

Contents

I. Presentation of the work and contexts for the regulation of prior consultation in Brazil

1. Introduction	11
1.1. Problem of study, research questions and theoretical positioning . . .	15
1.2. Methods and data of this study	18
1.3. Structure of this work	19
2. Facets of prior consultation – building a theoretical toolkit	23
2.1. Interpretive approaches to legal anthropology	24
2.2. Legal pluralism and the anthropology of human rights	31
2.3. The judicialization of politics	36
2.4. Participation	39
2.5. Multiculturalist politics	43
3. Methods	47
3.1. Access to the field and places of research	50
3.2. Gathering and processing field data	58
4. Historic contexts for debating prior consultation in Brazil	61
4.1. The International Labour Organisation and indigenous peoples	62
4.2. From Convention 107 to Convention 169	68
4.3. The ILO and participatory rights in Brazil until 2012	87

II. Actors’ and observers’ perspectives on the process of legal regulation in Brazil

5. Representatives of the right holders in the regulation	99
5.1. Indigenous organizations: COIAB & APIB	99

5.2.	The National Coordination of Quilombola Communities – CONAQ	113
5.3.	Traditional peoples’ representatives – the CNPCT	126
5.4.	Strategies of the subjects of rights and their representatives	132
6.	The Interministerial Working Group (GTI) – the legislators	141
6.1.	The Ministry of Mines and Energy (MME)	145
6.2.	The National Indian Foundation (FUNAI)	153
6.3.	The Palmares Cultural Foundation (FCP)	160
6.4.	The Special Secretariat for the Promotion of Racial Equality (SEPPIR)	163
6.5.	The National Department for Transport Infrastructure (DNIT)	168
6.6.	The Ministry of the Environment (MMA)	172
6.7.	The General Secretariat of the Presidency (SGPR) Head of the Working Group	178
6.8.	Actors, arenas, discourses	190
7.	Civil society actors – two NGOs	203
7.1.	The Catholic Indigenist Missionary Council (CIMI)	209
7.2.	The Instituto Socioambiental – (ISA)	214
7.3.	Between cooperation and resistance: strategies of the civil society organizations	218
8.	Observers: international, national & disciplinary experts	223
8.1.	International observers: ILO and the OAS	224
8.2.	National legal experts: The Office of the Federal Public Prosecutor (MPF)	233
8.3.	Brazilian anthropologists – the disciplinary experts	240
8.4.	Spreading information and mediating rights	244

III. Discussion and Conclusions

9.	Discussion I: The implementation of law	253
9.1.	Competing discourses on frames for prior consultation in Brazil	254

9.2. Interlegality and vernacularizers
in the regulation process 264

9.3. Juridical and political processes as different ways of
managing the dispute on prior consultation 270

10. Discussion II: Prior consultation in Brazil 275

10.1. The practicalities of participation 276

10.2. The Interweaving of law, anthropology and multiculturalist politics
in the right to prior consultation 287

11. Conclusion 295

Acknowledgements 303

A. List of Abbreviations 305

Bibliography 313

