



GA3: Special Political and Decolonization Committee

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Issue: The question of indigenous land ownership in Brazil

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Terra Livre Indigenous Camp Protests in Brasilia, 2022

I. Introduction

Indigenous people are often described as “the descendants of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived” with an estimated population of more than 370 million people spread across 70 countries worldwide. Brazil is home to almost 1.7 million of this global Indigenous population according to the Brazilian Institute of Geography and Statistics (IBGE) report in 2022, which equates to around 0.8% of Brazil’s total population. The Brazilian Constitution, specifically Article 231, recognizes the inalienable right of Indigenous peoples to lands they “traditionally occupy” and automatically confers them to permanent possession of these lands. However, only around 22% of Brazil’s Indigenous population lives within these designated Indigenous territories and since 2019 there has been a surge in invasions and illegal extraction of natural resources within Brazil’s protected



Indigenous lands with over 300 such occurrences happening in 2021, compared to only 109 occurrences in 2018 according to the Indigenous Missionary Council (CIMI). The organization has further claimed that 871 out of the 1393 Indigenous lands in Brazil had their demarcation pending by 2021, emphasizing the lack of government protection promised under the Brazilian Constitution. These violations have further caused a climate of fear and discomfort among Brazil's Indigenous communities, with the attendance of peaceful protests such as the "Free Land Camp" and "Terra Livre Indigenous Camp" growing each year to combat the invasion and exploitation of Indigenous land. Yet, a settlement couldn't be reached between the protestors and the Jair Bolsonaro government, which has contributed to the growth of the mentioned protests as Indigenous land ownership remains a key issue in Brazilian politics.

II. Involved Countries and Organizations

Brazil

As previously mentioned, Brazil is home to almost 1.7 million Indigenous people with almost 75% of this population being concentrated in the North and Northeast regions of the country. In addition, roughly 13% of Brazil's land area is covered by Indigenous land, which has been demarcated and protected by the Brazilian government since 1988 with the establishment of the Brazilian constitution. However, in recent years the question of Indigenous land ownership has become a major debate topic once again, especially after the adaptation of the "Temporal Framework," which can potentially shrink the Indigenous land under government protection and open it up for economic development, such as mining and agriculture. These decisions have further led to conflicts within the Indigenous communities, with major protests being held against the Brazilian government.

China

According to the International Work Group for Indigenous Affairs (IWDIGA), China is home to the largest Indigenous population in the world with over 125 million Indigenous residents living across the country. In addition, China has close economic ties with Brazil, strengthened the BRICS alliance, and remains Brazil's largest trade partner with over 89 billion US Dollars in exports by the year 2022. Brazil's natural resources play a key role in this economic partnership and the increasing demand for resources has led to tensions, as it has indirectly led to an increasing number of



environmental breaches, particularly in the context of Brazil's extensive forests and mining activities within Indigenous communities.

United States of America

The question of Indigenous land ownership of Native Americans has been a major topic of debate in the United States since the 19th century with major reforms and acts such as the General Allotment Act of 1887, Indian Reorganization Act of 1934, and Indian Tribal Energy Development and Self-Determination Act of 2005. According to the US Department of Interior, there are currently two major types of Native American land in the United States that are protected under the Constitution: trust land, in which the federal government holds legal title, but the beneficial interest remains with the individual or tribe, and Fee land purchased by tribes, in which the tribe acquires legal title under specific statutory authority. Due to the many similarities between the United States Native American population and Brazil's Indigenous population, the USA's approach to land ownership can further be evaluated for Brazil's case to find potential solutions.

III. Focused Overview of the Issue

The question of Indigenous land ownership in Brazil is deeply connected to the country's social, political, and economic policies; which have been constantly evolving throughout the past few decades. Even though Indigenous land rights are protected under Amendments 231 and 232 of the Brazilian constitution; which recognizes the Indigenous people's social organization, customs, languages, creeds, traditions, and inherited land. However, the classification of Indigenous lands remains a key issue in this conflict, especially following the adoption of the "Temporal Framework" by the Brazilian Congress, which can potentially lead to the declassification of Indigenous lands across Brazil and the exploitation of the previously demarcated land for economic gains. In addition to the "Temporal Framework", there has been an increasing trend in the invasions and illegal extraction of natural resources within Brazil's protected Indigenous land over the past years, which some critics attributed to President Jair Bolsonaro's policies. In order to combat these growing concerns, Indigenous communities have conducted numerous protests against the Bolsonaro government and policies such as the "Temporal Framework" in Brasilia with thousands of protestors gathering around the National Congress to petition for Indigenous land rights. However, even after the end of Bolsonaro's presidency in 2023, the question of Indigenous land ownership



remains as a key issue in Brazilian politics especially since the “Temporal Framework” was adopted by the Congress after years of discussion.

IV. Key Vocabulary

Indigenous: The term “indigenous” often refers to people who are direct descendants of the inhabitants of a country or a geographical region before the arrival of different cultures or ethnic origins. However, an official definition of “indigenous” has not been adopted by any UN-system body, and instead being Indigenous is mostly determined through various methods such as self-identification with acceptance by the community as their member, historical continuity with pre-colonial societies, and strong links to territories and surrounding natural resources.

Demarcation: In common practice, demarcation refers to a border or a rule that determines how things are divided. In the context of Indigenous land ownership, demarcation allows governments to identify the geographical boundaries of Indigenous lands and take proper measures to protect the cultural identities of Indigenous people within the given demarcated territory according to national and international law.

Exploitation: Exploitation refers to the practice of taking an unfair advantage of someone or something for personal gain. It often involves using resources, labor, and individuals disproportionately, which causes harm to the parties involved other than the exploiter. In the context of Indigenous land ownership, exploitation often takes place in terms of using the protected Indigenous land for personal gains such as monetary profit through fishing or agriculture.

Restitution: In the context of Indigenous land ownership, restitution is the act of restoring a piece of land that has previously been expropriated through illegal means. This process is often a part of modern reconciliation efforts, which aim to preserve the cultural heritage of the Indigenous population in their ancestral territories.



V. Important Events & Chronology

Date (Day/Month/Year)	Event
1910	Indian Protection Service (FUNAI) was established under the leadership of Brazilian Marshal Candido Rondon in order to allow native Indians to develop at their own pace and integrate into modern Brazilian society with state assistance.
19 December 1973	With the establishment of Law 6,001 of 1973, also commonly referred to as the Indian Statute, Brazil's Indigenous population was placed under the protection of FUNAI while being entitled to the full exercise of civil rights, customs, and traditions characteristic of their culture.
5 October 1988	The 1988 Brazilian Constitution is enacted, clarifying the land ownership claims and civil rights of the Indigenous people in Articles 231 and 232, which state that "Indians shall have their social organization, customs, languages, creeds, and traditions recognized, as well as their original rights to the lands they traditionally occupy, it being incumbent upon the Union to demarcate them, protect and ensure respect for all of their property."
15 April 2005	"Raposa Serra do Sol", a region located on Northern Brazil with a major Indigenous population, was officially demarcated as an Indian Territory by the Brazilian government, amid increasing resistance from non-Indigenous settlers and farmers. This demarcation was later affirmed by the Supreme Court's ruling in 2009.



1 January 2019	Jair Bolsonaro's Presidency began, marking a turning point in the Indigenous land reforms as Indigenous land demarcations were handed from FUNAI to the Ministry of Agriculture. As a result, protests such as "Terra Livre Indigenous Camp" were held in Brasilia to protest against the exploitation of Indigenous land and resources.
January 2023	The end of Jair Bolsanaro's presidency.
December 2023	The Congress adopts the Supreme Court's ruling on the "Temporal Framework" (Marco Temporal), which establishes that the demarcation of Indigenous territories is conditioned on the occupation of the lands claimed at the time Brazil's constitution was adopted on 5 October 1988.

VI. Past Resolutions and Treaties

[Declaration on the Rights of Indigenous Peoples](#)

In September 2007, the United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples to establish a universal framework for recognizing, protecting, and promoting Indigenous rights. The resolution further emphasized the Indigenous community maintaining their cultural heritage, practicing their traditions, and governing themselves according to their customs under the protection of their respective governments. In addition, it addressed key questions such as the right of self-identification in Article 3 and the right to own, use, and control their ancestral lands in Article 26. While Brazil voted in favor of this declaration, there is widespread criticism regarding its implementation especially concerning recent trends in deforestation, land exploitation, and the "Temporal Framework", which questions the validity of Indigenous land claims.



VII. Failed Solution Attempts

The "Temporal Framework"

According to the UN Office of the High Commissioner for Human Rights (OHCHR), "The 'Temporal Framework' is a legal doctrine that limits the recognition of ancestral land of Indigenous Peoples only to lands they occupied on the day of promulgation of the constitution, the 5th of October of 1988. Considering the political turbulence and human rights violations in Brazil between 1945 and 1988, the "Temporal Framework" can potentially lead to the exclusion of many Indigenous territories from their basic rights for government protection and demarcation. This has further caused a backlash among the Indigenous communities with annual protests taking place in Brasilia seeking for the recognition of Indigenous lands under a new doctrine.

VIII. Possible Solutions

There are many possible approaches to tackling the question of Indigenous land ownership. One such approach can be the reevaluation of the "Temporal Framework", which currently fails to address the rights of Indigenous communities who have been displaced due to colonization, violence, and state policies before the 1988 Constitution. The directorate can further be adjusted to protect these communities following the international guidelines set in the UN Declaration on the Rights of Indigenous People. However, it must be kept in mind that Indigenous land ownership in Brazil is primarily a domestic issue and direct interference with the country's policies would violate their sovereignty. In addition, as the Supreme Court and the Brazilian Congress enacted the directorate in late 2023, it is unlikely that their views on the "Temporal Framework" have changed in such a short period. In addition, the legal protection of Indigenous lands can be strengthened by increasing the penalties for illegal land invasions, mining, and deforestation within already existing Indigenous territories, as well as by enhancing the capacity of enforcement agencies like the National Indian Foundation (FUNAI) and the Brazilian Environmental Agency (IBAMA) to effectively monitor and combat such to illegal activities.



IX. Useful Links

1) [United Nations Declaration on the Rights of Indigenous Peoples](#)

This resolution adopted by the UN General Assembly summarizes the UN's view over the global matter of Indigenous rights and provides feasible solutions on how to approach challenges regarding the matter of land protection and cultural preservation. It further emphasizes on the basic rights of the Indigenous communities such as pursuing their economic, social, and cultural development. It is important to note that Brazil has voted in favor of passing the document in 2007.

2) [OHCHR's Statement on the "Temporal Framework"](#)

The report showcases OHCHR's concerns regarding the "Temporal Framework", due to its contrast to international human rights standards and the Brazilian government about the potential negative outcomes of the framework such as "exposing Indigenous Peoples to conflicts, mining-related contamination, escalating violence and threats of their social and cultural rights." However, since the statement's release the Supreme Court has ruled in favor of the "Temporal Framework", which has led to increasing concerns regarding the protection of Indigenous rights in Brazil.

3) [Brazilian Institute of Geography and Statistics's \(IBGE\) Report on Indigenous People](#)

The report provides statistics further clarifying the Indigenous people's land ownership throughout Brazil and highlights the growth of the Indigenous population to 1.7 million, representing 0.83% of Brazil's total population—with almost a 90% increase since 2010 mostly due to methodological improvements in data collection. In addition, it provides useful information regarding where the Indigenous population is concentrated with an emphasis on Indigenous lands, as only around 22 percent of the Indigenous population is located within these protected territories.



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