

COASTAL STATE PARKS AND RESIDENT CAIÇARA COMMUNITIES: CONSIDERATIONS ON THE ALTERNATIVES PROPOSED BY THE MANAGEMENT PLAN¹

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Abstract

The study intends to carry out an analysis of marine-coastal spaces, as spaces that present vulnerability in the face of climate change, reflecting on the overlapping of conservation unit areas of integral protection and territories¹⁸² occupied by traditional communities, asking about the possibilities and limits to resolve this conflict. For that, we will take as an example the State of São Paulo, where the creation of Integral Protection Conservation Unit of the Atlantic Forest did not take into account the territory occupied by traditional communities. For a better understanding of the problem, a bibliographic review was carried out on the traditional environmentalist / preservationist theory and the conservationist theory driven by the socio-environmentalist movement. Subsequently, a survey was carried out of the decrees for the creation of coastal parks in the State of São Paulo and of the respective management plans concluded and approved, to ascertain the purpose for which the parks were created and to identify whether the socio-environmental aspect was taken into account. The analysis of the Management Plans had the objective of verifying which were the “exits” pointed out to solve the apparent incompatibility between the category of Integral Protection Conservation Unit - Park that does not allow the existence of a human population and the existence, in fact, of traditionally occupied territories.

Key words: conservation units, management category, integral protection, traditional communities, land regularization.

1 Introduction

The implementation of the Convention on Biological Diversity (Legislative Decree No. 2, 1994) and the regulation of art. 225, III, of the Brazilian Constitution led to the creation of specially protected territorial spaces (ETEP) [⁴] through the Brazilian National System of Conservation Units (SNUC) established by Law 9985/2000. The systematic created by SNUC brought two categories of natural resource management: those of sustainable use, which allow the exploration of the environment in order to guarantee the perpetuity of the resources and; those of integral protection, which aim maintaining ecosystems free from changes caused by human interference. In terms of the

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4 It is possible to define a specially protected territorial space as any environmental space, instituted by the Public Power, which has full or partial legal protection over its natural attributes. ETEP is, therefore, gender, which includes conservation units, protected areas and other specific protection spaces. (LEUZINGER, p. 119, 2009).

location of these conservation units, they can be classified as marine, coastal-marine and terrestrial.

With regard to protected spaces, special attention should be paid to the Convention on Biological Diversity, which determines, as one of the strategies for the conservation of biodiversity in situ, the creation of protected areas, pursuant to its art. 8, points a and j. It also determines respect, preservation and maintenance of the knowledge, innovations and practices of local communities [5] and indigenous populations that present traditional lifestyles relevant to the conservation and sustainable use of biological diversity.

Here we are interested, notably to carry out an analysis of marine-coastal spaces, as spaces that present vulnerability in the face of climate change, reflecting on the overlapping of Integral Protection Conservation Unit and territories occupied by traditional communities, inquiring about the possibilities and legal limits to resolve this conflict. For that, we will take as an example the State of São Paulo, where the creation of conservation units for the preservation of the Atlantic Forest did not take into account the territory [6] occupied by traditional communities residing in the areas in which State Parks were created (category of Integral Protection Conservation Unit), such as Serra do Mar State Park, Ilha Bela State Park, Cardoso Island State Park, Anchieta Island State Park, Xixová- Japuí Park and, in the aquatic environment, Laje de Santos State Marine Park. [7] However, for the purposes of the analysis of the present work, only the parks that have completed and approved management plans will be considered, therefore, Anchieta Island State Park and Laje

5 For this study, traditional peoples and communities will be understood according to the provisions of art 3, item I, of Decree 6040 of February 7, 2007, which instituted the National Policy for the Sustainable Development of Traditional Peoples and Communities, according to which: I - Traditional Peoples and Communities: culturally differentiated groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral and economic reproduction, using knowledge, innovations and practices generated and transmitted by tradition;

6 For the purposes of this study, territories associated with traditional peoples and communities will be understood under the terms of art. 3, item II, of Decree 6040 of 7 February 2007, which instituted the National Policy for the Sustainable Development of Traditional Peoples and Communities, according to which: II - Traditional Territories: the spaces necessary for cultural, social and economic reproduction of traditional peoples and communities, whether they are used permanently or temporarily, observed, with regard to indigenous and quilombola peoples, respectively, as provided for in arts. 231 of the Constitution and 68 of the Transitional Constitutional Provisions Act and other regulations.

7 The socio-environmental diagnosis of these parks indicates the existence of traditional communities resident there. In addition, the Laje de Santos State Marine Park was also created, the only São Paulo state marine integral protection conservation unit that directly impacts traditional caiçaras communities that live on the coast of the State of São Paulo and use fishing resources for their subsistence. However, we will not carry out an analysis of this marine Conservation Unit because its management plan has not yet been approved, as we will also exclude from the detailed analysis the Ilha Anchieta State Park, which also does not have a management plan. Cf. Parques Estaduais em São Paulo. Available in: <http://fflorestal.sp.gov.br/unidades-de-conservacao/parques-estaduais/>. Access on September, 13th, 2017.

de Santos State Marine Park will be excluded.

When it comes to methodology, a bibliographic review was carried out on the construction of the socio-environmental movement and the conservationist concept in opposition to the traditional environmentalist theory of preservation. This review aimed to analyze the influence of theories on the creation and management of parks. After this analysis, a survey will be carried out on the Fundação Florestal website (an organ linked to the State Secretariat for the Environment, responsible for the administration of the state parks in São Paulo) to ascertain the situation of the parks object of the study, in order to analyze the creation decrees of the coastal parks and the management plans that guide the management these units.

The study of the creation decree had the purpose of verifying whether public utility or social interest were foreseen as requirements for expropriation, as determined by Brazilian Constitution of 1988. As for the management plans, these were evaluated with the objective of identifying the programs and actions planned to make the presence of communities in the parks compatible, highlighting the following instruments: the terms of commitment and the historical anthropological cultural zoning, as temporary or definitive alternatives to the vacancy of the areas. Thus, the present study aimed to analyze the possible legal “exits”, considering the current legal regime and the mechanisms and instruments made available by the legislation applied to the matter.

2 Integral Protected Conservation Units and territories occupied by traditional communities

The management of Conservation Units is a constant challenge. What characterizes this challenge is the need to ensure the effectiveness of these protected spaces, guaranteeing the conservation of biodiversity and promoting socio-environmental development, according to the objectives of its creation. For this, it is necessary to consider their relationship with the territorial dynamics in which they are inserted.

Much of the literature review on the systematics of protected areas as a strategy for implementing the Convention on Biological Diversity and preserving biodiversity, kept the focus on preservationist aspects (WWF-Brasil 2007; ICMBio 2012) or conservationist aspects (SANTILLI 2005; DIEGUES 2000). The literature on traditional communities living in protected areas is

generally described from the perspective of conservationists or anthropologists (LEUZINGER 2004; SANTILLI 2005, DIEGUES 2000). Only a few bibliographic contributions adopted a balancing approach between both conceptions, starting from a differential perspective to analyze the role of traditional communities in the management of protected areas through the institutional view, with a focus on governance and management of these areas (Schröter 2014; Paavola 2008).

At the same time as the creation of national parks in the United States and other countries was spreading at the end of the 19th century, which determined the exclusion of virgin areas from any direct use of their natural resources, as advocated by John Muir, great expression of the current that would gain the name of preservationist, the idea of adequate and rational use of natural resources was also defended, within a utilitarian perspective proposed by Gifford Pinchot, the main expression of the current that became known as a conservationist. (LEUZINGER, 2009).

In this context, the contributions of Juliana Santilli, who was one of the precursors of socio-environmental theory in Brazil, are placed:

Socio-environmentalism came to represent an alternative to conservationism / preservationism or traditional environmental movement, more distant from social movements and political struggles for social justice and skeptical about the possibility of involving traditional populations in the conservation of biodiversity. For a part of the traditional environmentalist / preservationist movement, traditional populations - and the poor in general - are a threat to environmental conservation, and conservation units must be permanently protected from that threat. (SANTILLI, p. 40, 2005)

In 1982, the 3rd World Congress of National Parks took place in Bali, which emphasized that protected natural areas are an indispensable contribution to the conservation of living elements and development, with a clear concern for the human presence in conservation units. The rights of traditional communities were then affirmed, and it was recommended that these areas should be managed together with such populations. (LEUZINGER, 2009).

The traditional environmental movement tends to be inspired and to follow environmental preservation models imported from First World countries, where urban populations seek, especially in parks, to develop recreational activities in contact with nature, keeping the protected areas intact. Far from the social pressures typical of developing countries, with poor and excluded populations, the traditional preservationist model works well in developed countries in the north, but it does not hold up politically in Brazil. (SANTILLI, 2005)

Regarding the human presence in conservation units, 80% of Conservation Units are inhabited

by traditional populations. Therefore, some alternatives have already been presented, in relation to the full protection units: resettlement, reclassification and temporary stay, until resettlement according to rules established by contract. (LEUZINGER, p. 126, 2009). In this way, the overlapping of parks in territories occupied by traditional communities has the potential to be the cause of most conflicts in the management of conservation units that have as a management category the full preservation of natural resources.

In the Brazilian context, social movements characterized by socio-environmentalism have been permeating the legal system more consistently from the post-democratization scenario. These movements are led by actors from the most diverse species of traditional peoples and communities, such as Indians, rubber tappers, quilombolas, coconut breakers, fishermen, caiçaras, family farmers and other social segments representative of cultural diversity, who fight for land and for better life conditions. The main constituent elements of this struggle are the protection and access to natural resources, the affirmation of rights over biodiversity and the traditional knowledge associated with it. (SANTILLI, 2005).

In addition, there is a theoretical current that believes in the interdependence between conservation, in the sense of the continuity of natural resources and the cultural and subsistence practices of traditional communities, which start from a sustainable development model. Among the aspects of this current we highlight here, Antônio Diegues who brings the concept of ethnoconservation, which demonstrates the object of study in this article, with the objective of evaluating the purpose and the rationale that generates this concept. This analysis sought to identify what was taking into consideration when creating these conservation units, the environmental aspect, the social or socio-environmental aspect.

When articulating the characteristics of traditional populations and the production of their knowledge, the relationship of dependence between them and their dependence on natural resources becomes noticeable. Since 1990, contemporary environmental issues have influenced the development of the analysis of this relationship through a broader perspective, generating the possibility of an association between the conservation of some natural resources and the knowledge and practices of these populations. (DIEGUES, 2010, p.43)

Thus, it is possible to observe, taking as an starting point an analysis of the decrees for the creation of coastal parks in the State of São Paul the existence or not of social or socio-environmental concern at the time of its creation. In the table below we highlight the central objectives of creating these parks, underlining the expressions that denote a social or environmental

concern. We systematized the decrees for the creation of coastal parks in the State of São Paulo.

Table 1– Creation Decrees of coastal parks in the State of São Paulo

Coastal Integral Protection Conservation Unit in the State of São Paulo - Creation Decrees of Conservation Unit
<p>Cardoso Island State Park Decree N. 40.319, OF JULY 3rd, 1962- Considering that Cardoso Island has unsurpassed conditions for the creation of a State Park, for serving cultural purposes of preserving native resources and exhibiting attributes favorable to tourism, recreation and physical recovery; Considering that the flora that flourishes there constitutes a vegetal covering that covers 95% of its territory, boasting subtropical forests, with a very varied occurrence of valuable essences; (...) (g.n)</p>
<p>Xixova-Japuí State Park Decree N. 37,536, OF SEPTEMBER OF 1993- Considering that the complex in question represents one of the most conserved fragments of Atlantic Forest in Baixada Santista, detached from Serra do Mar, and the only one already studied located by the sea. (. ..). (g.n)</p>
<p>Serra do Mar State Park Decree N° 10.251, OF 30 AUGUST OF 1977 - Considering that Serra do Mar presents exceptional conditions for the creation of a State Park for serving the cultural purposes of preserving native resources and exhibiting attributes of exuberant beauty; Considering that the flora that flourishes there, constitutes a vegetal covering of great scientific and cultural value, boasting subtropical forests with a varied occurrence of valuable essences; (...) (g.n)</p>

When analyzing the decrees that created the Coastal State Parks in the region covered by the Atlantic Forest in the State of São Paulo, it is evident the influence of the traditional environmental theory that guided the implementation of these specially protected territorial spaces, because the foundations and purposes that gave rise to the creation parks favored environmental aspects and, when it comes to the cultural aspect, they only addressed the importance of preservation for research and / or tourism purposes, but did not address cultural reproduction as a practice of traditional communities living in the region covered by the creation of the parks, the which confirms Diegues' theory about the modern myth of untouched nature. (DIEGUES, 1996)

Therefore, it is evident the traditional environmentalist current that guided and influenced the creation of integral protection conservation units, which gave rise to Coastal Parks in the State of São Paulo, as a strategy for preserving the Atlantic Forest, which was implemented without considering the caíçaras communities that traditionally occupied the territory covered by the Parks [8]. In addition, we can observe that the date of creation of the parks was after the construction of the

8 The presence of traditional communities in the region covered by the Parks can be seen in the diagnosis and social and

main highways that give access to the coast of the State of São Paulo, which confirms the tourist aspect as an incentive for the creation of the Conservation units.

3 Live nature, for the resettlement of communities: land regularization and the terms of commitment

The logic of resettlement of communities that lived in areas that became part of parks of integral protection units is fundamentally based on a preservationist and legalistic logic, based on art. 42 of the SNUC that says about the resettlement of communities. However, it is necessary to know how the area will be evicted and how the territorial and property rights recognized or not by the 1988 Federal Constitution impact resettlement.

The Constitution recognized to indigenous populations the original right to the lands they traditionally occupy and the exclusive exploitation of existing natural resources. In addition to the indigenous populations, the quilombola communities also had their land guaranteed by the Constitution, which recognized not only the possession, but also the ownership of the lands occupied by the quilombo remainder through collective titling.

However, if the management of the conservation unit chooses to proceed with expropriation as a solution to remedy the incompatibility between the law (National System of Conservation Units) and the local reality, as is the regime of land, territories or property relative to other traditional communities, as is the case of the caiçaras populations that occupy the areas covered by the coastal State Parks in São Paulo. I explain, if there are no deeds or titles of the properties, will there not be the right to compensation for these populations?

The Federal Constitution of 1988 (CF / 88) leaves no doubt as to the nullity of real estate titles on traditional lands. There is no constitutional possibility of recognizing the right to private property over indigenous lands. (SANTILLI, 2005)

Indigenous lands are assets owned by the Union, inalienable and unavailable, and the rights over them are imprescriptible. Any title deed to indigenous lands is null and has no legal effect, and the

environmental assessment that serve as a basis for the preparation of Management Plans. All the Management Plans and the completed social and environmental diagnoses and assessments are available on the website of “Fundação Florestal”, an organ of the São Paulo State Secretariat for the Environment responsible for the administration of state conservation units. Available in: <http://fflorestal.sp.gov.br/planos-de-manejo/planos-de-manejo-planos-concluidos>. Access on: September, 14th, 2017.

occupant of the indigenous lands in good faith will have the right only to compensation for improvements. Such nullity stems from the original right that indigenous peoples have over their traditional lands, which are prior to the very creation of the Brazilian State and, therefore, are independent of legitimacy or any formal recognition by the State.

With regard to lands occupied by quilombola communities, art 68 of the Transitional Constitutional Provisions Act (ADCT) establishes that “the remainder of quilombo communities that are occupying their lands is recognized as definitive property, and the State must issue them the respective titles ”, that is, unlike indigenous peoples, who have permanent possession rights over their lands and exclusive enjoyment over their natural wealth, being the domain of the Union, quilombolas are guaranteed their own property rights.

As for other traditional communities such as the *caíçaras* that reside in the areas corresponding to the creation of coastal state parks in the Atlantic Forest region in the State of São Paulo, there is still no defined legal regime to recognize the right to the territory, but systematic interpretation of article 216 of the Constitution, which deals with the protection of intangible cultural heritage and Convention 169 of the International Labor Organization (ILO) [⁹] which recognizes the right to lands occupied by traditional populations [¹⁰], and this right is extended not only to land where they reside, but also to the territories necessary for cultural and subsistence practices. Therefore, it is interesting to note that in the case of *caíçaras* communities there is the possibility of recognizing not only terrestrial areas, but also marine ones. In this way, it is possible to reflect on the existence and recognition of a marine-coastal territory of the *caíçaras* communities that use fishing or other activities related to marine resources.

⁹ This convention was incorporated into the Brazilian domestic legal system through Decree 5051 of 2004.

¹⁰ ILO Convention 169 - Article 13 -1. In applying the provisions of this part of the Convention, governments shall respect the special importance for the cultures and spiritual values of the peoples concerned, has their relationship with the lands or territories, or with both, as the case may be, which they occupy or use in some way. manner and, particularly, the collective aspects of this relationship. 2. The use of the term "lands" in Articles 15 and 16 shall include the concept of territories, which covers the entire habitat of the regions that the peoples concerned occupy or otherwise use.

Article 14- 1. The peoples concerned should be given the property and possession rights over the lands they traditionally occupy. In addition, in appropriate cases, measures should be taken to safeguard the right of interested peoples to use land that is not exclusively occupied by them, but which they have traditionally had access to for their traditional and subsistence activities. In this regard, special attention should be paid to the situation of nomadic peoples and itinerant farmers. 2. Governments should take whatever measures are necessary to determine the lands that the peoples concerned have traditionally occupied and ensure the effective protection of their property and possession rights. 3. Appropriate procedures should be put in place within the national legal system to resolve land claims made by interested peoples.

Although it will not be a central object of the present work to develop a theoretical contribution to the land tenure regime of other communities that are not indigenous or quilombolas, here some clarifications about the existence of this right are needed so that we can analyze whether the resettlement strategy would be a viable alternative to be carried out in integral protection conservation units, especially in coastal State Parks in São Paulo.

The first requirement that must be present for the Government to be able to expropriate a property is brought in item XXI of Article 5 of the Federal Constitution, constituting the existence of public need, public utility or social interest. The second requirement imposed by the Constitution concerns the payment of prior, fair and cash compensation.

According to Marcia Leuzinger, public domain conservation units have been created without the necessary expropriations of private property located within their limits having been carried out. At most, the decree that institutes the unit, which is, in general, the last act of the administrative procedure for the creation of Conservation Units, contains an article declaring that the private properties existing within its limits are of public interest or social interest, for purposes of expropriation. It is interesting the fact that there is no consensus in relation to the basis for expropriation - necessity or public utility and social interest. (LEUZINGER, p 161, 2009).

The creation decree should only be issued after regular expropriation, with the payment of due indemnities and definitive transfers of property to the Public Power. (LEUZINGER, p 161, 2009).

It is observed that the SNUC also provided for some legal “exits”, to be used if it is not possible to evict those areas in which the parks were created. Thus, the terms of commitment that aim to regulate the activities that will be allowed to guarantee the subsistence of the communities are pointed out as a legal “exit”.

Thus, we seek to systematize in a second table what was foreseen in the creation decrees of coastal parks in the State of São Paulo objects of the present study, concerning to the argument given to the expropriation of the area covered by the park that was being occupied at the time of its creation . In addition, we have systematized what was provided for in the Management Plan regarding the terms of commitment as a temporary alternative to resettlement, under the terms of art. 42 of the National Conservation Unit System (SNUC).

Table 2 – Arguments for expropriation in the Creation Decrees of coastal parks in the State of São Paulo and the Terms of Commitment in Management Plans.

<i>Coastal State Park</i>	<i>Expropriation - Term of commitment</i>
<i>Cardoso Island State Park (Management Plan - 1995-2001)</i>	<i>Creation Decree (N. 40.319, OF JULY 3, 1962) Article 3 - (...) declaratory act of public utility, for its timely expropriation. (...) (g.n) The Management Plan does not provide.</i>
<i>Ilha Bela State Park (Management Plan 2015)</i>	<i>Creation Decree (N. 9.414, OF JANUARY 20, 1977) Article 5 - They are declared of public utility, for the purposes of expropriation (...) (g.n). Prepare and sign a Term of Commitment with residents who present evidence of traditionality, under the terms of SMA Resolution 29/2010, until the land tenure regularization of the area. (Management Plan p. 202). (g.n)</i>
<i>Xixova- Japuí State Park (Management Plan 2010)</i>	<i>Creation Decree (N Dec. 37.536, of 27/09/93) Art. 3 will be the responsibility of the Forestry Institute (...) the administration and the guarded State Park, as well as its regularization and elaboration of the Management Plan. (g.n) The Management Plan does not provide.</i>
<i>Serra do Mar State Park (Management Plan 2006)</i>	<i>Creation Decree (N. 10,251, OF AUGUST 30, 1977) Article 6 - The lands of private domain covered by the Park now created are declared of public utility, for the purposes of expropriation. (g.n) Only in relation to temporary occupation zones (ZOT) Minimize conflicts with the park occupants through the establishment of space occupation criteria and ordering of activities that have an impact on the Park. Commitment terms (TC) fulfilled. Create a consensual model of TC(Plano de Manjo-PESM, p. 333)</i>

4 Management Plan and the Anthropological Cultural Historical Zone

Another important instrument brought by the systematic implementation of specially protected territorial spaces is the management plan and the management council, which in the case of parks is an advisory and non-deliberative body, according to art. 29 from SNUC and 17 from D. 4340/02.

The management plan is the instrument that will bring the management guidelines for the protected areas and the action programs to implement them. Therefore, the application of SNUC will take place in practice through this instrument of management and territorial organization.

Although according to the SNUC rules, human interference is not allowed in full protection conservation units, as is the case with parks, the management plan for each park will outline the program guidelines for land regularization in the region.

In this way, zoning is used as a mechanism for defining the different areas that make up the park and from this definition the action strategy is drawn. In all the marine-coastal parks of the State of

São Paulo object of the present study [¹¹] the Anthropological Cultural Historical Zone was foreseen in the Management Plan, but only the Serra do Mar State Park (PESM) [¹²] recognized that in this area there will not be vacating of the area. The Ilha Bela State Park (PEIB), on the other hand, proposed carrying out studies with residents who occupy areas within the conservation unit, under the terms of the Environment Secretariat Resolution (SMA) No. 029/2010, aiming to characterize communities with evidence of traditionality. These studies would serve as a basis for the proposal to recategorize management in the Búzios and Vitória Islands, while taking into account the marine territory used by traditional communities. It is interesting to note that Management Plans of both parks present the objective of the Anthropological Historical Cultural Zone (ZHCA) considering the existence of traditional communities resident in the conservation units and recognized as one of the objectives of the zone to guarantee the sources of subsistence and the strengthening of the cultural identity of these populations.

With regard to Cardoso Island State Park, it was established by the Management Plan that the objective of the Anthropological Cultural Historical Zone is to protect archaeological and historical sites, without any mention of the existence or need for subsistence of traditional communities. The same is true of the objective of the Anthropological Cultural Historical Zone established by the Management Plan for the Xixová-Japuí Park, which limited itself to recognizing the need to preserve historic and archaeological sites for the purposes of tourist and educational attractions.

Table 3- Anthropological Cultural Historical Zone and Land Regularization Programs for Coastal Parks in the State of São Paulo

<i>Coastal State Park</i>	<i>Historical Cultural Zone - Anthropological Regularization Program</i>
<i>Cardoso Island State Park (Management Plan - 1995-2001)</i>	<i>Main objective is to protect historical or archaeological sites, in harmony with the environment. (PM, p. 85) (g.n) In these areas, the overlapping of titles is perpetuated, configuring several floors, generating a tangle of land conflicts, aggravated by fraud in real estate documentation,</i>

11 Serra do Mar State Park; Ilha Bela State Park, Cardoso Island State Park, Xixová-Japuí State Park. Parks with a Management Plan concluded in the State of São Paulo. Available in: <http://fflorestal.sp.gov.br/planos-de-manejo/planos-de-manejo-planos-concluidos/>. Access on september 13th, 2017.

12 Serra do Mar State Park consists of 10 centers: Itutinga-Pilões Center, Bertiooga Center (created in 2010), Caraguatatuba Center, Curucutu Center, Cunha-Indaiá Center, Padre Dória Center (created in 2014), Picinguaba Center, Santa Virgínia Center, São Sebastião Center, Pedro de Toledo center, but only Picinguaba was defined as Anthropological Cultural Historical Zone by the management plan.

	<i>organized or unlawful processes of land grabbing and also, by expectations of land rights of traditional communities and ethnic minorities and invaders that have been systematically occupying areas within the Conservation Unit. (P. 109 PEIC Management Plan). (g.n)</i>
<i>Ilha Bela State Park (Management Plan 2015)</i>	<p><i>The general objective of management is to protect historic or archaeological sites, in harmony with the environment and guarantee the way of life, sources of subsistence and places of residence of traditional populations (Art. 42 of the SNUC). Specific Objectives · Research, protection, restoration, maintenance, valuation and conservation of historical-cultural, material and immaterial goods, including the traditional way of life and archaeological sites in the Park; · Extensive public use for educational purposes only; and strengthening cultural identity. (Manage plan, p. 111) (g.n)</i></p> <p><i>Conduct studies with residents who occupy areas within the Conservation units, under the terms of SMA Resolution 029/2010, aiming to characterize communities with evidence of traditionality; § Support studies for recategorization, as provided by SMA Resolution No. 029/2010, of the Vitória and Búzios Islands, considering the marine territory used by traditional communities (...) (PEIb Management Plan, p. 202)</i></p>
<i>Xixova- Japuí State Park (Management Plan 2010)</i>	<p><i>The general objective of management is to protect historic sites in harmony with the environment. Its specific objectives are: To promote the development of research, restoration, valuation and conservation activities for cultural assets existing in the park; offer tourist and educational attractions. (PM, p. 284) (g.n)</i></p> <p><i>The park Land Regularization Program must propose the pertinent referrals for the effective consolidation of the domain and possession of the Public Power over the total area of the Conservation Unit, addressing land conflicts in the area, with the indication of appropriate measures to deal with the issue. (Management Plan, p. 431). (g.n)</i></p>
<i>Serra do Mar State Park (Management Plan 2006)</i>	<p><i>Anthropological Cultural Historical Zone represents a great novelty in the scope of São Paulo's conservation units and a significant advance in the relationship with the traditional communities living in the Park. In the case of this park, the process of discussing the categories of the zones led to the conclusion that the Anthropological Cultural Historical Zone is present only in the Picinguaba nucleus, with seven subzones being established, involving quilombola and caiçaras communities. (PM, p. 336)</i></p> <p><i>Enable the acquisition of properties with "regularized" documentation. Areas with regularized documentation must take priority over others in the indemnity process, which can facilitate the acquisition of land by the State. Relocation of occupants who are in the Temporary Occupation Zone. Residents in the Temporary Occupation Zone are (or must be) aware that, over time, they will stop living inside the Park. The relocation of the occupants may occur from the regularization of the indemnity processes for areas and / or improvements. (Management Plan, p. 340)</i></p>

5 Results and Discussion

In view of the information collected in the decrees for the creation of integral protection

conservation units that encompass the State Coastal Parks in São Paulo, it was evident that the traditional environmental theory guided by preservationist precepts influenced the creation of the category of specially protected territorial spaces. In order to determine the management of integral protection of natural resources, admitting, in addition to the environmental preservation of fauna and flora, research and tourism, without considering the needs for a source of livelihood and cultural practices of traditional caiçaras, indigenous and quilombola communities living in the region.

In this context, and considering the values of the conservationist theory guided by the precepts of the socioenvironmental movement, the management plans that presented the best solution to deal with the incompatibilities between the created conservation units category and the local reality of the region, were the plans of Ilha Bela State Park and Serra do Mar State Park. The first because it brought the possibility of re-categorizing Ilha da Vitória and Búzios characterized by communities with evidence of traditionality, to adopt the sustainable management of natural resources instead of full protection. In addition, it predicted that this recategorization should consider the marine territory used by traditional communities. Regarding the Serra do Mar State Park Management Plan, it established the nucleus of Picinguaba as an Anthropological Cultural Historical Zone and excluded that area from the land tenure regularization program that provides for the vacancy only of the Temporary Occupation Zone.

With regard to Cardoso Island State Park, the land tenure regularization program, in addition to not recognizing the existence of traditional communities, also did not recognize the right to land and territory guaranteed by articles 216, 231 and 68 (ADCT) of the current Constitution, since it predicted in the land regularization program that traditional communities have an “expectation of rights in relation to their lands”.

With regard to the Xixová-Japuí State Park, it did not consider the existence of traditional communities residing in the areas of the park, as it recognized the importance of preserving the historical and archaeological sites of this area only for the purposes of recreation, tourism and research. Regarding the Land Regularization Program, the park Management Plan did not consider the right to land and territory traditionally occupied by communities and established that the entire area covered by the park must be vacated and integrated into the domain of Public Power.

Finally, it is possible to identify that there is a direct relationship between the objective for which

the Anthropological Cultural Historical Zone was defined and the Land Regularization Program. In the Management Plans in which the objective of the Anthropological Cultural Historical Zone also considered the existence of traditional communities and the need to preserve the area to ensure the source of subsistence for these populations, there were alternatives to resettlement, as an example we can mention the Management Plan of Serra do Mar State Park and Ilha Bela State Park which presented the possibility of recategorizing the lands and territories occupied by the caiaçaras and quilombolas communities or excluding Anthropological Cultural Historical Zone from the Land Regularization Program.

References

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