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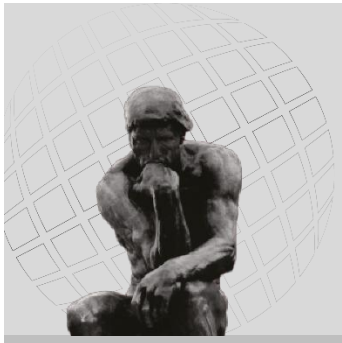

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The legal geography of landscape and its application in the brazilian cultural heritage system

A geografia jurídica da paisagem e sua aplicação no sistema de patrimônio cultural brasileiro

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Abstract

Landscapes are vital expressions of national heritage and spatial justice when framed through Legal Geography, which integrates natural and cultural preservation with sustainable development. Recognizing landscape as a human right affirms the need for equitable access to balanced, healthy, and culturally meaningful environments. From this perspective, landscape in environmental law involves not only ecological and biological dimensions, but also geographical, technological, and economic dynamics linked to territorial monitoring. Methodologically, the article follows a normative-analytical approach grounded in legal doctrine and international conventions. It is divided into five sections: the geographical concept of landscape; its legal integration under Legal Geography; international comparative models; the Brazilian legal framework; and a proposal for the formal recognition of the right to landscape in Brazilian law. By aligning landscape protection with human rights and the Sustainable Development Goals (SDGs), the study reinforces the role of Legal Geography in advancing cultural heritage and socio-environmental justice. It concludes that landscape should be formally recognized in Brazilian law as a public good and a human right, with participatory governance and international cooperation being essential to ensure its preservation, management, and planning.

Keywords: Environmental law. Sustainable landscape management. Legal geography. Cultural heritage. Spatial justice.

Resumo

As paisagens são expressões fundamentais do patrimônio nacional e da justiça espacial quando analisadas sob a ótica da Geografia Jurídica, que integra a preservação natural e cultural ao desenvolvimento sustentável. Reconhecer a paisagem como um direito humano reafirma a necessidade de acesso equitativo a ambientes equilibrados, saudáveis e culturalmente significativos. Nessa perspectiva, a paisagem no direito ambiental abrange não apenas dimensões ecológicas e biológicas, mas também dinâmicas geográficas, tecnológicas e econômicas vinculadas ao monitoramento territorial. Metodologicamente, o artigo adota uma abordagem normativo-analítica, com base na doutrina jurídica e em convenções internacionais. Está dividido em cinco seções: o conceito geográfico de paisagem; sua integração jurídica no campo da Geografia Jurídica; modelos comparados internacionais; o marco legal brasileiro; e uma proposta de reconhecimento formal do direito à paisagem no ordenamento jurídico nacional. Ao alinhar a proteção da paisagem aos direitos humanos e aos Objetivos de Desenvolvimento Sustentável (ODS), o estudo reforça o papel da Geografia Jurídica na promoção do patrimônio cultural e da justiça socioambiental. Conclui-se que a paisagem deve ser formalmente reconhecida na legislação brasileira como bem público e direito humano, sendo indispensáveis a governança participativa e a cooperação internacional para sua preservação, gestão e ordenamento.

Palavras-chave: *Direito ambiental. Gestão sustentável da paisagem. Geografia jurídica. Patrimônio cultural. Justiça espacial.*

Summary

1. Introduction

To write about landscape and law is to speak of slowness (Mitchell, 2006). After all, both aim to endure over time through territorially defined structures. According to Jones (2006), this persistence forms a perfect amalgam between law and landscape, each shaped by notions of justice and ongoing disputes over what is considered fair or unfair across different societies. In this sense, Newton's classical laws (1687) may provide valuable analogies for understanding the dynamics of the relationship between legal structures and the territorial dimension of landscape.

Newton's First Law, the law of inertia, suggests that both landscapes and legal systems tend to remain in their current state—either in motion or at rest—unless acted upon by an external force. Landscapes, whether natural or built, resist transformation; similarly, law tends to preserve its frameworks and regulatory structures. Yet, when external forces arise—such as human intervention or environmental changes in the case of landscapes, or social and economic pressures in the case of law—both are driven toward new configurations, adapting to the conditions imposed upon them.

The Second Law, which relates force, mass, and acceleration, can be interpreted in terms of how the magnitude and intensity of interventions affect the rate and direction of change in both landscapes and legal frameworks. The stronger the applied force—through public policies, legislation, or direct territorial actions—the greater the resulting transformation. Law responds proportionally to the pressures imposed upon it by society, the economy, or environmental factors. Likewise, the "mass" of a landscape—understood in terms of cultural complexity and territorial value—determines how abrupt or gradual such transformation will be.

Newton's Third Law, the principle of action and reaction, reveals the reciprocal influence between landscape and law. When legal norms act upon the landscape—by regulating land use or imposing environmental constraints—the landscape responds, reshaping physical and spatial realities. Conversely, transformations in the landscape, whether due to natural events or human activities, prompt a reaction from the legal system, which must adapt its norms to address the new territorial context. In this way, landscape and law are constantly engaged in a cyclical process of action and reaction, adjusting to one another in pursuit of a dynamic and often fragile balance.

Environmental law is frequently criticized for disregarding spatial dimensions (Bartel, 2017), and perhaps even basic physical principles. Without delving into quantum or relativistic frameworks, and remaining within Newtonian modernity, environmental law must draw from concepts developed in both physical and human geography. Among these, the concept of landscape stands out as a key component of Legal Geography—a geojuridical perception in which landscape is viewed not merely as an aesthetic or ecological entity, but as a legally relevant spatial fact. It is in this sense that the regulation of land use must incorporate the "where" of law. When legal frameworks can respond to "where?" questions, they situate themselves within Legal Geography (Ugeda, 2017).

From the perspective of Legal Geography, the concept of landscape in environmental law incorporates not only essential biological components (Britannica, 2024), but also the geographic dimensions, technological mediations, and economic consequences of continuous territorial monitoring. Legal systems and public policies must adapt to preserve and valorize landscapes, recognizing their multidimensional characteristics and the complex interactions that shape them.

This article is divided into five sections. First, it outlines the geographical concept of landscape based on foundational theoretical contributions. Second, it discusses the correlation between landscape and law, reinforcing the principles of Legal Geography, which integrates physical space and normative structures. The third section presents international models of landscape regulation within environmental law, with emphasis on comparative approaches.

The fourth section examines Brazilian legislation and its mechanisms for protecting landscape heritage. Finally, the fifth section proposes a landscape right grounded in Legal Geography, advocating for its formal recognition within the national legal system.

2. Methodology

Methodologically, this article adopts a normative-analytical approach, grounded in the articulation between legal doctrine, critical geography, and international instruments for environmental and cultural protection. The aim is to construct a theoretical-conceptual model for recognizing landscape as a human right, based on the analysis of legal provisions, comparative experiences, and geolegal foundations. The selection of the legal frameworks analyzed follows the criterion of institutional and historical representativeness, including both legal systems that have formally recognized landscape as a juridical object of protection and those, such as Brazil, in which such recognition occurs implicitly and in fragmented form.

To ensure greater terminological clarity, some core concepts are defined here. “Landscape” is understood as a multidimensional geographical category that may take natural, cultural, urban, symbolic, or hybrid forms, and is treated legally as an asset of collective interest and, in certain contexts, as a diffuse good. The term “Legal Geography” refers to the interdisciplinary field that studies the normative impact on space and its modes of territorial organization, distinguishing itself from the descriptive tradition of “Law and Geography” through its emphasis on spatial normativity. The “right to landscape” is conceived as a human right of diffuse and collective nature, connected to spatial justice, the right to the city, and the Sustainable Development Goals (SDGs), particularly those related to life on land (SDG 15), climate action (SDG 13), and inclusive governance (SDG 16).

It is also important to note that the use of analogies with Newton’s Laws serves a merely illustrative and pedagogical purpose. References to “inertia” (First Law), “force and acceleration” (Second Law), and “action and reaction” (Third Law) are employed to conceptually express the relationship between landscape and legal systems, without any claim to physical or natural determinism. These laws are used as conceptual metaphors to illustrate, respectively, the resistance to institutional and territorial change, the proportional effects of normative pressure on space, and the reciprocal dynamics between spatial transformation and legal norms. This rhetorical strategy reinforces the notion that landscape is both a product and a producer of juridical meaning, situated at the core of contemporary disputes over territory, memory, and environmental justice.

3. Synthesis of the geographical definition of landscape

Throughout the history of geographical thought, the category of landscape has undergone significant transformations according to the dominant theoretical paradigms. Ratzel (1891) introduced the notion of environmental determinism, in which the natural environment exerted a quasi-Darwinian influence over human societies, shaping populations across the globe in a hierarchical manner. In contrast, Vidal de la Blache’s possibilism (1922) offered a more flexible approach, positing that economic and cultural practices shaped geographic space and allowed humans to dynamically adapt to their environment. Landscape, in this view, was conceived as a continuous expression of social and economic interactions over time, breaking away from Ratzel’s rigid determinism and granting greater agency to human action in the transformation of space.

In the North American tradition, the direct linkage between landscape and a specific theoretical orientation is evident in the work of Carl Sauer (1925), who argued that landscapes should not be understood merely as natural phenomena, but rather as the result of human intervention in the environment. For Sauer, it was essential that the study of landscape include a detailed analysis of the cultural practices that structure territorial organization.

In the 1950s, with the rise of Theoretical Geography, landscape studies were largely sidelined, as the dominant approach favored variables that were quantifiable and measurable within a positivist framework. Consequently, the landscape concept was embraced more fully by Critical Geography, where it came to be interpreted as a manifestation of the prevailing mode of production—especially capitalism—which reorganizes space in structurally unequal ways. For Cosgrove (1998), who introduced a critical cultural perspective, landscapes are symbolic constructions that reflect relations of power and hegemony within a society. Thus, landscape ceased to be viewed purely as a physical phenomenon and was increasingly interpreted as social and ideological terrain, where spatial practices reinforce dominant social structures.

In Humanistic Geography (Holzer, 2016), subjective aspects such as perception, imagination, and aesthetics became central to the study of landscape. Jackson (1984) was one of the main proponents of studying vernacular landscapes, arguing that the ordinary landscapes shaped by everyday life and labor were just as meaningful as formal or planned ones. For Jackson, the continuous interaction between culture and environment was crucial to understanding landscapes as dynamic products of human experience. Likewise, Lowenthal (1985) emphasized the relationship between landscape, memory, and heritage, underscoring how landscapes carry cultural and historical meanings that must be preserved and interpreted over time. For him, the landscape serves as a living archive of the past—essential to the construction of a society's cultural identity.

For the purposes of this article, it is important to highlight the view of landscape developed by Milton Santos (1988), the Brazilian geographer often regarded as a patron of national geographical thought, who extended Sauer's ideas by distinguishing between two forms of landscape: natural and artificial. The natural landscape is one that has not yet been modified by human activity. Today, truly natural landscapes are rare, and those that do remain are subject to growing political and economic concern, as seen in the creation of environmental preservation parks. In contrast, the artificial landscape—what Sauer would have referred to as cultural—is the product of human transformation of the environment, emerging from the cultural encounter between society and nature.

4. The correlation between landscape and law through the lens of legal geography

The correlation between landscape and law is deeply rooted in how geographic space is organized, regulated, and protected through legal norms. Landscape—understood as the visible expression of interactions between nature and human activity—is not merely an aesthetic or environmental object, but also a legal good that reflects cultural, historical, and ecological values. Law intervenes directly in the preservation and transformation of landscapes, whether through land use legislation, environmental and cultural protections, or the promotion of sustainable territorial development practices. This relationship reveals how public policies and legal frameworks influence the shaping of landscapes while simultaneously responding to social and environmental demands for preservation and development.

Within the field of what is now referred to as Legal Geography, although *Law and Geography* (Holder; Harrison, 2003) gained widespread attention from the second half of the twentieth century, Platt (2004) may be considered one of the pioneers to incorporate the view of Milton Santos (2002). Santos emphasized that land use is one of the main forces transforming landscapes and argued that public policies must be structured to protect both natural and cultural landscapes. Platt also advocated that land use legislation should be more responsive to environmental changes and the needs of local communities in order to ensure sustainable development. He cited historical examples, such as the misperception of wetlands as "wastelands," which led to damaging actions like the destruction of the Everglades by the U.S. Army Corps of Engineers.

Blomley (1994) advanced the analysis of intersections between law and space by emphasizing the role of power in shaping legal landscapes. He argued that law exercises considerable influence over the spatial organization of both urban and rural environments. Blomley explored how landscapes are constructed through legal power

relations that determine where and how human activities can take place, highlighting the complex dynamics between legal norms and spatial power geographies. In this sense, law does not merely regulate but also actively creates and redefines landscapes.

Strecker (2018) supports Blomley's view by noting that the growing importance of landscape as an object of legal regulation allows for its protection to be recognized not only as an aesthetic concern but also as a matter of human rights. The preservation of certain landscapes is intrinsically linked to cultural identity and community well-being. It is essential to ensure that all communities have equitable access to quality spaces, and that culturally significant landscapes are not destroyed or degraded by economic interests (Peil; Jones, 2003). This is particularly critical in urban settings, where landscapes are both developed and maintained under the oversight of local laws focused on preserving and enhancing the urban environment (Buck, 1998).

These understandings reveal how law expands into new spatial contexts, with increasing focus on environmental issues (Braverman; Blomley; Delaney; Kedar, 2014). Law influences how landscapes are protected and transformed, showing that the field of legal geography (Dos Santos, 1952) is in constant evolution. The expansion of legal frameworks to address issues related to environmental change and the reconfiguration of cultural landscapes illustrates how legal systems must adapt to meet contemporary environmental challenges. Environmental discourse guides legal responses, opening up opportunities in environmental law to accommodate how governments approach landscape conservation and management (Jessup, 2014).

There is a growing effort to make law responsive to the contemporary pressures on both environment and landscape. Legal norms must evolve to accompany global ecological changes, maintaining a balance between conservation and development (Philippopoulos-Mihalopoulos, 2011). Legislation cannot be divorced from the physical and cultural characteristics of the places it seeks to regulate (Bartel; Carter, 2021), particularly when it comes to the protection of landscapes, which are continuously reshaped by human activity and environmental transformations. These landscapes demand clarity and precision in the drafting of laws to ensure that conservation goals are effectively met (Fisher, 2013), and that environmental law reflects the ecological and social realities of each landscape, guaranteeing the applicability and intelligibility of legal norms across geographic contexts.

In the urban context, Rogers (2001) traces the evolution of landscape design, highlighting the interaction between urban planning, legal regulations, and the protection of cultural heritage. He demonstrates how landscapes have been shaped by legislation aiming not only at protecting the natural environment, but also at preserving the aesthetic and historical value of these spaces. In short, the correlation between landscape and law is framed by the ways legal norms both regulate and create landscapes, simultaneously reflecting and responding to social and environmental transformations.

5. International models of landscape in environmental legislation

It is essential to recall that the protection of large areas of land from human intervention for the benefit of the nation is inseparable from the evolution of environmental legislation. This protection is largely grounded in the concept of landscape as inertia (Newton's First Law)—that is, preserving the movement or stillness of nature with minimal human interference. From a legal perspective, the creation of Yellowstone National Park in the United States (1872)—the world's first national park—was a landmark in this regard. It marked the formal recognition of the need to preserve specific landscapes not only for their aesthetic or recreational value but also for their cultural and environmental significance.

The American Antiquities Act of 1906, inspired by the establishment of Yellowstone, enabled the designation of national monuments to protect geographic landmarks, historical and prehistoric structures, and other objects of scientific or historic interest. This legislation reflected an understanding of landscape as a multifaceted form of heritage (United States, 1906), allowing President Theodore Roosevelt to bypass Congress and create the first National Monument, Devil's Tower. Although the act initially focused on the protection of historical and

scientific objects, a U.S. Supreme Court decision in *Cameron v. United States* (1920) expanded its interpretation to include natural areas such as the Grand Canyon. This set a precedent for protecting natural landscapes under the national monument designation, integrating nature conservation within the scope of the law.

The National Park Service Organic Act of 1916 established the National Park Service (NPS), a federal agency tasked with managing national parks and monuments across the United States. The NPS was mandated to preserve the natural and historical resources of these areas while allowing for their public enjoyment in a balanced manner, ensuring that conservation was not compromised. In 1935, the Historic Sites Act consolidated the framework for cultural heritage preservation and instituted a national policy for the protection of historically significant sites. This law expanded the scope of heritage conservation to include protected areas designated for their cultural and historical importance.

In 1966, the National Historic Preservation Act (NHPA) further strengthened the protection of cultural heritage by establishing the National Register of Historic Places and the Advisory Council on Historic Preservation, and by implementing a federal review process for projects that could affect historic properties. Three years later, the National Environmental Policy Act (NEPA), although focused on environmental issues, also contributed to heritage and landscape preservation by requiring federal agencies to assess the environmental impacts of their actions, including potential effects on historic sites. In 1979, the Archaeological Resources Protection Act (ARPA) expanded upon the protections of the 1906 Antiquities Act by specifically regulating archaeological resources on federal and Indigenous lands, and by establishing strict penalties for unauthorized excavations or destruction of archaeological sites.

European environmental legislation, meanwhile, followed its own trajectory in addressing cultural and landscape preservation. The 1979 Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) was followed by the 1985 Convention for the Protection of the Architectural Heritage of Europe (Granada Convention), which set guidelines for preserving monuments, architectural ensembles, and sites of archaeological interest. This convention placed a legal obligation on member states to develop policies ensuring the proper conservation of these assets. Also in 1985, the European Union adopted its Environmental Impact Assessment (EIA) Directive, requiring member states to evaluate the environmental effects of public and private projects, including impacts on cultural heritage and landscapes. The directive, subsequently amended, incorporated the protection of sensitive landscapes and cultural areas into environmental review processes.

The 1992 Valetta Convention further illustrates how the concept of landscape and Legal Geography shape legislative developments. It promotes not only the protection of archaeological sites but also the preservation of the geographic environment surrounding them, acknowledging that the landscape context of historical monuments is as important as the monuments themselves. Finally, in 2000, the Council of Europe adopted the European Landscape Convention (ELC)—the first international treaty devoted exclusively to the protection, management, and planning of all European landscapes. The ELC affirms the cultural and social significance of landscapes and includes not only areas of exceptional natural beauty but also ordinary, rural, urban, and even industrial landscapes. It requires signatory states to integrate landscape management into national policies on spatial planning, agriculture, tourism, and infrastructure—promoting a comprehensive and inclusive approach to landscape governance across the European continent.

Table 1 – Definitions of landscape and its variations, according to Article 1 of the ELC, in alphabetical order

Term	Definition
Landscape Management	Actions aimed at ensuring the regular upkeep of a landscape, harmonizing changes resulting from social, economic, and environmental processes from a sustainable perspective.
Landscape Quality Objective	For a specific landscape, the formulation—by competent authorities—of public aspirations regarding the landscape characteristics of the area.
Landscape	An area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.
Landscape Planning	Proactive actions aimed at the enhancement, restoration, or creation of landscapes.
Landscape Policy	The expression by competent public authorities of general principles, strategies, and guidelines that enable measures aimed at protection, management, and planning.
Landscape Protection	Actions aimed at preserving and maintaining significant features of a landscape, justified by its heritage value, whether natural or resulting from human activity.

Source: elaborated by the author.

Across Latin America, several countries have developed significant legal frameworks aimed at protecting landscapes and cultural heritage, drawing inspiration from international conventions while adapting to their respective territorial and historical contexts. In Mexico, for instance, the *Federal Law on Archaeological, Artistic and Historical Monuments and Zones*—enacted in 1972—ensures the protection of monuments and sites of archaeological, artistic, and historical value. The Mexican State is constitutionally responsible for preserving these areas and is also a signatory to international agreements such as the UNESCO World Heritage Convention, which protects emblematic sites like Teotihuacan and Chichen Itzá.

In Chile, *Law No. 17.288 on National Monuments* (1970) governs the protection of historical, archaeological, and paleontological monuments, encompassing both immovable and movable property of cultural and historical relevance. Chile has also made significant strides in environmental protection policy through the establishment of national parks, such as Torres del Paine National Park, where landscape preservation is integrated with sustainable tourism practices.

Colombia enacted its *General Law of Culture* in 1997, which regulates the protection of cultural heritage and promotes community participation in preserving both intangible traditions and cultural landscapes. The country also has a robust tradition of environmental protection, exemplified by the establishment of protected natural areas such as Tayrona National Natural Park—an area of considerable environmental and cultural significance, particularly for Indigenous communities.

In Argentina, the *National Law on National Parks, Natural Monuments and National Reserves* (1980) governs the conservation of natural areas, ecosystems, and landscapes with significant environmental and cultural value.

National parks such as Iguazú and Los Glaciares fall under this law, which authorizes the creation of protected areas throughout the national territory to conserve biodiversity and promote the sustainable use of natural resources.

These legislative efforts reflect the growing recognition in Latin America of landscape as a multidimensional legal object—combining environmental, cultural, territorial, and even symbolic values. By integrating landscape protection into national legal systems, these countries reinforce their commitments to sustainable development, cultural continuity, and social inclusion, often aligning their domestic frameworks with international legal instruments and global heritage agendas.

6. Landscape in brazilian legislation

Brazil possesses a robust legal framework focused on the protection of landscape and cultural heritage as a form of inertia—aligned with Newton's First Law—even though the term *landscape* is not always explicitly employed in legal texts. This framework spans both environmental and cultural law and is grounded in foundational legal mechanisms. One of its cornerstones is the concept of *mandatory conservation quotas*, introduced by the 1934 Forest Code. This legislation required rural landowners to preserve a portion of their property with native forest cover, thereby formalizing the integration of landscape into Brazilian environmental law. By recognizing the preservation of natural areas as essential for maintaining ecological balance and safeguarding natural resources, the law reshaped land use regulation. It established a model of compromise between rural development and environmental protection, reflecting early concern for the legal treatment of natural landscapes.

In parallel, the institution of *tombamento* (heritage listing), codified by Decree-Law No. 25 of 1937, extended this protection to the cultural heritage domain, encompassing landscapes of historical, artistic, and environmental value. The *tombamento* mechanism protects not only buildings and monuments but also natural and cultural areas that form part of Brazil's collective identity and historical memory. This understanding is explicitly enshrined in §2 of Article 1 of the 1937 Decree-Law, which equates remarkable landscapes to legally protected sites eligible for heritage designation. Thus, landscapes—whether shaped by natural features or human intervention—are classified as assets subject to *tombamento*, reinforcing the legal imperative for their conservation.

By recognizing the aesthetic and historical value of landscapes, Brazilian legislation affirms the importance of preserving these spaces as integral to national cultural identity and collective memory. It signals that landscapes are not merely physical or scenic elements but essential cultural assets deserving of juridical protection and, where necessary, criminal sanction. This aligns Brazilian law with the broader doctrinal construction of landscape rights in international legal geography, reinforcing the country's contribution to global debates on cultural and environmental governance.[1]

According to Ferreira (2000), Brazil has developed a legal foundation that ensures the protection of natural and cultural landscapes, promoting a balance between preservation and sustainable development across various spheres of society.[2] In this context, Law No. 6,513 of December 20, 1977, created special areas of tourist interest and designated sites of tourist relevance, recognizing among the protected assets of cultural and natural value—under specific legislation—the *notable landscapes*, which must be preserved and valued both culturally and environmentally.

In 1981, Law No. 6,938 was enacted, establishing the National Environmental Policy. This law aims at the preservation, improvement, and restoration of environmental quality in Brazil, and it was fundamental for the creation

[1] The 1940 Penal Code, when defining the crime of damage under the chapter on Crimes Against Property, included two criminal provisions aimed at protecting cultural heritage: damage to goods of artistic, archaeological, or historical value (Article 165), and alteration of a specially protected site (Article 166). However, these provisions were tacitly repealed by Law No. 9,605/1998, which sets forth broader regulations on the same matter in the chapter on Crimes Against Urban Planning and Cultural Heritage.

[2] Ivette Ferreira offers a brief constitutional overview of landscape, noting that the 1934 Constitution, in Articles 10(III) and 148, referred to "the protection of natural beauties and of historical, artistic, and cultural heritage"; the 1937 Constitution addressed the protection of historical, artistic, and natural monuments, as well as landscapes and sites especially endowed by nature (Article 134). The 1946 Constitution established the defense of historical, cultural, and landscape heritage in its Article 175; the same terms were reiterated in Article 172, sole paragraph, of the 1967 Constitution, and in Article 180 of the 1969 Constitutional Charter.

of conservation units and the implementation of public policies oriented toward the protection of the environment and natural landscapes. Although the law does not use the term “landscape” explicitly, Article 9, item VI, which lists the instruments of the National Environmental Policy, refers to “territorial spaces specially protected by the federal, state, and municipal governments,” providing examples such as environmental protection areas, areas of relevant ecological interest, and extractive reserves. These spaces, in our interpretation, may be understood to encompass landscapes, especially when read in conjunction with §2 of Article 1 of Decree-Law No. 25/1937, as previously described.

In 1988, Brazil’s Federal Constitution introduced significant innovations in the fields of environmental and cultural protection, with a particular focus on landscape. Landscape is valued not only for its aesthetic and ecological dimensions but also for its historical and cultural significance, being the object of broad and integrated protection within the Brazilian legal framework. Article 23, item III, of the Constitution establishes the protection of *notable natural landscapes* as a shared responsibility among the Union, the States, the Federal District, and the Municipalities, thereby placing landscape on an equal footing with other assets of historical and cultural value. In Article 24, item VII, landscape is explicitly mentioned as part of the heritage to be protected through concurrent legislation among the federal entities, underscoring the relevance of the concept within the legal domain. Finally, Article 216, item V, reinforces that landscapes are integral elements of Brazil’s cultural heritage, alongside other tangible and intangible assets, recognizing their role in shaping the identity and collective memory of society.

Landscape, within the scope of Brazilian infra-constitutional legislation, is referenced across various legal instruments. The Public Civil Action Law (Law No. 7,347/1985) explicitly allows the use of this judicial tool for the protection of assets and rights with landscape value. The Environmental Crimes Law (Law No. 9,605/1998) also incorporates the concept of landscape by classifying offenses against urban planning and cultural heritage, recognizing landscape value as a legal asset to be protected. The National System of Conservation Units (Law No. 9,985/2000) lists among its primary objectives the protection of natural landscapes, reflecting the concern with preserving the visual and ecological elements that constitute the national territory. Equally important, the City Statute (Law No. 10,257/2001) refers to landscape protection, particularly in relation to neighborhood impact studies (*Estudo de Impacto de Vizinhança*), demonstrating that landscape is a relevant consideration in urban planning and regulation. These laws frame and guarantee the preservation of landscape as a legal and environmental good essential to sustainable development and to the well-being of communities.

In 2012, Law No. 12,651—commonly referred to as the New Forest Code—was enacted, introducing substantial updates for the protection of forests and native vegetation in Brazil. In its definitions under Article 3, the protection of landscape is mentioned twice. In item II, which defines Permanent Preservation Areas (*Áreas de Preservação Permanente*—APPs), landscape is considered an essential element of the environmental functions of these areas, along with the preservation of water resources, biodiversity, and geological stability. This provision allows us to assert that landscape is not merely a visual component but also supports ecosystems and contributes to human well-being. Similarly, the concept of *urban green area*, found in item XX, defines landscape as a factor in enhancing urban environmental quality, recreation, leisure, and cultural protection.

7. Toward a right to landscape based on legal geography

In light of the broader legislative and doctrinal framework—both national and international—it is possible to affirm that the right to landscape is gradually gaining recognition, moving at an inertial pace toward being acknowledged as a human right grounded in socio-environmental justice. The right to landscape has the potential to concretely regulate social conflicts by means of a legally formulated concept of "landscape" (De Andrade Junior, 2024). If a forest with landscape value is considered a legal asset (Benjamin, 1993, p. 75), and if landscape is part of a heritage belonging to a cultural environment (Farias, 2021, p. 60), it follows that the legal nature of landscape—when

considering its geographic dimension—is anchored in the Sustainable Development Goals (SDGs), in the Constitution, and in the relevant normative corpus.

Table 2- Proposed Application of the Right to Landscape Based on the SDGs

SDG	Goal	Application of the Right to Landscape
SDG 11	Sustainable Cities and Communities	Promote inclusive, safe, resilient, and sustainable cities by linking the right to landscape with the creation of balanced and culturally meaningful urban areas.
SDG 13	Climate Action	Contribute to climate resilience through the preservation of natural landscapes that support mitigation and adaptation to climate change.
SDG 15	Life on Land	Protect, restore, and sustainably use terrestrial ecosystems, ensuring that the right to landscape helps preserve biodiversity and ecosystems.
SDG 16	Peace, Justice and Strong Institutions	Strengthen social justice and inclusive governance through the preservation of cultural and natural landscapes, thereby promoting peace and justice.

Source: elaborated by the author.

There is a growing effervescence in legal, geographical, and interdisciplinary scholarship toward affirming the rationale of the right to landscape as a human right, as it dynamically aligns with societal changes and resonates with the Sustainable Development Goals, the Federal Constitution, and the body of infra-constitutional norms.

As Alvarenga (2020) argues, landscape is more than a merely visual or aesthetic element; it plays a central role in the quality of life of populations. The right to landscape—understood as the right to access balanced and culturally significant environments—reflects the necessity of ensuring that all citizens may enjoy spaces that foster well-being, identity, and a sense of belonging, particularly in contexts marked by urban and social inequality. Silva and Gonçalves (2020) deepen this discussion by linking the right to landscape with ecological balance, emphasizing that the protection of high-quality landscapes is closely connected to environmental preservation. They argue that landscape is a common good that transcends its physical dimension, involving sustainability and social justice. Sant'Anna (2020), in her research on green infrastructure, reinforces this perspective by showing how natural systems, when integrated into urban planning, can guarantee equitable access to landscapes, promoting both environmental quality and social inclusion.

Pamio and Ghirardello (2020) note that the denial of the right to landscape—particularly in marginalized urban areas—amounts to the denial of the right to the city, depriving communities of healthy and culturally relevant spaces. Reis and Silva Filho (2021) address the right to landscape in the context of urban public policy, arguing that it is an extension of policies aimed at protecting cultural and natural heritage. They demonstrate that urban landscapes, when protected through law, become instruments for strengthening urban identity and collective memory. Coelho (2022) contends that the right to landscape should be understood as a dynamic and complex right, deeply tied to human spatial experience. He suggests that landscapes, being part of daily life, must be recognized as essential for enhancing socio-economic well-being, offering not only aesthetic value but also conditions for social and cultural development.

Melo (2024), in her research on the legal protection of urban landscapes in the face of overtourism, discusses how mass tourism can alienate local communities from their own landscapes, transforming them into commercial products and restricting access to those significant spaces. She argues that the right to landscape must operate as a counterbalance to the commodification of urban space, ensuring that such places remain accessible and aligned with the needs of local populations. This understanding is reinforced by Schwanz (2021), who suggests that the right to

cultural heritage—often linked to urban and rural landscapes—should be recognized as a human right, especially in the context of social movements advocating for the preservation of community memory.

Arechaga (2020) explores how public policies can transform favela areas by promoting the inclusion of landscape in urban planning. He emphasizes the importance of ensuring that the populations of these territories have access to landscapes that respect and value their culture and history, affirming that the construction of popular landscapes constitutes a form of resistance to social exclusion. In this context, popular and community landscapes emerge as a legitimate claim to the right to landscape.

Therefore, the right to landscape—given that landscape is a geographical, physical, and human category that assumes a juridical axiology—should be understood as a fundamental human right that goes beyond mere access to visually pleasant environments. It encompasses deeper questions of social justice, inclusion, and human dignity, and aims to promote more balanced and sustainable urban, rural, environmental, subterranean, and aerial environments. Protecting the right to landscape means ensuring that all individuals, regardless of social class, can live in environments that foster well-being, cultural identity, and ecological balance, thus contributing to a dignified and sustainable life, as supported by the diverse authors cited.

8. Conclusions

In view of the need to align the Brazilian legal system with the Sustainable Development Goals and international frameworks for environmental and cultural protection, the recognition of a right to landscape emerges as a strategic vector for territorial governance, sustainable development, and international cooperation. Landscape, as a spatial expression of ecological, cultural, and symbolic values, directly connects Brazil to global agendas such as SDG 11 (Sustainable Cities and Communities), SDG 13 (Climate Action), SDG 15 (Life on Land), and SDG 16 (Peace, Justice and Strong Institutions). To incorporate landscape as a human right is to commit to an integrated vision of territory in which environmental justice, collective memory, and social well-being are inseparable aims.

Brazil must promote a theoretical deepening that consolidates landscape as a transversal legal category, situated at the intersection of cultural heritage, environmental protection, and territorial planning. This shift demands the abandonment of fragmented legal approaches in favor of a normative framework that recognizes landscape as a diffuse and collective human right. As proposed in this study, the legal protection of landscape may be understood as a form of "juridical inertia": an institutional effort to preserve territorial forms and cultural values in the face of economic pressures or environmental degradation. This normative inertia does not imply immobility, but rather structural stability—a legal force of preservation that can only be altered legitimately through participatory and deliberate processes. Landscape thus functions as a mediating instrument between permanence and transformation, essential for resolving land conflicts, recognizing local identities, and constructing spatial justice.

To this end, a set of concrete measures is proposed. At the legislative level, it is essential to regulate Article 21, item XV, of the Federal Constitution, assigning to the official geographic authority, clear competencies for mapping, classifying, and legally monitoring Brazilian landscapes. Institutionally, the structure of the European Landscape Convention (Articles 5 and 6) can serve as a model for a national landscape policy with defined quality objectives, evaluation tools, and transparency mechanisms. In urban areas, landscape should guide housing, mobility, and green infrastructure policies. In rural and protected areas, it reinforces socio-environmental governance in dialogue with traditional communities. In land use conflicts, it enables the integration of memory, conservation, and territorial vocation.

The operational actions associated with this new legal conception are multifaceted: establishing participatory procedures with the involvement of local communities, public authorities, and civil society; developing interdisciplinary technical training programs for professionals in law, urbanism, geography, and heritage; launching public education campaigns to promote the value of landscape as a common good; incorporating landscape into school and university curricula; and strengthening international cooperation—particularly for the protection of transboundary landscapes

such as the Amazon, the Pantanal, and the Pampas. Each of these fronts contributes to the consolidation of a legal model attentive to territorial specificities, ecological vulnerabilities, and social inequalities.

By recognizing landscape as a human right, Brazil takes a decisive step toward building a more democratic, inclusive, and spatially just legal order. Landscape ceases to be merely scenery or resource and is instead treated as a constitutive dimension of citizenship—a space of rights and a field of symbolic and normative dispute. To preserve landscape is not to resist time, but to organize it juridically. It is a matter of giving form to permanence without denying transformation—to legislate, ultimately, in the awareness that every territory is also memory in a state of resistance.

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