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[Introduction to] Legalizing Identities: Becoming Black or Indian in Brazil's Northeast

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Introduction

GLOBALIZING RIGHTS AND LEGALIZING IDENTITIES

Over forty new tribes, including the Xocó, have been recognized in the Brazilian Northeast since the late 1970s.[1] These new Indians are composed primarily of African-descended individuals who possess few of the "traditional cultural diacritics," who speak only Portuguese, and whose Indianness is "not always evident from their physical appearance" (A. C. Ramos 2003:370), but who nonetheless self-identify as indigenous. Although the Brazilian government has legally recognized them as Indians, members of the press, the public, and academics have questioned their "authenticity," in light of the popular representations of Indians derived from the Amazonian experience featured in films and classic ethnographies as isolated communities of naked natives. This is exemplified by the following set of questions raised by anthropologist Beatriz Dantas two decades after Xocó recognition:

> When they meet the Xocó on São Pedro Island, people often ask: Where is the village and where are the Indians? When they see the same kinds of houses, a church, children playing under the trees, everyone wearing the same simple clothes that all people who till the land wear; when they see some people with copper-colored skin and straight, dark hair and others with black skin with kinky hair, brown skinned people with wavy hair and others who are blonde with blue eyes, they ask, are these real Indians?[2]

Just as some rural black communities have self-identified as Indians, others have asserted a quilombo identity as descendants of fugitive slaves, related to an increase in black activism in both urban and rural settings around Brazil. New laws and policies requiring affirmative action in higher education and federal agencies have been enacted, with quotas for black Brazilians already in place. Both controversial, the issue of quotas and the claims of rural black communities for recognition and land under the 1988 quilombo clause of the Constitution are often linked in discussions about the new prominence of ethnoracial mobilization in Brazil.[3]

Rural folk organizing themselves as Indians or quilombolas rather than as peasants or rural workers may be considered a form of "identity politics."[4] Academics and activists have been debating, since the early 1990s, whether class-based mobilization would be more effective than identity-based organization, since each "identity" has its own demands and potentially exclusionary practices. Some scholars have accused Latin American governments of co-opting identity politics to implement a form of "neoliberal multiculturalism," essential to neoliberal governance, that appears to accommodate the needs of the subaltern classes but in reality does very little to provide them with a better life (Hale 2002, 2006). Others insist that popular mobilization has been the catalyst for multiculturalism, which has the potential to provide a voice and economic power to the previously powerless indigenous and black people of Latin America (Van Cott 2000, 2005). An alternative approach has been asserted in which the "current context of globalization" provides "resistance" with the "potential, through the constitutive power of social struggle, to challenge sovereign power by utilizing the tools at hand and asserting alternative logics" (Speed 2008:37). In my view, international support for state-sponsored multiculturalism, reflected in International Labor Organization Convention 169 on Indigenous and Tribal Peoples (1989), the Durban World Conference against Racism (2001), and the United Nations Declaration on the Rights of Indigenous Peoples (2007), has created an opening to consider the benefits and drawbacks of ethnoracial mobilization in a world of globalizing rights. In this book, I propose that debates over modes of organizing are best addressed within a broad conceptual framework of social and redistributive justice (Fraser 1998). When recognition and resources come together, the opportunity for people to fully participate in the life of the nation is enhanced.

In many parts of the world, including Latin America, the right to land is integral to the conception of social justice, yet what it means to acquire, hold, and work land is often taken for granted (see Moore 1986). However, as will become clear, there are multiple meanings of land. It can signify the ability to feed one's family or represent the possession of political or economic power. The meaning of land can also vary by region and locale. It can change over time for collectivities, as well as for individuals, as the context of their lives change. This is what happened for the Xocó Indians and the Mocambo villagers. As will be seen, even the form of land title granted, whether individual or collective, can affect both land-use patterns and the sentiments associated with historical ties to a given place. Although such issues are presented in all forms of land struggle, the two movements I examine in this

book and others like them throughout Brazil, because of their ethnoracial character, are sometimes represented as distinct from previous and parallel struggles for land reform, including the northeastern peasant leagues of the 1950s, Church-sponsored land reform movements, and the Landless Rural Workers' Movement (MST), one of the largest social movements in Brazil.

Rather than presenting movements for land and identity as being in conflict with each other, an either-or proposition, I suggest that ethnoracially based movements are an alternative (although not the only one) to other forms of political mobilization. In this book, I argue that the creation of land-based ethnoracial groups in the Brazilian Northeast constitute "new geographies" (Harvey 2000:557). This does not exclude other forms of organization but rather incorporates a certain richness in modes of struggle and cultural practices associated with all forms of mobilization. I argue that understanding how social justice is conceived and embodied in Brazil's Northeast requires an appreciation of the impact its pursuit can have on the cultural lives of the people who pursue it.

Therefore, rather than being another book about race relations, indigenous struggles, or the black consciousness movement in Brazil, this book is fundamentally concerned with how each of those issues intersect with, and may even reshape, the law and its effects on the lives of people like those living on the banks of the São Francisco River in Mocambo and on São Pedro Island. In this book, I explain how the invocation of laws can inspire ethnoracial identity formation along with revisions of cultural practices—revising physical boundaries is not enough (Sahlins 1999; Vlastos 1998). In this book, I also show how such local transformations of social and cultural practices can, in turn, reshape the meanings of the laws themselves. Since law operates as a powerful social force once it is invoked by people with a purpose, it not only imposes categories and orders social relations, but it also provides structures for self-identification, mobilization, and social justice (Thompson 1975:266–67).

The effects of new tribal and quilombo recognitions are often seen through the prism of racial discourse. However, it is important to understand that racial discourse in Brazil operates differently from the United States, with its historical rule of hypo-descent ("one-drop rule") and years of legal definitions based on blood and genealogy (Domínguez 1986). In Brazil, there are people who may appear to be white but who self-identify as black and people who appear to be black but who self-identify as indigenous. This is because, in Brazil, political commitment often precedes racial designation; in the United States racial designation most often precedes political commitment.[5]

Therefore, for example, Mocambo residents who self-identify as quilombolas consider themselves to be black, although with a definition that is up for grabs. As illustrated in this book, interpretations of phenotype and descent are not necessarily the key to self- and other-identification for quilombolas and Indians. Commitment to struggle and "performance" (Gross 2007:470; Jackson 2001) of ethnoracial identity are deciding factors in Brazil, although constant discussion of skin color and facial features serves as the everyday social backdrop, reflecting effects of the continuing glaring racial inequalities in Brazil. This contradiction is one of the puzzles scholars of race in Brazil confront (Guimarães 1999; Sansone 2003; Sheriff 2001; Telles 2004; Racusen forthcoming 2009).

Prior to the 1980s, academics often avoided the issues of race and ethnicity, dealing with undifferentiated "peasants" as a category (Cândido 1964; Johnson 1971; Queiroz 1976). This was largely because nation and class were considered the essential organizing principles of both the state itself and activists interested in lessening inequality (Pereira 1997). With the spread and consolidation of constitutional multiculturalism in Latin America, scholarship on ethnoracial identity politics has viewed indigenous and African-descended communities and struggles as separate entities and endeavors. Published scholarship that encompasses and analyzes both is scarce (Hale 2004:20), although with increased interest by the World Bank and other international funding agencies in "indigenous and Afro-descendant" peoples, some scholars have begun to explore similarities and differences between the two (Greene 2007; Hooker 2005; Safa 2005). These are tentative moves toward viewing the struggles of rural indigenous and black communities in tandem, although there has not been much, if any, theorization of the issue; nor has there been an attempt to build a model to encompass both. To a certain extent, the division in scholarship derives from the view that "black" is a racial identity while "Indian" is an ethnic one (Wade 1997:25, 37). Such a divide "generates a conceptual system of serious scholarship wherein historical and ethnographic treatises on native peoples, *or* black peoples, hermetically seal off the data of the alternative people from analytical salience" (Whitten and Corr 1999:213). This is common in Brazil, where there has been a preference for categorization based on "ethnic" over "racial," derived from the long-held view that race is less analytically useful than class.

Disagreeing with that perspective, Jonathan Warren (2001) has argued that there are political benefits to be had from shifting the emphasis to a discourse of race for Indians in Brazil, because, in his view, Indians' antiracist discourse is more developed than that of black Brazilians (a category

left underdeveloped). As such, he argues, Indians have more cohesive political organizations. In my view, Warren's position does not consider how a particularly Brazilian perspective on ethnoracial identity actually *enhances* political mobilization. In fact, discourses of mixture in Brazil allow people to choose to be Indian and/or black, while discourses of race in the United States force people into a single category—African American (Brooks 2002; French 2004).[6] In Brazil, there has never been legal segregation, and racial categories have not been defined by law (Goldberg 2002:215), reflecting and reinforcing a national ideology that has historically held that mixture vitiates any such endeavor. The Indian Statute of 1973 and the 1988 quilombo clause are *implicitly* race-based laws that have opened up opportunities for new ethnoracial identities based on legal rights. However, because they are not *explicitly* race based, they result in political identities connected to, but not solely defined by, race. Another problematic assumption runs throughout discussions of these newly salient categories, primarily by non-Brazilian scholars (Hooker 2005; Safa 2005) (compare with Arruti 2006; Oliveira Filho 1999a). It is generally assumed that even if the residents of a particular area have a common background or have lived in the same or contiguous physical space(s), their posited differences and separateness are intrinsic to their efforts to obtain land and resources. Those differences are represented as preexisting the enactment of the law.

In this book, I take a different tack. While observing, researching, and participating in the unfolding of revised ethnoracial self-identifications in Mocambo and on São Pedro Island, I developed a theoretical model I call "legalizing identity." This model is demonstrated in this book through the examples of the Xocó and Mocambo, but it is intended to be broadly applicable wherever such changes are taking place. As an analytical tool for understanding the process by which national legal and political institutions interact with local identity transformation, the concept of "legalizing identity" provides a framework that encompasses both black and Indian struggles for recognition and resources, while retaining the ability to understand their specific differences based in history and struggle.

Later in this introduction I will enumerate the elements of legalizing identity and indicate how it organizes my analysis of the events that took place in these backland villages. At this point, however, I argue that for the process I am theorizing as legalizing identity to be visible, there must first be a particular law that has come into existence with the purpose of protecting or regulating the rights of specific groups to maintain ethnoracial and cultural difference.[7] The law may originate with lawmakers or government

officials or as the result of mass mobilization. Also, rather than follow the tacit order of things in which the law is mechanically applied to preexisting identities in the form of groups known to be either "Indian tribes" or "quilombos," we must understand that an unanticipated consequence of the application of a law can be the production of new categories of personhood. To further explain how these prerequisites come into being, I propose we use an alternative logic to assess the legislative process.

POSTLEGISLATIVE NEGOTIATION AND GOVERNMENTALITY

Just as identity does not necessarily preexist law, one should not assume that law fully preexists its application. In a process I call "postlegislative negotiation," the examples I explore in this book shed light on a popular Brazilian expression. People often ask whether the law will stick ("A lei vai pegar?"). As was the case with the laws regarding Indians and quilombos, laws are often not the result of mass public demand. This is in contradistinction to civil rights legislation in the United States, which is certainly the model used when scholars presume the healthy character of American democracy in comparison to Latin America (Armony and Schamis 2005). The popularity in Brazil of the assertion that a law will not stick or take hold ("a lei não vai pegar"), often expressed in the public sphere, provides a clue as to why prelegislative motivations, such as response to public concern, receive more attention from the populace than the actual passage of laws by the legislature. In the process of open-ended postlegislative negotiation, the impact, consequences, interpretations, and even the meanings of any given law are often determined only *after* it is enacted. That determination is made at the levels of the populace, police, judges, lawyers, government officials, and the press.[8] Each of the laws analyzed in this book are examples of the process of postlegislative negotiation. The Indian Law of 1973 came to be used for purposes far from the original intentions of the military government to colonize the far reaches of Brazilian territory; the quilombo clause of 1988 was thought to be a purely symbolic gesture to appease black consciousness movement activists but became the basis for the expansion of land rights for rural black communities.

Crucial to my conceptualization of postlegislative negotiation is the notion of governmentality, which provides a further underpinning for the workings of such negotiation. As with the multiplex forms of negotiation surrounding legal provisions, "governmentality" is a process that engages more than the government itself (Foucault 1991; Rose, O'Malley, Valverde 2006).

It is about how governing takes place, specifically as it "chang[es] the shape of the thinkable" through the strategies that produce social order involving public and private, the state and civil society (C. Gordon 1991:8). It is the "ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this . . . form of power . . . a whole series of specific governmental apparatuses" and "the development of a complex of knowledge" (Foucault 1991:102–3). Therefore, governmentality also involves a series of other actors and institutions as disciplinary agents—international, national, and local, associated or not associated with the government—who originate, and participate in, the dissemination of information about new categories available to be claimed for the rights associated with them. These new categories are available as tools of subjection as well. The example often given is the professional nongovernmental organization (NGO) (Hale 2002; Li 2001), of which there are many involved in the stories told in this book: the Catholic Church (acting locally through priests, nuns, missionary organizations, and lay clergy), rural trade unions, black movement activists, land reform organizations, anthropologists, and many local, state, and national government agencies, which tend to act independently of the central Brazilian government.

With the blurring of the lines between state and civil society, especially in a relatively weak state such as Brazil, governmentality provides a nonbinary view of the process by which potential rights bearers are identified and rendered recognizable by the state. This new "modality of government works by creating mechanisms that work 'all by themselves' to bring about governmental results . . . through the 'responsibilization' of subjects who are increasingly 'empowered' to discipline themselves" (Ferguson and Gupta 2002:989). Chapters 2, 3, and 4 show how governmentality operated in the Xocó story and in the path that Mocambo took to quilombo recognition. In both cases, nongovernmental entities and individuals were key agents of change. Their efforts reinforced the dispersal of state power just as they encouraged people to appeal for recognition to the very government they feared or despised. This irony is at the core of governmentality.

In addition to the Catholic Church and NGOs, there were at least two other crucial agents of governmentality in the continuing dramas of the Xocó and Mocambo: lawyers and anthropologists. Individual government lawyers who worked with the federal attorney's office (ministério público federal) were important allies of both groups in their bids for recognition; anthropologists were called upon to write the expert reports that provided evidence for tribal and quilombo recognition. One of the first visitors from outside the

area to each village was an anthropologist. In the case of the Xocó, by the time an anthropologist was sent to consider their claim in 1978, Brazil was on the verge of redemocratization. Anthropologists, many of whom had faced repression under the dictatorship, were finally in a position to support new opportunities for dispossessed people. Chapter 2 charts the legal, historical, and social changes, as well as the shifts in anthropological thinking, that led to a revised perspective on who is considered an Indian in Brazil. Chapter 3 traces the importance of anthropological work to the easing of historical requirements associated with quilombo recognitions in the years immediately following the enactment of the quilombo clause.

As key agents of governmentality in the process of recognition and land demarcation and therefore directly involved with the production of knowledge used by state agencies to provide resources and as tools of surveillance and discipline, Brazilian anthropologists are on the front lines of ethical issues that face all anthropologists. An ethnographer may be involved in a legal recognition process, but in the anthropological work itself knowledge "is achieved through exchanges that have startling, upsetting, sometimes profoundly disturbing consequences for all participants" (Fabian 1999:66), including the "unsettling of identities" (Li 2001:652). Reviewing the ethics of anthropological engagement, Peter Brosius (1999:181) has noted that anthropologists are participants

> in the production of identities, or in the legitimation of identities produced by others. To the degree that these movements represent an attempt to create new meanings and identities—which in turn have the potential to produce new configurations of power—such a role cannot remain unacknowledged.

Brazilian anthropologists, in addition to debating their direct role in the lives of the people about whom they write reports, are also concerned with the tension between advocacy and scholarly detachment (Arruti 2002; Sampaio Silva, Luz, and Helm 1994) and the impact that legal categories may have on their ethnographic work (Dallari 1994). Latin American anthropologists, more generally, are required by their activities to address the themes of "the relationship between activism and anthropology, and issues surrounding the notion of authenticity," particularly when confronted with direct requests from indigenous people who are "using essentialism as a key political tool in their fight to preserve their cultural identity and their access and control of land and other resources" (Vargas-Cetina 2003:50).

Each time they are called upon to produce an expert report for recognition, Brazilian anthropologists are faced with the tensions inherent in anthropology's dual task: "to produce empirical knowledge of others *and* to address the question of the possibility and validity of such knowledge" (Fabian 1999:65). To address this epistemological problem that faces all anthropologists, I suggest that we consider Gadamer's "fusion of horizons," which "operates through our developing new vocabularies of comparison . . . [so that we may reach judgments] partly through transforming our own standards" (Taylor 1992:67). Gadamer (1975) saw the ties to individuals' horizons (their knowledge and experience) as the grounds of their understanding. A new intermediary creation can be constructed through the transcendence of one's own horizons. I propose that this can occur through exposure to others' cultural traditions because such views place one's own horizons into relief. Many Brazilian anthropologists are striving for such communication with the people they are helping and studying at the same time (Oliveira Filho 2005). Because they are so directly entrenched in the governmentality of their knowledge production, in this book I examine with some care the contributions made and difficulties faced by Brazilian anthropologists on the front lines of that knowledge production.

In considering the legitimating role of anthropologists in Brazil, I should also address my own role as an anthropologist and lawyer from the United States. At certain moments during my fieldwork, my presence facilitated the government attorney's intervention on behalf of the Mocambo residents. It was no secret that many people in the community considered my interest in their fate a positive force that was putting pressure on the government to act more swiftly. Each time a representative of the community came to the capital, he or she would request my presence at the lawyer's office. I was also invited to every meeting held to resolve land title issues and disputes with community members. When visiting the Xocó and Mocambo communities, I was treated as an anthropologist who, like the others (all Brazilians) who had been there before, could advance their respective causes. For the Xocó, who were suspicious of outsiders and who were already ensconced in the federal system of services and resources to recognized tribes, I was often treated as a go-between and a source of information about what was happening in Mocambo. With the help of a U.S.-trained Brazilian anthropologist, Clarice Novaes da Mota (1997), who had done her dissertation fieldwork with the Xocó in 1983, I was able to make important connections with individuals, including leaders of the community, who were related to people in Mocambo.

They provided me with insights about the intertwined histories of the two communities.

In Mocambo, I was welcomed by the quilombo supporters who were gaining land through government recognition, which they attributed to the work of another Brazilian anthropologist, José Maurício Arruti. Because I was identified with him and the NGO responsible for shepherding Mocambo through the recognition process, I was viewed with suspicion by residents who opposed the quilombo movement. Although I had access to their perspective on occasion, there was no doubt that the landscape of the many Brazilian anthropologists who share a clear commitment to the cause of new quilombo recognitions informed my experience and affected my relationships. However, I find solace in the observation that "participant observers need not be fully accepted or trusted in order to learn many things" (Duneier 2000:220). I was often reminded, through interactions that highlighted my foreigner status and my whiteness, that there are "no pristine spaces" where researchers can "operate freely, unconstrained by the conditions and circumstances which created the relationship between first-world research and third-world informant in the first place" (Hanchard 2000:178).

Being a white woman from the United States with a family that included adolescents who occasionally accompanied me to Mocambo, my relationships were shaped by both the distance of relative wealth, privilege, and education and the closeness of family relations and problems. Although I attempted to perform a balancing act, I could not avoid the perception that I was a favorite of certain families, so I determined to use the proximity they permitted to help me understand their motivations and feelings about what was important to them. I viewed my "political task not as 'sharing' knowledge with those who lack[ed] it but as forging links between different knowledges that are possible from different locations." My interlocutors included not only the indigenous or quilombo activists and residents but also "the constituencies, organizations, and people with which we, and they, engage and interact" (Hodgson 2002:1045).

LEGALIZING IDENTITY: BEYOND THE MUTUALITY HYPOTHESIS

Sociolegal scholars have explored law's constitutive powers, positing that law plays an indispensable role as a shaper of social and economic relations (Bourdieu 1987; Hunt 1985; Merry 1990; Silbey 1985). They have also identified law as a cultural system, a way of "imagining the real," whose symbols

and meanings order communication and determine which events become "legal facts" (Conley and O'Barr 1990; Geertz 1983). Laws, in this view, constitute new "relations," "meanings," and "self-understandings" (Sarat and Kearns 1993:27). Legal systems are seen as contested sites of meaning where not only rights and obligations, but also identities, are constantly under negotiation, always within the context of historical processes (Starr and Collier 1989). In the course of that negotiation, law exercises transformative effects on culture and identity (Bower, Goldberg, and Musheno 2001; Collier, Maurer, and Suárez-Navaz 1995; Darian-Smith 1999; Greenhouse, Yngvesson, and Engel 1994; Merry 2000; Pavlich 1996; Sarat 1990). Some of the scholars who introduced the constitutive perspective have also proposed that the relationship between law and society is mutually embedded (Engel and Munger 1996; Yngvesson 1993). Subject to some subsequent critiques (Fitzpatrick 1997; Valverde 2003; Weston 1997), the constitutive theory has continued to prevail in sociolegal studies (Coutin 2000; Maurer 1995; Rivera Ramos 2001).

In developing the concept of legalizing identity, I have picked up one strand of the constitutive trend—the view that law and its social context mutually shape one another. An expansion and deepening of what I call this "mutuality hypothesis" provides a tool useful for analyzing identity politics and multiculturalism, the positive and negative effects of the intertwining of law and identity, and historical phenomena. Proponents of the mutuality hypothesis "postulate a two-way process in which interchanges between the legal system and particular cultural settings 'mutually shape' both the law and the social context within which it operates" (Engel and Munger 1996: 14). Law can be resignified as people and courts interact. "The 'double reality' of neighborhood struggles at the courthouse is constituted in a play with rights that both enmeshes people in the power of law and reinterprets the law" (Yngvesson 1993:14).

For example, identity transformation of individuals with "disabilities" is apparent in the years since the passage of the Americans with Disabilities Act (ADA) in 1991. In analyzing that transformation, Engel and Munger (2003:253) propose a "recursive theory of rights" in which identity is a "precursor as well as a consequence of rights" and rights are "a result as well as a cause of change." However, a crucial difference between their reflections and my explication of legalizing identity has to do with the meaning of "rights." When I refer to "law," I include positive law (statutory, regulatory, judicial) as well as the rights and obligations that emanate from it. Engel and Munger

are most concerned with how rights are active in peoples' lives, but it is not their project to investigate where those rights come from or how the laws have changed in relation to their usage. In fact, none of the subjects of their book had ever asserted a claim under the law. They specify that they do not want to "limit" their inquiry to the latest decisions handed down by appellate courts (2003:250).

My inquiry, on the other hand, includes how court interpretation of law changes in light of the way a particular law is being used or avoided. The model of legalizing identity helps explain how the law itself and its interpretations change over time as people who are touched by it use it in a variety of ways and, in the process, experience identity transformation. Significantly, what we learn by applying the legalizing identity framework is how that process influences officials responsible for the law and its interpretation, as well as those who disseminate it through political practice and organization. Unlike those who are primarily concerned with a penumbra of rights that seem to derive from, but are separate from, positive law, I do not see those elements as separable. In this book, I show how the use of Brazilian laws that provide rights to people based on presumed ethnoracial difference becomes integral to the reshaping of the laws themselves. This process operates through interpretation and revision by legal experts, lawmakers, and anthropologists in dialogue with the laws' intended beneficiaries and their allies. Because I developed the theory of legalizing identity through a study of struggles for rights and resources in the context of redemocratization, the use of the concept of legalizing identity is also intended to deepen, broaden, and clarify elements of political participation in a democracy.

By examining local examples in Brazil as they are constituted through the intertwining of strands that law, social movements, and anthropology provide, I also assess the fit between the values and interests of a political regime, as concretized in a constitution, administrative practices, and laws and policies that are enunciated through legislative enactment. As such, this book contributes to the ongoing debate about how to conceptualize the meanings of "rights," "difference," and "multiculturalism" in a democratizing polity and shows that rights are not just what the law provides, but are created through the process of governmentality as well as in the process of their pursuit. As "an ethnographic project at the heart of democratic change" (Greenhouse and Greenwood 1998:1), this book contributes to an understanding of how the meaning of law is molded and remolded and illuminates the tensions, both historical and current, that accompany policy decisions concerning issues of pluralism, democracy, and the nature of citizenship.

LEGALIZING IDENTITY DEFINED

Derived from my research on the lived experience of newly denominated Indian tribes and quilombos and the governmental and nongovernmental intermediaries that are integral to the process, I theorize that "legalizing identity" as a framework for analyzing ethnoracial identity transformation consists of five components, which, although presented as a numbered list for the sake of convenience, are not sequential but are played out simultaneously—a mutuality that highlights the flexibility of both law and identity and reveals the fissures in each that allow for change.

First, there is the experience of new or revised ethnoracial identities in the lives of the people who invoke rights based on newly codified legal identities. As the new laws are invoked and the rights associated with or extrapolated from them are put into practice, people begin to revise their self-identifications, to some extent as their designation by the larger society is also revised. In the cases examined in this book, the people in both communities have been identified and have self-identified over the years in a variety of ways: as *camponeses* (peasants), *trabalhadores rurais* (rural workers), *caboclos* (mixed race with indigenous ancestry), *negros* (blacks), *católicos* (Catholics), *pobres* (poor folk), *sertanejos* (backlanders), *sergipanos* (residents of Sergipe), *nordestinos* (northeasterners), *meeiros* (sharecroppers), *posseiros* (squatters), *índios* (Indians), *remanescentes* (descendants of fugitive slaves), and quilombolas, sometimes simultaneously and other times sequentially, as the state, its agents, the people themselves, and their advisers took up or ignored one or another of these sociolegal identities. Chapter 3 will trace the significance of these denominations and their relationship to stages of identity revision over time and in connection with laws.

Second, the meanings of the laws themselves are shaped and reshaped through the assertion of the new identities. As will be explained in chapter 3, for example, since the promulgation of the quilombo clause the requirements for recognition as a quilombo have narrowed (requiring historical proof of nineteenth-century enslavement and escape), broadened (in 1994 under the influence of anthropologists who had been working with rural black communities), narrowed (in 2001 to justify nonpayment to landowners whose land was being awarded to quilombos), and, although recently broadened substantially, qualifications have again been introduced. The meaning of the law is permanently in flux, with its regulation changing as quilombolas make new demands, anthropologists realize the difficulty of finding historical proof, international pressure increases for Brazil (as the country with

the largest number of African-descended people outside of Africa) to make some provisions for its Afro-descendant communities, the black movement's influence in political life grows, and land reform takes on increased importance. By viewing the process of law making as an ongoing negotiation, conducted beyond the legislature and the courts, one can begin to see how the meaning of the quilombo clause, enacted as a form of symbolic politics, can change and be shaped through the participation of multiple parties. With regard to the Xocó Indians, chapter 2 explains how a statute designed to encourage integration could become the legal basis for recognition of African-descended peasants as Indians beginning in the late 1970s.

Third, local cultural practices are reconfigured. As interpretations of the laws have changed through their use over time, so too have the meanings of the cultural practices of both the Xocó and Mocambo. In each place, as described in chapter 5, a dance has been reconfigured for the legal recognition process. These dances have become vehicles for both expressing identity in relation to the law and addressing deeper yearnings for recognition as delineated communities with ties to the land. My conception of legalizing identity considers cultural change to be integral to the state's role in the formation and transformation of ethnic and racial identification, so long as it is "seen as something dynamic, something that people use to adapt to changing social conditions—and something that is adapted in turn . . . particularly in situations demanding rapid change" (J. Jackson 1995:18). Cultural practices, in such contexts, take "different forms, intensities, salience, and substance as individuals reinvent themselves and respond to wider politics and economics" (K. Warren 1992:201). At the same time, retaining this openness in the context of a recognition process requires acknowledgment that a group's self-identification is not inevitable, nor is it "simply invented, adopted, or imposed. It is, rather, a positioning which draws upon historically sedimented practices, landscapes, and repertoires of meaning, and emerges through particular patterns of engagement and struggle" (Li 2000:151). As described and analyzed in chapters 5 and 6, the effects of legalizing identity can also be seen in reconfigurations of local culture and in the lived experience of the people who, by their mobilization for legal rights, find their self-conceptions and relationships changing. They also find that their rights claims and cultural practices are intertwined. These two communities, the Xocó and Mocambo, differentiated and positioned themselves in particular ways, and that positioning was sometimes tactically tied to mobilization for resources, but it has also remained provisional. As chapter 6 demonstrates, through a process of constrained refashioning, the new generation of quilombolas are partici-

pating in quilombo cultural production. In that chapter, I analyze how new identities can be literally "enacted" through a play created and performed by Mocambo's teenagers.

Fourth, in the process of legalizing identity, accepted and assumed meanings of community are called into question, as best illustrated in chapter 4. Legalizing identity is as much about those who choose *not* to participate as it is about those who do. As such, the self-conceptions of the people living in Mocambo who opposed the quilombo movement (the *contras*, as they were referred to in Mocambo, an appellation used for opponents in other quilombos as well [Véran 2003]) were also altered by recognition, as were those of the landowners. Depending on the positioning of those opposed—whether they could technically be counted as quilombolas or were considered outsiders—self-identification varied and was changed in different ways. As emphasized throughout this book, embarking on a path bears no guarantee that the results will be as imagined. Decisions made by leaders of each community and the factions within them many times transcended both tactical elements and limitations imposed by law and its power of recognition. Such circumstances often lead to a reconsideration of the various uses of "community," whether as a religious affiliation (as in Base Ecclesial Communities (CEB) associated with liberation theology, as described in chapter 1), or as a political entity, as assumed in the quilombo clause. Community is often constituted through conflict (Creed 2004), an observation that is exemplified by the stories told in this book. Contesting the standard narratives of struggle for land and resources, often considered necessary to support a fledgling social movement, is also imperative for understanding the successes and failures of social movements. Assuming solidarity, community cohesion, agreement, and common cause are useful for the initial stages of a concerted effort for change or may even be necessary for the official moment when rights are recognized. However, once government officials go back to their offices, everyday life yields the tactical and strategic information needed to sustain the victories, confront the challenges posed by local authorities, landowners, family, and neighbors, and survive the defeats.

Fifth, and finally, even though the opportunity to take up an identity may originally emanate from, be extrapolated from, or be read into, the law, self-identification is experienced as the product of struggle. At the same time, once an ethnoracial identification is adhered to, it may be expressed as having essentialized characteristics. To illustrate this element of legalizing identity, I would like to quote leaders of the Xocó and Mocambo communities as they recalled the early days of their struggles. Apolônio, the forty-year-

old former leader of the Xocó, told me when I first met him in 1998: "[When I learned I was an Indian] the emotional impact was very powerful, because I was born and raised on that land. Being a day laborer without education working the land, when suddenly I came to know that I was a person belonging to a community that had a past and that now we have a history. History that I never knew. I had no idea."

During that same field trip, I also met Maripaulo, a thirty-seven-year-old agricultural laborer and cousin of Apolônio from the neighboring village of Mocambo. "People from Mocambo are afraid of talking to whites, to people from the outside," said Maripaulo. "It's a legacy of slavery," he explained to me. As a leader of his community, this son of a Xocó man and a self-identified black woman had been instrumental in the quilombo struggle. The results were striking both for Mocambo and for individuals like Maripaulo. As he told me, "Before the struggle, I used to be [silent] like that too. Now I can talk to anyone—even the Pope."