

OXFAM BRASIL

OXFAM REINO UNIDO E IRLANDA

Rua Dr Silva Ferreira 122

50040-130 RECIFE/PE

FONE: (081) 231 5449 FAX: (081) 221 5319

O Custo da Estabilização Econômica no Brasil Erosão dos Direitos Indígenas

Em anexo vai um documento enviado por Oxfam Reino Unido, em nome também das agências britânicas CAFOD, Christian Aid e Survival International, a governos dos países membros da União Européia, à Comissão Européia, a membros do Parlamento Europeu e dos parlamentos dos estados membros em vésperas da visita do Presidente Fernando Henrique Cardoso à Inglaterra e Itália em 10 de fevereiro de 1997.

RESUMO

Embora o programa de estabilização econômica do Presidente Fernando Henrique Cardoso desfrute de amplo respaldo popular no Brasil, por ter quase eliminado a inflação e aumentado a renda dos trabalhadores mais pobres, o seu governo está sendo criticado por dar pouca ênfase à saúde e educação, e em razão do crescimento do desemprego causado pela política de liberalização comercial.

Entre os grupos vulneráveis ameaçados por esse modelo de desenvolvimento estão os povos indígenas do Brasil. Essas populações têm direitos garantidos pela Constituição Federal e por convênios internacionais dos quais o Brasil é signatário. Enquanto o Brasil contabiliza os avanços feitos desde a Eco 92, os índios brasileiros têm pouco a comemorar. As suas terras tradicionais, como a área Raposa/Serra do Sol em Roraima, continuam sendo reduzidas para satisfazer as demandas de mineradoras e fazendeiros, e a falta de investimento na saúde indígena provocou um aumento dramático de mortes.

Oxfam, a maior agência britânica de cooperação internacional, pede que Fernando Henrique intervenha na decisão recente de redução da área indígena Raposa/Serra do Sol, habitada por mais de 9.000 índios, em 200.000 ha. O mais grave na proposta de redução é a decisão de excluir da área indígena cinco vilas de garimpo e várias fazendas, o que equívale a premiar invasores de terra indígena em desrespeito à Constituição federal. A conceituada ONG brasileira, o Instituto Socio-Ambiental, advertiu que essa decisão alimenta a continuação dos conflitos e violência contra os índios ao mesmo tempo que aumenta a degradação ambiental.

A redução desta área indígena resulta de mudanças feitas no procedimento demarcatório pelo Decreto 1775, promulgado por Fernando Henrique Cardoso em janeiro de 1996. Os governos europeus que contribuem ao Programa Piloto para a Conservação da Floresta Amazônica receberam garantias do governo brasileiro de que o Decreto tornaria o procedimento mais ágil e transparente: as decisões seriam tomadas, não por motivos políticos, mas de acordo com critérios técnicos. No entanto, Márcio Santilli, ex-presidente da FUNAI, declarou publicamente que não existe justificativa legal nem técnica para reduzir Raposa/Serra do Sol. Embora o governo brasileiro não tenha reduzido áreas indígenas já demarcadas e registradas em cartório, o caso de Raposa/Serra do Sol indica que não existe vontade política de proteger todas as áreas indígenas ainda a serem demarcadas. O Decreto 1775, se for executado desta forma política, pode levar à redução de cerca de 200 outras áreas indígenas que já foram demarcadas mas não registradas, e de outras 140 que se encontram em processo de demarcação.

RECOMENDAÇÕES

As agências recomendam que sejam consideradas as seguintes ações

- Os membros do Parlamento britânico poderiam chamar a atenção do governo britânico para a incompatibilidade da política indigenista do governo brasileiro com os objetivos de alguns dos projetos ambientais financiados pelo Ministério da Cooperação (ODA) no Brasil. O governo britânico, por sua vez, faria uma contribuição valiosa ao deixar claro para o governo brasileiro que a anulação do despacho do Ministro da Justiça relativo à redução do território de Raposa/Serra do Sol será condição para a continuidade do apoio britânico a esses programas.
- Na Europa, membros do Parlamento Europeu poderiam pedir que a Comissão Europeia discuta urgentemente a redução da área indígena Raposa/Serra do Sol com o governo federal brasileiro. A Comissão deveria examinar as implicações dessa decisão para o Programa Piloto, financiado pela União Europeia e pensar em condicionar apoio ulterior a esse programa à anulação da decisão de reduzir esta área.
- Os parceiros do Brasil dentro da União Europeia poderiam comunicar ao governo brasileiro a sua preocupação com a situação dos direitos humanos no Brasil, especialmente a impunidade, mas também a precariedade dos serviços da saúde e outros serviços básicos, que representariam um empecilho ao estreitamento das relações entre a União Europeia e o Mercosul.
- Uma vez garantida a demarcação integral de Raposa/Serra do Sol, a União Europeia poderia considerar a possibilidade de financiar programas de pesquisa e educação para investigar as possibilidades de um desenvolvimento sustentado para o estado de Roraima através de cooperação entre as comunidades indígenas - que já pesquisam essas possibilidades - e os outros grupos da população.
- Os Diretores Executivos do Banco Mundial poderiam solicitar informações sobre as providências que estão sendo tomadas pelo governo federal brasileiro para apurar os incidentes gravíssimos que aconteceram em áreas

cobertas por dois projetos financiados pelo Banco Mundial, PLANAFLORO e PRODEAGRO. Um caso diz respeito a indícios de que um fazendeiro teria praticado o crime de genocídio (na definição da Constituição brasileira) contra um pequeno grupo de índios isolados na região do Igarapé Omerê; no outro, há acusações de que garimpeiros e madeireiros invasores da área indígena Sararé realizaram a prisão ilegal, tortura e espancamento de índios Nambiquara no estado de Mato Grosso em novembro de 1996.

- Um apoio valioso da comunidade internacional seria o de incentivar o governo brasileiro a implementar vigorosamente seu Programa Nacional de Direitos Humanos, reintroduzindo medidas tais como o programa de proteção a testemunhas, e respaldando o Programa com um trabalho de educação enfocando os direitos das comunidades indígenas e outras minorias e a necessidade de se respeitar culturas e maneiras de vida diferentes. Com isso se poderia criar a possibilidade de um novo começo nas relações entre a sociedade brasileira e os povos indígenas, revendo o papel da FUNAI e convidando as entidades indígenas e ONGs indigenistas para um trabalho que transformasse os direitos constitucionais dos povos indígenas em novas estruturas e atitudes, o que sem dúvida implicará na revisão do Decreto 1775 e medidas relacionadas.

Francis McDonagh
Oxfam Brasil
Recife, 25 de fevereiro de 1997

DEHUMANIZING GROWTH

The Cost of Brazil's Stabilization: Eroding Indians' Rights

On the eve of the President of Brazil's visit to Europe, Oxfam and other British agencies² warn that Indian rights are being eroded as Fernando Henrique Cardoso seeks to secure support in Congress for his bid to stand for re-election in 1998 (a constitutional amendment, approved on first reading by the Lower House, will break with Brazilian tradition and allow the president, state governors and mayors to stand for a second consecutive term of office). President Cardoso's efforts to reform the Brazilian economy have brought him a lot of international admiration. He has written about the need to humanize growth with equity and argued that the concept of development has 'to include the protection of human, ecological and social rights'. In practice his government has done disappointingly little to alter the tradition of successive Brazilian administrations: that of promoting economic growth while exacerbating social inequality. The interests of vulnerable groups have been neglected in favour of maintaining incentives which privilege those with capital and influence.

Brazil's Macro-Economic Policies

Current policies have done little to redress the gross inequalities in Brazil, which has some of the worst social indicators among the group of 22 middle income countries. Despite some recent improvements, over 30 million Brazilians still live in absolute poverty. According to the World Bank's 1995 *Brazil: A Poverty Assessment*, the distribution of the benefits of public social spending in Brazil is 'pro-rich': the bottom 20 per cent of the population received only 13 per cent of total benefits, compared to 24 per cent for the top 20 per cent. The country also has one of the smallest percentages of government spending on health and education in relation to total expenditure (5.2% and 3.6% respectively). Despite this, 77 per cent of the resources allocated in the 1996 budget for basic sanitation and preventive medicine were not released, and these sectors will have to wait for the revenue generated by a tax on bank transactions, which did not come into force until January 1997. In Brazil, the poorest 10% of the population receive 1.1% of the national income, whereas the richest 10% receive 48%. In the 1995 budget, despite these disparities, the Federal Government substantially reduced public expenditure for many social sectors. Food programmes were reduced by 6 per cent. Support for basic education was reduced by over 15 per cent. Income and employment generation schemes were reduced by over 40 per cent; and only 43.4 per cent of the 1995 'budget for children' was spent (a range of spending monitored by UNICEF which benefits children and adolescents). Social welfare schemes, particularly support programmes for children and adolescents, have been reduced by a massive 83 per cent. Against this background, Brazil's leading anti-poverty campaigner, Herbert de Souza, publicly withdrew his support from the government's flagship social programme, Solidarity Community.

² This paper represents the concerns of agencies such as Oxfam, CAFOD, Christian Aid and Survival International.

Human Rights in Brazil

Despite the Brazilian Government's publication of a National Human Rights Programme, with a section on Indians, and despite improvements to the agrarian reform process, violence against indigenous communities and settlers continues unabated: seven rural workers were killed by landowners' gunmen in the first 16 days of 1997.

A report published in November 1996 by the Catholic Church's Indian Missionary Council - CIMI, [*A violência contra os povos indígenas no Brasil, 1994-95*] carefully documents cases of assault and killings of Indians arising from conflict over land and provides alarming statistics on the levels of illness and malnutrition affecting the Indian population as a whole. In 1996, if anything, the situation deteriorated: the Indian population is facing increasing levels of violence, often as a direct result of the insidious impact of Decree 1775. At the same time, government cuts in social spending have left vulnerable Indian communities in a state of almost total neglect. A 1995 hunger survey found that 34% of the Indian population suffered from malnutrition. At the end of 1996 the National Health Foundation had no money left for work in Indian communities, and health workers were told that they would have to wait for the proceeds of the new tax on banking transactions before funding could resume.

Decree 1775

A year ago there was widespread international protest about the impact of a new law, Decree 1775, which opened up the majority of Brazil's Indian lands to claims by interested parties, including loggers, mining companies, ranchers and local municipalities. One of the major objections to the Decree was that it encouraged counter-claims by third parties to Indian land, despite the fact that under Brazil's Constitution all such claims and titles are null and void. The predictable result has been to increase pressure to reduce all Indian lands from powerful regional elites and logging, mining and agribusiness interests, who have consistently attempted to halt or obstruct the demarcation process.

On 15 February 1996 the European Parliament passed a resolution criticizing Brazil for undermining the rights of its Indian population. This prompted the Minister of Justice, Nelson Jobim, the architect of the decree, to undertake a whirlwind tour of European capitals the following month to reassure public opinion. During his visit to London, Mr Jobim met MPs and senior government officials and over 40 British NGOs working in the field of human rights, the environment and development. He presented the new law as a means of securing, not undermining, Indian rights. Mr. Jobim's claims were designed to calm fears that funds from British ODA, the World Bank, the EU and the German Government for a range of projects in Brazil concerned with environmental protection and support to indigenous communities were being thrown away. But the sincerity of these assurances must be judged in light of the events over the past year.

International Support for Brazil's Pilot Programme

In September 1996, at the Third Annual Meeting of the Participants of the Pilot Programme to conserve the Brazilian Rain Forest (a US\$250 million programme financed by G-7 countries, notably Germany, and by the EU and the Netherlands, which aims to help slow deforestation in the Amazon), the Brazilian representatives claimed that there was 'clear evidence that there is broadening political support in Brazil' for protecting its tropical forests. At that meeting the donors and the Brazilian Government representatives reaffirmed the importance of protecting

Brazilian indigenous areas. The Indigenous Lands Project of the Pilot Programme is currently financing indigenous land demarcations with \$2.5 million from core funding and DM 30 million through the German bilateral agreement. The EU announced that it would provide an additional 11 million ECU and is considering further funding for 1997. But continued donor support for such joint initiatives must be questioned when there appears to be a serious dereliction on the part of the Brazilian Government of its duties and obligations towards its indigenous population. The donors need to request stronger safeguards that the rights of Brazil's Indians will be protected and enforced.

The Brazilian Government's claims

- Decree 1775 would make the demarcation process more efficient and legally more secure, and not reduce the area legally recognised by the government as Indian land;
- Decisions to alter the boundaries of Indian areas would be taken purely on technical grounds - e.g. if the anthropological surveys were at fault or if errors had occurred in the mapping exercise;
- Illegal occupation of Indian lands would remain illegal and steps would be taken to remove miners, loggers and settlers from Indian areas. The Minister announced that a special military operation would be undertaken to remove the illegal gold prospectors from the Yanomami territory.

THE FACTS

- The Decree has not removed legal threats to demarcations carried out under it. The Brazilian Supreme Court has refused to dismiss the legal challenges the decree was meant to circumvent, and decisions made under the Decree are themselves being challenged in the courts. This destroys one of Minister Jobim's key arguments for introducing the Decree.
- While accepting the recommendation of Brazil's National Indian Foundation, FUNAI, to reject the claims filed against 32 Indian areas, the Minister of Justice decided personally to re-examine the status of eight territories, including the largest currently awaiting demarcation, Raposa/Serra do Sol. His first decision was to reduce the size of Raposa/Serra do Sol, not on technical grounds but to placate the demands of local politicians involved in the exploitation of mineral reserves on Indian lands in Roraima state. Human rights groups fear that this reduction will set a precedent for future cases.
- Despite the promise that strenuous efforts would be taken to remove illegal prospectors from the Yanomami territory, no action has been taken over the past year by the Brazilian Government.
- Although four goldminers were sentenced to 19 years' imprisonment for the massacre of 17 Yanomami at Haximu in 1993, all are still at liberty, and at least eight Yanomami were killed in 1996 in separate shooting incidents.
- Failure to remove illegal invaders from Indian areas has led to a series of acts of violence against Indians including the murder of a group of recently identified isolated Indians

living in Rondonia, the torture and beatings of Indians, including women and children in Mato Grosso state.

In the absence of public pressure, there is little indication that the Federal Government is prepared to use its resources to curb the impunity with which those who are opposed to Indian rights - often including local authorities - perpetrate acts of violence against them. Judicial inquiries, let alone prosecutions, of those responsible for the killings, torture and other acts of violence against Indians rarely take place.

The agencies recommend that the following actions be considered:

- **MPs could point out to the British Government the incompatibility of the Federal Government's Indian policy with the aims of some of ODA's funding for environmental programmes in Brazil. It could also be helpful if the British Government were to make clear to President Cardoso that the reversal of the Minister of Justice's decision on the Raposa/Serra do Sol territory, will be a condition for Britain's continued support for these programmes.**
- **In Europe, MEPs could call upon the European Commission, as a matter of urgency, to raise the issue of the reduction of the Raposa/Serra do Sol Indian area with the Brazilian Federal Government. The Commission should examine the implications of this decision for the EU-backed Pilot Programme and consider making continued support for this programme conditional on a reversal of the decision on the reduction of this area.**
- **Brazil's EU partners could express concern to the Brazilian government that the situation of human rights in Brazil, especially impunity, but also the precarious state of health and other basic services, constitutes an obstacle to the further development of ties between the European Union and Mercosul.**
- **Given acceptable guarantees for the complete demarcation of Raposa/Serra do Sol, the European Union could consider funding research and education programmes to explore the possibilities of sustainable development for the state of Roraima through cooperation between the indigenous communities - who are already exploring these possibilities - and the rest of the population.**
- **The World Bank Executive Directors could request information on what precise steps are being taken by the Brazilian Federal government to investigate the very serious incidents that have occurred in areas covered by two World Bank funded projects: PLANAFLORO and PRODEAGRO. One case concerns evidence that a local rancher has carried out the crime of genocide (as defined in the Brazilian Constitution) against a small group of isolated Indians in the Igarape Omere region; the other involves allegations that illegal gold prospectors and loggers on the Sararé Indian reserve were responsible for the unlawful imprisonment, torture and beatings of Nambikwara Indians in Mato Grosso state in November 1996.**
- **The international community could help by encouraging the Brazilian government to fully implement its National Human Rights Programme, to reintroduce measures such as the witness protection scheme, and to back the Programme up with an education campaign, stressing the rights of indigenous communities and other minorities and the need to respect different cultures and life-styles. This could be an opportunity to make**

a fresh start in relations with the indigenous peoples, review the role of FUNAI and invite the collaboration of indigenous organisations and specialist NGOs in translating their Constitutional rights into new structures and attitudes. This will certainly involve the revision of Decree 1775 and related measures.

Appendix 1

DENIAL OF INDIANS' RIGHTS: SOME RECENT EXAMPLES

1. Reduction of the Raposa/Serra do Sol Indian Area

In the first of his decisions, announced on 20 December 1996, the Minister ordered the reduction of the Raposa/Serra do Sol Indian area, home to 10,000 Makuxi, Wapixana, Taurepang and Ingarikó Indians, in Brazil's northernmost state of Roraima. The anthropological and legal documentation of the Raposa/Serra do Sol demarcation is considered by Brazilian legal and technical experts, including FUNAI, to be outstanding. It is a matter of consensus that the decision to reduce the size of the area has no technical justification, but has been taken on political grounds. The local press in Roraima has published statements by the state's representatives in Congress that they would make the reduction of this area a condition of their support for the President's re-election bid.

The Minister intends to reduce the size of the area (by 200,000 hectares), by excluding from it a number of illegal goldmining settlements and farms. The only argument the Minister can offer to justify this apparent breach of the Brazilian Constitution is the need 'to recognise consolidated social fact and the public interest', which is hard to interpret as other than a reward to invaders of indigenous territory. The other surprising measure taken by the Minister is to exclude all roads from the indigenous area, which again appears to be an incentive to outsiders to enter the area.

Given the history of violence against the area's Indians, these measures can hardly have any other effect than to store up a legacy of violence for the future. During 1995, 104 complaints were filed concerning acts of violence against indigenous peoples in the state of Roraima. Between 1988 and 1995, according to the Indigenous Council of Roraima (CIR), 12 Indians were violently killed, mostly in connection with the conflict over the demarcation of Raposa/Serra do Sol, and numerous other cases of rape, torture, beatings and illegal arrests were reported.

Oxfam and other experienced observers believe that this decision will encourage more incursions onto Indian land and will inevitably lead to further contamination and destruction of the environment. Nor does the decision to reduce the Raposa/Serra do Sol Indian Area and permit mining enclaves inside it bode well for the remaining areas awaiting demarcation. It raises serious questions about the use which will be made of international funding, such as the \$16 million provided by the German Government for the identification and demarcation of indigenous areas under the Pilot Programme.

British ODA is assisting the government of Roraima to set up a state environmental protection agency. However, given the state government's refusal to consider sustainable development in partnership with the local Indians, this project will require close and continuous monitoring if it is to succeed.

2. Genocide of Uncontacted Indians in Rondonia

The Brazilian Constitution guarantees Indians rights to land they traditionally occupy, and the government has a legal obligation to protect them. The World Bank is supporting work for the protection of 14 groups of isolated Indians in the state of Rondonia (which borders Bolivia), as part of its agro-ecological zoning project, PLANAFLORO. The Bank informed the Executive Directors last year of the 'dramatic discovery' of an isolated group living near the Igarapé Omerê in southern Rondonia. In its 1996 Action Plan, Bank management assured the Executive Directors that, 'a FUNAI team is on the site and taking necessary steps to ensure the protection of this group'. However, the FUNAI contact team have faced extreme difficulties in carrying out this work, in part because of erratic funding by the state government and FUNAI and in part because of the hostility of local politicians to their work.

In October 1996 documents were presented by FUNAI staff to the Federal Prosecutor proving that a local rancher in Xupinaguaia county, in the state of Rondonia, was attempting to erase all evidence that land he wished to incorporate into his own large estate was in fact occupied by a group of uncontacted Indians. He had allegedly ordered his men to open fire on the surviving members of the isolated group of uncontacted Indians in order to drive them off land that he claims. A contractor had clearcut the forest on the site of the Indians' garden, and a bulldozer had been used to extinguish the traces of a wrecked traditional longhouse. The Indians' crops of corn and squash were destroyed. This incident is the latest in a series of acts of violence perpetrated against isolated Indians in Corumbiara and Xupinguaia over the past 10 years. A massacre of Indians in the vicinity of the Igarapé Omerê in 1985 has never been subjected to a judicial inquiry.

Frightened and famished, these small isolated indigenous groups have been subjected over the last decade to a process of "ethnic cleansing" by the cattle ranchers. The pattern of violent expulsions, evidence of killings, and destruction of the Indians' homes and means of subsistence, coupled with complete judicial impunity for the perpetrators, indicates that the genocide of these Indians is commonplace and accepted in the region.

Despite the involvement of the World Bank and the government's contractual obligations to carry out Indian protection, there has been insufficient political will to prevent the extermination of the Indians of Igarapé Omerê. State and project officials constantly deny the presence of uncontacted Indians in the state and have tried on various occasions to have the indigenous sub-component cancelled. No Federal Police inquiry has yet been opened to investigate this recent case.

Last year the UK World Bank Executive Director expressed concern about attempts by the State Government of Rondonia to use Decree 1775 to challenge some of the areas demarcated with PLANAFLORO funds. Oxfam remains concerned that the World Bank management, in its report on the status of implementation (27 November 1996), while recognising that the indigenous component has encountered many implementation difficulties, downplays the way that local ranchers and politicians are effectively blocking all attempts by the project to provide effective support for health care and assistance to isolated indigenous people. In its latest Status of Implementation Report, presented to the Board in January 1997, no mention is made of the recent allegations of genocide.

3. Assault on Nambikwara Indians in the Sararé Reserve, Mato Grosso

Loggers and miners whose uncontrolled occupation and activities inside the borders of the Sararé Indian reserve have been tolerated for several years by local authorities were responsible for ambushing and violently assaulting at least 14 Katitaulhu Indians, a sub-group of the Nambikwara family, near the town of Pontes e Lacerda in November 1996. The Chief, Americo, suffered serious injuries when a revolver was violently forced into his mouth. The Indians, who included women and children, were subjected to torture and intimidation throughout a day. The assailants then looted the Indians' village, causing damage to a health post and school. Money, tools and vehicles belonging to the Indians were also stolen. The miners allegedly threatened further violence against the Indians and their supporters in human rights organisations.

Not until January 1997 did the Federal government attempt to comply with federal court orders for the removal of the invaders from the area. In so doing, the government not only failed to observe its constitutional duty to protect its Indian citizens but it also violated the 1992 Loan Agreement with the World Bank for the Mato Grosso Natural Resource Management Project, PRODEAGRO. A condition for the release of the \$200 million loan was the removal of illegal miners from the Indian reserve and the environmental restoration of areas degraded as a result of mining activities. It has since been reported that FUNAI will apply to the PRODEAGRO Project for funds to repair the damage caused through the Brazilian government's own neglect.

The mining activities in the Sararé Indian area in Mato Grosso state have caused devastation to one third of the reserve. Officials from the state environmental protection agency and IBAMA, the federal government's environmental agency, who have recently returned from the area to oversee the belated operation to remove the invaders (it was started in January 1997) reported that inside the reserve there were 20-40 foot craters and a lot of felled trees. However, few efforts appear to have been taken to identify and apprehend those responsible for the physical assault on the Indians.

Appendix 2

RECENT STATISTICS CONCERNING THE SITUATION OF BRAZIL'S INDIAN POPULATION

ACTS OF VIOLENCE AGAINST INDIANS 1993-95			
	1993	1994	1995
Murders	43	45	30
Attempted murder	85	234	43
Threats	600	1,584	360
Physical assaults	29	55	74

source: *A violência contra os povos indígenas no Brasil 1994-95*
Cimi/CNBB, Brasília

MORBIDITY AND MORTALITY RATES 1993-95			
	<u>1993</u>	<u>1994</u>	<u>1995</u>
Deaths attributed to disease	96	135	331
Deaths attributed to hunger	20	12	02
Suicides ³	39	35	58
Cases of malnutrition ⁴	17,098	76,272	106,764

source: *A violência contra os povos indígenas no Brasil 1994-95*
Cimi/CNBB, Brasília (adapted).

³ The majority of suicides reported have been among the Guarani-Kaiowá Indians in the state of Mato Grosso do Sul, attributed by CIMI to problems of social and cultural disintegration.

⁴ The figure for 1993 was compiled by CIMI from Health Ministry statistics. The figures for 1994 and 1995 are from the 'Map of Hunger among Indigenous Peoples'.