



[Unpublished articles]

## Legal form essence as a barrier to agroecology

*A essência da forma jurídica como entrave à agroecologia*

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Article received on 19/01/2022 and accepted on 26/09/2022.



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## Resumo

Contextualizando historicamente o advento dos problemas ambientais atuais como frutos da apropriação e exploração do ser humano sobre a natureza e sobre o próprio ser humano no modo de produção capitalista, este trabalho apresenta a agroecologia como alternativa sustentável a esse modelo por operar numa lógica externa a do capital. Nesse contexto, objetiva-se verificar de que maneira a essência da forma jurídica opera como entrave à agroecologia. Para tanto, adota-se como método o materialismo histórico-dialético e a seguinte forma de exposição: 1. Apresenta-se a agroecologia como meio de satisfação das necessidades humanas que preserva o equilíbrio da relação metabólica entre seres humanos e natureza, relação esta que foi afetada pelo desenvolvimento do capitalismo, especialmente no que diz respeito à agricultura. 2. Partindo da visão de Marx do direito como forma social que possui uma aparência e uma essência, o segundo capítulo apresenta a forma jurídica aparente da agroecologia no direito positivado em normas brasileiras; e 3. Aborda-se a essência da forma jurídica e de que maneira esta atua como entrave à agroecologia. Concluiu-se que antes de qualquer outro empecilho para implementação da agroecologia em larga escala, deve-se ter em mente que não será a mera criação legislativa a solucionar a crise ecológica hoje, pois as leis ambientais existentes são mera aparência do direito cuja essência busca a manutenção do sistema capitalista insustentável.

**Palavras-chave:** Agroecologia; Aparência; Capitalismo; Essência; Forma jurídica.

## Abstract

Historically contextualizing the advent of current environmental problems as a result of the appropriation and exploitation of the human being on nature and the human being in the capitalist mode of production, this work presents agroecology as a sustainable alternative to this model for operating in a logic external to that of the capital. In this context, the objective is to verify how the essence of the legal form operates as a barrier to agroecology. For that, the dialectical historical materialism is adopted as a method and the following form of exposure: 1. Agroecology is presented as a means of satisfying human needs that preserves the balance of the metabolic relationship between human beings and nature, a relationship that was affected by the development of capitalism, especially with regard to agriculture. 2. Starting from Marx's view of law as a social form that has an appearance and an essence, the second chapter presents the apparent legal



form of agroecology in law positivized in Brazilian norms; and 3. It addresses the essence of the legal form and how it acts as a barrier to agroecology. It was concluded that before any other obstacle to the implementation of agroecology on a large scale, it must be kept in mind that it will not be mere legislative creation to solve the ecological crisis today because the existing environmental laws are merely the appearance of the law whose essence seeks the maintenance of the unsustainable capitalist system.

**Keywords:** Agroecology; Appearance; Capitalism; Essence; Legal form.



## Introduction<sup>1</sup>

The ecological crisis today threatens all life on the planet, characterized above all by global warming and the extinction of animal and plant species due to the extensive use of pesticides, monocultures, and transgenics that put biodiversity and human health at risk. At the same time, the production of environmental legislation at the international and national level is also increasing, as are the discourses surrounding sustainable development.

This situation highlights the contradictions in terms of the environmental protection provided by the law. On the other hand, some practices and experiences seek to preserve a harmonious relationship with the environment, developing other forms of sustainable production, especially agroecology.

In this context, this article aims to see how the law (legal form) is an obstacle to agroecology. The aim is to answer the following research problem: Can the legal form be an obstacle to agroecology?

This is an attempt to get closer to the method of historical materialism. The research is based on authors with an essentially Marxist orientation because it is this orientation that allows us to historically contextualize the advent of current environmental problems as the fruit of the appropriation and exploitation of human beings over nature and over human beings themselves in the capitalist mode of production. It is believed that thinking about solutions to environmental problems means rethinking the current model of civilization because, as Marx said, this mode of production exhausts both man and nature.

To answer the problem presented, the article is divided into three chapters. Initially, agroecology is presented as a means of satisfying human needs that preserves the balance of the metabolic relationship between human beings and nature. This relationship has been affected by the development of capitalism, especially in agriculture. Then, starting from Marx's view of law as a social form with an appearance and an essence, the second chapter presents the apparent legal form of agroecology in the law enshrined in Brazilian norms. Finally, the essence of the juridical form, based on Pachukanis, is discussed to see how it acts as an obstacle to agroecology.

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<sup>1</sup> This article is a summary of the first author's dissertation submitted and approved by the Federal University of Santa Maria (UFSM).



## 1. Agroecology: between metabolic's rift and interaction

Before delving into the analysis of agroecology specifically, it is necessary to start from the "metabolic rift" category created by Marx and further developed by John Bellamy Foster. However, this requires a brief analysis of the compatibility between the dialog between Marx and ecology.

Evidence that agroecology overcomes capitalist rationality focused on profit can be drawn from John Bellamy Foster's analysis of Marx's work, in which the author demonstrates how Marxian thought, especially in its more mature phase, is deeply marked by an ecological worldview that derives from his materialist conception of history and nature. Despite the existence of currents that claim that it is impossible to approach the ecological question from Marx's point of view because they consider him to be too "productivist", Vanessa de Castro Rosa highlights their misconceptions since "the theme was always present in his [Marx's] work, the fact is that his approach to nature was not biological, but social, historical, political and economic" (ROSA, 2018, p. 40).

For Foster, this approach to the ecological question based on Marx is not just about "grafting the Green Theory onto Marx, or Marx onto the Green Theory", as Ecosocialism does, because, based on a systematic investigation of the work of Charles Darwin and Justus von Liebig, as well as his critique of Malthusianism, Marx developed the concept of "metabolic rift" (or "metabolic failure") which highlights his ecological vision of the relationship between human beings and nature (FOSTER, 2005, p. 10). In fact, from the beginning of his work, before the birth of modern ecological consciousness, Marx denounced the despoliation of the environment and the connection between the alienation of labor and the alienation of human beings from nature (FOSTER, 2005, p. 23).

Following Bensaïd's assertion that "Marx is not a green angel, a pioneer of ecology who is unaware of himself. However, although he often shares the productivist enthusiasm of his time, he does not adhere unreservedly to the illusions of progress" (*apud* SILVA, 2018, online), Maria Beatriz Oliveira da Silva concludes that Marxism is a possible and necessary reference for understanding the environmental crisis we are experiencing today which "is not, as some would have it, an external fact and independent of the system's operating logic, but the result of a process which, as Marx stated, exploits and exhausts both the worker and nature" (SILVA, 2018, online).



In this sense, as Foster demonstrates, the method developed by Marx makes it possible to examine the contradictions of the capitalist mode of production and, consequently, of the environmental crisis itself, the exploitation of human labor and its relationship with nature. Marx's work cannot be fully understood without understanding his materialist conception of history and nature itself since Marx's social thinking is intrinsically linked to an ecological worldview (FOSTER, 2005).

In addition, Marx's theory on the relationship between man and nature is much more appropriate for addressing the environmental crisis because it highlights the contradictions and dynamics of the social and economic relationship between man and nature and the place occupied by nature in the capitalist system. After all, "only by understanding the functioning of capitalism and its relationship with nature is it possible to understand the relationship between human beings and the environment" (ROSA, 2018, p. 36).

Marx, for Foster, always treated nature as an extension of the human body, that is, as man's "inorganic body", because the organic relationship transcends the physical, extending, in practice, the very organs of human beings, who produce the historical relationship with nature largely by producing their means of subsistence. However, nature entered directly into the history of man, being mediated not only through production but also through instruments, i.e., the products that allowed humanity to transform nature in universal ways (FOSTER, 2005, p. 107).

According to Marx, work and the production process form a metabolic relationship between human beings and nature, since it is through work that men produce their way of life and their means of subsistence. However, the capitalist mode of production creates an irreparable rift in the metabolism between humanity and the earth. In addition, this flaw would tend to widen to compromise the natural conditions of human existence (COSTA NETO, 2018, 232). Vanessa de Castro Rosa (2018, p. 47) rightly points out that Marx's ecological critique stems from the very logic of how the capitalist mode of production works, which characterizes a negative exploitation of nature as a commodity to be governed by exchange value, subjecting the land to privatization and expropriation.

Thus, soil fertility depletion is linked to large-scale capitalist agriculture that removes nutrients from the soil and does not replenish them, damaging the system's long-term sustainability and disrupting the metabolism between man and nature. Overcoming



this metabolic rift would, therefore, involve eliminating the antagonism between town and country, dispersing the population more evenly, integrating industry and agriculture, and restoring and improving the soil by recycling nutrients.

For Marx, agriculture can only take place on a large scale as long as the conditions for sustainability are maintained, which he believed was impossible in capitalist agriculture because "the moral of the story [...] is that the capitalist system runs in the opposite direction to rational agriculture, or that rational agriculture is incompatible with the capitalist system" (FOSTER, 2005, p. 232). Ultimately, the metabolic rift "could never be overcome or corrected by the incessant development of the productive forces in capitalism because these had their origin in the metabolic flaw itself" (COSTA NETO, 2018, 248).

This sustainability of the system could only occur when socialized man, in a society of associated producers, governs the human metabolism with nature rationally, "submitting it to his collective control instead of being dominated by it like a blind power; carrying it out with the minimum expenditure of energy and in conditions more dignified and appropriate to his human nature" (FOSTER, 2005, p. 223).

This rational use of the land can be observed in agroecology, the subject of this study. Unlike the predatory agribusiness system that monopolizes production in the current capitalist system, the agro-ecological production system is based on local realities and needs, depending on each society and ecosystem. It is a transdisciplinary field of knowledge that involves ecology and agronomy to understand agroecosystems' functioning in their social, ecological, and cultural dimensions (ROSA, 2018, p. 62).

Agroecology is based on Marx's ecological thinking, as it provides mechanisms for understanding environmental exploitation and the metabolic relationship between human beings and nature. It is a cooperative-based agricultural production system that uses non-capitalist, non-exploitative agronomic methods and differs from other "sustainable" proposals. In this sense, "the central concept of Marxian thought that differentiates agroecology from other sustainable and ecological agricultural practices is the metabolic relationship between human beings and nature" (ROSA, 2018, p. 116-118).

The relationship between human beings and nature has been profoundly changed by the advance of capitalism, which led to the industrialization of agriculture. This modern industrial agriculture, a symbol of the Green Revolution, has severely modified the production models that had existed until then, historically replacing



traditional peasant forms of management linked to local cultures, implementing a "modernization" that dissolves the classic community relationship in which use values prevailed over exchange values (GUZMÁN, 2001, p. 35).

The Green Revolution "only benefited wealthy farmers who had the money to buy the technological package of heavy machinery, so only they benefited from increased productivity and profits, while small producers were excluded from the process" (ROSA, 2018, p. 17). In the same vein, Santilli observes that the modernization policies imposed by the Green Revolution gave rural areas a uniform treatment, disregarding the peculiarities of each location and mode of production, which is why the differences between the employer and family models were accentuated, which, on the other hand, led to land concentration and speculation, rural exodus and the marginalization of family farming (SANTILLI, 2009, p. 61).

One of the main characteristics of this modernization is the excessive dependence on monocultures, pesticides, and transgenic seeds. Modern agriculture is therefore marked by two major moments: the first related to the Green Revolution, marked by mechanization and the intensive use of pesticides; and the second characterized by the development of genetic modifications in seeds through biotechnology (ALTIERI, 2012, p. 34-36).

Agroecology, on the other hand, has its origins in the knowledge and practices of the indigenous and peasant peoples of Mesoamerica, studied through the analysis of indigenous "agroecosystems" of rural development, carried out above all by Miguel Altieri, considered the author who best outlined the contemporary concept of Agroecology in Latin America, as well as its greatest disseminator. Altieri's work critiques the "green revolution" and its unsuitability for peasants (ROSA, p. 60-61).

The central idea of agroecology, for Altieri, is to develop agroecosystems with minimal dependence on agrochemicals and external energy, going beyond alternative agricultural practices and configuring a true science based on the application of ecology in the management of sustainable agroecosystems. The author defines agroecosystem as "the communities of plants and animals interacting with their physical and chemical environment that has been modified to produce food, fiber, fuel, and other products for human consumption and use" (ALTIERI, 2012, p. 105).

Agroecology has emerged as a new scientific approach that aims to support a transition to sustainable farming styles based on certain principles in constructing





*ecologically based* or sustainable agriculture. The term "ecologically-based agriculture" is used primarily to distinguish it from the conventional or agrochemical model of agriculture and from styles of agriculture that are emerging from new currents, such as "Green Intensification", the "Green Revolution" or the "Double Green Revolution". Secondly, the term is also used to distinguish agroecology from other models of alternative agriculture (CAPORAL; COSTABEBER, 2004, p. 8).

This is because agroecology has often been confused with an alternative production model, which often undermines the understanding of agroecology as "a science that lays the foundations for building sustainable farming styles and sustainable rural development strategies" (CAPORAL; COSTABEBER, 2004, p. 5-6). Thus, despite the existence of these alternative forms of agriculture in the most diverse countries (such as organic, biological, natural, ecological, biodynamic, and permaculture, among others), each one follows a different philosophy, principles, technologies, norms, and rules, according to the currents to which they adhere. However, these models fall short of the broader guidelines of the agroecological approach (CAPORAL; COSTABEBER, 2004, p. 8).

To this end, agroecology provides a sustainable methodology for managing and treating agroecosystems, integrating agronomic, ecological, and socioeconomic principles. These ecological principles include: a) Increasing biomass cycling and optimizing the availability and balanced flow of nutrients; b) Ensuring soil with favorable conditions for plant growth, particularly by managing organic matter and increasing its biological activity; c) Minimize losses due to the flow of solar radiation, air, and water by managing the microclimate, water collection and soil cover; d) Promote inter- and intra-species diversification in the agroecosystem, in time and space; e) Increase biological interactions and synergisms between biodiversity components, promoting key ecological processes and services (ALTIERI, 2012, p. 106). 106).

The conclusion is that agroecology is a set of principles that can guide agricultural production toward sustainability through practices that seek to rebuild the balanced metabolism between the environment and human beings. By focusing on the balance between this metabolism, agroecology presents itself as an alternative model to modern capitalist agriculture. On the other hand, precisely because it operates within a logic external to capital, it encounters several obstacles to its implementation in the current mode of production.



## 2. Agroecology as a right: the apparent legal form

When considering agroecology as a solution to meeting human needs in line with the "value and principle of sustainability," it is essential to take a critical look at both the law and traditional sustainability models. These models often overlook the root causes of environmental issues and shift the focus away from the role of capitalism in the current ecological crisis.

To do this, we start from the Marxist conception of law as a set of social relations that unfold from the circulation of commodities in capitalism. According to Pazello, based on Marx, law: "[...] is a social relation, with its specificity as a legal relation, which guarantees the circulation of equivalent commodities through owners who are equal to each other. This is the essential (because specific) form of law based on capitalist economic relations (founding form)" (PAZELLO, 2014, p. 210).

For Marx, social forms have an "appearance" and an "essence" that do not always correspond to concrete reality (PAZELLO, 2014, p. 139). In this sense, because it is one of the forms resulting from human social relations, law also has an appearance and an essence.

Like the other elements of the legal world, legal norms are "mere appearances, phenomena, forms of manifestation," what is said to be the law. In reality, they also have an essence that can only be observed by analyzing the totality of social relations: "Without an apprehension of the totality of social relations, understood in their historicity, legal relations are lost in the most superficial theses of legal theory" (PAZELLO, 2014, p. 139-140).

Based on the legal framework in Brazil today, it can be argued that agroecology finds grounds within this legal system to be seen as a right (in appearance). This appearance, however, does not match its essence as a legal form of capitalist relations because, as Marx said in his "Critique of the Ghotia Program" (MARX, 2013, e-book, position 3319-3337), law, however, "egalitarian" it may be, remains a law of inequality, that is, legal norms, however beneficial they may appear to be to the environment, sustainability or agroecology, remain legal forms that aim to guarantee operability to the unlimited exploitation of nature provided by capitalism.

Brazilian legislation does not expressly recognize a "right to agroecology" along the lines of the interpretation provided by the constitutional text and international



treaties. On the contrary, the analysis of the norms that will be exposed is important because it makes it possible to visualize the apparent character of the legal form, as well as the movement to capture and weaken the agroecological agenda through Brazilian norms and public policies.

Some rules will be examined in greater detail: the Land Statute, the National Environmental Policy, the Pesticides Law, the Agricultural Policy, the Agrarian Reform law, the Organic Farming Law, and the National Agroecology and Organic Production Policy. Initially, the content of these rules and the context in which they were approved will be presented, followed by a critical analysis of this legal arsenal.

In terms of legislation on agriculture, the Land Statute (Law No. 4,504/64), the oldest of the laws above, has stipulated since 1964 that "Everyone is guaranteed the opportunity to access land ownership, subject to its social function" (art. 4,504/64). 2) understanding the full performance of the social function as the simultaneous fulfillment by rural property of the following criteria: a) favoring the well-being of owners and workers and their families, b) maintenance of satisfactory levels of productivity; c) conservation of natural resources; and d) observance of the legal provisions regulating fair labor relations between those who own and cultivate it (BRASIL, 1964). The 1964 Land Statute also states that Agrarian Reform "aims to establish a system of relations between man, rural property and the use of land, capable of promoting social justice, the progress and well-being of rural workers and the economic development of the country, with the gradual extinction of small and large estates" (BRASIL, 1964).

This legislation was the result of a social movement whose discontent with the division of land in Brazil had been growing since the colonial period, leading to the approval of the Statute in the middle of the last century, which, according to Schmitz and Bittencourt, "actually represented an attempt to deflate the struggle for agrarian reform, since it did not touch latifundia, and getting our hands on this type of property meant weakening the political bases of rural patronage and political oligarchies" (SCHMITZ; BITTENCOURT, 2014, p. 05).

Law 6,938/1981, which instituted the National Environmental Policy in Brazil, came about mainly due to international pressure as the environmentalist agenda began to gain more and more ground from the 1970s onwards (MILARÉ, 2007, p. 308-309). Many authors consider this standard a great milestone in terms of environmental protection in



Brazil<sup>2</sup> and the result of the extent to which the debate on environmental issues reached a national level, influenced by the movement that was taking place internationally.

The Agrottoxics Law (No. 7,802/89), in turn, establishes that agrottoxics can only be produced, exported, imported, marketed, and used in Brazil after prior registration and provided that they are "by the guidelines and requirements of the federal bodies responsible for the health, environment, and agriculture sectors" (BRASIL, 1989). It also states that it is up to the competent authority to take the necessary measures, under penalty of liability, if international organizations responsible for health, food, or the environment, of which Brazil is a member or signatory to agreements and conventions, warn of risks or advise against the use of pesticides. It is also worth noting that using pesticides "whose characteristics cause damage to the environment" is prohibited in Brazil (BRASIL, 1989).

This legislation results from growing opposition from movements advocating alternative agriculture, free of pesticides and chemical fertilizers. These movements, led by José Lutzemberger, Sebastião Pinheiro, Ana Primavesi, or Adilson Paschoal, were mostly made up of technicians who believed it was enough to regulate and disseminate the "correct use" of pesticides. It was in this context that the legal nomenclature of "pesticide" was changed to "agrottoxic" (CARVALHO; NODARI; NODARI, 2017, p. 12).

Another important milestone would be the so-called "agricultural policy" regulated by Law No. 8,171/1991. Of these, it is worth highlighting two central articles, Art. 2, which provides for the assumptions of Brazilian agricultural policy and Art. 3, which sets out the objectives of this policy. About the assumptions of Brazilian agricultural policy listed in this law, it is established that natural resources must be used in such a way as to fulfill their social function and that the process of agricultural development must be able to provide the rural population with access to essential services (such as health, education, public safety, transportation, etc.).

This is legislation deriving from Art. No. 189 of the new constitutional text and art. 50 of the Transitional Constitutional Provisions Act, and was therefore the result of regulations required by the Constitution and, therefore, also influenced by the spirit present in the country at the time. The period was also marked by the actions of movements in favor of family farming, including the regulation, for example, of rural

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<sup>2</sup> The enthusiasm for the National Environmental Policy can be seen, for example, in the positions of Granziera (2011, p. 73) or Milaré (2007, p. 307).



workers' pensions as a result of the struggle for these workers' rights (Law No. 8,213/91). In addition, reading articles 2 and 3 of the law above (BRASIL, 1991), we can also see the legislator's attempt to make market interests, productivity, and the profitability of agricultural production compatible with the social and economic function of property.

The Agrarian Reform Law (No. 8,629/93) states that rural property in Brazil that does not fulfill its social function is subject to expropriation. The law also defines what is meant by "productive property" and establishes the same constitutional parameters as those previously mentioned in the Land Statute regarding compliance with the social function of property. It also states that "Environmental preservation is considered to be the maintenance of the characteristics of the natural environment and the quality of environmental resources, to the extent appropriate for maintaining the ecological balance of the property and the health and quality of life of neighboring communities" (BRASIL, 1993).

Like the Agricultural Policy, this is legislation driven by the 1988 Constitution, which made a commitment to Agrarian Reform in articles 184 and following (BRASIL, 1988). The approval of this rule also took place with the important participation and struggle of popular movements such as the MST in search of the realization of constitutionally recognized achievements (MST, 2020, online).

Law No. 10,831/2003, which provides for organic farming in Brazil, was the result of the growth of the movement in favor of organic production, as well as the growing demand for consumption of this type of product (MUÑOZ; GÓMEZ; SOARES; JUNQUEIRA, 2016, online)<sup>3</sup>.

The aims of organic farming include: a) offering healthy products free from intentional contaminants; b) preserving the biological diversity of natural ecosystems and restoring or increasing the biological diversity of the modified ecosystems in which the production system is located; and c) promoting the healthy use of soil, water, and air, and minimizing all forms of contamination of these elements that may result from agricultural practices (BRASIL, 2003).

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<sup>3</sup> The legislation establishes the following concept: "An organic agricultural production system is one in which specific techniques are adopted, by optimizing the use of available natural and socio-economic resources and respecting the cultural integrity of rural communities, with the aim of economic and ecological sustainability, maximizing social benefits, minimizing dependence on non-renewable energy, employing, whenever possible, cultural, biological and mechanical methods, as opposed to the use of synthetic materials, the elimination of the use of genetically modified organisms and ionizing radiation, at any stage of the production, processing, storage, distribution and marketing process, and the protection of the environment" (BRASIL, 2003).



Finally, concerning legislation on agroecology, Decree No. 7,794/12 implements the National Policy on Agroecology and Organic Production (PNAPO), with the objective of "agroecological transition and organic and agroecological-based production, contributing to sustainable development and the population's quality of life, through the sustainable use of natural resources and the supply and consumption of healthy food"(BRASIL, 2012).

As the PNAPO *website* itself mentions, "The decree arose from the concern of civil society and social organizations in the countryside and the forest about the need to produce food in the quantity and quality required, with the least possible impact on the environment and life" (BRASIL, 2020, online). Among the definitions contained in the decree are:

I - sociobiodiversity products - goods and services generated from biodiversity resources, intended to form production chains of interest to the beneficiaries of Law No. 11,326 of July 24, 2006, which promote the maintenance and enhancement of their practices and knowledge, and ensure the resulting rights, to generate income and improve their quality of life and their environment;

II - organic production system - the one established by art. 1 of Law No. 10,831, of December 23, 2003, and others that comply with the principles established therein;

III - agroecological-based production - that which seeks to optimize the integration between productive capacity, use and conservation of biodiversity and other natural resources, ecological balance, economic efficiency, and social justice, whether or not covered by the control mechanisms referred to in Law No. 10,831, of 2003, and its regulations; and IV agroecological transition - a gradual process of change in the practices and management of agroecosystems, whether traditional or conventional, through the transformation of the productive and social bases of land use and natural resources, leading to agricultural systems that incorporate ecologically-based principles and technologies (BRASIL, 2012).

The PNAPO guidelines set out in Art. 3 of the decree encompasses: a) the promotion of food and nutrition sovereignty and security, of the human right to adequate and healthy food, through the supply of organic and agro-ecological products that are free from contaminants that endanger health; b) the promotion of the sustainable use of natural resources, with due regard for the provisions that regulate labor relations and favor the well-being of owners and workers; c) the conservation of natural ecosystems and the restoration of modified ecosystems, through agricultural and forestry production systems based on renewable resources, with the adoption of cultural, biological and mechanical methods and practices that reduce polluting waste and dependence on external inputs for production; d) the promotion of fair and sustainable food production,



distribution and consumption systems that improve the economic, social and environmental functions of agriculture and forestry extractivism; e) the valorization of agro-biodiversity and socio-biodiversity products and the encouragement of local experiments in the use and conservation of plant and animal genetic resources, especially those involving the management of local, traditional or creole breeds and varieties; f) increasing the participation of rural youth in organic and agroecological production; and g) helping to reduce gender inequalities through actions and programs that promote women's economic autonomy (BRASIL, 2012).

In terms of state legislation, it is worth noting that, from the research carried out by Vanessa de Castro Rosa, the laws of Mato Grosso do Sul, Espírito Santos and Paraíba were pioneers in differentiating agroecology from other modalities such as organic farming, as were the laws of Sergipe and Paraná, which "recognized agroecology as a socially just, economically viable and ecologically sustainable system of agriculture", which is broader than other modalities precisely because it encompasses the social, economic and environmental dimensions. Other Brazilian state legislation generally addresses agroecological production indirectly or as a measure to achieve other objectives, such as combating drought, school feeding, and encouraging family farming (ROSA, 2018, p. 127-128).

After all the legal provisions mentioned so far, which seem to seek a balance between the development of agriculture in Brazil and environmental protection, it is curious, to say the least, that organic farming and agroecology are provided for by law and decree as methods capable of obtaining healthy products and preserving biodiversity. In other words, is the Brazilian legislator recognizing that agriculture, contrary to what national legislation itself establishes, is predatory to the environment and human health? This question will be explored in more detail in the third chapter.

Two attitudes can be discerned from the norms studied: a) an "idealistic" stance on the part of those who believed that the mere existence of a norm with favorable content (for the environment or land reform, etc.) would be enough to change the dynamics of reality) would be enough to change the dynamics of reality; and b) on the other hand, a "cynical" stance on the part of hegemonic agriculture and the legislator, who may argue that the models coexist since the legislator has made environmental demands and alternative means of agricultural production positive, weakening the movements because the agenda has already been met.



As Vanessa de Castro Rosa notes, in Brazil, agroecology was initially regulated by Normative Instruction No. 7/99 of the Ministry of Agriculture, Livestock and Supply, which approached agroecology as a derivation of the global concept of organic, which, according to the author, "hinders its understanding and consolidation in the legal environment" (ROSA, 2018, p. 126). As initially discussed in this research, agroecology should not be confused with or restricted to organic farming. Law No. 10,831/03, which regulates organic farming in Brazil, however, falls into this misconception (ROSA, 2018) when it states that: "The concept of an organic agricultural and industrial production system encompasses the so-called ecological, biodynamic, natural, regenerative, biological, agroecological, permaculture and others [...]" (BRASIL, 2003). Decree No. 7,794/12, which establishes the National Agroecology Policy, does not provide a clear legal concept of agroecology but only an attempt to differentiate it from organic production by conceptualizing organic production systems and agroecological production (ROSA, 2018), as mentioned above.

Furthermore, an important aspect to highlight from the standards chosen for further study is that most of them result from the struggle of social movements, international pressure, and the emergence of a new market demand for alternative products. In this sense, the achievements in the field of organic or agroecological agricultural production rely on the strength of the struggle for food security and sovereignty<sup>4</sup> by organizations such as Via Campesina, the Small Farmers' Movement (MPA), and the Landless Rural Workers' Movement (MST). The very genesis of the concept of Food Sovereignty is closely connected to the theme of agroecology and peasant struggles (GUERRA; SILVA, 2022, online).

The MST, for example, which initially emerged as a peasant movement whose main objectives were the struggle for land, agrarian reform, and social change in Brazil, has now also demanded the need for a harmonious, productive relationship between human beings and the environment, to enshrine the food sovereignty of the Brazilian people (MARTINS, 2019).

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<sup>4</sup> On the subject, it is worth noting that "[...] the guarantee of Food Sovereignty, beyond the right to food, but closely intertwined with it, is a multidimensional concept which, in its legal-political dimension, is expressed in the struggle of peoples for the right to choose how they organize the means of access, production and consumption of food. And with regard to production and access to productive resources, it is based on sustainability, insofar as it takes agro-ecological production models as its basis" (GUERRA, 2020, p. 28).





Agroecology is now a very important issue for the MST, and, according to Borsatto (2011, p. 66-67), it plays two important roles in the movement: resistance and overcoming. The first manifests itself as a response to the conventional model of agriculture, and the second as the possibility of building a new model for the countryside centered on valuing human beings and other forms of life and food sovereignty. Thus, "for the MST, agroecology is not an end, but a strategy for achieving a more just and supportive society" (BORSATTO, 2011, p. 66-67).

The MST is Brazil's largest agroecological producer because it has Latin America's largest organic rice production (MST, 2020). In addition, the movement has gained international visibility and has even been mentioned by international ecosocialist authors:

[...] To create such an ecological civilization in the contemporary world would require a radical impulse (in the sense of the root) emanating from the bottom of society - outside the realm of vested interests. This reversal of the dominant social relations of production requires a long revolution emanating from the mass movement of humanity. Current realities are, therefore, giving rise to a nascent environmental proletariat, defined by its struggle against oppressive environmental and economic conditions, and leading to a revolutionary path of sustainable human development. Broad environmental-proletarian movements in this direction are already evident in our time - from the Landless Workers' Movement (MST) in Brazil to the international peasant movement La Via Campesina [...] (CLARK; FOSTER, 2021, online)<sup>5</sup>.

In short, about the appearance of agroecology in positive law, we agree with Vanessa de Castro Rosa when she concludes that "from a legal perspective, agroecological agriculture is not directed as a counterpoint to agribusiness and its industrial model of agriculture" (ROSA, 2018, p. 129). This picture also shows the ideological incorporation and change of meaning in the existing normative confusion between agroecology and organic farming.

Furthermore, the possible cynical stance of the Brazilian legislator can also be seen in the fact that, from a legal perspective, even agribusiness is not seen as damaging the environment. On the contrary, all the legislation mentioned shows that agricultural production in Brazil perfectly harmonizes environmental balance, economic development, and social justice. However, this is not the case in reality, as we discussed in the first chapter when we looked at the unsustainability of the current model of

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<sup>5</sup> Translation by the authors.



capitalist agriculture and as we will try to prove in the third chapter when we look at the obstacles to agroecology.

In this context, it is extremely important to strengthen the agroecological agenda and its defense by social movements such as the MST, whose social practices signal resistance to exploitation and expropriation by capital and the construction of a new form of sociability and relationship with the natural environment through agroecology. It is from the struggle of movements like the MST that a "tactical use of law" can be defended, as will be discussed in more detail below.

### **3. The essence of the legal form as an obstacle to agroecology**

As explained above, in capitalism, social forms and structures have an "appearance" and an "essence" that don't always correspond to reality. "Appearance" is how things appear, what we say a certain phenomenon or thing is, and what we tend to naturalize, but this is not true. The "essence", on the other hand, is what things and phenomena are or how they act in depth.

Since law is also a social form in capitalism, the result of human relations and actions, it also has an appearance and an essence. As discussed in the second chapter, the legal norm is the appearance of the law and what the law is said to be (PAZELLO, 2014, p. 139-140).

The brief overview of agroecology-related legislation that has been presented allows us to conclude that, in Brazil, agroecology as a right can be analyzed in two ways: firstly, it appears to have a broad constitutional and international foundation in the principle of sustainability. Secondly, it appears to be based on the most diverse rules of the Brazilian legal system that relate to agriculture, agricultural policy, land reform, and the environment, among other related aspects. In other words, based on the legal framework in Brazil today, it can be argued that agroecology finds grounds within this legal system to be seen as a right. This appearance of law, however, does not match the essence of law.

The essence of law will be approached from the point of view of Pachukanis, especially since he is considered the most important thinker on law in the history of Marxism. The reading of Pachukanis takes place in conjunction with the reading of other



important authors who have drawn on or worked with the writings of Pachukanis, such as Alysson L. Mascaro and Ricardo Prestes Pazello, among others, who will help to think about the essence of law based on Pachukanis and Marx.

The general theory of law, explains Pachukanis, can be defined as the fundamental and most abstract legal concepts (such as the definitions of "legal norm", "legal relationship", "the subject of law", etc.) and therefore applicable to all branches of law regardless of the concrete content of the legal norms. Thus, law operates through these abstract and general definitions, whatever the subject or content is regulated (PACHUKANIS, 2017, p. 67-68).

From this, Pachukanis observes that Marxist authors, when dealing with legal concepts, analyze the concrete content of norms at a given time, that is, "what people consider to be the law at a given stage of development" (2017, p. 72). In other words, it is customary to analyze the law based on what it appears to be without analyzing the totality surrounding legal regulation as a form in itself.

The main defect of this practice in the study of law, according to Pachukanis, is that "it is incapable of encompassing the concept of law in its real movement, revealing all the interrelationships and internal links" (PACHUKANIS, 2017, p. 74). In this way, just as Marx began his research not by reflecting on the concept of the economy but by analyzing the categories of merchandise and value, Pachukanis starts by analyzing categories from the general theory of law to analyze law itself (such as the subject of law and the legal relationship).

In addition, he adopts a concept of "ideology" as the appearance of phenomena, which can be extracted, for example, from the following excerpt: "Every ideology dies along with the social relations that engender it. However, this definitive disappearance is preceded by a moment when ideology, under the attack directed at it by its critics, loses its ability to cover up and conceal the social relations from which it developed" (PACHUKANIS, 2017, p. 80). In other words, the disappearance of appearance can only occur once the essence begins to be revealed.

This revelation must begin with the study of the simplest definitions because, according to Pachukanis, it is possible, starting from the simple to the complex, to construct the concrete totality, not as "a chaotic and diffuse whole" but as a "rich unity of determinations and relations of internal dependencies"(PACHUKANIS, 2017, p. 81).



According to the author, in this way, Marx revealed the profound link between the form of law and the form of the commodity in capitalist society.

Bearing in mind that the law is not just an appearance, it doesn't exist only in the theories of jurists. Still, it has a real history that develops through social relations into which people enter not out of spontaneous and conscious will but because the production conditions have compelled them to do so. In other words, man becomes a subject of law, for Pachukanis, by the same need by which the product becomes a commodity. Therefore, The legal relationship is a product of society's development (PACHUKANIS, 2017, p. 83-85).

From this, Pachukanis introduces in his work "General Theory of Law and Marxism" the observation that "just as the wealth of capitalist society takes the form of an enormous collection of commodities, so society presents itself as an unbroken chain of legal relations". The legal categories express, in their apparent universality, the existence of a commodity-producing bourgeois society since "the legal relationship between subjects is just another side of the relationship between the products of labor turned into commodities" (PACHUKANIS, 2017, p. 85, 97).

Thus, unlike dogmatic jurists, for whom there is nothing but the norm, the legal relationship is the central category for analyzing the law, according to Pachukanis, because it is where the real movement of law occurs. The norm, on the other hand, would just be "a lifeless abstraction". In other words, law as a social phenomenon is not limited to norms (written or not) because these norms gain meaning from the existence of the mercantile-monetary economy. Pachukanis (2017, p. 97-98) doesn't see the law as a product of the state because state power gives clarity and stability to the legal structure. Still, its presuppositions are rooted in society's material relations of life production.

The development of fundamental legal concepts, for the author, not only offers the form of law and its essence but also allows us to reflect on the process of real historical development of society, especially bourgeois society, since "Only bourgeois capitalist society creates all the necessary conditions for the legal moment to reach full determination in social relations" (PACHUKANIS, 2017, p. 75).

In this sense, one can even observe how the association between the primacy of the Constitution and the development of capitalist relations of production is not occasional (2020, online) since the notions of State and Law (as they are conceived today) were established from the political and economic transformations of the 19th century,



driven by the Liberal Revolutions, are closely connected with the advent of capitalist relations of production (PALAR; BUENO; SILVA, 2020, online).

It is worth noting that Pachukanis also mentions that, for Marx, the study of the most developed formations of social forms allows an understanding of previous formations and, for this reason, the legal form, despite having emerged at a certain stage in human history, remained in an embryonic state for a long time (because it was not completely different from other spheres such as customs and religion), reaching its full development only in bourgeois society, from which it can be conceived as a "historical category corresponding to a defined social environment, constructed by the contradiction of private interests" (PACHUKANIS, 2017, p. 85-85). 85-86).

Thus, one of the premises and the cause of the development of the legal form, for Pachukanis, is the antagonism of private interests because the legal moment of regulating people's behavior begins where the differences and oppositions of interests begin, an essential mark of bourgeois society based on individual interests (PACHUKANIS, 2017, p. 95).

Every legal relationship, for the author, is a relationship between subjects, hence the centrality of the category "subject of law" in his analysis, which he considers to be the atom of legal theory, the simplest element to be analyzed and through which the investigation of the whole must begin. This is because the analysis of the form of the subject of law would derive directly from the commodity form since capitalist society is a society of commodity owners (PACHUKANIS, 2017, p. 119).

In this society, even though merchandise manifests value independently of the will of the person who produces it, the realization of the exchange process depends on voluntary acts, which is why the relationship between people arises as individuals with products at their disposal. Thus, at the same time, a product of labor acquires the property of a commodity (and becomes the bearer of a value), and man acquires the value of a subject of law (and becomes the bearer of rights) (PACHUKANIS, 2017, p. 120).

Central to the law are the categories of "the subject of law" and "contract", which correspond to the categories of political economy (the bearers of commodities and the act of exchange). According to Alysson L. Mascaro, the reproduction of capitalism is structured through specific social forms that make this sociability possible. In capitalist society, the categories of value, merchandise, and juridical subjectivity are central. The contract emerges as a "link" between subjects exchanging goods (including their labor



power). Still, for the bond to be contractual and not a mere imposition of unilateral force, specific and necessary forms emerge in the legal and political fields:

To be able to contract, individuals are legally considered subjects of law. At the same time, a political sphere that is at first alien to the subjects themselves, with concrete effectiveness and apparatuses, ensures the recognition of the legal quality of these subjects and guarantees the fulfillment of bonds, capital, and subjective rights (MASCARO, 2013, p. 20).

Specifically about the state, Mascaro argues that it has a "third party" character due to the very dynamics of the relationship between capital and labor and that it is not just an apparatus of repression but of social constitution since "the existence of a political level separate from individual economic agents gives it the possibility of influencing the constitution of subjectivities and giving them legal and political guarantees that corroborate the very reproduction of mercantile and productive circulation" (MASCARO, 2013, p. 19).

In the same vein, Palar, Bueno, and Silva (2020, online), when discussing the connection between the idea of the importance of the Constitution and the development of capitalism, mention two elements that would highlight this link: a) the backing of the political form; and b) the authentication of the legal form. The Constitution supports the political form because it upholds the separation between economics and politics so that legal norms "guarantee that the state is not directly confused with civil society, either with an individual or with some class, fraction, or social group" (2020, online). The authentication of the legal form takes place when the Constitution enshrines equality, freedom, and autonomy of will as fundamental rights of the individual, establishing the core of legal subjectivity, an essential element of capitalist production relations based on the buying and selling of labor power and its consequent transformation into merchandise, to be freely negotiated in the exchange circuit:

Individualizing and equalizing all the productive agents in this circuit of free buying and selling labor power also contributes to the ideological process of concealing the mechanisms of exploitation embedded in these relationships. Authentication occurs because it attributes honesty to the notion that commodity exchange relations are the result of the will of their owners when, in fact, they consist of a relationship of exploitation. As this process develops through legality, it can be said that authentication also occurs to make this relationship legal (PALAR; BUENO; SILVA, 2020, online).

Legal subjectivity, therefore, exists so that contracts (the connection between those who exchange goods) take place in the guise of an exchange of equivalents between free subjects. This appears even in employment contracts since the workforce is a



capitalist commodity. The appearance of an exchange of equivalents between free subjects of law hides the extraction of surplus value in the production process (BUSNELLO, 2018). This is why, for Marx, any right is a right of inequality since it guarantees the exchange of market equivalents (PAZELLO, 2018, p. 16). Here, it is worth highlighting the words of Pachukanis himself:

Thus, the subject of law is an abstract, heaven-bound possessor of goods. Their will, understood in the legal sense, has a real foundation in the desire to alienate when acquiring and to acquire when alienating. For this desire to be realized, the will of the commodity owner must meet the desire of another commodity owner. Legally, this relationship is expressed as a contract or agreement between independent wills. [...] The act of exchange, therefore, constitutes the most essential moment of both political economy and law (PACHUKANIS, 2017, p. 127).

Since the law is a specific social form of capitalism, the extinction of the categories of bourgeois law would mean the extinction of law in general, in other words, "the gradual disappearance of the legal moment in human relations". However, Pachukanis emphasizes Marx's words, according to which the new communist society would carry the marks inherited from bourgeois society for some time. Therefore, the right (and with it the State, which is the presupposition for imposing the right) would only be extinguished when the form of the relationship of equivalence is eliminated, "when work has ceased to be a mere way of life and has become the first vital necessity", that is, when the reality in which a worker needs to calculate whether he has worked more or less than another or whether he has received more or less is extinguished (PACHUKANIS, 2017, p. 78).

The transition to developed communism for Marx, according to Pachukanis, would not take place through new forms of law "but as the extinction of the legal form in general, as an extinction of that inheritance of the bourgeois epoch which is destined to survive the bourgeoisie itself" (2017, p. 79).

This extinction of law, however, is not an issue to be explored at this point since Marx himself assumes that in the transition to a communist society, the social forms of capitalist society would be maintained for a certain period. The central issue here seems to be the following: the essence of law (the legal form necessary for the operability of capitalist society and linked to it) presents itself as one of the obstacles to the realization of agroecology as a productive practice and as a right (appearance), for the following reasons:



1. Agroecology operates in a different logic to capitalist logic (as discussed in the first chapter), as it seeks to balance the metabolic relationship between human beings and the environment.
2. Although the appearance of the law (presented in the second chapter) announces it as a protector of the environment and sustainable practices, nature will never cease to be considered an object in capitalist society because it is the unsustainable exploitation of natural and human resources that allows capital to accumulate without limits, as evidenced by the environmental problems experienced today.
3. It is from the metabolic rift in the relationship between human beings and nature theorized by Marx and reinforced by Foster that this unsustainability of capitalism arises.
4. Since law is a specific legal form of capitalist society, it is also an obstacle to agroecology as it seeks to maintain unsustainable capitalism.

Bearing in mind that the critique of law starts from the critique of the capitalist mode of production and that law is seen by Marx as a legal relationship (social form) specific to capitalism, Pazello asks: what is the space of the normative plane in the legal phenomenon? (PAZELLO, 2018, p. 14). As discussed in the second chapter, the author replies that Marx sees the normative aspect of law as the appearance of the legal phenomenon. This appearance nature of legal norms is confirmed, for example, when we analyze the legislation set out in Chapter 2 of this research, especially the Land Statute, the National Environmental Policy, the pesticides law, the Agricultural Policy, the Agrarian Reform law, the organic farming law, and the National Agroecology and Organic Production Policy.

All these norms have relevant provisions directing the development of agriculture in Brazil towards values such as social justice, environmental protection, and land use capable of generating progress, the well-being of rural workers, and the country's economic development. The Land Statute goes so far as to guarantee everyone the opportunity to access land ownership, subject to its social function and the gradual extinction of large estates (BRASIL, 1964). The Agrottoxics Law (No. 7,802/89) establishes that environmentally harmful agrottoxics are banned in Brazil (BRASIL, 1989).

These predictions alone show that legal norms are a mere appearance of the law. Otherwise, enacting laws protecting the environment would solve the environmental problems we experience today.





In addition, it has already been mentioned that organic farming and agroecology are provided for by law and decree in Brazil as methods capable of obtaining healthy products and preserving biodiversity. In *other* words, does this mean that other cultivation methods cannot produce healthy products and preserve biodiversity? Does the Brazilian legislator recognize that landowning and monoculture agriculture, contrary to what national legislation itself establishes, is predatory to the environment and human health?

In fact, in Brazil, environmental protection in legislation is a mere appearance of the legal phenomenon (well applied from the point of view of capital because it is selectively applied in reality), as can be seen from the countless pesticides released in recent years by the government. In the period corresponding to the Coronavirus pandemic in Brazil alone, in 2020, the government released more than 118 pesticides (GRIGORI, 2019). Of the 150 substances approved in 2020, only two are new, biological, and used in organic farming. The others are controversial regarding the environmental and human health damage they cause. For example, among those approved, Fipronil was responsible for the death of more than 500 million bees in 2019 (GRIGORI, 2019), which is why the substance is even banned in the European Union. Chlorpyrifos and chlorothalonil have already been linked, respectively, to neurotoxicity for human development and carcinogenicity, according to information on the *website* of the National Health Surveillance Agency - ANVISA (BRASIL, 2020).

In the same vein, Vanessa de Castro Rosa points out that, despite all the environmental legislation and legislation in favor of land reform, land concentration in Brazil is increasing. The Brazilian countryside is, therefore, increasingly marked by inequality. According to the author, the Brazilian agricultural policy law was "designed to serve the market's interests" (ROSA, 2018, p. 123). This is because, according to Gladstone Leonel Júnior, despite the provision for social elements in the legislation, these only serve as a disguise (appearance) to guarantee the economic privileges of the rural sectors in Brazil (LEONEL JÚNIOR, 2016, p. 33).

The Marxian critique of law concerns the fact that even the best of legal norms (such as labor norms that protect workers or environmental norms in favor of sustainability or agroecology) essentially ensure material inequality and the exploitation of humans and nature because they are part of the structure of the capitalist mode of production. This is the essence of the right as an obstacle to agroecology.



But what to do with the existing arsenal of legal rules? As Pazello points out, Marx did not disregard these aspects; on the contrary, he emphasized them to the extent of his interest in regulating the working day (PAZELLO, 2018, p. 14-19):

This is the strong point of the Marxian critique of law: the legal relationship, as the essence of the legal form, requires a social relationship based on an agreement of materially unequal wills, even if they are formally equivalent. Therefore, the struggle for rights, even those carved out in the most well-written legislation or judicial precedents, implies, in the capitalist mode of production, ensuring this material inequality. So when the workers' movement realizes this, it can do nothing but anchor its future in a struggle outside the order. On the other hand, however, since the future belongs to the development of history and starvation in the present is very painful, the struggle within the order does not lose all its significance. That's why the fight for the normal working day or, as we see it today, for the reduction of the working day is at the same time an intervention in the contemporary real state, even if it can't be fully realized, even nominally. Full conquests within the order are necessary and extraordinary victories that sharpen what lies beyond the order, which is why they are so rare (PAZELLO, 2014, p. 191).

For Pazello (2014, p. 19), a Marxist political project can only look at the political use of law in two ways: strategic and tactical use, with the latter being consistent with Marxism. The strategic use is in line with what Engels and Kautsky wrote about legal socialism; that is, it characterizes a conception that, abandoning the revolutionary character, believes that the transformation of the content of legal norms would be enough to transform bourgeois society.

In a coherent Marxist conception, however, due to its essence as a legal form essential to capitalism, Pazello (2014, p. 20) believes that law can only be used tactically, i.e., by seeking to contribute to the revolutionary process. Furthermore, this issue is especially relevant regarding the transition to another sociability, given the subsistence of capitalist social forms (such as law) during this period.

This is because the mediation between the tactical use of law and the revolutionary project can best occur during this transition. In this sense, Pachukanis himself, according to Pazello (2018, p. 22), would point to the possibility of a "revolutionary use" of law as a result of a series of factors:

Pachukanis, however, also tackles the issue of transition, in which the possibility of the "revolutionary use" of law emerges. This use is the result of a spiral of considerations about the legal phenomenon: a) where there are mercantile social relations, there is law; b) law is made perfect in the society that erects its social relations through the hegemony of mercantile exchange, in other words, in capitalism; c) the process of breaking with capitalist society towards communism coexists with the juridical form, simply because it coexists with the mercantile form; d) the periods of transition, whether it be



the "new political economy" (as happened in Soviet Russia) or the total socialization and nationalization of the means of production (theorized by Marx, Engels and Lenin), are accompanied by the legal form, no longer pure, but recurring due to the method of autonomy of economic organisms; e) because it is a real phenomenon, albeit a transitory one, the legal form must be instrumentalized according to the interests of the working class, but not perceived as an orderly system and "propeller of history"; and f) precisely because of this, the legal form disintegrates, along with the relations of exchange of equivalent commodities, privately or state-owned, and the extinction of law, as we know it, takes place (PAZELLO, 2018, p. 22). 22).

The struggle for rights, therefore, despite the essence of the legal form, is relevant as it supports the anti-capitalist struggle, making the transition to another sociability less painful:

Transition is a long-lasting process unsuited to the ideological hype of the immediate extinction of the social forms of capital it fights against. Despite its aim, it is not an act of mere will to overcome these social forms. In this sense, the socialist transition coexists with the law pressed into service by its revolutionary political use (in the extreme, the nationalization of economic sectors, the socialization of the means of production, and central planning). (PAZELLO, 2018, p. 23).

This fight for rights in capitalist society is therefore not enough because even if they are beneficial to the population and the environment and go against the interests of capital (for example, in the specific case of this work, environmental legislation), they "cure the fever", but "do not attack the deepest infection", because, as Marx said, revolutions are not made through laws (PAZELLO, 2014, p. 165, 186).

It's worth pointing out that, when studying the relationship between "law and social movements", Ricardo Prestes Pazello proposes insurgent law as a way of avoiding both a blind view of the law (only in its appearance as a legal norm) and a complete rejection of the phenomenon (due to its essence as a legal form of capital). For the author, insurgent law "at the same time as it rebels against the law itself, it works with it according to the contextual and geopolitical needs that bring it about". This insurgent right would, therefore, be "a set of legal relations that involve, in turn, the relations of popular movements in dependent capitalism, and which make tactical use of the law, with the horizon of its extinction" (PAZELLO, 2014, p. 19, 24).

In this context, given the destructive effects of unlimited capitalist exploitation of natural resources that have led to the current and urgent ecological crisis, in environmental terms, the political use of legal norms (i.e., the struggle for environmental rights, sustainability, agroecology) becomes relevant insofar as it should seek to curb the



destructive effects of capitalist exploitation on nature, providing more time for the development of revolutionary struggles.

## Conclusion

Agroecology was presented as an alternative that provides scientific bases for the development of sustainable production systems independent of agrochemicals, characterizing a model that is antagonistic to the one imposed by the Green Revolution. Although it is commonly confused with specific production methods, such as organic farming, agroecology is not just an isolated practice but a new and broader scientific approach that aims to support a transition to sustainable farming styles based on certain principles in the construction of ecologically based agriculture.

It was shown how agroecology overcomes the capitalist rationality focused on profit, an approach based especially on John Bellamy Foster's reading of Marx, in which the author demonstrates how Marxian thought, especially in its more mature phase, is deeply marked by an ecological worldview that derives from his materialist conception of history and nature. As Foster argues, Marx's method makes it possible to examine the contradictions of the capitalist mode of production, the environmental crisis, the exploitation of human labor, and its relationship with nature. Therefore, understanding the place nature occupies in the capitalist system is essential.

The second chapter concludes that the regulations studied were approved above all due to political struggles and points to attempts to incorporate issues related to agroecology into the Brazilian legal system, such as fair access to land, an ecologically balanced environment, production without pesticides, etc. However, these same norms result in either a cynical stance on the part of hegemonic agriculture or an ideological stance on the part of jurists and the social movements they influence. We refer to a cynical stance because those who hold it advocate for the coexistence of agribusiness and agroecology, as evidenced by the aforementioned legislation. On the other hand, there is talk of an ideological stance about the latter, who believe that the mere passing of the law will transform reality.

The analysis also highlighted how, for decades, Brazilian legislation has provided for fair access to land, agrarian reform, a ban on the use of agrochemicals that are harmful



to the environment and human health, as well as the expropriation of large estates that fail to fulfill their social function (one of the requirements for which is respect for the environment). In reality, however, there is an ever-increasing concentration of land and power in Brazil (including the growth of foreign ownership of land) and an increase in the number of dangerous agrochemicals permitted for use by the government.

The third chapter then explains how the essence of law, based on Pachukanis, is an obstacle to agroecology, thus answering the problem presented at the beginning. The aim was to demonstrate that, before any other obstacle to the implementation of agroecology on a large scale, it should be borne in mind that mere legislative creation will not solve the ecological crisis today since the existing environmental laws are merely a semblance of law whose essence seeks to maintain the unsustainable capitalist system. It was concluded that the legal form, in essence, is an obstacle to agroecology.

But what can be done with this legal arsenal if the content of legal norms is merely an appearance of the legal phenomenon that seeks to maintain the current system? Based on Ricardo Prestes Pazello, we thought about the tactical use of law as a tool capable of helping to transform reality without losing sight of the revolutionary horizon since law alone is not an adequate instrument for transforming capitalist sociability, as Marx taught.

As an alternative to avoid both a blind view of the law (only in its appearance as a legal norm) and a complete rejection of the phenomenon (due to its essence as a legal form of capital), Ricardo Prestes Pazello's proposal of an insurgent law, i.e., a tactical use of law while maintaining a revolutionary horizon, was put forward. In this sense, faced with the destructive effects of unlimited capitalist exploitation of natural resources that have led to the current and urgent ecological crisis, in environmental terms, the political use of legal norms (i.e., the struggle for environmental rights, sustainability, agroecology) becomes relevant insofar as it should seek to curb the destructive effects of capitalist exploitation on nature, providing more time for the development of revolutionary struggles.

Finally, it's worth emphasizing that a critical approach, such as the one we've taken here, doesn't necessarily have to present solutions since simple, well-founded criticism is in itself a major advance since, as mentioned in this paper, the disappearance of all "ideology" (in the sense of the "appearance" of social phenomena, as used by Pachukanis) and the social relations that engender it is preceded by a critical attack, since it is this criticism that renders it incapable of covering up and concealing the social



relations from which it developed. In other words, the disappearance of appearance can only occur once the essence begins to be revealed by criticism based on science because, as Marx taught, "if the appearance and essence of things coincided, science would be unnecessary".

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