeiro* communities: Batalha, Vereda Funda, Sobrado and Água Boa II. Each of these communities had been involved in land conflicts with different local, regional, national and international interests and had followed a different pathway towards securing territorial rights recognition. While Vereda Funda and Sobrado have organised to secure rights over a single community's

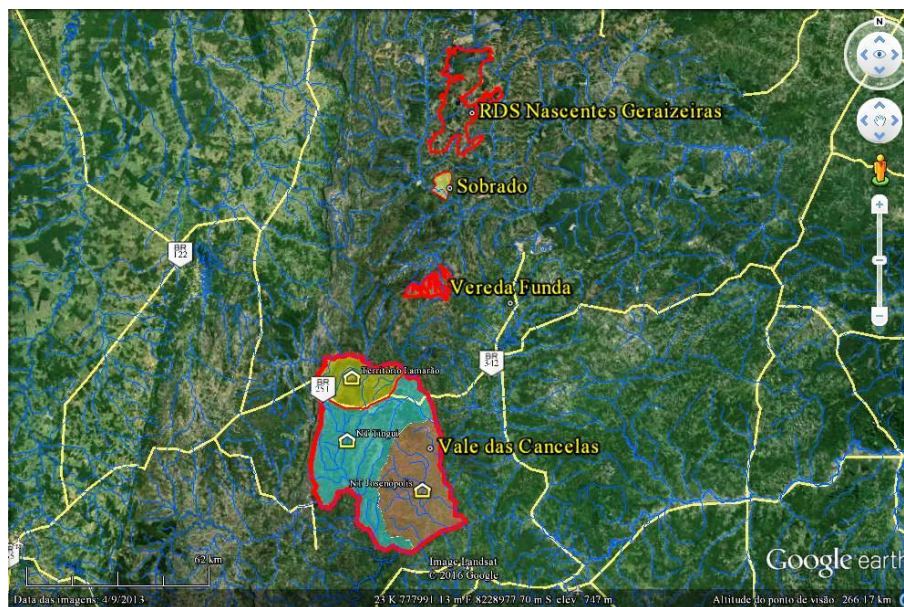
territory, Batalha and Água Boa II have been involved in larger-scale struggles over an extensive territory used by multiple communities. Batalha is part of the traditional *Geraizeiro* territory of Vale das Cancelas, which has yet to secure formal government recognition, and Água Boa II lies within the recently-created Nascentes Geraizeiras Sustainable Development Reserve (RDS). As Table 3.1 and Figure 3.4 show, despite their relative geographic proximity these territories have very different population sizes and geographical scales.

Table 3.1 Case study communities and territories

Community/Territory	No. of households	Traditional Territory Area (ha)
Vale das Cancelas	1,805	228,000
Vereda Funda	133	10,000
Sobrado	56	2,993
RDS Nascentes Geraizeiras	500	38,000

Source: CAA-NM database (2016).

Figure 3.4 Location of *Geraizeiro* case study territories



Source: CAA-NM database (2016).¹⁸

Batalha is one of 52 communities and localities within the extensive 228,000 ha Vale das Cancelas territory. Most of the traditionally-managed *Cerrado* areas within this territory were granted as concessions to forestry companies, including Florestas Rio Doce (which belongs to the mining giant Vale) and Florestaminas (controlled by the family of former state governor Newton Cardoso). In the past decade the area has also been the focus of increasing interest from mining companies, following the identification of large iron ore deposits. After the communities' initial efforts to resist enclosure of the *Cerrado* areas were met with violence by the State Military Police, they sought out allies including NGOs with international connections (such as HEKS partner FIAN) and the Federal Public Ministry (MPF). These alliances enabled them to resist plans for large-scale mining development in the region. One strategy involved invoking ILO Convention 169, which contributed to the decision by the federal

¹⁸ Landsat imagery courtesy of NASA Goddard Space Flight Center and U.S. Geological Survey; Map data: GoogleEarth.

environment agency IBAMA to reject a local gold-mining operation's license application for a tailings dam. A combination of direct action (including moving house sites from the valley floor to the *Cerrado* areas where forestry concessions are located) and external support has also helped the communities of Vale das Cancelas to negotiate concessions from the forestry companies. However, they have yet to secure formal government recognition of their traditional territory.

Vereda Funda is a community of 133 families occupying an area of approximately 10,000 ha in the municipality of Rio Pardo de Minas. It is the site of the first Agro-Extractivist Settlement Project (PAE) to be created in Minas Gerais, which covers 5,000 ha of this traditional territory. The PAE is demarcated as a mix of individual household plots and community-use areas. It took 12 years of struggle against eucalyptus plantations that had enclosed the community's grazing areas and destroyed the *Cerrado* vegetation before federal land reform agency INCRA approved the project. The eucalyptus plantations dried up surface water resources. This struggle benefited from a strong initial base of local organisation established through the Catholic Church's network of Grassroots Ecclesiastical Communities in the 1980s. In the 1990s, the community was able to expand its support networks and develop links with the transnational agrarian movement *Vía Campesina*. It also played a key role in the creation of the regional PCT movement *Articulação Rosalino*. Links with CAA and its allies in academia gave the community access to legal advice and technical support for a 'self-demarcation' process that provided documentation to support the PAE proposal. The forestry company was brought to the negotiating table by a combination of legal appeals (backed by the MPF) and direct action by the community, including an incident (known locally as the *ventania* or 'whirlwind') in which several charcoal ovens were destroyed. After the company desisted from replanting areas where the eucalyptus trees had already been harvested, the community protected the regenerating *Cerrado* vegetation effectively enough for formerly dried-up springs to begin flowing again despite the cyclical drought affecting the region as a whole. Vereda Funda community has also sought to influence local politics. A community leader was recently elected to head the Rural Workers' Union for the municipality of Rio Pardo, and at the time of the field visit he was discussing the possibility of using this as a platform to run for mayor of the municipality in the October 2016 elections.

Sobrado is a community of 56 families which has claimed traditional territorial rights over an area of 2,993 ha in the municipality of Rio Pardo de Minas. The community has faced similar threats from eucalyptus plantations to those affecting Vale das Cancelas and Vereda Funda, and has responded to these by developing similar alliances, including with CAA and with academics from UNIMONTES. Sobrado's alliances, however, have an even stronger international dimension, thanks to a link with a researcher from the University of Kassel in Germany. The Sobrado community has employed different strategies from those used in Vereda Funda, including lodging complaints with the Forestry Police and the State Institute of Forests (IEF) against a forestry company accused of carrying out deforestation without a license. The community has also triggered public hearings on environmental protection in the area. When an injunction was granted against the company, the community was able to use this as an entry point for discussions on a proposal to transfer the land from state government control to the municipality of Rio Pardo de Minas. The idea behind this proposal was to establish a Municipal Environmental Conservation Area and to mobilise local support for environmental recovery measures such as protecting natural springs. The proposal attracted considerable interest but has not yet secured final approval, so the Sobrado community leaders are currently renewing their mobilisation of local, regional and international networks to try to push the measure through.

Água Boa II is one of 18 communities with a combined population of some 500 households, part of whose traditional territory has been demarcated as the Nascentes Geraizeiras Sustainable Development Reserve (RDS), a 38,000 ha protected area that includes parts of three different municipalities (Rio Pardo de Minas, Montezuma and Vargem Grande do Rio

Pardo. The creation of the RDS followed more than a decade of conflict between local communities and companies and large landowners seeking to take advantage of the area's abundant water resources. In addition to direct action tactics such as blockading logging equipment, residents of Água Boa II and its neighbouring communities successfully mobilised legal and technical expertise in support of their territorial rights claims through allies including the Catholic Church, CAA and the Federal University of Minas Gerais (UFMG). They are now in the process of negotiating a sustainable utilisation plan for the Reserve with the federal agency ICMBio (the Chico Mendes Institute for Biodiversity Management).

3.3.2 Quilombolas

Quilombo is the term traditionally used for an Afro-Brazilian community formed by escaped slaves, and *quilombolas* are the descendants of these communities. The lowlands of the Norte de Minas have a significant concentration of *quilombola* communities, who for the most part are descended from slaves who fled up the Rio São Francisco to escape from sugar plantations in the coastal region of Bahia. Following the recognition of *quilombola* land rights by the 1988 Constitution there was increasing interest among NGOs and academics in identifying these historically invisible communities. In the North of Minas, communities such as Brejo dos Crioulos and Gurutuba were the focus of academic research in 1990s and early 2000s (Costa Silva 1998; Costa 1999; Costa 2008). The communities responded to their new-found visibility by mobilising to secure their territorial rights, with the help of academics and their NGO allies.

The case study fieldwork included a visit to a *quilombola* community in the municipality of Matias Cardoso on the Rio São Francisco. **Quilombo da Lapinha** is home to 126 families who traditionally used a very large area of floodplain and dry forest extending back from the banks of the river, which plays a key part in their cultural and livelihood practices. Under sustained pressure first from ranchers and subsequently from restrictive environmental protection measures, the residents of Quilombo da Lapinha found it increasingly hard to maintain their traditional livelihood system based on shifting cassava and maize cultivation combined with small-scale livestock-raising, hunting and fishing. They were driven from the inland part of their territory by ranchers to whom the land was granted as RURALMINAS concessions in the 1970s, and eventually found themselves confined to an island in the river. Although they initially continued to hunt and gather in the parts of their traditional territory from which the forest cover had not yet been cleared by the ranchers, these activities were severely restricted after the Lagoa do Cajueiro State Park was created in the area as a compensation measure for the environmental impact of the Projeto Jaíba irrigation scheme. In recent years, they have come increasingly to depend on government transfers through schemes such as *Bolsa-Família* and on income from providing unskilled and semi-skilled labour for Projeto Jaíba fruit-farms and for businesses in the urban area of Matias Cardoso.

After community leaders became aware of the success of other *quilombola* communities in securing government recognition, they began a mobilisation process that soon attracted support from NGOs and academics. A group of families from the community decided to return to their original lands on the East bank of the river and build houses and a centre for holding traditional celebrations there. Since these lands had now been gazetted as part of the State Park, this brought the *quilombolas* into conflict with IEF, the state government's environmental protection agency. The community deployed a range of direct action tactics, including marches and the occupation of public buildings, as well as carrying out a 'self-demarcation' process supported by NGOs and academics, who also provided expert advice for a legal claim to recognition as a *Quilombo*. This claim finally received preliminary recognition from INCRA in May 2016, with the publication of a Technical Report on Boundary Identification (RTID) recognising that the community had a claim to an area of 7,566 hectares. Although this does not represent definitive title, it significantly strengthens the

community's hand in demanding the right to remain within the area of the State Park pending final demarcation of its territory.

3.3.3 *Vazanteiros*

Vazanteiros are riverine communities whose traditional livelihoods are based on seasonal cultivation of alluvial soils left by the Rio São Francisco in the low-water period (known as the *vazante*), combined with fishing, gathering, and small-scale animal husbandry (Luz Oliveira 2005). Their traditional understandings of territory include the need for communities to move with the river, as floods periodically destroy homes and gardens while depositing new layers of fertile soil for cultivation in the *vazante*. Their cultural practices include the regulation of natural resource use via negotiations with water spirits who are believed to punish inappropriate behaviour. In recent decades the *vazanteiro* communities of the Norte de Minas have suffered the same pressures as their *quilombola* neighbours, with initial displacement (often accompanied by violence, including the burning down of *vazanteiros'* homes) resulting from the granting of land concessions to ranchers and then restrictions on their livelihood strategies resulting from the gazetting of traditional territories as State Parks (often accompanied by harassment and fines for trespass imposed by park officials and the police).

During the fieldwork we collected primary data on the experiences of two different *vazanteiro* communities, **Pau de Légua** and **Pau Preto**. Although they are located some distance apart, the two communities share common challenges. Both have seen their livelihood strategies affected by the creation of conservation areas (Mata Seca State Park in the case of Pau de Légua and Verde Grande State Park in that of Pau Preto). Both have also suffered from the impact on the flow of the Rio São Francisco of upriver dams and water abstraction for the Projeto Jaíba irrigation scheme, compounding the effects of cyclical drought. Both have also found themselves dealing with the federal government as well as the state government, because the Rio São Francisco is a 'federal river' (major inter-state waterway), which means that the alluvial cultivation zone is officially considered to be federal land.

In engaging with the federal government, both communities have been assisted by their links with a wider social movement organisation, *Vazanteiros em Movimento*, which in turn is part of the regional PCT movement *Articulação Rosalino*. This has given them access to allies from academia and NGOs, who have supported territorial recognition and 'self-demarcation' processes and helped them to frame their claims in ways that can be acknowledged by structures such as the Secretariat for Union Property (SPU), the department responsible for managing federal lands. The opening up of communication channels with the SPU has strengthened the communities' hands in their ongoing confrontations with the Minas Gerais state environmental protection agency IEF, which is responsible for the parks, as legally IEF's jurisdiction over the riverbank zone is conditional on federal government approval.

In the focus group discussions, both communities were optimistic that SPU support would enable them to obtain the right to live in and cultivate the riverbank zone. However, this narrow strip of land represents only a small fraction of their traditional territory, and supports only some of their diverse range of livelihood strategies. They are therefore exploring other land governance modalities that might give them rights to the entirety of their traditional territories. The Pau de Légua community has proposed the creation of a Sustainable Development Reserve (RDS) covering over 4,000 ha, which would account for some 40 per cent of the current area of the Mata Seca State Park. The Pau Preto community is currently debating whether to propose the creation of an RDS or an Agro-Extractivist Settlement Project (PAE), the modality used by in Vereda Funda.

4 Commonalities and differences

In this section, we review the patterns emerging from across the different case study sites in the Norte de Minas, and analyse what they tell us about the broader issues of inclusive land governance faced by PCTs in Brazil, in relation to the three core themes of the study: the legal and institutional framework, questions of space and territory and the nature of the conflicts involved.

4.1 The legal and institutional framework

In their struggles for recognition, the diverse communities of the region have benefited from the gradual development of a consistent national policy framework for PCTs, particularly after the Workers' Party (PT) arrived in national office in 2003. They have also increasingly come to share a common political identity, constructed both through social movement organisations like *Articulação Rosalino* and through state-sponsored institutions like the National Council for Sustainable Development of Traditional Peoples and Communities, on which some PCT leaders from the region have seats. However, this increasing policy and political consistency contrasts with a legal and institutional framework that remains extremely fragmented, contributing to the slow progress in translating gains in recognition for PCT understandings of territorial rights into the concrete changes in land governance that are needed to make those rights real.

As we discussed in Section 2, successive PT-led governments failed to tackle the changes in the legal framework that would be necessary to deal with the discrepancy between a legal system that classifies land as either private (and therefore available for market transactions) or public (and therefore controlled by state agencies) and the traditional land governance practices of the country's PCTs (which emphasise private rights that are not negotiable in the market and public rights that are collectively-agreed rather than state-administered). As a result, these communities continue to lack access to a common legal framework capable of reflecting their collectively-based territorial rights claims.

The lack of a consistent legal framework for collective tenure is compounded at the subnational level by state and municipal legislation such as the Minas Gerais state law on PCT rights and the proposed municipal law to protect the *Geraizeiro* territory of Sobrado. This means that communities who share the same identity and understanding of territory may have a different legal basis for their territorial claims depending on which side of a state or municipal boundary they live. This fragmentation has been made even more complex by the fact that the legal basis for the land rights claims of PCTs varies according to their ethnic identity, with indigenous and *quilombola* lands having a Constitutionally-recognised status that other PCT territories lack.

However, legal activism by NGOs and by the highly effective *Ministério Público* (MPF) has extended the reach of some legal instruments that were initially understood to apply only to specific ethnic groups, with the key example being ILO Convention 169 on the right to free, prior and informed consent. This was originally interpreted as applying only to indigenous peoples, but has been successfully invoked by non-indigenous PCTs such as the communities of Vale das Cancelas against large-scale mining and infrastructure projects affecting their territories. By contrast, little use has been made of the Voluntary Guidelines on the Responsible Use of Tenure of Land, Fisheries and Forests in the Context of Food Security, in spite of the fact that Brazil was actively involved in the drafting of this document – possibly because (as a non-binding instrument for which a clear monitoring and accountability framework has yet to be established) it cannot be used in legal enforcement strategies such as MPF injunctions and/or because it remains relatively little-known even among communities with active connections to social movement support networks.

Given the high degree of overlap between their territories and state *Terras Devolutas*, PCTs must deal with the specific legal framework for such lands. This framework favours three distinct land governance processes: temporary concessions for commercial use; permanent gazetting as a protected area; or permanent grants of individual title, usually as part of a land reform project. The communities of the case study region have historically experienced the first of these processes as a social and environmental disaster, and the second as a source of intolerable restrictions on their livelihoods. That leaves the third process, which requires negotiation with the federal land reform agency INCRA and/or its state-level equivalents for land titling.

As discussed in Section 2, land titling processes in Brazil have long been seen as deeply problematic, with widespread local corruption and three incompatible cadastral systems at the national level. Despite the recent national-level efforts by INCRA to standardise the use of georeferencing to unify these systems, in the case study region the land registries (*cartórios*) are still perceived as extremely corrupt. Vale das Cancelas residents claimed, for example, that the local *cartório* manager had been given a pickup truck in exchange for facilitating an illegal land deal. However, a crackdown on the widespread practice of *grilagem* (land-grabbing via title fraud) has recently been under way in Minas Gerais, with the arrest of several members of a particularly notorious gang of fraudsters who had been active in the case study region.

In the case study communities, there was a widespread local perception that securing formally documented title was the only way to avoid the dispossession to which they had been subjected in the past, as well as being a key means to access other state-provided resources such as farm credit or connection to the electricity grid (both of which had been denied to members of the Quilombo da Lapinha community in the absence of INCRA certification). However, some community members interviewed during the fieldwork expressed concern that INCRA's strong emphasis on individual title would lead to social and political fragmentation. A focus group discussion participant in Vereda Funda referred to the fear that 'this model of a title for each person... was going to individualize everything, and then each person would do their own thing.' Another Vereda Funda resident stated that 'if there's no collective area, there's no way of saying this is a traditional community.' The concern was that if the collective struggle resulted in title being given to individual families, these would then come under pressure from outsiders to sell off their part of the collective territory.

Institutionally, different PCTs have found themselves engaging with a wide variety of federal, state and municipal government bodies. The *quilombolas* and *vazanteiros* of the Rio São Francisco have come into conflict with the state-level environmental protection agency IEF because their traditional territories have been gazetted as State Parks, but they also have access to a federal-level land administration body, the SPU, because they live along a waterway that is classified as a 'federal river'. As members of a recognised Afro-Brazilian community, the inhabitants of the Quilombo da Lapinha now also have access to FCP (the Palmares Cultural Foundation), a body linked to the federal Ministry of Education and Culture. The *geraizeiros* of the Serra do Espinhaço have pursued their territorial claims via engagements with the federal land reform agency INCRA (in the case of Vereda Funda's PAE), the federal protected area management agency ICMBio (in the case of the Nascentes Geraizerias RDS) and a municipal legislature (in the case of Sobrado's proposed municipal law). This institutional fragmentation operates both across levels of government (municipal, state and federal) and across different sectoral framings of PCT territorial issues – which may include land reform, environmental protection, poverty reduction and/or cultural recognition.

In this fragmented context, PCTs' decisions on which institutional pathways to pursue have depended less on a strategic view of what would best fit their own vision for their territories

and more on a tactical view of the opportunities to establish alliances with outside actors. Where these are civil society actors, they will tend to have links with different parts of the government machinery that reflect their particular social, cultural and/or environmental agendas. Where they are politicians, they may provide entry points to government decision-making at different levels, leading to a decision to favour municipal, state or federal-level engagement. In recent years the presence of sympathetic Workers' Party politicians in influential federal and state positions has led the PCT movement to focus on these levels, neglecting a municipal political arena that has remained largely under the control of local landowning oligarchies. As Sobrado's attempt to secure a municipal law recognising its territory and the possible mayoral candidacy of a leader from the Vereda Funda community suggest, this may now be beginning to shift towards a greater emphasis on the municipal level – a shift that is likely to be accelerated by the rapid deterioration in the political and policy environment for PCT rights at the state and federal levels.

4.2 Space and territory

Although they share some core traditional principles for land governance, especially the idea that it should combine individual and household property (home gardens, cultivated plots) with collectively-managed areas (pasture zones, hunting areas, fishing grounds), understandings of space and territory vary among different PCTs. Community members often have different resource entitlements within a single land area, forms of land use vary across landscape niches and change seasonally within them, and the community's territory itself may move – as in the case of islands in the Rio São Francisco cultivated by *vazanteiros*, which disappear and re-form after floods. This creates challenges for securing territorial recognition within a land administration system that frames rights in terms of two-dimensional polygons with single owners and fixed boundaries. Historically, the Brazilian state's response to conflicts over land use has been to draw more polygons, dividing a contested region into different single-use territories by applying environmental, social and economic variables to determine appropriate land governance modalities for each territory, in line with the 'Environmental-Economic Zoning' model (Ab'Saber 1989).

However, Brazil has also developed some governance mechanisms that recognise the notion of overlapping or nested territorial rights in practice, even if their legal basis remains fragile. These mechanisms generally relate to natural resource rights rather than land rights *per se*. One example is the formal management structure that is supposed to regulate land governance and resource rights in a direct-use (i.e. permanently inhabited) biodiversity conservation area. These structures are intended to promote co-management by community associations and environment agencies such as the federal protected areas department, ICMBio.

Their first task is usually the negotiation of a Sustainable Use Plan, such as the one currently being developed for the RDS Nascentes Geraizeiras. Such negotiations often involve managing conflicts over social and conservation priorities, as well as establishing relations of power and authority between community leaders and environment agency staff. The PCT communities of the Norte de Minas with whom we spoke during the case study research often felt themselves to be at a disadvantage in negotiating with ICMBio staff, who have higher levels of education and direct connections to the apparatus of the federal government, and expressed concern that the RDS modality meant being subject to intrusive oversight from environment agency officials. Even though ICMBio has a specific mandate to implement 'parks with people' policies, its officials were often seen as sharing a set of values with those of the more explicitly preservationist state agency IEF (responsible for the State Parks that overlap with the *vazanteiro* and *quilombola* territories of the Rio São Francisco). These values give priority to biodiversity conservation rather than sustainable livelihoods and blame local people for environmental damage, failing to acknowledge the conservation role

historically played by PCT communities, or to recognise that – as one participant in the Pau de Léguas community meeting put it – ‘the community is part of nature, too’.

Another example of a land governance mechanism designed to accommodate concurrent or nested resource rights is the river basin management committee (*Comitê de Bacia Hidrográfica*, CBH), which is supposed to include stakeholder representation on an equal basis with state and municipal governments whose territories are traversed by a given river. The definition of ‘stakeholders’ tends to follow conventional economic and political criteria, excluding the cultural and religious dimensions that are often important for PCTs’ notions of territory (such as the belief in water spirits that guides *vazanteiros*’ decisions on resource use).¹⁹ CBH definitions of appropriate water use also tend to give ecosystem services a much lower priority than economic activities such as irrigated agriculture; as one community member in Quilombo da Lapinha put it, for those in charge of allocating water to the Projeto Jaíba irrigation scheme, ‘this river is only about making money’. Despite these limitations, the CBH mechanism is likely to prove important for the case study area, as it provides a focus for PCT movements and their allies to raise concerns about the potential impact of the proposed iron ore chute-pipeline on the Rio Pardo basin, which includes a large part of the Norte de Minas as well as several municipalities in the neighbouring state of Bahia.

In other cases, territorial governance mechanisms have been designed to promote coordination between different sectoral agencies in pursuit of social and/or sustainable development goals. The national ‘Territories of Citizenship’ programme developed under the Lula government was designed to bring together the actions of different ministries within an overarching goal of rural poverty reduction within those ‘territories’ (defined as clusters of municipalities) that had particularly poor human development indicators – including the Norte de Minas. Given that Brazil’s poorest rural areas tend to be the most geographically isolated and therefore to have a high degree of overlap with PCT territories, this form of spatial targeting did result in an intensification of direct contacts between PCTs and the federal government.

One consequence of this – due in no small part to the active role played by the Social Development Ministry in defining the poverty focus of the programme – was an acceleration of the enrolment of people from PCT communities in federal welfare programmes such as the *Bolsa-Família* conditional cash transfer scheme. Women we interviewed in the case study sites considered *Bolsa-Família* to be an extremely important component of their relationship with the state, with positive effects on their visibility as citizens as well as their material wellbeing. However, there is also evidence that the influx of cash from government welfare programmes can lead to a weakening of traditional reciprocity-based arrangements for agriculture and natural resource management and their replacement by cash transactions, weakening the entitlements of those who lack a cash income (Shankland 2011).

Overall, the historical invisibility of PCT territories is gradually giving way to state recognition, although – as noted above – there has been disappointingly slow progress in converting this recognition into formal title. A key role has been played in this process by academic research, which has translated oral histories and tacit knowledge into written documentation that can be used to present rights claims to the state. State recognition instruments, such as the Technical Report on Boundary Identification (RTID) used to establish the eligibility of *quilombola* territories for demarcation by INCRA, often rely on ethnographic evidence produced by university- or NGO-based researchers, and these researchers may themselves be hired as consultants to support territorial identification processes. Links with NGOs have

¹⁹ This exclusion of cultural and religious practice from land and resource governance decision-making was described by one academic at the pre-fieldwork meeting in Montes Claros as part of an externally-driven redefinition of PCTs’ identity so detrimental that it should be classified as ‘ethnocide’.

also enabled PCTs to use ‘self-demarcation’ processes, in which boundary walks are guided by the community’s own oral historians and spiritual leaders while being recorded with GPS technology, following training provided by NGO technical staff. In addition to generating evidence that can be used to support land claims, these processes can also serve as powerful strategies to strengthen community organisation and identity, helping nascent movements to gain political strength and visibility and creating ‘facts on the ground’ that can make claims more difficult for state agencies to ignore (Uli Ide, pers. comm.).

Other strategies for strengthening community organisation have drawn on collective religious practice. This often follows the ‘Grassroots Ecclesiastical Community’ model introduced by the Liberation Theology wing of the Catholic Church in the 1980s, which was highly influential in providing an organisational base for many rural social movements, including the MST. Among *quilombolas*, different forms of Afro-Brazilian religious practice have been very important for maintaining collective identity. In recent years, however, these models have grown less prevalent as evangelical Protestantism has taken hold in the case study region.

Even where religious affiliation is no longer shared by a whole community, there are other bonds that continue to bring people together – even when internal class, gender and intergenerational inequalities or political factionalism combine to make collective action by entire communities deeply challenging, as discussed in the next section. The most important of these bonds is kinship, which often operates in practice as the key organising element for territorial governance. Extended kin groups can share very large territories – for example, one CAA researcher stated that despite the fact that there are 52 different communities within the 228,000 ha Vale das Cancelas territory, ‘everyone there is related’. Existing land governance mechanisms take no account of this extended understanding of kinship, or of the risk that unevenly-applied titling processes can disrupt the balance between and within kin groups and damage the viability of collective management strategies. As one Brasília workshop participant, Professor Aderval Costa of UFMG, described it, the risk is that ‘you atomize something that was always collective, and thus you make it more fragile’.

4.3 Conflicts

The territories of different PCTs visited are located within a region that is under increasing pressure from an expanding commodity frontier. Some activities have been established for several decades (in the case of eucalyptus plantations for charcoal production) or even for more than a century (in the case of cattle-ranching). In recent years, however, they have been joined by new ones, with mining playing an increasingly important role in the highland parts of the case study region and irrigated fruticulture in the lowlands. The majority of the conflicts observed in the Norte de Minas derive from collisions between the efforts of local, national and international capital to expand commodity production and the efforts of local communities to protect or recover their traditional territories. Some, however, derive from efforts by state, federal and international government agencies (including the World Bank and the Government of Japan) to mitigate the environmental impacts of commodity production by expanding protected areas, which also tend to overlap with PCTs’ territories and lead to restrictions on their livelihood strategies.

These conflicts have drawn in federal government agencies like INCRA, ICMBio and the SPU, who have begun to operate as mediators and arbitrators of land governance processes, seeking to manage conflicts and avoid them spilling over into the violence that has long characterised rural land disputes in the region. Despite frequent threats against movement leaders from locally powerful interests, and some violent incidents, the number of land conflict-related murders in the Norte de Minas has been low by Brazilian standards, indicating that for all its lawless history the region currently has a fairly strong rule of law. In addition to the relatively high level of state law enforcement capacity in Minas Gerais, this positive picture may also be related to the significant presence in the region of pro-PCT civil

society and academic actors with good national and international-level connections. This acts as a deterrent by increasing the likelihood that any killings of PCT movement leaders will be met by both an international outcry and an energetic response from federal law enforcement agencies.

Some of the conflicts observed in the region have arisen when commodity production activities have affected PCT territories directly. Historically, the most common examples have been displacement of lowland communities by ranch expansion and the enclosure of upland community pasture areas by forestry companies seeking to replace the *Cerrado* vegetation with eucalyptus plantations. Pressure on PCT territories from these sources is starting to diminish, as law enforcement agencies have begun to crack down on the *grilagem* that has historically enabled ranch expansion, and the state government has begun to review its forestry concessions policy. Communities have managed to reoccupy some of their lost territories, using a combination of direct action and legal appeals (with the latter often supported by NGO allies and the MPF). We did encounter some examples of small-scale encroachment by local elites (often people from nearby towns who were looking to invest in rural land), but these had been successfully resisted by local community mobilisations, often with the aid of allies who were able to bring in support from higher levels to counteract the local political influence of the encroachers.

At the same time as the direct risk of displacement from the land has receded, the level of conflict related to natural resources rather than to the land itself has increased. Some of these conflicts involve the region's mineral wealth. The majority, however, relate to water – the key resource in a highly water-stressed region. In the highlands, conflicts have historically centred on the impact of eucalyptus plantations on local groundwater sources, as well as on the impact on human and animal health of water contamination by forestry companies' pesticides. In recent years, the focus has shifted to the attempts to divert scarce water resources for use in mining and mineral transport, exemplified by the proposals for a gold mine tailings dam and an iron ore chute-pipeline that are currently being resisted by PCT communities in the Vale das Cancelas territory. In the lowlands, the key conflict is with irrigated agriculture, as levels of offtake from the Rio São Francisco are being increased to feed the expansion of the Projeto Jaíba fruticulture zone.

In both cases, the intensity of the conflict relates to local perceptions that water scarcity is increasing and that key riverine ecosystems such as those of the Rio São Francisco have already been compromised – as one participant in the Pau de Légua community meeting put it, 'we're running the risk of losing everything again, because the river is drying up'. This perception may reflect long-term climate change as well as the El Niño / La Niña drought cycle that has historically affected the region; the Norte de Minas has recently been classified as one of the regions most at risk from climate change (FEAM 2014).

The need to prevent a catastrophic collapse in ecosystem services in the face of climate change should create space for alliances between PCTs, agribusiness interests and state environmental protection agencies, but instead zero-sum thinking has tended to prevail. One of the most intense conflicts has been between the state environmental protection agency IEF and the *vazanteiro* and *quilombola* communities within whose traditional territories the agency has created State Parks along the Rio São Francisco. The creation of the State Parks was justified on the grounds that the areas were uninhabited, despite abundant evidence of traditional occupation; as one Pau de Légua community member put it, 'they made a park here, and said no one had ever lived here – but there were plots with rice, beans and everything'. IEF agents and police patrols have harassed and threatened community members found within the park boundaries, and imposed heavy fines for 'environmental crimes' when they have tried to reopen their garden plots. Community members, in turn, have blockaded access roads and threatened to destroy IEF vehicles. Ironically, these same direct action tactics have been used by other communities in the

region to prevent 'environmental crimes', including blockading of logging roads and destruction of equipment found to have been used for illegal deforestation within their traditional territories.

Many of these forms of direct action have been led by women, and this has given them status among the PCT movements, despite the continued prevalence of a strongly patriarchal culture throughout the region (and the fact that most movement leaders are still men). Women's prominent role in conflicts may be related to gender norms around violence that make them less likely than men to be shot or beaten by police or hired gunmen; this has been identified as a reason for the front-line role played by women in other PCT mobilisations, such as the movement for access to *babaçu* in the Eastern Amazon (Almeida 2006). Other factors have also operated in favour of greater gender equality within PCT communities, including access to resources from government social programmes such as *Bolsa-Família* and changes in the legal framework that have meant that land titles issued by INCRA no longer go automatically to a male head of household. These factors have enabled women to retain control of land in a context where households are often female-headed, whether as a permanent status or as a temporary one resulting from male seasonal migration.

Although gender inequalities tend not to be a major factor in conflicts over land, other forms of intra-community conflict have proven to be important. In some cases, social differences or longstanding disputes between neighbours have affected the micro-politics of movement-building, with some community members refusing to ascribe to the particular form of PCT identity (for example, *quilombola* or *geraizeiro*) articulated by the dominant group. Given the historical fluidity of racial and class identities in rural Brazil it is not surprising that some community members choose not to identify with what is often pejoratively classified as a 'backward' PCT identity. Nevertheless, it disrupts the effort to present the community as united in its dealings with outsiders, and opens up opportunities for divide and rule tactics. The latter often involve promises of jobs in forestry or mining projects, or access to political patronage networks. Job offers are particularly attractive to younger men, who generally have lower levels of education (and thus less access to the urban jobs market) than young women, and are less likely to have access to land and other assets than older men. The PCT movements have had some success in mobilising the youth of their communities, and most of the young people we spoke to said that they were committed to building their future lives within the traditional territory. Nevertheless, most movement leaders still tend to be older men, and their tradition-based discourses may fail to appeal to young people from PCT communities who – in a region that is urbanising very rapidly – are increasingly attuned to the lure of the city.

5 Land rights support strategies: lessons and prospects

SDC's partner agency HEKS (Swiss Church Aid) has made working with PCTs a priority for its Brazil programme, providing financial support to PCT movement organisations and their NGO allies and helping to link them internationally with other organisations (including Church agencies and the FoodFirst International Action Network) that share its 'Human Rights Based Approach' (HEKS 2013). In addition to land rights advocacy, HEKS has supported livelihoods projects that aim to link agroecological production in PCT territories with regional markets, via producer associations and trading cooperatives. HEKS' Brazil-based regional land advisor argues that in the view of the organisation 'it is important not only to focus on access to land, land demarcation and the realization of land rights of the people; it is indispensable to also work on concrete alternatives for the sustainable use of the land and its natural

resources' (Uli Ide, pers. comm.). Although the issue of sustainable livelihoods for PCT communities is a critical one (and especially relevant to the prospects for PCT territories to retain their youth in the face of an ongoing drift to the cities), this study did not examine the performance of the livelihoods projects supported by HEKS. In line with the overall focus of the project, the study concentrated on the lessons for efforts to promote inclusive land governance that can be drawn from the land rights struggles supported by HEKS and its key partner in the Norte de Minas, *Centro de Agricultura Alternativa* (CAA). In this final section we review these lessons, identify the most successful strategies and examine the likelihood that the progress towards more inclusive land governance achieved through the mobilisations that have been supported by HEKS and CAA will be sustained in the radically different policy and political environment that has emerged from the impeachment of President Dilma Rousseff.

The first lesson is that in a context such as Brazil's, political mobilisation strategies can enable real progress to be made towards inclusive land governance. The Norte de Minas is similar to many other parts of rural Brazil where, in the absence of effective structures of representation within a political system dominated by local oligarchies, social movement organisations became the preferred mechanism for claim-making by some of the poorest and most marginalised groups. As pro-movement politicians have reached positions of power at the state and federal levels, they have helped to promote 'institutional hosting' strategies for the movements within the bureaucracy. These strategies have provided the movement organisations with recognition and access to resources, which in turn encourages more grassroots communities to align themselves with them.

However, this process requires skilled social movement organising, to enable leaders to maintain dialogue with government without losing legitimacy with the grassroots as they shuttle back and forth between their communities and higher levels of decision-making. Building such a movement is a slow and difficult process. Although they have gained visibility under a sympathetic government in recent years, the movements observed in the region have their roots in a very different period of Brazilian history: the resistance to the military dictatorship and the democratic transition of the late 1980s. This includes the fact that many of them are rooted in the grassroots organising of the Liberation Theology wing of the Catholic Church, which remains a very active presence in the region through the activists of the Pastoral Commission for Land Issues (CPT). It also includes their relationship with CAA, the most important of the NGOs providing support to PCT movements in the region. CAA has worked in the Norte de Minas for over three decades, having been established in the late 1980s to provide technical support for rural workers' unions and family farmers' associations wishing to preserve traditional farming techniques and promote agroecological approaches. In recent years CAA has reframed its focus from 'family farming' to 'traditional peoples and communities', and expanded the range of movement support activities it provides. It now emphasises developing grassroots political awareness and building collective action strategies, as well as defending communities and leaders who are facing criminal proceedings as a result of mobilising for their rights, by providing legal advice and representation and mobilising political support to protect those who have received threats.

Another lesson from the Norte de Minas is that following a single set of rights-claiming strategies – whether orderly or unruly – is rarely enough. The PCT movements in the region have combined institutionalised engagement (participating in committees and other structures established by government) with appeals for legal action against enclosures and environmental destruction in their territories (supported by NGO allies such as CAA or by the MPF) and with the use of different forms of direct action. Some of these forms of direct action have been designed to attract attention via peaceful protest, such as the numerous marches organised by *Articulação Rosalino* or the hunger-and-thirst strike that successfully secured a commitment from the federal government to establish the Nascentes Geraizeiras Sustainable Development Reserve in 2014. Others have involved breaking the law, such as the

occupation of the National Mining Department's office in Brasília in 2014 to protest against the proposed tailings dam, the 'whirlwind' which destroyed charcoal ovens in Vereda Funda or the threats to burn IEF vehicles made by *vazanteiro* women protesting against harassment by park guards. However, none have involved armed violence, which has been carefully avoided by the movements despite high levels of police harassment and the frequent death threats received by leaders and community members. These threats notwithstanding, thanks to the vigilance of NGOs and of the MPF, along with the relatively strong rule of law in the region, land conflicts in the Norte de Minas have tended not to be marked by the killings that are all too common elsewhere in Brazil.

The Norte de Minas also shows the importance of effective multi-level alliances in support of PCT rights, something that has been facilitated by specific features of the regional and national context as well as by HEKS' activities. Leaders from CAA and *Articulação Rosalino* have seats on federal policy councils that have required them to travel frequently to Brasília. During the PT governments, this allowed them to maintain links with key government actors ranging from the Ministry of Agrarian Development (MDA) to the General Secretariat of the Presidency (SGP). In academia, sympathetic researchers from UNIMONTES have established a network on PCTs that has a wide range of contacts in key national universities such as UFMG, as well including some researchers from international institutions. HEKS' presence in the region has played a key role in internationalising these movement-NGO-academic alliances; the locally-based HEKS land advisor runs a programme for international networking across Latin America that has supported exchanges with movements in Colombia and Guatemala, HEKS has supported the international colloquia on PCTs organised by UNIMONTES, and the fact that HEKS funds both the Brazilian and the International chapters of FIAN has been instrumental in enabling rights violations in the Vale das Cancelas territory to be brought to the attention of United Nations Special Rapporteurs and Geneva-based UN bodies.

Given the unusual strength of these alliances, the broadly favourable political and policy context at state and federal levels in recent years and the ability of PCT movements in the region to use such a wide range of strategies in support of their rights claims without suffering violent repression, significant progress towards inclusive land governance might have been expected. There have indeed been very important advances in recognition of these formerly invisible groups, with legislation acknowledging their rights and the creation of formal policy spaces where they can articulate their concerns directly to government. In addition, PCT communities' material conditions have improved as a result both of targeted programmes and of the government's broader poverty reduction strategies. With the support of HEKS, CAA and other actors, groups like *Articulação Rosalino* have connected diverse and scattered PCT communities, enabling them to develop solidarity links and shape a common political identity and set of demands.

Nevertheless, although their ability to resist encroachment has grown as a result both of their own organisation and of the vigilance of structures such as the MPF, most of the PCTs of the Norte de Minas still lack effective legal guarantees of the integrity of their territories. Some (like Quilombo da Lapinha and Sobrado) have secured only preliminary (and easily-reversed) recognition for their territorial claims, while others (like Vale das Cancelas and Pau de Légua) have yet to achieve even that. Even those who have achieved permanent legal protection for their territory have been required to use land governance mechanisms that subdivide much of their collective space into individual lots (in the case of the Vereda Funda PAE) or subordinate their livelihood choices to the technical criteria of a state conservation agency (in the case of the Nascentes Geraizerias RDS).

The reasons for this gap between the aspirations of the PCT movements and the land governance gains achieved so far relate to the underlying structure of Brazil's legal and institutional framework and to the political economy of law-making and policy implementation

in what remains a highly unequal country. As discussed in Section 2, the Workers' Party-led governments of 2003–2016 did not attempt to change the fundamental logic of land law in Brazil, which centres on a division between state-controlled public land and market-transacted private land – making no allowance for collectively-controlled community land. This has left most PCTs with a choice between seeking titling via the land reform agency INCRA and seeking gazetting as a 'direct use protected area' via the conservation agency ICMBio. INCRA has historically provided titles to individual households, which risks the breakup of communities as these titles find their way into the market, while ICMBio requires communities to subordinate their livelihood choices to conservation criteria. Institutionally, there is no single structure responsible for PCT rights: these rights are variously framed in terms of land reform (the responsibility of INCRA), environmental protection (the responsibility of ICMBio), rural poverty (the responsibility of the MDS) or culture and ethnicity (the responsibility of FCP in the case of *quilombolas* and FUNAI in the case of indigenous peoples).

Making inclusive land governance a reality for all PCTs in Brazil in the longer term will require stronger alignment between the legal, institutional and policy frameworks. Legally, the gains secured through political mobilisation by PCT movements and their allies in recent years remain fragile, since they were generally formalised through legal instruments that are relatively easily-reversed (Executive Decrees rather than laws passed by Congress). Institutionally, even the strong Constitutional protection afforded to *quilombola* territorial rights has proven difficult to translate into practice, since demarcation of territories depends on administrative measures that are expensive (because of technical surveying costs) and demand a high level of political will (because of opposition from politically powerful interests with competing land claims).

The continuing importance of these factors shows that the underlying structure of political and economic power in Brazil has yet to shift decisively in favour of the rural poor, despite the electoral victories of a party avowedly committed to protecting their rights and furthering their interests. Brazil's highly decentralised political structure allows local and regional elites to operate fairly independently from the federal government, maintaining their state and municipal power bases even when their allies are out of national office. They can also bypass the national government to establish links with transnational capital, as has been demonstrated in the Norte de Minas by the alliance between Chinese mining interests and firms controlled by the family of former state governor Newton Cardoso. Even where the agencies concerned are nominally accountable to the federal government, politically powerful groups and individuals can wield significant influence over local law enforcement, land reform and environmental protection decision-making. This means that existing legal protections for communities may end up being ignored with impunity as a result of the influence of 'hidden power' mechanisms (Gaventa 2006).

Regional elites can also influence national decision-making via Congress. Many Federal Deputies (members of the Lower House of Congress) owe their seats to a combination of local patronage networks and corporate campaign finance; as a participant in the community meeting in Vereda Funda put it, 'who is voting against us in the Chamber of Deputies? The Deputies who are being elected by mining companies'. As discussed in Section 2, recent years have seen the growth in power of the pro-agribusiness *bancada ruralista* caucus in Congress, which has emerged as one of the key forces seeking to roll back the progress that has been made on PCT rights. The *bancada ruralista's* avowed aim is to remove any constraints on market-based land governance – including the legal restrictions on land ownership by foreign companies, the focus of a Constitutional Amendment currently being promoted by Newton Cardoso's son, a Federal Deputy.

These issues have become even more critical with the dramatic change in the national policy context that followed the impeachment by Congress of President Dilma Rousseff in May

2016. As discussed in Section 2, some agencies that have played a key role in giving PCT movements access to federal government decision-making have been downgraded or abolished outright, and several decrees recognising *quilombola* territories have been repealed. Emboldened by their role in passing the impeachment vote, members of the *bancada ruralista* are talking about repealing legal and even Constitutional protections for indigenous and *quilombola* lands. In the current extremely volatile political climate it is unclear whether the next Congressional elections in 2018 will see a resurgence of the Left – historically more sympathetic to rural social movements – or a further consolidation of the current majority for forces that are broadly hostile to PCT rights.

What is clear is that many of the strategies that have proved so successful in securing recognition gains for PCTs and some progress towards securing their territorial rights will not have the same potential now that the Workers' Party is no longer in power. In particular, the ability of *Articulação Rosalino*, CAA and their allies to take local and regional concerns directly to policymakers in Brasília has been dramatically reduced. While there are still some sympathetic officials and members of Congress, the high-level engagement opportunities of the Lula and Dilma Rousseff periods no longer exist. These opportunities not only helped PCT leaders from different regions to gain experience of negotiating with government, but also enabled them to meet up with one another and with NGO allies on the fringes of government-sponsored meetings, enabling networks to expand more rapidly than would have been possible with the movement organisations' own limited resources. At the same time, NGOs like CAA have found that the increase in direct federal government funding for civil society groups to provide rural development services has made it easier for them to maintain regular contact with communities – a trend that is now going into reverse, as a result of budget cuts and political changes. In addition, it is likely to be much harder for movements to follow the strategy of combining institutionalised participation with direct action, given the recent introduction of legislation designed to curb street protests. This includes an anti-terrorism law passed in the closing months of the Dilma Rousseff presidency that some social movement leaders have described as part of an ongoing attempt to 'criminalize protest'.

As a result of this increasingly hostile national-level environment, the movements are beginning to re-focus on the local level, which was relatively neglected during the years of easy access to the federal government. This means renewing the investment in grassroots organisation that was important at the start of the mobilisation process in the adverse political climate of the 1980s and 1990s. It also means seeking to break into municipal power structures that have long been dominated by local elites. A focus group participant in Vereda Funda, where one of the community leaders is considering running for mayor of the local municipality, argued that 'we can't wait until we can elect a Federal Deputy; we need to start with the municipality and the state'.

The new political context also increases the importance of international links. Here, the networks supported by HEKS are well-placed to assist. Groups like FIAN can help not only to use UN structures to hold Brazilian government agencies to account for rights violations, but also to direct attention to the role of international capital in threatening the rights of PCTs through mining and infrastructure megaprojects – as has happened in the recent controversy over accusations that a US teachers' pension fund had been implicated in land-grabbing in Brazil. However, after many years as a very favourable environment for internationally-linked civil society organisations, Brazil may be starting to follow the trend towards increasing government hostility towards foreign-funded NGOs that is apparent in many countries, including the other BRICS (Poskitt *et al.* 2015). This means that organisations like CAA that get a substantial share of their funding from foreign NGOs may face a further squeeze, in a context where international funding civil society has already seen a significant shift away from Latin America towards Africa, in line with the general trend towards a reduction in aid funding for middle-income countries.

Despite these setbacks, and the growing strength of the political and economic interests opposed to any expansion of PCT territorial rights, some of the factors that enabled Brazil's recent progress towards inclusive land governance do remain in place. Levels of rights awareness and identity-claiming among PCTs continue to grow. Despite the deteriorating environment for civil society organising, Brazilian NGOs and social movements have deep reserves of political commitment and technical expertise on which they can draw, along with the experience accumulated in previous periods when the political environment was even more hostile. Brazilian academia is growing in importance, strengthening its international links and producing a steady stream of evidence that can serve to inform inclusive land governance policies. Brazil remains a pluralist – albeit increasingly polarised – democracy with a broadly robust rule of law, in which official agencies such as the MPF that have helped to uphold PCT rights in recent years are becoming more and more active. Brasília workshop participants felt that despite the change in government Brazil remained very conscious of its international reputation, and would continue to be at least somewhat responsive to international pressure where rights violations were found to have occurred.

Overall, it is likely that in future, Brazil's environment for efforts to promote inclusive land governance will contain fewer elements that make it exceptional and more that are shared with other countries where PCTs and other groups of the rural poor are struggling to preserve their territories in the face of an encroaching commodity frontier that increasingly brings together local elites and international capital. This also applies at the sub-national level: the story of what has been achieved in the Norte de Minas in recent years contains many exceptional factors, including the high levels of direct access to national decision-makers that PCT movements and their allies enjoyed under the Workers' Party governments, and a selective application of the rule of law that tolerated movements' use of unruly forms of direct action to protect their territories while simultaneously deterring local elites from carrying out their threats of violence against movement leaders. In other parts of Brazil many PCTs remain marginalised and their territories unrecognised, local protests are often met with police violence and movement leaders are routinely killed.

The Norte de Minas shows what can be achieved by strategies such as those used by HEKS and its partners in helping isolated PCT groups to come together and form larger movements with national and international visibility, especially when these movements are linked up with academic networks that can help to produce an evidence base to support their demands for more inclusive land governance. Other regions of Brazil, and other countries around the world, can undoubtedly learn from this model, even where some of the enabling conditions are lacking. However, HEKS and its partners can also learn from other countries (such as Mozambique) where civil society has given less priority to securing political recognition for the rural poor and more to securing a supportive legal framework for inclusive land governance. In the absence of such an enabling legal framework in Brazil, the gains made through social mobilisation and the opening up of higher-level political spaces, though very important, are likely to remain fragmentary and at risk of reversal.

Annexe 1: Land tenure in the Norte de Minas

As Table A.1 shows, according to the farm census carried out by Brazil's statistical agency IBGE, in 2006 Northern Minas Gerais had a total of 91,163 farms, just 15 per cent of which – a mix of traditional large estates and corporate agribusiness operations – occupied 71 per cent of the region's total farm land area (IBGE 2006). Since the total land area of Northern Minas Gerais is 12.86 million ha, of which 5.94 million ha is registered farmland, and only a total of some 640,000 ha is occupied by urban areas, this indicates that 49 per cent of the total, roughly 6.28 million ha, consists of rural land that has not been registered in the IBGE's farm database. Even discounting the roughly 400,000 ha of State and Federal 'fully protected' conservation areas in the region, this leaves almost 5.9m ha of unregistered land, much of which is disputed by elites and PCTs, with the former seeking to establish private title by legal or illegal means, and the latter claiming it as traditional territory.

Table A.1 Number of establishments and occupied land in the Norte de Minas

	Nº	%	Ha	%
Establishments	91,163	100	5,937,500	100
Family Agriculture	77,717	85	1,724,232	29
Non-Family Agriculture	13,446	15	4,213,268	71

Source: IBGE (2006).

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