

INDIAN LAND RIGHTS IN BRAZIL

A Report to World Vision Following  
a Visit to Brazil, March/April 1994

by

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Page 5 Top: Modern Brazil: The Catholic Cathedral Brazilia, built during the 1960s. The construction of Brazilia is said to have been a major cause of the nation's staggering foreign debt.

Page 5 Bottom: Inside the Catholic Cathedral Brazilia. A brilliant scene of stained glass, floating angels, defused light, red carpet - and a tourist!

Page 8 Top: From left to right, Everaldo De Souza (World Vision), the author and Bishop Dom Aparecido Jose Dias, Bishop of Registro, former co-ordinator of CIMI, the Catholic Church's Indian Program, at the Bishop's Presbytery Registro, a town about 100 kilometres south-west of Sao Paulo. Bishop Aparecido continues to be a major activist in support of Indian rights in Brazil.

Page 8 Bottom: My presbyterian hosts in Amazonia: on the left, Pastor Everaldo Sousa Rego, of Igreja Presbiteriana de Manaus, travelling companion and indispensable guide in Manaus and Novo Airao, a town of 6000 people a long day's ferry journey up the Negro River from Manaus. On the right, the author at Novo Airao with Pastor Alcedir of the local Presbyterian Church.

Page 12 Top: Riverside housing and port facilities near the central harbour area at Manaus, Rio Negro, Amazonia.

Page 12 Bottom: Brazil - a vast and variable country. Doing it tough on the beach at Recife, north east Brazil, with the author's accommodation in the background.

Page 16 Top: The COIAB office, located in a narrow suburban street, Manaus, with guides Pastor Everaldo Sousa Rego and anthropology student associated with COIAB, and transport.

Page 16 Bottom: The hospital boat Zany Silva III, moored at Manaus. Maintained by the local Presbyterian Church, the boat provides

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medical assistance to communities along the Amazon and Rio Negro Rivers. It houses consulting rooms, a dental unit, a laboratory, small operating theatre and a pharmacy.

Page 20 Top:

Hard at work! Travelling by ferry, from Manaus to Novo Airao up the Negro River. The journey took about 15 hours with numerous stops servicing village communities (not Indian) along the way.

Page 20 Bottom:

The ferry nosed into the bank of the river, threw out a gang plank, and passengers got on and off, at various points along the Rio Negro en route from Manaus to Novo Airao.

Page 24 Top:

Xucuru lands, 250 kilometres south-west of Recife, north-east Brazil. This land is "identified" as Indian land, but only 2,000 acres of a total claimed of 26,000 have been proclaimed by the President. 23 Indian villages are spread through the area, with a variety of gardens under cultivation. 6,000 Xucuru, 31 farmers and 180 Posseiros (squatters) are in conflict for control of these lands.

Page 24 Bottom Left:

Maria Zenilda, wife of Chief Chicaoh at D'Agua Village, Xucuru lands. Maria Zenilda was most hospitable, providing the author and CIMI community workers with lunch and guidance around the village.

Page 24 Bottom Right:

Community leaders of the Xucuru at D'Agua Village. These men played a leading role in organising and participating in the community meeting held for the author's benefit on the Xucuru lands.

Page 28 Top and Bottom Right:

Xucuru children, utilising local transport and emerging from one of the many areas under cultivation. The children looked healthy, and well cared for. Education, health or child-care facilities were unavailable on the lands.

Page 28 Bottom Left:

Maria de Lourde, a Xucuru elder, 94 years old, from Caipe Village, Xucuru lands.

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Page 32 Top:

The author with members of the Xucuru community, following a meeting held in a forest clearing on the Xucuru lands. Chief Chicaoh is to the author's immediate left. A leading activist in Indian land claims in the north east of Brazil, his life is threatened, such that he is constantly attended by 2 armed guards. These men also attended this meeting - with rifles. The Chief spoke forcefully of his struggles, and future plans to expand Xucuru lands by direct action, ie. invasion and occupation. The author explained the "land-rights" situation in Australia following the Mabo decision.

Page 32 Bottom:

Prior to and following the meeting, the Xucuru conducted a ceremony. This involved traditional dress and implements, chanting (in Portuguese) whilst moving in a circle, and periods of oration. Each ceremony lasted about 20 minutes, and was in appreciation for the author's visit.

## INDIAN LAND RIGHTS IN BRAZIL

### THE VISIT:

In March/April 1994, I visited Brazil with the intention, as a consultant to World Vision, of conducting discussions with a range of people, and pursuing inquiries generally, into the question of Indian land rights in Brazil. The trip was assisted financially, and in its organisation, by World Vision (Melbourne) and various World Vision personnel in Brazil. I wish to record my great appreciation for the support and guidance provided by many World Vision personnel<sup>1</sup>, and the assistance of colleagues<sup>2</sup> and the Department of Foreign Affairs, Canberra. Above all, I express sincere thanks to the many people who provided information and assistance in Brazil. They are mentioned at Appendix A.

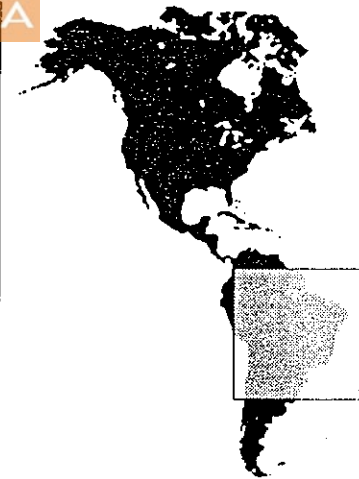
I visited in order, Sao Paulo, Registro, Brazilia, Rio de Janeiro, Recife, the Xucuru Indian community (about 200km south-west of Recife), Manaus, and Novo Airo, (a town of 6000 people up the Negro River from Manaus)<sup>3</sup>. During these visits, I conducted a number of interviews with basically, personnel working with World Vision; the Presbyterian Church (Manaus), the Summer School of Linguistics (Brazilia); the section of the Catholic Church which advocates Indian rights (CIMI); government officers including officials from the responsible Federal Department (FUNAI), and the Federal Prosecutors Office (Brazilia); private legal practitioners; a member of the Human Rights Commission of the Brazilian Bar Association; Indians from the north-east; members of various NGO's working for Indian

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<sup>1</sup> Especially Greg Thompson, Executive Associate, Education and Advocacy, World Vision Australia (Melbourne); Serguem da Silva, Director of Programs, Brazil; and above all Eduardo Nunes and Paulo de Moraes, Sao Paulo, without whose enthusiastic assistance my inquiries simply would not have occurred.

<sup>2</sup> Especially Professor Garth Nettheim, Tony Simpson and executive officers of the Law Council of Australia.

<sup>3</sup> A detailed itinerary is available.



# Map of Brazil

showing the main places mentioned in the text



STATES:

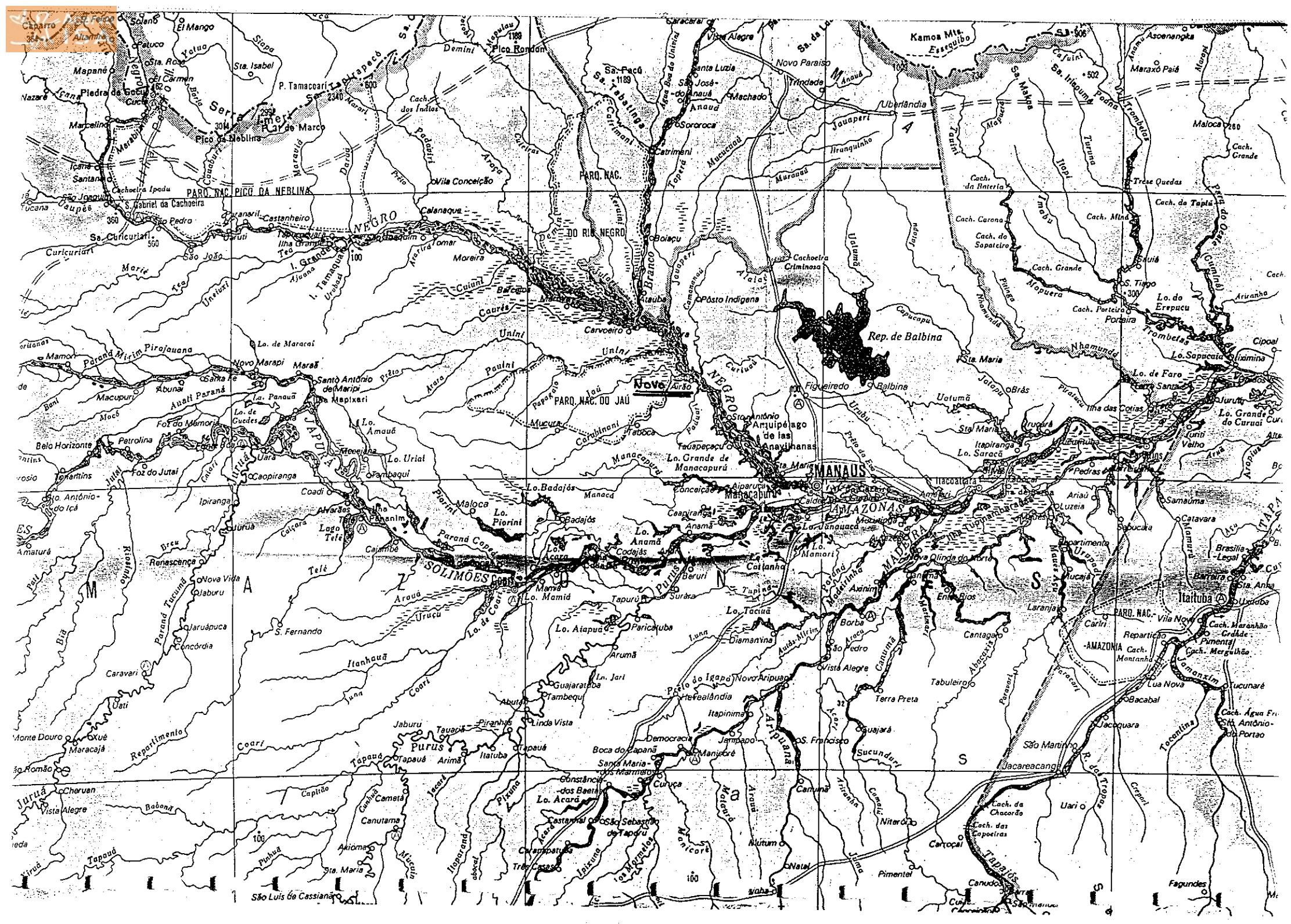
- 1 ACRE
- 2 AMAZONAS
- 3 RORAIMA
- 4 PARA
- 5 AMAPA
- 6 MARANHAO
- 7 PIAUI
- 8 CEARA
- 9 RIO GRANDE DO NORTE
- 10 PARAIBA
- 11 PERNAMBUCO
- 12 ALAGOAS
- 13 SERGIPE
- 14 BAHIA
- 15 RONDONIA
- 16 MATO GROSSO
- 17 MATO GROSSO DO SUL
- 18 GOIAS
- 19 MINAS GERAIS
- 20 ESPIRITO SANTO
- 21 RIO DE JANEIRO
- 22 SAO PAULO
- 23 PARANA
- 24 SANTA CATARINA
- 25 RIO GRANDE DO SUL

National Borders - - - - -

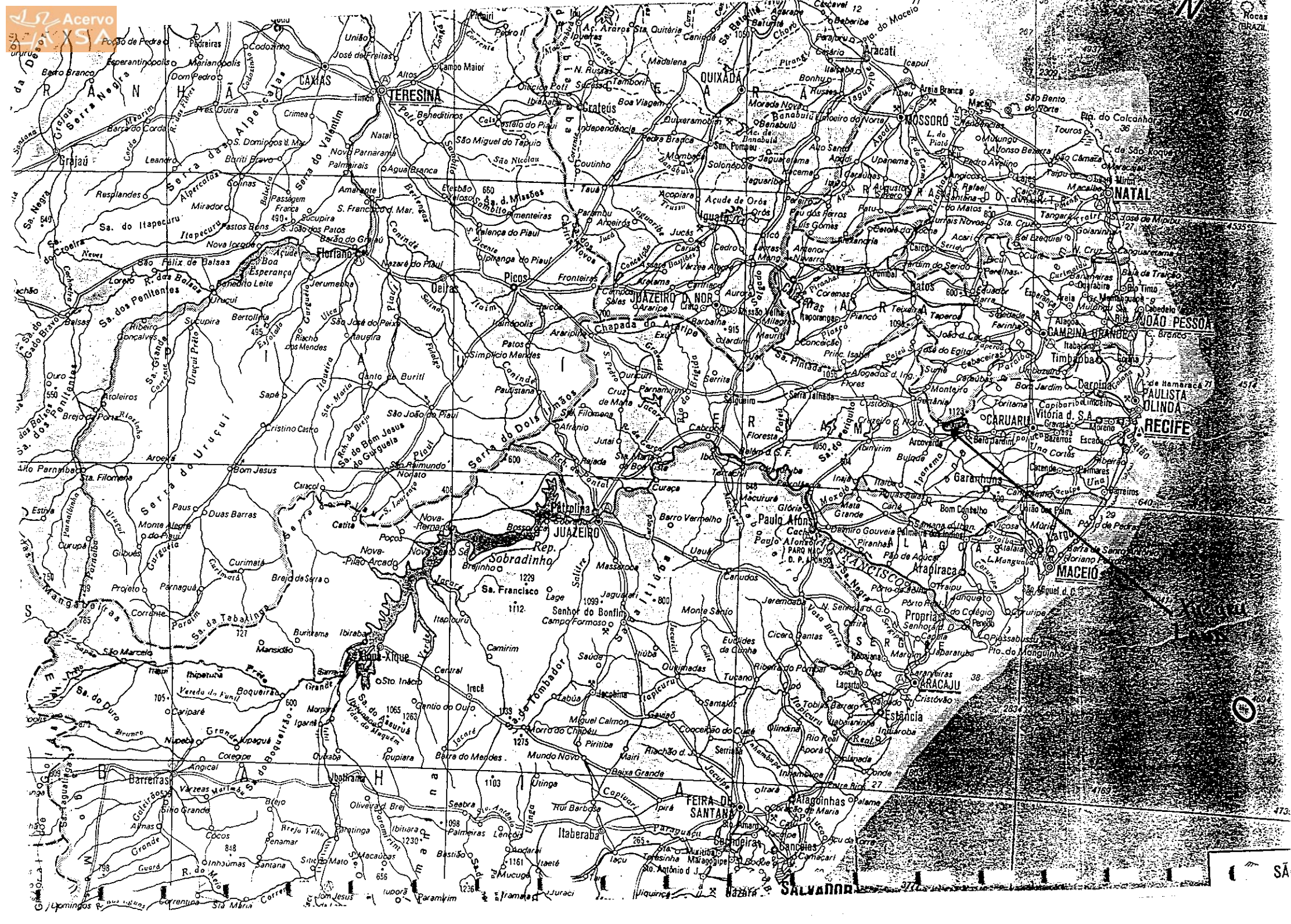
State Borders - - - - -

Rivers —————

Scale 0 250 500 750 1000 kms







rights especially CEDI (Sao Paulo), the NDI (Brazilia) and COIAB, a liaison peak Indian body (Manaus). See Appendix A for a list of consultations and people/organisations involved. I kept a detailed diary<sup>4</sup>, recording interviews, activities, observations etc. and collected a valuable range of books, reports, maps, Newsletters, campaign posters, pamphlets and the like - most, however written in Portuguese! I also took numerous photos, especially of the Xucuru community being the only Indian community I was able to visit<sup>5</sup>. I offer by sincere appreciation to those many people in Brazil who extended assistance and hospitality to me in so many ways.

Brazil is a vast and variable country: I obtained impressions only. However, many of the comments made to me, especially those critical of governments, courts, police, and "big business" were repeated from several sources.

GENERAL BACKGROUND:

•Brazil: Brazil is a massive country of 8,511,965 sq km. and a population of 150,400,000 (1991 World Bank est.). It was "discovered" by the Portuguese explorer, Pedro Alvares Cabral, in 1500 and continues to manifest Portuguese features. The common language is Portuguese; the laws are a civil code based on the Napoleonic code; the community is 90% Roman Catholic. There are many ethnic communities particularly Portuguese, African negro, Japanese, European (especially German), Chinese

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<sup>4</sup> See various "Diary references herein. These refer to notes of interviews with one or other of the persons mentioned in Appendix A.

<sup>5</sup> Despite valiant efforts by World Vision staff, applications to FUNAI for a permit to enable me to visit Indian areas, were unresolved in the bureaucracy by the time of my visit. This delay and frustration is, apparently, normal treatment. However CIMI staff were able to facilitate my visit to the Xucuru lands. These "permit" barriers to visiting communities in rural areas remain a significant problem if World Vision wishes to become active in Indian affairs in Brazil.

and Indian. The population is assessed at 150 million people, 120 million of whom (as was said to me) "live below the poverty line".

Major features of Brazilian society of relevance to this Report are law and order problems; general anti-Indian attitudes especially concerning the clash between Indian values and resource development; political corruption, bureaucratic bias and inefficiency; low government priority for Indian problems including a long history of totally inadequate resourcing of government responsibilities and programmes for Indians; and the parlous economy. The country's wealth and political influence appears to be overwhelmingly held by the numerically small industrial, bureaucratic and political elite, termed "the cartel" or "the big boys"<sup>6</sup>. Meanwhile, the provision of resources to Indian affairs by Federal and State governments continues to be very inadequate.

Public Opinion: Public opinion, especially amongst the illiterate lower classes<sup>7</sup>, appears to be heavily influenced by commercial TV. As one informant stated, "100 million people watch the 8 pm news". This media's view - and that of the general population - seems to be that, as to land, the large areas claimed by Indians cannot be justified for so few Indian people, especially given widespread and severe rural poverty and homelessness in Brazil. Likewise governments, especially State governments, take the view that economic progress, especially resource development, must prevail over conflicting Indian rights (even rights embedded in the 1988 Constitution) and the preservation and protection of Indian societies and culture. Thus in 1982, at a Congress on the occupation of the Amazon, Jorge Teixeira (perhaps descended from the blood-thirsty explorer mentioned above) governor of Roraina State, said it was "absurd" that Indians should occupy 200,000 hectares of land in his

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<sup>6</sup> Diary, p. 40. See further discussion within.

<sup>7</sup> In 1991, adult literacy was stated as 24% (female) 22% (male) (UK equivalent: less than 5%) Brazil: A Mask Called Progress (Oxfam, 1991) p.113.



State. He felt that they were an obstacle to progress, and that five hectares a piece would be enough for them<sup>8</sup>.

Indian Policy: Historically: The above situation, depressing as it is, should be seen against a history of government policy and administration over the past five centuries which may be characterised as a mixture of active genocide and abject neglect. Oxfam Reports, for example, that<sup>9</sup>:

"Throughout Brazil, the Indians have been fighting for their land, their culture, and their very survival for almost 500 years, since the first Portuguese arrived. Throughout the period of Portuguese rule, between 1500 and 1889, the Indian was seen simply as an animal - to be enslaved as a source of labour, or to be driven from valuable lands. The Indians resisted, and the colonial conquerors began to replace them by slaves imported from Africa. After this, genocide became the most frequent Indian policy of the Portuguese. The bandeirantes, Portuguese adventurers, pressing into the forest in search of gold and silver, massacred them by the thousands. The seventeenth century explorer Pedro Teixeira boasted that after 30 years of expeditions along the Negro and Amazon rivers, he had been responsible for the deaths of two million Indians . . . . In 1500 there were estimated to have been five million Indians in Brazil. Today (1991) there are only around 213,000. Most live in Amazonia, though Indian communities survive in the north-east and the south as well. They are divided into 150 different peoples, speaking 100 different languages. Integration of the Indians, rather than massacre, has been the dominant theme of government policy during the twentieth century. But the results have often been equally deadly for populations suddenly plunged into the poverty sickness and death that accompany contact with the dominant culture."

For a further short but illuminating account of this appalling historical treatment of Brazilian Indians, see Appendix B.

Policy Today: The Federal Indian Agency, FUNAI, has played a critical role, as the major government agency administering Indian affairs throughout Brazil, in the welfare of Indian communities over the past 30 years. Historically, FUNAI has participated, it appears at times willingly, in the exploitation of Indian lands, and the destruction of Indian culture, rather than their protection. During the period of military rule (1964

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<sup>8</sup> Ibid, p. 19.

<sup>9</sup> Ibid, p. 19.

- 1988) General Jeronimo Bandeira de Mello who was president of FUNAI (1970 - 1971) is reported to have stated that he<sup>10</sup>:

"did not believe that Indians should be allowed to hold back the progress of Brazil, and that his main goal was to integrate the Indians into the modern nation state. Though subsequent heads of FUNAI were more moderate in their outlook, they did not fundamentally disagree. Many Indians and their supporters are deeply sceptical about FUNAI's record in protecting Indian rights".

Based on my discussions in Brazil, that "deep scepticism" remains, sadly, alive and well in 1994. My impression is that that scepticism is well founded. It must be remembered however, that along with other agencies (eg. police, health, education) delivering welfare and justice services to the poor generally, a succession of Federal governments have grossly under-resourced FUNAI for many years. These government policies and spending priorities seem unlikely to change in the foreseeable future.

•Human Rights Abuse: On 25 September 1992, Brazil signed the American Convention on Human Rights. Despite accepting these standards, Brazilian governments appear to make little attempt to seriously grapple with continuing high levels of violence, kidnappings, assaults and murders in many parts of the country. Allegations of serious corruption in law enforcement abound, eg., concerning the murders of "street children" in Rio as part of an official "cleansing" operation prior to the holding of the earth summit in June 1992. Again, in 1993, killings of street children occurred in Sao Paulo. Despite public outcry, no persons have been charged or brought to trial. The US Department of State<sup>11</sup>, Amnesty International<sup>12</sup> and Oxfam<sup>13</sup> have also documented

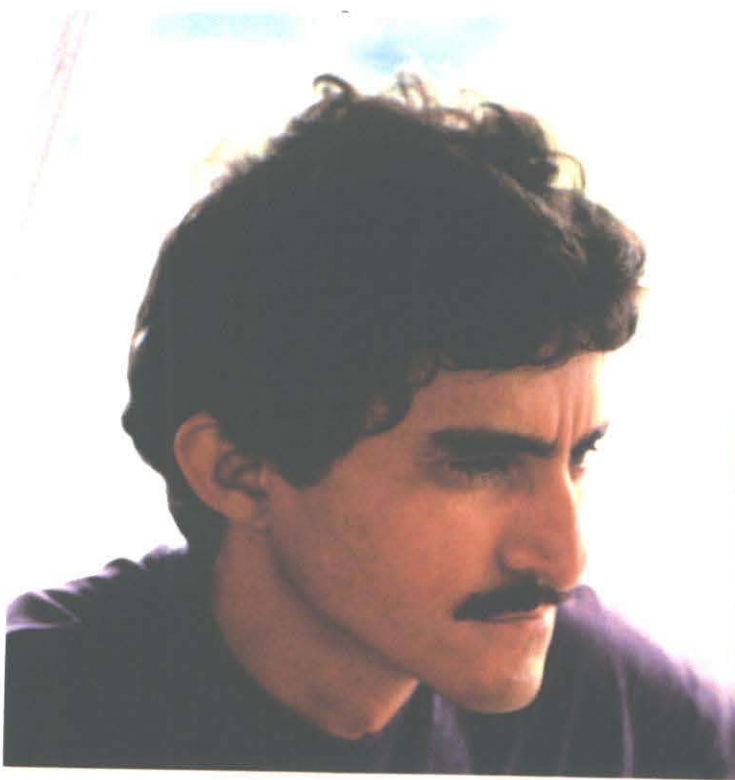
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<sup>10</sup> Ibid, pp.29-30.

<sup>11</sup> See Report on Human Rights Practices for 1993: Brazil (US Department of State) 17 pp. held by author.

<sup>12</sup> See, amongst numerous publications: Brazil: Authorised Violence in Rural Areas (1988); Brazil Briefing (Sept 1988); We are the Land: Indigenous Peoples' Struggle for Human Rights (1992); Brazil: Killings of Members of the Truka and Atikum Indigenous Communities in Pernambuco State (August 1991).

<sup>13</sup> See Oxfam Report, op. cit. pp 19-30; 32-58.



widespread rural violence and killings of Indians, squatters and their advisers (including lawyers) in rural areas over past decades, again with little effective police or judicial control. In 1993, the U.S. Department of State reported<sup>14</sup>:

"Extrajudicial killings continue to be the principal human rights problem in Brazil. Killings of criminal suspects and minors by vigilante groups, often including members of police forces, usually go unpunished. There is also widespread violence against women and the poor, who are predominantly from racial minorities or of mixed race. In rural areas, landowners and their agents frequently resorted to threats and violence, including killings, against activists. A confrontation between invading gold miners and Yanomami Indians, in August 1993, along the Venezuelan-Brazilian border, resulted in the death of 16 Indians - including women and children - from the Haxima village, and the Indian village being burned down. Charges of genocide have been brought against 23 miners. Only 2 were taken into custody; they were released on December 19 1993 when their trial was delayed owing to difficulty in locating witnesses .... a widespread climate of impunity remains the greatest obstacle to improving human rights in Brazil".

Similarly, informants spoke to me of a "climate of immunity", where it appears to be accepted that the poor (including Indians) have no rights, and that the ruling cartel made up of government, the business, bureaucracy and the military are not accountable to the rule of law<sup>15</sup>. Hired killers ("pistolleiros") continue to pose a real threat to Indian leaders, and communities who occupy lands in conflict with farmers, miners, loggers, and government officials. Police protection and investigation of crimes involving the poor is unavailable, incompetent, corrupt, or at best, agonisingly slow. An explanation provided to me on several occasions was that police were so poorly paid (and trained) that corruption was endemic and accepted as a survival mechanism. This whole area of breakdown in law and order remains a major continuing problem when advocating Indian rights.

•Economy and Distribution of Resources: Deficiencies in Brazil's current treatment of its millions of impoverished citizens, including Indians, must also be seen against the brutal realities of its parlous economy. In my view, such realities provide no

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<sup>14</sup> U.S. Department of State, at Report, op cit. pp. 1-2, 11.

<sup>15</sup> Diary, p. 41.



excuse for many excesses mentioned in this Report: but they may provide some explanation. Brazil suffers 40-50% inflation per month, with an annual rate (1993) of over 2,400%<sup>16</sup>. As stated to me by one informant, 120 million people living below the poverty line are, "economic excess" and are "abandoned by their government". There is a constant complaint that the Congress and government agencies (especially FUNAI) responsible for Indian affairs, do not deliver moneys to various programs, even when those moneys are appropriated by the parliament. Thus it was stated to me that, in 1994, US\$39,320,000 was set aside by Congress for Indian programmes, yet only 5% of that allocation has actually been delivered (US\$1,810,000)<sup>17</sup>. Further, a \$A8.4 million World Bank loan recently provided for Indian health programs has similarly been held up by Brazilian politicians, and simply not spent - apparently due to a "lack of political will to spend the monies" - despite the appalling needs of many Indian communities<sup>18</sup>. There are similar complaints that a very wealthy small elite (perhaps 5% of the community) governs the country, and controls 90% of the resources, while the vast majority of the population receive a very inadequate portion of the nation's resources. The U.S. Department of State Reports<sup>19</sup> :

"Large disparities in income distribution characterise Brazilian society, with the poorest 20% of the population having only 2% of the national income. The richest 20% have 26 times the income of the bottom fifth, and an estimated 32 million Brazilians every day received a less than adequate diet."

As to the more specific question of land-distribution, Oxfam reported, in 1991<sup>20</sup>:

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<sup>16</sup> U.S. Department of State Report, op cit, p. 1.

<sup>17</sup> Diary, p. 42.

<sup>18</sup> The Age 9/4/1994. The Age reports Yanomami as "reduced to a diet of bread and water through lack of funds; malaria, tuberculosis and other diseases spreading unchecked; (and) ... one Indian community of 115 members having 23 cases of malaria (with) two people dead (as a result)."

<sup>19</sup> U.S. Department of State Report, op cit p.1.

<sup>20</sup> See Oxfam Report op cit, p. 3.

"Brazil is a land of immense contrasts in wealth. In 1984, according to the Movement of Landless People, 4% of the people owned 67% of the cultivable land, while the poorest 71% of people were squashed onto 10.9% of the land. These small farmers fed Brazil. Of the food staples, they provide almost 28% of the rice, over 55% of the maize, over 66% of the beans and almost 78% of the manioc. But over two-thirds of them live below the poverty line, receiving only half the statutory minimum wage or less. Brazil is the world's second largest agricultural exporter, after the United States, yet malnutrition causes almost seven out of every ten deaths among children under 5 years of age."

The persons to whom I spoke certainly received very low salaries. A lawyer of seven years' experience working in human rights areas received a salary of US\$700 per month; a school teacher received US\$5 per hour on daily contract only; waitresses, waiters, shop assistants and taxi drivers appeared to receive even less. A 1991 Report<sup>21</sup> states income per person per annum at US\$2,160 (UK equivalent US\$12,810); the poorest 20% have 2.4% of household income (UK equivalent 5.8%); the richest 20% have 62.6% of household income (UK equivalent 39.5%). Similarly, in regard to Indian communities, there is no government-financed support for those communities, their organisations or their programs. Thus Indians I spoke to from the Xucuru community, south-west of Recife, (where I visited), receive no unemployment benefits, no old age pension, no social welfare payments, no single mother's pensions, or the like. The community, however, it must be said, appeared healthy to me, and appeared to survive well on gardening and agricultural pursuits, which produced food all year round. Certainly I saw no evidence of malnutrition amongst the Xucuru children I met.

#### INDIAN COMMUNITIES:

.General: My informants suggested that anthropological studies prior to the last 20 years or so, have been very defective<sup>22</sup>.

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<sup>21</sup> Ibid, p. 113.

<sup>22</sup> For a useful description of cultural blocks, at 1967, see J.H. Hopper (ed) Indians of Brazil in the Twentieth Century (Institute of Cross-Cultural Research, Washington, 1967).

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The most comprehensive up-to-date information appeared to be held by CEDI, arising from their land- demarcation activities. A map showing broad cultural areas, as understood in 1967, is shown at Appendix C. The Indian population is now said to be increasing, and numbers about 250,000<sup>23</sup>, or about 0.2% of the population. This is approximately the same national percentage as Aborigines in Australia. Various estimates were given to me, and it is impossible to be accurate. However, according to CEDI, the Brazilian Indian community is comprised of 200 different tribal groups (CIMI 180) speaking about 180 languages (CIMI 150)<sup>24</sup>. Of these tribal groups, 84 number less than 200; 45 number 200-500 people; 30 number 500-1,000; 77% number less than 1,000<sup>25</sup>. About 30 groups were said to be as yet uncontacted, living in the Amazon forests.<sup>26</sup> As mentioned at Appendix B, the dispossession and destruction of Indian communities has been going on for 400 years (at least in the coastal heavily-populated regions) and continues today. The Kaioma tribe of the Guaranis Indian nation, for example, originally came from Paraguay and the Matto Grosso regions of Brazil. They have lost and been removed from virtually all of their original lands. Over recent years, a dozen or more each year have suicided due, it is said, to cultural loss, coupled with a strong traditional belief in an after-life, called "land without problems". In February 1994, yet another Kaioma community revealed their intention of mass suicide, due to inability to pursue traditional life-style, eg. care for graves of their ancestors<sup>27</sup>.

•Amazonia: For the purposes of this Report, this enormous area is of special significance for a variety of reasons. First, the uncontacted Indian communities mentioned above reside in these forests. People are aware that they are there - they see signs

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<sup>23</sup> U.S. Department of State Report, op cit. p. 11.

<sup>24</sup> Diary, p. 55. The U.S. Department of State Report, op cit. p. 11, alleges "170 different languages".

<sup>25</sup> Diary, p. 25.

<sup>26</sup> Diary, p. 55, per CIMI.

<sup>27</sup> Diary, p. 46.

of habitation, although they have not seen the individuals. Best estimates are up to 50,000 people, probably much less. Their existence, and the inexorable penetration of their traditional lands by missionaries, tens of thousands of gold miners, super highways, various resource developers, plus the burning of the rain forest for land reclamation creates serious ethical problems for government and NGO's alike, and pressing dangers to these indigenous groups. These issues have been much discussed over the past decades<sup>28</sup> and need not be pursued here - save for the "evangelism" issue mentioned below. The above factors however make Amazonia a focal point in the current debate concerning Indian rights, especially land rights.

#### INDIAN ORGANISATIONS

•General: So far as I could ascertain, there is no such thing as a Brazil-wide Indian movement. There are however, numerous organisations working at the national regional, and local level<sup>29</sup> only some of which I was able to contact. On occasions (eg, during the constitutional reform processes of 1988) some of these organisations have co-ordinated their efforts and worked effectively at a national inter-connected level. Most of the organisations I contacted were based in or assisted by, the Catholic or Presbyterian Churches, or were pro-Indian secular NGO's. These organisations were funded not by government, nor by FUNAI, but by charities from American foundations or European sources. They appeared to me to be generally in their early stages of development. All had wholly inadequate resources to cope with the many demands made of them. For a list of Indian organisations as at 1990, prepared by CEDI, see Appendix D.

•Amazonia: The Amazonian Indian organisations are of particular interest. They are becoming increasingly organised, in an

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<sup>28</sup> See, e.g. various Amnesty International Reports, mentioned at footnote 12 above; Oxfam Report, supra.

<sup>29</sup> At the National level, the Union of Indian Nations (UNI); at the local level (amongst many) the organisation of the Indian Peoples of the River Envira (OPIRE), with a small headquarters at Feijo, in Western Acre. The River Envira runs down from the Peruvian border. Both UNI and OPIRE are supported by Oxfam. See Oxfam Report, op cit, pp. 20-24.

attempt to increase their lobbying power and to better defend their rights. COAIB for example, whose office is located in Manaus, is a peak co-ordinating indigenous Brazilian body in touch with Indian organisations operating in nine surrounding countries, (all of whose borders overlap into the geographical area of the Amazon Basin) plus local Indian groups in Amazonia (Brazil). Indian organisations in these surrounding nine countries have also created their own overlapping peak representative body, COICA<sup>30</sup> which meets every two years, has conferences and lobbies international governmental agencies such as the United Nations, the World Bank and the International Tropical Timber Organisation. Thus the Amazon region appears to be spawning some of the most active Indian organisations in the country, in response, one may suppose, to the massive and destructive invasion of Amazonia by gold-miners, timber-cutters and others, mentioned above.

POLITICAL SYSTEM, and GOVERNMENT:

The Federal Republic of Brazil became independent from Portugal in 1822 and a federal republic in 1889. It now comprises 23 states (each of which has a directly elected governor and legislature), three territories and a federal district (Brasilia). During the period of military rule (1964 - 1988) and after much internal unrest and agitation political parties were again allowed to form (from 1980) and Brazilian people began to press for direct elections. In 1985 there was a limited return to democracy, with elections at state and local level. A new relatively liberal President - President Neves - was elected by an electoral college (not popular vote) but his PMDB party retained strong links with the military.

Following the coming into effect of the New Constitution on 6 October 1988, the first fully democratic presidential elections for 26 years were held in 1989. The contest eventually was between the right wing candidate Fernando Collor de Mello and the

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<sup>30</sup> Co-Ordinating Body for the Indigenous Organisations of the Amazon Basin. It unites the national Amazon Basin Indian organisations of Colombia, Ecuador, Peru, Bolivia, Brazil, French Guyana, Surinam, Guyana and Venezuela.



left wing candidate Luis Inacio da Silva ("Lula") - the leader of a new workers party ("PT"). In a run off election, held on 17 December 1989, Collor defeated Lula by a little over 5%, and took office as president on 15 March 1990<sup>31</sup>.

In September 1992, following allegations of presidential involvement in official fraud and corruption, the whole cabinet resigned, and President Collor was impeached and tried before the Senate commencing on 29 December 1992. Minutes after the trial began, Collor resigned. Vice President Itamar Franco (who had assumed the acting Presidency in October) took office to serve out the last two years of Collor's term, at the head of a new multi party government. In an April 1993 plebiscite, Brazilian voters endorsed the presidential system, and rejected a proposal to adopt a parliamentary form of government. The crisis, however, displayed that a successful constitutional transfer of power could be achieved in Brazil without intervention from the armed forces, suggesting that, despite the tenor of this Report, "the rule of law" generally prevails in Brazil. Further, for current purposes, the identity of the President (more particularly, his attitude towards Indian rights) is important. As mentioned below, the President retains ultimate powers in regard to the land demarcation process.

National legislative authority now rests with the bicameral national congress comprising a Chamber of Deputies of variable size (503 in 1991) which is directly elected every four years by a system of proportional representation, and a 72 member federal Senate. Senators are elected for eight-year terms with elections at four year intervals for, alternatively, one third and two thirds of the members. Congressional elections are by universal and compulsory adult suffrage, with one third of the senators elected indirectly. Federal executive power is exercised by the President who appoints and leads the cabinet. For a description of government structures in Brazil, see Appendix E.

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<sup>31</sup> Oxfam Report, op cit, p. 112.



At the State level, each State has a unicameral parliament, plus a third tier of local or municipal government. Unlike Australia, power over indigenous matters is provided solely to the Federal Government. Like Australia, States tend to be more unsympathetic, or blatantly more antagonistic to Indian interests than the Federal Government. The President, two-thirds of the Senate, 503 members of the House of Deputies, 27 State Governors and members of State Parliaments, are all facing elections on 3 October 1994. My informants indicated that they do not expect these elections to deliver any radical changes in governments' policies or administrative practices (often malpractices) concerning Indians at Federal or State levels. The left-wing candidate - "Lula" - is not expected to win.

THE CONSTITUTION 1988:

•Military Rule: 1964 - 1988: Following a period of military dictatorship, (1964-1985) Brazil drafted a new constitution in 1987-1988, which was finally promulgated on 5 October 1988.<sup>32</sup> The final product is a <sup>33</sup>"lengthy, detailed and convoluted document, containing 245 articles and 70 transitory provisions". It provided for direct presidential elections and confirmed a five year presidential term. It removed many of the restrictions imposed during the period of military rule. Under the former military constitution, for example<sup>34</sup>:

"Indians were regarded as legal minors, being wards of the Federal Indian agency, FUNAI. FUNAI, in turn, was simply the agency responsible for executing the policy drawn up by the military government. FUNAI drew up an Indian Statute, which became law in 1973. This recognised the Indian's right to remain on their lands and to own any wealth derived from them. But the loopholes in the

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<sup>32</sup> For an English version, see Blaustein & Flanz (eds) Constitutions of the Countries of the World (entry under Federative Republic of Brazil (Oceana, N.Y. 1990). For an excellent commentary (in English) see K.S. Rosenn, "Brazil's New Constitution: An Exercise in Transient Constitutionalism for a Transitional Society" (1990) 38 American Journal of Comparative Law 773-802. The 1988 Constitution was Brazil's eighth since 1824. See Rosenn, ibid. at 773.

<sup>33</sup> Ibid, p. 777.

<sup>34</sup> Oxfam Report, op cit. pp. 27-28.

Statute were telling: the government was authorised to intervene in Indian lands 'in the interests of national security'; 'in order to carry out public works in the interests of national development', and 'to explore the riches of the sub-soil if they are of outstanding interest for national security and development'".

•Indian Rights "Entrenched?": The 1988 Constitution recognises Indians as adult citizens of Brazil with a right to vote. Chapter 8 contains significant new protective provisions supporting Indian rights generally, including rights to possess their traditional land (but not "title" to it), together with its surface resources. See relevant extracts at Appendix F. Thus, for example, before mining may occur within Indian lands, first the Congress must consent; second, the Indian community affected must consent; third, the mineral resources must not be available elsewhere to the mining company. These strong provisions, however, are not translated into force on the ground in local situations. As Oxfam reports<sup>35</sup>:

"between paper and reality there is an enormous gulf. Political will, as well as appropriate laws and resources, is needed to bridge this gulf."

With the Yanomami Indians, for example, in the north of the Amazon Basin, gold was discovered in Yanomami land in 1987 and 45,000 men flooded into the region, seeking riches. By 1990 40,000 gold-miners remained<sup>36</sup> and the Yanomami population had been reduced from 10,500 to 9,000, mainly by new diseases.<sup>37</sup> Today 1000 - 1500 individual goldminers illegally (i.e. contrary to clauses of the Constitution) continue to invade Yanomami land to dig for gold with disastrous social effects, apparently with the active support of the local state governor and police. Approximately 1,500 Yanomami have died over the past four years due to disease, shootings, and dispossession generally<sup>38</sup>. Even after Federal Court proceedings in 1989 resulted in an order to remove the prospectors from Yanomami land, the governor of

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<sup>35</sup> Ibid, p. 27.

<sup>36</sup> Ibid, p. 24.

<sup>37</sup> Encyclopaedia Brittanica, Year Book 1992, p. 94.

<sup>38</sup> Diary, p. 25.



Roraina State, with the agreement of the then President Sarney, allowed prospectors to leave voluntarily. The Federal Court accused the government of violating the October 1989 order; the then government backed down and agreed to removal of prospectors from all disputed territory within 90 days, effectively deferring the problem for incoming President Collor. Collor introduced "Operation Yanomami" in 1990, bombed some illegal miners' airstrips, but prospectors simply disappeared and relocated their operations.<sup>39</sup> The position remains unresolved today: for an up-to-date account by CIMI, see Appendix G. Gold-mining continues; local governments and police continue to support miners and their personnel, and to attack the Indian communities blockading roads into their lands. Such a situation seriously undermines the basic institutions of Brazilian society, especially the rule of law.

•Reform Proposals: Part of the 1988 constitutional settlement involved an agreement that after not less than five years, the constitution could be reviewed or reformed. Why this was considered necessary I do not know. However, as a result, approximately 17,000 suggested amendments to the constitution have been received, including around 170 concerning chapter 8<sup>40</sup>. (Another well-placed informant put the figure at 230, only five or six of which would, if adopted, strengthen Indian rights<sup>41</sup>. Despite the above inabilities to enforce current Indian rights, the vast majority of these proposed amendments to chapter 8 would, if adopted, have the effect of diminishing Indian rights already "enshrined". The Congress has the responsibility to vote upon these thousands of proposed amendments. A congressman was deputised to consider the various suggested amendments (in regard to chapter 8) and consolidate them for consideration. However, because thousands of suggested amendments to those parts of the constitution dealing with priority matters (the economy, government structures), have not yet been resolved, it is thought that the Congress will not have time to reach the chapter 8

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<sup>39</sup> Diary pp. 24-25; Oxfam Report, op cit, p.26.

<sup>40</sup> Diary, p. 23.

<sup>41</sup> Diary, p. 42.

matters prior to the general elections scheduled for October 1994. This scenario is considered a benefit by those informing me since they are engaged in a rearguard action in an attempt to maintain those rights secured in the constitution in 1988, being rights now under threat.

#### THE LEGAL SYSTEM

.Ordinary Laws: Part of the problem exemplified by the Yanomami example given above, and a reason underlying the astonishing (to an Australian lawyer) scenario of state governments blatantly flouting not only constitutional rights, but also court injunctions, is that constitutional rights have limited legal impact unless they are translated into force via the enactment of "ordinary laws" by Congress. That is to say, pursuant to the Constitution, the rights set out therein are required to be put into force by further enactments of the Federal Parliament. Thus, writing in 1990, Rosenn states:<sup>42</sup>

"... a vast amount of implementing legislation must be enacted in order to make Brazil's new Constitution fully effective. According to the (then) Minister for Justice, (the) enactment of some 285 ordinary statutes and 41 complementary laws (is required) in order to effectuate the Constitution's provisions .... Thus far (i.e. 1990) Congress has failed to comply with most of the directives and deadlines it formulated when wearing its Constituent Assembly hat. The great bulk of the implementing legislation has yet to be enacted .... In addition, thousands of existing laws have been implicitly revoked or need to be modified to conform with the new Constitution ... (leaving) many areas in a state of judicial chaos."

This state of "judicial chaos" manifestly still applies to the area of Indian rights.

Further enactments or "ordinary laws" are now being introduced in a variety of areas but again, such laws have not yet been finally enacted in regard to chapter 8. In 1989, a "special ordinary law" concerning Indian rights was introduced into the federal Congress, was passed by the Senate, but was stalled in the House of Deputies<sup>43</sup>. Three new and revised versions of this

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<sup>42</sup> Rosenn, op cit, pp. 778-9.

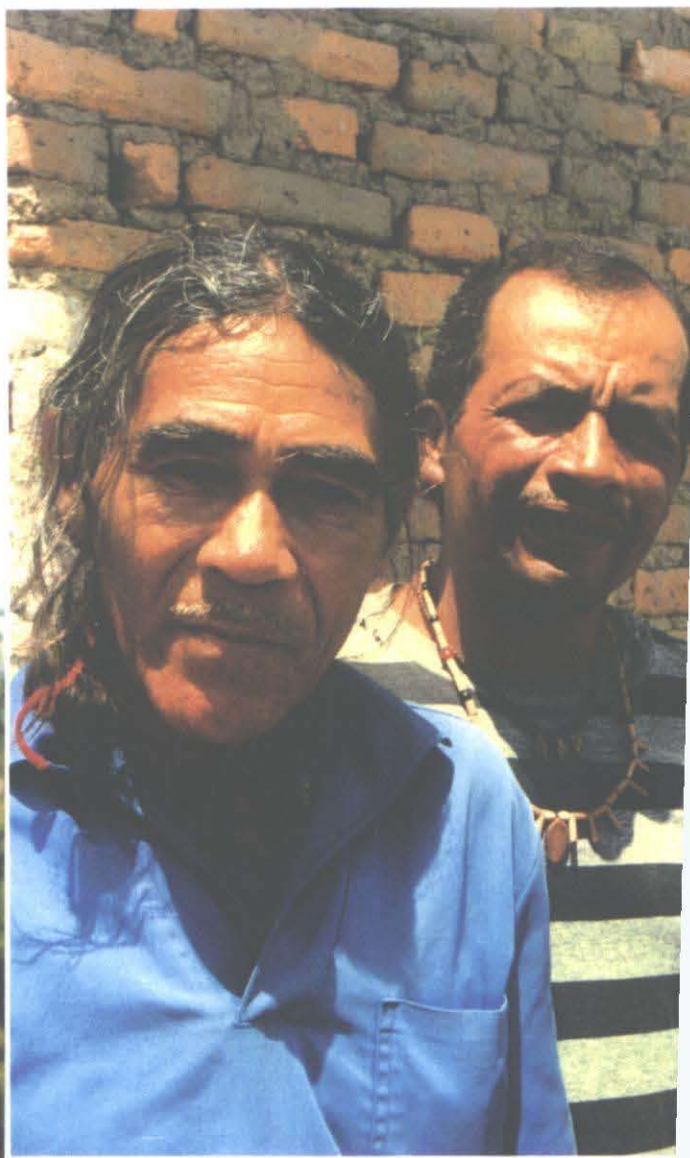
<sup>43</sup> Diary, p. 24.

proposed ordinary law have been devised by FUNAI; CIMI, and the Nucleus (an NGO based on Brasilia). A congressman was deputised to attempt to settle a single proposed ordinary law out of these three drafts. When I left Brazil (mid April 1994), the latest draft had just arrived at the COIAB office in Manaus for consideration. During the last week of June 1994, this ordinary law finally passed the Chamber of Deputies, but still must be passed by the Senate. For further details, see a CIMI Newsletter at Appendix H. Until such ordinary laws are brought into effect, it appears difficult to enforce Indian rights built into the Constitution.

.The Courts: Under the Constitution, matters concerning Indian rights fall within federal courts' jurisdiction. The federal system of courts includes local courts and appeal courts leading to the Federal Supreme Court sitting in Brasilia. There is a system of state courts, from which appeals lie, in many matters, to the Brazilian Federal Supreme Court. See, for further details, Appendix E.

My informants universally did not have great confidence in the courts, especially state courts at the lower levels. They considered them biased, slow, expensive and uncertain. Further, court orders in favour of Indians especially from lower state courts, appeared to enjoy, at times, little power. As indicated above, they were often blatantly disobeyed by defendants (including state agencies and police forces) apparently with impunity. Lawyers I spoke to thus favoured political lobbying first, with the "court" option a last resort. However, by contrast, the NDI office (Brasilia) had pursued, and was continuing to pursue, a number of "test" cases through federal court appeal structures.

.Legal Services: As mentioned, those informing me were extremely reluctant to consider the courts as a viable option in seeking to redress abuses or enforce their rights. These difficulties are compounded by the fact that there is no legal aid scheme to speak of, and there are no government funded, or indeed any,



"Indian" offices of the nature of Aboriginal Legal Services or Land Councils, devoted to asserting Indian rights of the type familiar to Australians. The federal prosecutor's office, however, has the constitutional obligation to defend Indians. It does this from time to time, but it is hopelessly under-resourced. The officer to whom I spoke stated there were 13 prosecutors allocated to Indian matters for the whole of Brazil and that this was quite inadequate.

Similarly, FUNAI has the responsibility to protect Indian rights, but, as mentioned above, it also appears to be hopelessly under-resourced in the area of Indian Legal Services. Despite a statement to me to the contrary by an officer of FUNAI (Head Office, Brasilia), it appears that that agency has run no cases in support of Indian rights over the past five years<sup>44</sup>. Although FUNAI employs 56 lawyers in 46 regional offices, it has not prosecuted persons who have violated Indian rights for five years<sup>45</sup>. Its lawyers seem mostly concerned to prosecute FUNAI's own employees for various civil or criminal breaches.

CIMI, being the branch of the Catholic Church active in Indian affairs, on occasions has provided funds or personnel to run cases especially to the Federal Supreme Court in Brasilia, but such legal activity appears to be very occasional.

Most legal services (so far as I could ascertain), apart from CIMI, appeared to be provided by various NGO's, both Indian and non-Indian based. For example, the NDI (Nucleus), a small NGO in Brasilia, includes three lawyers who are focusing on such high level litigation. The NDI (and other NGO's mentioned at Appendix A) receive funding from American foundations or European contributions and are in their developmental stages only. Litigation, however, is not a strong element in the activities of Indian organisations or other NGO's. Rather they prefer to pursue political pressures and lobbying in the Congress in Brasilia, or at the local level.

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<sup>44</sup> Diary, p. 56.

<sup>45</sup> Diary, p. 56.



THE SYSTEM OF "LAND RIGHTS": LAND DEMARCATION:

Following the enactment of the 1988 Constitution, the Federal Government was charged with the responsibility of demarcating 519 indigenous areas within the following five years, i.e. to October 1993<sup>46</sup>. Thus a bureaucratic process designed to deliver rights of use and occupancy of traditional lands (but not "title") to Indian communities was put in place. Under this process, called demarcation, a four-step scheme is pursued. First is identification ("identificar"), when a land area is identified as the "traditional" land of the relevant Indian community. Second is interdiction ("identificada"), when regulations and procedures are introduced to forbid entry to the lands. Third is demarcation ("demarcada"), when the boundaries are precisely mapped. In border areas this stage has been complicated by the demands of the military, who require a 50km buffer zone for defence purposes. The boundaries are also physically marked with a fence-line (eg. in Southern regions) or cut through the forest (in Amazonia). Finally is proclamation ("regularizada"), when the President and the Minister for Justice sign a decree which delivers rights to use and occupation of the land to the Indian community involved<sup>47</sup>. By the October 1993 deadline, this process of legal demarcation and issuance of titles had been accomplished for only about half of the 519 areas.<sup>48</sup> For an overview (in Portuguese) of the position throughout Brazil as documented by CEDI as at 1990, see Appendix I.

The CEDI group in Sao Paulo continue to document and map identified traditional Indian lands throughout Brazil. CEDI has collected detailed information about every area of land identified as Indian land in Brazil; compiled maps indicating the various status of each area of land; and holds a great mass of hard-copy and computerised information about the whole process, including satellite photos: See Appendix I for an overview of land demarcation as at 1990. For an example of CEDI's detailed documentation of Indian lands in the North-East, including the

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<sup>46</sup> U.S. Department of State Report, op cit. p. 11.

<sup>47</sup> Diary, p. 26.

<sup>48</sup> U.S. Department of State Report, op cit. p. 11.

status of Xucuru lands as at 1990, see Appendix J. CEDI stated to me that as at 1994, throughout Brazil, about 540 areas have to date been identified as "indigenous lands" i.e., lands traditionally occupied by Indian people, within the meaning of the Constitution. 320 of these areas are found within the Amazon region. Some of these are large areas, comprising 98% of the total Amazon region. In the South, by contrast, indigenous lands can be very small, eg. 40 acres. Of the 540 areas, about 260 have proceeded through the above bureaucratic process to final "regularizada" since 1988. Thus for example, in November 1991 President Collor signed two decrees creating 72 Indian Reserves consisting of 286,977 sq. km. of land - 2% of Brazil's land mass. One of these decrees reserved a 176,977 sq. km. area of rainforest in the Northern Amazonia for the Yanomami, then estimated to number 9,000 people.<sup>49</sup> As indicated above, about half of CEDI's 540 areas appear to be struggling through various stages of the process. I possess a large map (provided to me by FUNAI, Brasilia) which indicates the areas currently involved, colour-coded under the four above-mentioned categories.

Around the time of the June 1992 Rio Environment Conference (the "Earth Summit"), the then President Collor proclaimed a number of Indian areas, being the delivery of the final rights to land to the communities involved. However, since that time, although a number of areas have gone through the process and are ready to be proclaimed, President Franco (sworn in 29/12/92) and the Minister for Justice have refused to proclaim them.<sup>50</sup> Thus recently, 13 areas had been awaiting the signature of the Justice Minister, but he has refused to proceed<sup>51</sup>. When asked directly by Bishop Dom Apereido of Registro (CIMI) why not, he stated that he could not proclaim them due to political pressure. Thus the government is refusing to pursue its own processes, due it seems to pressures from industry and land owning interests. Indeed there appears to be a real danger that a number of areas which have already been proclaimed will now be degazetted. Thus

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<sup>49</sup> See Encyclopaedia Britannica, Year Book 1992, p. 94.

<sup>50</sup> Diary, p. 27.

<sup>51</sup> Diary, pp. 42-3.

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Indian organisations are now attempting to hold the line against such regressive tendencies by the current government, pending the forthcoming elections.

Even when land is delivered at the end of this process, it appears that many local state agencies, mining and forestry companies, and individuals invade the land contrary to constitutional rights and local laws, doing great damage to Indian communities and with apparent impunity from breaches of the law. Numerous stories were told to me of such incidents, including violation by police and state authorities of court orders, let alone constitutional rights. It appears that Indians have no recourse to the law in any effective way, and are a bottom priority from the Brazilian government when pitted against other interests wishing to use their land. This is confirmed by the U.S. Department of State, which reports, for 1993:<sup>52</sup>

"The Constitution gives Indians the exclusive use of the soil, rivers, and lakes located on their lands, while the Federal Government holds the authority to develop mineral resources found under Indian lands, as long as the Indians receive a share of the proceeds. Legal regulations for development have not been enacted,, but illegal mining and timber cutting are a constant problem on Indian lands. In one small victory for Indian rights, a federal judge ordered a timber merchant to compensate the Nhambiquara Indians for wood valued at \$40,000 which had been taken from an Indian reserve in the State of Mato Grosso. This sum is dwarfed by the amount of money being taken from economic exploitation of these lands by non-indigenous people."

ASSISTANCE FROM AUSTRALIA?:

•Lawyers: Many people I met considered that Australian lawyers could assist by, eg, financing projects, pursuing political pressure by writing letters, etc. The Brazilian Bar Association persons suggested that closer contact with Australian lawyers would be of assistance, in order to support them in their efforts to assert the constitutional rights of their citizens. It seems to me further that a conference, perhaps in Rio between Australian and Brazilian lawyers, would further assist them in these endeavours.

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<sup>52</sup> U.S. Department of State Report op cit. p. 11.

.Role of World Vision: I would encourage World Vision to, if possible, extend its (already overstretched) programmes to embrace the development and protection of Indian societies generally, and (from my perspective) the assertion and protection of Indian traditional rights to land in particular. The most obvious, (and I assume accessible), precedent to follow is the excellent work of CIMI, as described in this Report: see especially Appendix A. I'm sure that Bishop Dom Apareido would welcome the involvement of a Christian-based organisation with experience and infra-structure already in place in Brazil, as could be offered by World Vision. The precise role that World Vision may usefully perform would, of course, be a matter for its careful analysis. That role might be one or more of the following, being roles which (as I understand the current Brazilian operations) World Vision could undertake without undue restructuring of already established modus operandi in Brazil:

- raising international and local (Brazilian) awareness of particular issues (eg. Yanomami invasions; constitutional and legal reform). See Appendices G, H and K for examples of very useful information distribution (in English) by CIMI.
- engaging in lobbying, generating political pressure regarding particular local issues (eg. failure to proclaim Indian lands);
- liaise with, provide financial or other assistance to, various NGO's operating within Brazil, and involved with Amazonia (eg. COIAB, CEDI, NDI, COIAC);
- support, financially or otherwise, particular cases, including test cases, involving the protection or assertion of Indian rights, often against industry, land-owning groups, or state governments (eg. cases run by NDI);
- support with finance or community workers, a particular community or communities in areas already familiar to

World Vision personnel now operating in Brazil in various programmes, eg. education, housing, health, employment, accessing government programmes, services, or benefits (so far as these exist) (eg. the Xucuru community near Recife);

- child sponsorship of Indian children.

.Evangelism: Some of the Church personnel to whom I spoke, had, it seemed to me, an overtly evangelistic element to their activities. One even attempted, for example, to "convert" me. I am happy to report that he was unsuccessful. Another set out to justify the proposition that the isolated Amazonian Indian communities should be contacted, given a "choice" of faiths, and thereby eased into the modern world. Again, I lectured to a class-room of students in Brasilia at the Summer Institute of Linguistics, who were being trained to embark upon a career of translating the scriptures into various Indian languages, with the objective of converting those communities to the Christian faith. Such proselytising has, of course, been pursued throughout the world since the time of Christ.

I do not understand World Vision to be concerned with such activities around the world, or in Brazil. However, World Vision may be considering supporting church-based organisations which continue to actively proselytise in a destructive way. It seems to me, therefore, that if World Vision is to become involved with indigenous communities in Brazil, or elsewhere it should take a position on this question. Some commentators might see this as historically and today, a difficult question involving a delicate cost-benefit analysis concerning for example, the bringing of "civilisation" and much-needed assistance at the secular level, conflicting with a potentially damaging imperative to proselytise, or engage in "mission", as an article of faith. I readily accept that this is a question involving complexities. For example, as mentioned several times above, CIMI (being a branch of the Catholic church), is today pursuing invaluable work in advocating Indian (and human) rights throughout Brazil including at the highest political levels; yet historically,



Catholic missionaries since the 15th century have engaged in the sort of destructive evangelism which I oppose.

However, at the risk of appearing simplistic, naive or simply ignorant in Christology (to the last mentioned I plead guilty) and approaching this issue from the perspective of an agnostic lawyer who, for twenty-five years, has advocated indigenous human rights, including a substantial examination of the impact of colonisation upon indigenous communities throughout the former British Empire, I find little difficulty with this question. In my view, in today's world, it is unacceptable arrogance to deliberately set out to influence, let alone replace, a system of indigenous beliefs with one's own, whether that indigenous system be considered "inferior", of less utility in the modern world, or simply different, i.e. "non-Christian". Similarly, I see no justifiable basis to assume, in the first place, that an indigenous (or any "non-Christian") group wants to "choose" between spiritual or moral schemes, or must necessarily benefit from being presented with such a choice, or from such outside influences. I concede that at the "welfare" or human rights level, these positions are contentious, especially when attempting to strike a balance between Western priorities of individual human rights, and indigenous priorities. The latter often focus more upon "community" survival or cultural integrity than the human rights of the individuals who comprise it. Such priorities may lead to serious transgressions of individual rights, eg. the traditional Aboriginal practice of "promised marriage" let alone former practices of e.g. homicide. However these conflicts are to be resolved in any particular situation, they will not be assisted by wholesale evangelising from a priori positions. Rather than being provided with a translation of the Bible, or instruction in Christian belief, presentation of health and welfare instruction, and how to access government assistance, would, in my view, be of more use to these communities. If religious-based organisations feel they cannot divorce their much needed and valuable welfare work from the unrequested and potentially damaging spiritual or moral aspects of their pastoral care, then perhaps they should stay away altogether. Further, the provisions for example, of "optional Sunday observances" as



a "minor" addition to otherwise beneficial assistance to a community merely creates unnecessary problems for a dependent and indebted clientele.

I do not seek to ignore the practice and theory of liberation theology<sup>53</sup>, nor to forget the improved living conditions, political empowerment, and the real politick arising in part from church involvement amongst the powerless and the poverty-stricken of Latin America. My overall impression, however, is that, since the time of the Conquistadors' operations in South America, and throughout the European colonies of Africa, Australia, the Pacific and the Americas, the concept of "mission" and the aggressive evangelistic brand of Christianity as practised by some branches of the Christian church, has provided few long-term benefits, and caused untold and unjustifiable devastation amongst indigenous communities. I emphasise here that, being a guest in Brazil, and travelling as a consultant to and supported by World Vision, I presented the thrust of the above views, at various interviews, only when challenged by my hosts, and in a rather more restrained and, I hope, diplomatic fashion.

Similarly, I am yet to be convinced of any need to make contact with uncontacted Indian communities in Amazonia, other than for reasons which service the colonising powers. These "powers" include unfortunately, even today, not only governments, but Christian-based organisations, and even some branches of the Church itself. A multi-cultural society such as is found in Brazil should, by definition, value diversity, and should foster the continuance of minority cultures. Protection of such groups from the damage caused by contact, let alone the ravages of goldminers illegally entering, does not require the sort of "contact and conversion" intended by some church groups I spoke to. Rather, if contact is to occur at all, its objective should solely be containment of the potentially destructive impacts of the modern world (disease, dispossession, destruction of habitat)

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<sup>53</sup> See eg. A.J. Grittins Gifts and Strangers: Meeting the Challenge of Inculturation (Paulist Press, N.Y. 1989): P. Pope Levison & J.R. Levison Jesus in Global Contexts (Westminster/John Knox, 1992)

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and not the intellectual curiosity, evangelising obsessions, or resource greed of the 20th century.

These noble sentiments are, of course, easy to say. Based on my experience in Brazil, it will not be easy to achieve any significant turnaround in the foreseeable future in the destruction of Indian communities that has been perpetrated essentially by the State, but also by the Church in the name of the State, or in its own name, over the past 500 years. If this unhappy assessment is correct, this simply means that organisations like World Vision have an additional urgent, and important task to pursue in Brazil.

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23 August 1994

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APPENDIX AConsultations & Contacts

SUMMER INSTITUTE OF LINGUISTICS: American-based Christian organisation operating around the world, including Australia. Concerned to translate the Bible into the local indigenous language and spread the faith.

Contact

Ph. (061) 272 1200

Mr Paul Mullen, Vice President, S.I.L.  
SAI/No. Lote "D", Bloco 3.  
70770-730 Brasilia DF. Brazil

CIMI: CONSELHO INDIGENISTA MISSIONERIO: Section of the Catholic Church which has for several years done substantial work at local and government levels in support of Indian rights. CIMI works in the areas of education, health, economic programmes, including in various favellas. As to Indians, CIMI's objectives were said to be (1) defend Indian rights; (2) support Indian movements; (3) understand Indian issues in the whole Latin America context; (4) engage in religious dialogue between indigenous people and Roman Catholicism, from a position of respect for Indian beliefs, and not evangelism (Diary p.55). Perhaps the main advocate for Indians with government in regard to constitutional reform, civil and political rights, land claims, etc. 70 of the approx. 380 Bishops in Brazil are associated with CIMI. CIMI has about 300 "missionaries" working in various areas, being 12 regions - priests, nuns, lay people.

Contacts

\*Bishop Dom Apareido, (former Co-ordinator of Native Indian Program of RC Church, i.e. of CIMI)  
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\*Mr Cleto Regis (Interpreter)  
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\*Father Miguel Ferney  
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Salas 309/14  
70393 Brazilia DF

Fax. 55-61-225 9401  
Ph. (061) 225-9457

COIAB: COORDENACAO ORGANIZACOES INDIGENAS DE AMAZONIA BRAZILIA  
(Co-ordinating Body of Indigenous Organisations of Brazilian Amazon): Indian umbrella organisation co-ordinating and liaising with numerous local and regional organisations throughout Amazonia. Involved in top-level negotiations for new laws concerning Indian rights in Congress.

Contacts:

\*Mr Andre da Cruz, (Co-ordinator)  
\*Mr Silvio Cavuscens, (Advisor):  
CX Postal 1632. CEP, 69025 - 290  
Manaus, Amazonas, Brazil

Ph. 55-92-233 0548  
Fax. 55-92-233 0209

Address:

Ave Ayrao 235, Centro  
CEP 69025-290 Manaus - Amazonia.

COMISSAO PRO-INDIO (SAO PAULO): (The Pro-Indian Commission).  
A secular group which I met only briefly. NGO campaigning for Indian rights, including for ratification of ILO Convention 169.

Contact:

\*Ms Lydia Izabel da Luz  
Comissao Pro-Indio de Sao Paulo  
Rua Ministro Godoy  
1484 Salas 56.57  
05015 Perdizes, S.P. Brazil

Fax: 55-138-864 1180

CEDI: (CENTRO ECUMENICO DE DOCUMENTACAO E INFORMACAO): Very impressive organisation involved in constitutional reform, drafting new laws, gathering information about Indians, advocating civil and political rights. Main focus is on documenting traditional land areas and assisting the prosecution of Indian land claims through the bureaucratic process. See text.

Contact

\*Mr Carlos A. Ricardo  
Director, CEDI  
Ave. Higienopolis 893, Centro  
01238-001 Sao Paulo, Brazil.

Fax. 55-11-825 7861  
Ph. 55-11-825 5544

PRESBYTERIAN CHURCH, MANAUS: Not sure of the full range of activities specifically focusing on Indians. Main project at Manaus is the support and management of a hospital boat that services riverside communities (not Indian) along the Negro and Amazon rivers.

Contacts:

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Rua Silva Ramos 93, Centro  
CEP 69035-030 Manaus.

FUNAI: (NATIONAL INDIAN FOUNDATION): Federal Government Department responsible for Indian affairs. Often severely criticised by my informants for its damaging policies and practices both in the past and presently; seen as often facilitating exploitation of Indian lands rather than protecting. Has 46 regional offices, with 56 lawyers located around Brazil. Appears to follow a "decentralised" policy where regional offices may decide whether to pursue Indian grievances through legal or other means. Despite being responsible for initiating prosecutions for civil or criminal acts, FUNAI fails to do so at the local level, and its lawyers seemed confined to suing its own employees for various breaches of the law (Diary p.58).

Contacts:

\*Mr Antao F.B. Netto Ph. (061) 226 9411  
Coordenador de Relacoes Publicas Fax. (061) 226 9411  
Seups 702/902 Ed. Lex Bloco A  
Brazilia. CEP 70390-025.

\*Dr Lucio Flavio Coelho  
General Co-ordinator, Legal Defence Section  
as above

SOLICITOR: MANAUS: Associated with the Presbyterian Church contacts in Manaus.

Contact:

\*Mr Aguienelo Balbi Junior Ph. (092) 233 8895  
Misterio Public du Estado do Amazonas  
Rua Rio Jura 65-D  
Vieiralves Manaus Brazil.

BRAZILIAN BARRISTERS ASSOCIATION: Good contact point for accessing sympathetic lawyers throughout Brazil. Has various committees, or "Commissions". Human Rights Commission has 20 or 30 members, mostly in Sao Paulo.

Contact:

\*Mr Antonio Fernando Pedro

Co-ordinator, Human Rights Commission Ph. (011) 278 3899

Ordem dos Advogados de Brazil Fax.

Seecao de Sao Paulo

Praea da Se No. 385

Sao Paulo

Practice:

Rua Loureira da Cruz, N.225 Aclimacao

Sao Paulo, CEP 01529-020

NDI: NUCLEO DE DIREITOS INDIGENAS: An important, small, "impoverished" legal office. The closest analogy to an Aboriginal Legal Aid Service or Land Council. Pursues claims concerning Indian land issues, constitutional rights, etc. to the Superior Courts, including the Federal Supreme Court. Also involved in drafting new federal laws re Indians.

Contact:

\*Mr Marcio Santilli

Executive Secretary

Fax. 55-61-248 6420

Ph. 55-61-248 5412

\*Ms Ana V. Leitao Advogada

SHIS Q1 11 - Bloco K - Sala 65

CEP 71625 - 500

Brazilia DF.

FEDERAL PROSECUTOR'S OFFICE: Under the Constitution, this office has the responsibility of defending Indian rights, in the Courts. Office is seriously under-resourced.

Contact:

\*Mr Aurelio V. Rios

Procurador

Ave L-2 Sul-Qd 603/604 Lote 23

Procuradoria Geral Da Republica, Ministerio Publico

Federal

CEP 70200-901

Brazilia DF. Brazil

Fax: 55-61-313 5444

Ph. 55-61 313 5277

S. DAVIS, Victims of the Miracle (1977) 1-18.

## Brazilian Indian policy: an historical overview

The country along this river is a fine natural cattle country, and someday it will surely see a great development. It was opened to development by Colonel Rondon only five or six years ago. Already an occasional cattle ranch is to be found along the banks. When the railroads are built into these interior portions of Mato Grosso, the whole region will grow and thrive amazingly – and so will the railroads.

Theodore Roosevelt, *Through the Brazilian Wilderness* (1914)

At the beginning of this century, a wave of interethnic violence and conflict encompassed the southern regions of Brazil. During this period, Indians and pioneers contested vast areas of territory along Brazil's newly opened frontiers. In the forested area south of the Doce River and in the states of Minas Gerais and Espírito Santo, Botocudo Indians resisted the invasion of their tribal territory and were nearly successful in forcing the abandonment of an Italian-settler colony at São Mateus. In the State of São Paulo, Kaingáng Indians interrupted the construction of the Brazil Northwest Railroad and maintained control over a 200-mile area between the Tieté, Feio, Peixe, and Paranapanema rivers. Farther to the south, in the Brazilian states of Paraná and Santa Catarina, colonization companies paid professional Indian killers to massacre the Xoklém tribe.<sup>1</sup>

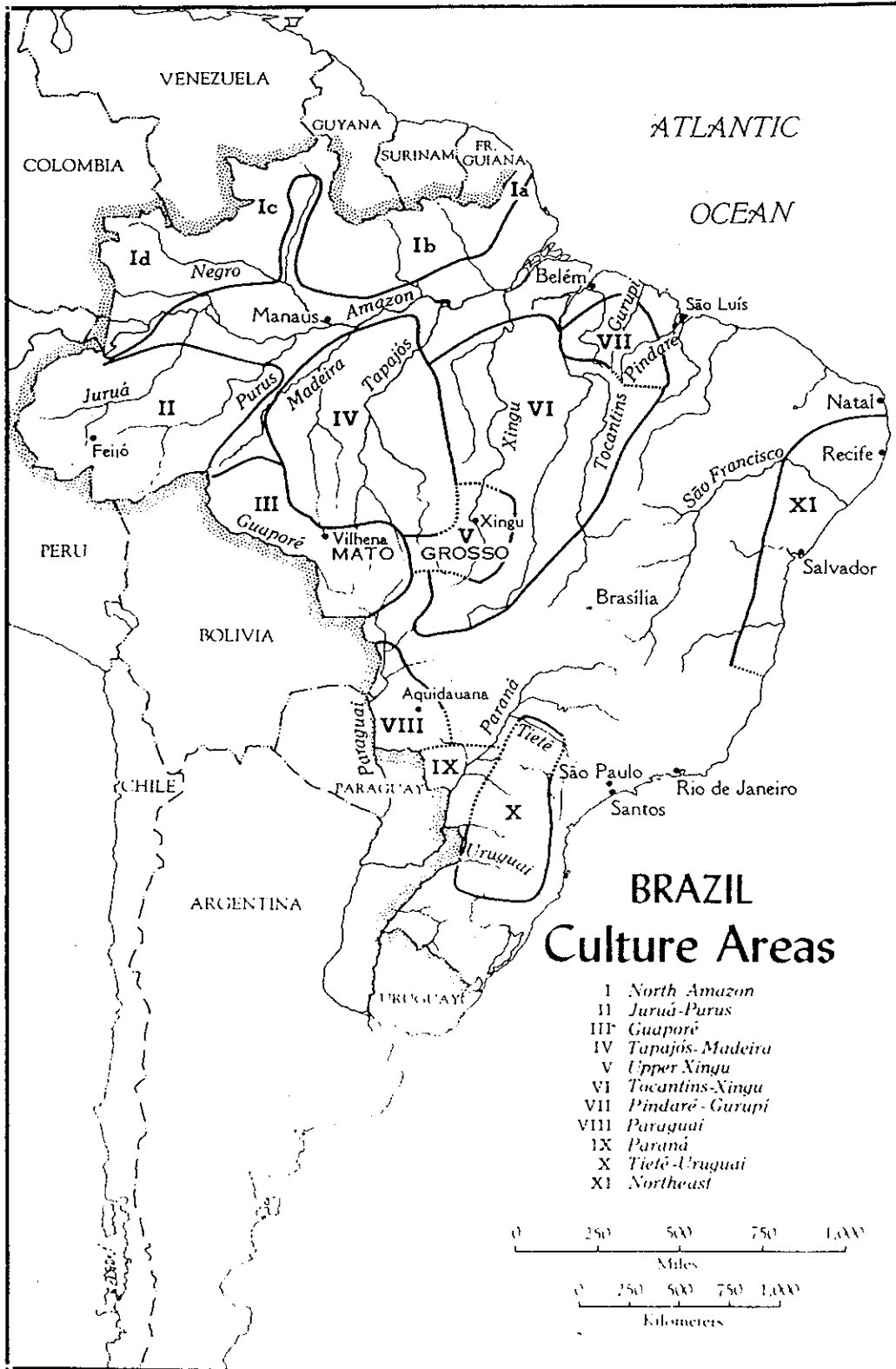
News of these conflicts filled the pages of the national press and caused a bitter and highly political debate in Brazil. During this period, several professors of German descent were teaching

racist social theories in the universities of São Paulo, and a number of continental missions called for immediate government action to protect the lives of European settlers in Brazil. The influence of these foreign elements was so great that the president of Brazil held several cabinet meetings to study the possibility of using the Brazilian Army to stop conflicts along the frontier. In the Brazilian Congress, a number of legislators argued that it was expedient, for purposes of national development, to use the same extermination tactics against Indians as those practiced by the U.S. military in the occupation of much of North America.<sup>2</sup> . . .

MAP: INDIAN CULTURAL AREAS

2

INDIANS OF BRAZIL IN THE TWENTIETH CENTURY





INDIAN ORGANISATIONS (1990).

# POVOS INDÍGENAS NO BRASIL

## 1987 / 88 / 89 / 90



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ESPECIAL 18

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Não constam aqui os colaboradores que também escreveram artigos e notícias assinados e cujos nomes aparecem nos respectivos textos.

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Bibliotecária: Tatiana Douchkin - CRB 8/586

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A equipe de edição deste Aconteceu montou a tabela abaixo apresentando uma relação das Organizações Indígenas registradas ou em processo de formalização institucional, e Organizações Não-Governamentais de apoio, com suas respectivas datas de fundação. Trata-se de uma relação incompleta, baseada nas informações disponíveis em agosto de 1991

Organizações Indígenas <sup>1</sup> (data de fundação)	Organizações de Apoio <sup>2</sup> (data da fundação)
<b>Região Norte</b>	
<i>Amazonas</i>	
Coiab - Coordenação das Organizações Indígenas da Amazônia Brasileira (1989)	Cimi
Aucirt - Associação da União das Comunidades Indígenas do Rio Tiquié (1987)	
Unirt - União das Nações Indígenas do Rio Tiquié (1990)	
Ucidi - União das Comunidades Indígenas do Distrito de Iauareté (1990)	
Unidi - União das Nações Indígenas do Distrito de Iauareté (1988)	
Acitrut - Associação das Comunidades Indígenas de Taracará, Rio Uaupés e Tiquié (1986)	
Amitrut - Associação das Mulheres Indígenas de Taracará, Rio Uaupés e Tiquié (1989)	
Aciri - Associação das Comunidades Indígenas do Rio Içana (1988)	
Amai - Associação das Mulheres de Assunção do Içana (1990)	
Acirx - Associação das Comunidades Indígenas do Rio Xié (1989)	
Acirne - Associação das Comunidades Indígenas do Rio Negro (1988)	
Arcine - Associação Rural das Comunidades Indígenas do Rio Negro (1989)	
Acibrin - Associação das Comunidades Indígenas do Baixo Rio Negro (1990)	
Ainbal - Associação Indígena do Balaio (1991)	
Foirn - Federação das Organizações Indígenas do Rio Negro (1987)	
Amarn - Associação de Mulheres Indígenas do Alto Rio Negro (1984)	
Aeiam - Associação dos Estudantes Indígenas do Amazonas (1984)	
Ceam - Casa do Estudante Autóctone do Rio Negro (1985)	
Copiar - Comissão dos Professores Indígenas do Amazonas e Roraima (1990)	
CGTT - Conselho Geral da Tribo Ticuna (1982)	
OGPTB - Organização Geral dos Professores Ticuna Bilíngües (1986)	Centro Magüta <sup>3</sup> (Benjamin Constant, 1985)
OGMST - Organização Geral dos Monitores de Saúde Ticuna (1990)	Opan
Omittas - Organização da Missão Indígena da Tribo Ticuna do Alto Solimões (1990)	Cimi
	Comin
	Marewa <sup>3</sup> (Manaus, 1983)
<i>Roraima</i>	
Apir - Associação dos Povos Indígenas de Roraima (1988)	CCPY (Boa Vista)
CIR - Conselho Indígena de Roraima (1987)	Cimi
<i>Acre</i>	
Movimento dos Povos Indígenas do Alto Juruá	
UNI-AC - União das Nações Indígenas do Acre	CPI-AC <sup>3</sup> (Rio Branco, 1979)
Associação dos Ashaninka do Rio Amônia/Apiutxa (1991)	Comin
Opire - Organização dos Povos Indígenas do Rio Envira	Cimi
<i>Rondônia</i>	
Organização Metareila do Povo Indígena Suruí (1989)	Cimi
Organização Tamare do Povo Cinta-Larga (1989)	Iama
	Comin
<i>Tocantins</i>	
Acim - Associação Comunidade Indígena Makrare (1988)	CTI
<b>Região Nordeste</b>	
Associação Massacará-Kaimbé (1991)	
Associação Comunitária Senhor da Ascensão de Mirandela (1991)	Anaf-BA <sup>3</sup> (Salvador, BA, 1979)
Associação Comunitária Kiriri do Saco dos Morcegos (1991)	Gaipa
	Cimi-Nordeste
	Grupo Recifense de Apoio à Causa Indígena(3)
	(Recife, PE)
<b>Região Centro-Oeste</b>	
<i>Goiás</i>	
CPI - Centro de Pesquisa Indígena (1989)	
<i>Mato Grosso</i>	
Kuarup - Organização Indígena do Xingu (1991)	Fundação Mata Virgem <sup>3</sup> (Brasília, DF, 1989)
Associação Xavante de Pimentel Barbosa (1988)	Opan <sup>3</sup> (Cuiabá, MT, 1969)
	GTME <sup>3</sup> (Cuiabá, MT, 1979)
<i>Mato Grosso do Sul</i>	
Acirk - Associação das Comunidades Indígenas da Reserva Kadiwéu (1989)	PKN <sup>3</sup> (Amambai, 1976)
Aiteca - Associação Indígena Terena de Cachoeirinha (1989)	Gain <sup>3</sup> (Dourados, 1986)
AMI - Associação dos Moradores Indígenas de Campo Grande (1988)	CTI
	NDI <sup>3</sup> (Brasília, DF, 1988)
	Cimi-Nacional <sup>3</sup> (Brasília, DF, 1972)
<b>Região Sudeste</b>	
UNI - União das Nações Indígenas (SP, 1979)	Anaf-Porto Alegre <sup>3</sup> (RS, 1977)
NCI - Núcleo de Cultura Indígena (SP, 1985)	CPI-SP <sup>3</sup> (São Paulo, SP, 1978)
ONI-Sul - Organização das Nações Indígenas do Sul	CTI <sup>3</sup> (São Paulo, SP, 1979)
Associação de Caciques Kaingang do Rio Grande do Sul	CEDI <sup>3</sup> (São Paulo, SP, 1974)
Organização de Professores Bilíngües Kaingang e Guarani do Rio Grande do Sul	CCPY <sup>3</sup> (São Paulo, SP, 1978)
Unami - União Nacional de Mulheres Indígenas (PR, SC E RS)	Cimi-Leste <sup>3</sup> (Belo Horizonte, MG)
Grumin - Grupo Mulher-Educação Indígena (RJ)	Comin <sup>3</sup> (São Leopoldo, RS, 1982)
	Peti-MN <sup>3</sup> (Rio de Janeiro, RJ, 1986)
	Iama <sup>3</sup> (São Paulo, SP, 1989)

(1) constam somente as organizações registradas em cartório ou em processo de registro.

(2) constam as organizações de apoio não governamentais especificamente voltadas para os índios, com exclusividade ou ênfase programática.

(3) sede da organização.

Regional Surveys of the World: South America, Central America & the Caribbean (1991) pp. 126-9.

**The Constitution**

A new constitution was promulgated on 5 October 1988. The following is a summary of the main provisions:

The Federative Republic of Brazil, formed by the indissoluble union of the States, the Municipalities and the Federal District, is constituted as a democratic state. All power emanates from the people. The Federative Republic of Brazil seeks the economic, political, social and cultural integration of the peoples of Latin America.

All are equal before the law. The inviolability of the right to life, freedom, equality, security and property is guaranteed. No one shall be subjected to torture. Freedom of thought, conscience, religious belief and expression are guaranteed, as is privacy. The principles of habeas corpus and 'habeas data' (the latter giving citizens access to personal information held in government data banks) are granted. There is freedom of association, and the right to strike is guaranteed.

There is universal suffrage by direct secret ballot. Voting is compulsory for literate persons between 18 and 69 years of age, and optional for those who are illiterate, those over 70 years of age and those aged 16 and 17.

Brasília is the federal capital. The Union's competence includes maintaining relations with foreign states, and taking part in international organizations; declaring war and making peace; guaranteeing national defence; decreeing a state of siege; issuing currency; supervising credits, etc.; formulating and implementing plans for economic and social development; maintaining national services, including communications, energy, the judiciary and the police; legislating on civil, commercial, penal, procedural, electoral, agrarian, maritime, aeronautical, spatial and labour law, etc. The Union, States, Federal District and Municipalities must protect the Constitution, laws and democratic institutions, and preserve national heritage.

The States are responsible for electing their Governors by universal suffrage and direct secret ballot for a four-year term. The organization of the Municipalities, the Federal District and the Territories is regulated by law.

The Union may intervene in the States and in the Federal District only in certain circumstances, such as a threat to national security or public order, and then only after reference to the National Congress.

**LEGISLATIVE POWER**

The legislative power is exercised by the National Congress, which is composed of the Chamber of Deputies and the Federal Senate. Elections for deputies and senators take place simultaneously throughout the country; candidates for Congress must be Brazilian by birth and have full exercise of their political rights. They must be at least 21 years of age in the case of deputies and at least 35 years of age in the case of senators. Congress meets twice a year in ordinary sessions, and extraordinary sessions may be convened by the President of the Republic, the Presidents of the Chamber of Deputies and the Federal Senate, or at the request of the majority of the members of either house.

The Chamber of Deputies is made up of representatives of the people, elected by a system of proportional representation in each State, Territory and the Federal District for a period of four years. The total number of deputies representing the States and the Federal District will be established in proportion to the population; each Territory will elect four deputies.

The Federal Senate is composed of representatives of the States and the Federal District, elected according to the principle of majority. Each State and the Federal District will elect three senators with a mandate of eight years, with elections after four years for one-third of the members and after another four years for the remaining two-thirds. Each Senator is elected with two substitutes. The Senate approves, by secret ballot, the choice of Magistrates, when required by the Constitution; of the Attorney-General of the Republic, of the Ministers of the Accounts Tribunal, of the Territorial Governors, of the president and directors of the central bank and of the permanent heads of diplomatic missions.

The National Congress is responsible for deciding on all matters within the competence of the Union, especially fiscal and budgetary arrangements, national, regional and local plans and programmes, the strength of the armed forces and territorial limits. It is also responsible for making definitive resolutions on international treaties, and for authorizing the President to declare war.

The powers of the Chamber of Deputies include authorizing the instigation of legal proceedings against the President and Vice-President of the Republic and Ministers of State. The Federal Senate may indict and impose sentence on the President and Vice-President of the Republic and Ministers of State.

Constitutional amendments may be proposed by at least one-third of the members of either house, by the President or by more than one-half of the legislative assemblies of the units of the Federation. Amendments must be ratified by three-fifths of the members of each house. The Constitution may not be amended during times of national emergency, such as a state of siege.

**EXECUTIVE POWER**

Executive power is exercised by the President of the Republic, aided by the Ministers of State. Candidates for the Presidency and Vice-Presidency must be Brazilian-born, be in full exercise of their political rights and be over 35 years of age. The candidate who obtains an absolute majority of votes will be elected President. If no candidate attains an absolute majority, the two candidates who have received the most votes proceed to a second round of voting, at which the candidate obtaining the majority of valid votes will be elected President. The President holds office for a term of five years and is not eligible for re-election.

The Ministers of State are chosen by the President and their duties include countersigning acts and decrees signed by the President, expediting instructions for the enactment of laws, decrees and regulations, and presentation to the President of an annual report of their activities.

The Council of the Republic is the higher consultative organ of the President of the Republic. It comprises the Vice-President of the Republic, the Presidents of the Chamber of Deputies and Federal Senate, the leaders of the majority and of the minority in each house, the Minister of Justice, two members appointed by the President of the Republic, two elected by the Federal Senate and two elected by the Chamber of Deputies, the latter six having a mandate of three years.

The National Defence Council advises the President on matters relating to national sovereignty and defence. It comprises the Vice-President of the Republic, the Presidents of the Chamber of Deputies and Federal Senate, the Minister of Justice, military Ministers and the Ministers of Foreign Affairs and of Planning.

**JUDICIAL POWER**

Judicial power in the Union is exercised by the Supreme Federal Tribunal; the Higher Tribunal of Justice; the Regional Federal

**BRAZIL**

Tribunals and federal judges: Labour Tribunals and judges; Electoral Tribunals and judges; Military Tribunals and judges; and the States' Tribunals and judges. Judges are appointed for life; they may not undertake any other employment. The Tribunals elect their own controlling organs and organize their own internal structure.

The Supreme Federal Tribunal, situated in the Union capital, has jurisdiction over the whole national territory and is composed of 11 Ministers. The Ministers are nominated by the President after approval by the Senate, from Brazilian-born citizens, between the ages of 35 and 65 years, of proved judicial knowledge and experience.

**The Government**

**HEAD OF STATE**

President: FERNANDO COLLOR DE MELLO (took office 15 March 1990).

Vice-President: Itamar Augusto Cantiero Franco.

**CABINET**  
(October 1990)

- Minister of Justice: Col (ret'd) JARBAS PASSARINHO.
- Minister of Foreign Affairs: FRANCISCO REZEK.
- Minister of the Economy: ZÉLIA CARDOSO DE MELLO.
- Minister of Agriculture: ANTÔNIO CABRERA FILHO.
- Minister of Education: CARLOS CHIARELLI.
- Minister of Environment: JOSÉ LUTZENBERGER.
- Minister of Labour: ANTÔNIO ROGÉRIO MAGRI.
- Minister of Health: ALCENI GUERRA.
- Minister of Infrastructure: Ing. OZIRES SILVA.
- Minister of Social Action: Margarida Maia Procópio.
- Minister of the Navy: Adm. MÁRIO CÉSAR FLORES.
- Minister of the Army: Gen. CARLOS TINOCO RIBEIRO GOMES.
- Minister of the Air Force: Brig. SÓCRATES DA COSTA MONTEIRO.

**MINISTRIES**

- Office of the President: Palácio do Planalto, Praça dos Três Poderes, 70.150 Brasília, DF; tel. (61) 223-2714; telex (61) 1451.
- Ministry of the Air Force: Esplanada dos Ministérios, Bloco M, 70.045 Brasília, DF; tel. (61) 223-0409; telex (61) 1152; fax (61) 223-0930.
- Ministry of Agriculture: Esplanada dos Ministérios, Bloco D, 8º, 70.043 Brasília, DF; tel. (61) 218-2800; telex (61) 1138.
- Ministry of the Army: Esplanada dos Ministérios, Bloco 4, 70.042 Brasília, DF; tel. (61) 224-6797; telex (61) 1094.
- Ministry of the Economy: Esplanada dos Ministérios, Bloco P, 70.048 Brasília, DF; tel. (61) 223-2729; telex (61) 1142.
- Ministry of Education: Esplanada dos Ministérios, Bloco L, 70.047 Brasília, DF; tel. (61) 223-7306; telex (61) 9105.
- Ministry of Foreign Affairs: Palácio do Itamaraty, Esplanada dos Ministérios, 70.040 Brasília, DF; tel. (61) 226-1762; telex (61) 1319.
- Ministry of Health: Esplanada dos Ministérios, Bloco 11, 70.058 Brasília, DF; tel. (61) 223-8158; telex (61) 1752.
- Ministry of Infrastructure: Esplanada dos Ministérios, Bloco R, 70.044 Brasília, DF; tel. (61) 223-4992; telex (61) 1994; replaced by Ministry of Communications, Mines and Energy, and Transport March 1989.
- Ministry of Justice: Esplanada dos Ministérios, Bloco T, 70.064 Brasília, DF; tel. (61) 224-2964; telex (61) 1088.
- Ministry of Labour: Esplanada dos Ministérios, Bloco F, 10º, 70.009 Brasília, DF; tel. (61) 224-6864; telex (61) 1158.
- Ministry of the Navy: Esplanada dos Ministérios, Bloco 3, 70.055 Brasília, DF; tel. (61) 224-3489; telex (61) 1392.
- Ministry of Social Action: Brasília.
- Ministry of Urban Development and Environment: SEPNI, Quadra 505, Bloco B, 70.730 Brasília, DF; tel. (61) 272-8413; telex (61) 1000.

**President and Legislature**

**PRESIDENT**

Elections of 15 November and 17 December 1989

Candidate	First ballot	Second ballot
FERNANDO COLLOR DE MELLO (PRN)	20,611,011	35,089,998
LUÍS INÁCIO (LULA) DA SILVA (PT)	11,622,673	31,076,364
LEONEL BRIZOLA (PDT)	11,168,228	-
MÁRIO COVAS (PSDB)	7,790,392	-
PAULO MALUF (PDS)	5,989,575	-
Others	10,449,133	-
<b>Total</b>	<b>67,631,012</b>	<b>66,166,362*</b>

\* In addition, there were 4,024,339 blank and spoiled votes.

**CONGRESSO NACIONAL**  
(National Congress)

President of the Federal Senate: Senator NELSON CARNEIRO.

President of the Chamber of Deputies: PAES DE ANDRADE.

General Election, 15 November 1986

Party	Seats	
	Federal Senate*	Chamber of Deputies
Partido do Movimento Democrático Brasileiro (PMDB)	44	259
Partido da Frente Liberal (PFL)	16	115
Partido Democrático Social (PDS)	5	36
Partido Democrático Trabalhista (PDT)	2	24
Partido dos Trabalhadores (PT)	-	19
Partido Trabalhista Brasileiro (PTB)	1	19
Partido Liberal (PL)	1	7
Partido Democrata Cristão (PDC)	1	3
Partido Comunista Brasileiro (PCB)	-	2
Partido Comunista do Brasil (PC do B)	-	2
Partido Socialista Brasileiro (PSB)	2	1
<b>Total</b>	<b>72</b>	<b>487</b>

\* Elections for 49 Senate seats were held on 15 November 1986.

Note: This National Congress also acted as the Constitutional Assembly. The Assembly was installed in February 1987, and was responsible for drafting the 1988 Constitution.

Gubernatorial and legislative elections were held on 3 October 1990, but full results were not available.

**Governors**

**STATES**

- Acre: FLAVIANO BAPTISTA DE MELO (PMDB).
- Alagoas: MOACIR L. DE ANDRADE.
- Amapá: JORGE NOVA DA COSTA.
- Amazonas: AMAZONINO ARMANDO MENDES (PMDB).
- Bahia: NILO COELHO (PMDB).
- Ceará: TASSO RIBEIRO JEREISSATI (PMDB).
- Espírito Santo: MAX FREITAS MAURO (PMDB).
- Goiás: HENRIQUE SANTILLO (PMDB).
- Maranhão: EPITÁCIO CAFETEIRA AFONSO PEREIRA (PMDB).
- Mato Grosso: CARLOS GOMES BEZERRA (PMDB).
- Mato Grosso do Sul: MARCELO MIRANDA SOARES (PMDB).
- Minas Gerais: NEWTON CARDOSO (PMDB).
- Pará: HÉLIO MOTA GUEIROS (PMDB).
- Paraíba: TARCÍSIO DE MIRANDA BURITY (PMDB).
- Paraná: ALVARO FERNANDES DIAS (PMDB).
- Pernambuco: MIGUEL ARRAES DE ALENCAR (PMDB).
- Piauí: ALBERTO TAVARES SILVA (PMDB).
- Rio de Janeiro: WELLINGTON MOREIRA FRANCO (PMDB).
- Rio Grande do Norte: GERALDO FERREIRA DE MELO (PMDB).
- Rio Grande do Sul: PEDRO JORGE SIMON (PMDB).

BRAZIL

**Rondônia:** JERÔNIMO GARCIA DE SANTANA (PMDB).  
**Roraima:** ROMERO JUCÁ FILHO.  
**Santa Catarina:** PEDRO IVO FIGUEIREDO DE CAMPOS (PMDB).  
**São Paulo:** ORESTES QUÉRCIA (PMDB).  
**Sergipe:** ANTÔNIO CARLOS VALDARES (PFL).  
**Tocantins:** JOSÉ W. SIQUEIRA CAMPOS.

FEDERAL DISTRICT

**Brasília:** JOAQUIM RORIZ.

Note: The Governor of Brasília is a federal government nominee.

## Political Organizations

In May 1985 the National Congress approved a constitutional amendment providing for the free formation of political parties. The following parties are represented in Congress:

**Partido Comunista Brasileiro (PCB):** f. 1922; pro-Moscow; Sec.-Gen. SALOMÃO MALINA.

**Partido Comunista do Brasil (PC do B):** f. 1962; pro-Albanian; Leader HAROLDO LIMA; Sec.-Gen. JOÃO AMAZONAS; 5,000 mems.

**Partido Democrata Cristão (PDC):** Leader ROBERTO BALESTRA.

**Partido Democrático Social (PDS):** Senado Federal Anexo II, Presidência do PDS, 70.000 Brasília, DF; telex (61) 2402; f. 1980 as pro-Government party in succession to ARENA (see above); (in 1984 some liberal members of the PDS united with members of the PMDB (see above) to contest the presidential election of January 1985); Pres. ANTÔNIO DELFIM NETTO; Sec.-Gen. AMARAL NETO.

**Partido Democrático Trabalhista (PDT):** Rua 7 de Setembro 141, 4º, 20.050 Rio de Janeiro, RJ; f. 1980; formerly the PTB (Partido Trabalhista Brasileiro), renamed 1980 when that name was awarded to a dissident group, after controversial judicial proceedings; Pres. LEONEL BRIZOLA; Gen. Sec. Dra CARMEN CYNIRA.

**Partido da Frente Liberal (PFL):** f. 1984 by moderate members of the PDS and PMDB; Pres. AURELIANO DE MENDONÇA CHAVES; Gen. Sec. SAULO QUEIROZ.

**Partido Liberal (PL):** Pres. ÁLVARO VALLE.

**Partido do Movimento Democrático Brasileiro (PMDB):** f. 1980; moderate elements of former MDB; merged with Partido Popular February 1982; Pres. ULYSSES GUIMARÃES; Gen.-Sec. TARCÍSIO DELGADO; factions include:

**Históricos:** f. 1988.

**Movimento da Unidade Progressiva (MUP).**

**Partido de Reconstrução Nacional (PRN):** Brasília; f. 1988; right-wing; Leader FERNANDO COLLOR DE MELLO.

**Partido da Social Democracia Brasileira (PSDB):** Brasília, DF; f. 1988; centre-left; formed by dissident members of the PMDB (incl. Históricos), PFL, PDS, PDT, PSB and PTB (see below); Pres. Dr FRANCO MONTORO.

**Partido Socialista Brasileiro (PSB):** Pres. JAMIL HADAD.

**Partido dos Trabalhadores (PT):** Congresso Nacional, 70.160, Brasília, DF; tel. (61) 224-1699; f. 1980; first independent labour party; associated with the *autêntico* branch of the trade union movement; 350,000 mems; Pres. LUIZ INÁCIO (LULA) DA SILVA; Vice-Pres. JACÓ BITTAR; Sec.-Gen. JOSÉ LUIZ FEVEREIRO.

**Partido Trabalhista Brasileiro (PTB):** f. 1980; Pres. LUIZ GONZAGA DE PAIVA MUNIZ; Gen. Sec. JOSÉ CORREIA PEDROSO, Jr.

## Judicial System

The judiciary powers of the State are held by the following: the Supreme Federal Tribunal, the Higher Tribunal of Justice, the Regional Federal Tribunals and federal judges, the Labour, Electoral and Military Tribunals and judges, and the Tribunals and judges of the States, of the Federal District and of the Territories.

The Supreme Federal Tribunal comprises 11 ministers, nominated by the President and approved by the Senate. It judges offences committed by persons such as the President, the Vice-President, members of the National Congress, Ministers of State, its own members, judges of other courts, and heads of permanent diplomatic missions. It also judges cases of litigation between the Union and the states, between the states, or between foreign nations and the Union or the states; disputes as to jurisdiction between justices and/or tribunals of the different states, including the Federal District; in cases involving the extradition of criminals, in certain special cases involving the principle of habeas corpus and habeas data, and in other cases.

The Higher Tribunal of Justice comprises at least 33 members, appointed by the President and approved by the Senate. Its jurisdiction includes the judgment of offences committed by State Governors. The Regional Federal Tribunals comprise at least seven judges, recruited when possible in the respective region and appointed by the President of the Republic. The Higher Labour Tribunal comprises 27 members, appointed by the President and approved by the Senate. The judges of the Regional Labour Tribunals are also appointed by the President. The Higher Electoral Tribunal comprises at least seven members: three judges from among those of the Supreme Federal Tribunal, two from the Higher Tribunal of Justice (elected by secret ballot) and two appointed by the President. The Regional Electoral Tribunals are also composed of seven members. The Higher Military Tribunal comprises 15 life members, appointed by the President and approved by the Senate; three from the navy, four from the army, three from the air force and five civilian members. The States are responsible for the administration of their own justice, according to the principles established by the Constitution.

### THE SUPREME FEDERAL TRIBUNAL

**Supreme Federal Tribunal:** Praça dos Três Poderes, 70.175 Brasília, DF; tel. (61) 224-8179; telex (61) 1473.

**President:** JOSÉ NÉRI DA SILVEIRA.

**Vice-President:** ALDIR G. PASSARINHO.

**Justices:** JOSÉ CARLOS MOREIRA ALVES, JOSÉ FRANCISCO REZEK, SIDNEY SANCHES, LUIZ OCTÁVIO PIRES E ALBUQUERQUE GALLOTTI, CARLOS ALBERTO MADEIRA, CÉLIO DE OLIVEIRA BORGES.

BRAZIL

CONSTITUTIONS  
OF THE  
COUNTRIES  
OF THE  
WORLD

Editors

ALBERT P. BLAUSTEIN & GIBERT H. FLANZ

FEDERATIVE  
REPUBLIC of BRAZIL

by

ALBERT P. BLAUSTEIN

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**1988 Constitution of the Federative Republic of Brazil**  
*81420095 Sao Paulo O ESTADO DE SAO PAULO (Special Supplement) in Portuguese 5 Oct 88 pp 1-23*

[Text]

**Preamble**

We, the representatives of the Brazilian people, convened in National Constituent Assembly to institute a democratic state that is intended to ensure the exercise of individual and social rights, liberty, security, well-being, development, equality, and justice as supreme values in a fraternal and pluralist society that is without prejudices, is founded on social harmony, and is committed on the domestic and international scene, to the peaceful resolution of disputes, hereby promulgate, under the protection of God, the following Constitution of the Federative Republic of Brazil.

**Title I - The Fundamental Principles**

**Article 1.**

The Federative Republic of Brazil, formed by the indissoluble union of the States and Municipalities and the Federal District, is constituted as a democratic state of law upon the following premises:

- I. Sovereignty;
- II. Citizenship;
- III. The dignity of the human person;
- IV. The social values of labor and of free enterprise;
- V. Political pluralism.

Sole Paragraph. All power emanates from the people, who exercise it either through elected representatives or directly, pursuant to this Constitution.

**Article 2.**

The three branches of power of the Union, independent and harmonious among themselves, are the Legislative, the Executive, and the Judiciary.

**Article 3.**

The following constitute the fundamental purposes of the Federative Republic of Brazil:

- I. To build a free, just, and unified society;
- II. To ensure national development;
- III. To eradicate poverty and powerlessness and diminish social and regional inequalities;

IV. To promote the welfare of all, without regard to origin, race, sex, color, age, or any other forms of discrimination.

**Article 4.**

The Federative Republic of Brazil is governed in its international relations by the following principles:

- I. National independence;
- II. The preeminence of human rights;
- III. The self-determination of peoples;
- IV. Nonintervention;
- V. Equality among nations;
- VI. The defense of peace;
- VII. The peaceful resolution of conflicts;
- VIII. Repudiation of terrorism and racism;
- IX. Cooperation among peoples for the advancement of humanity;
- X. The granting of political asylum.

Sole Paragraph. The Federative Republic of Brazil shall seek the economic, political, social and cultural integration of the peoples of Latin America, with a view to the formation of a Latin American community of nations.

**Title II - Fundamental Rights and Guarantees**

**Chapter I - Individual and Collective Rights and Duties**

**Article 5.**

All are equal before the law, without distinction of any sort. Both Brazilians and aliens resident in Brazil are guaranteed the inviolability of the right to life, liberty, equality, security, and property, under the following terms:

- I. Men and women are equal in rights and obligations under this Constitution;
- II. No one shall be obligated to do or to refrain from doing anything, except by virtue of the law;
- III. No one shall be subjected to torture, nor to inhuman or degrading treatment;
- IV. Thoughts may be freely expressed, but anonymity is forbidden;

Paragraph 2. The law shall provide concerning rules for building public streets, parks, and buildings and manufacturing mass transit vehicles so as to ensure suitable access by handicapped persons.

Paragraph 3. The right to special protection shall cover the following aspects:

I. Eligibility for employment at 14 years, as a minimum, the provision in Article 7 (XXXIII) being observed;

II. Guarantee of rights under social security and labor law;

III. Guarantee of access to schooling for the adolescent worker;

IV. Guarantee that the [minor] will be fully and formally informed of a charge against him resulting from an infraction, will be treated on the basis of equality in the [judicial] procedural relationship, and be defended by a qualified professional, according to the provisions of specific legislation concerning guardianship;

V. Obedience, in the application of any measure entailing deprivation of liberty, to the principles of brevity, exceptional treatment, and respect for the special status of an individual who is in the process of developing;

VI. Encouragement by the government through legal assistance, fiscal incentives, and subsidies created pursuant to law, of those who receive and care for the orphaned or abandoned child or adolescent;

VII. Prevention programs and other programs offering specialized service to children and adolescents who are addicted to narcotics and similar drugs.

Paragraph 4. The law shall severely punish the abuse, violent treatment, and sexual exploitation of children and adolescents.

Paragraph 5. The government shall assist the adoption process pursuant to law, and such law shall determine the instances and conditions under which aliens may adopt.

Paragraph 6. Sons and daughters, whether or not they are offspring of the marriage, or if adopted, shall have the same rights and eligibilities; discriminatory designations of any sort relating to the filial relationship are prohibited.

Paragraph 7. In implementing the rights of children and adolescents, the provision in Article 204 shall be taken into consideration.

Article 228.

Minors under the age of 18 may not be charged under criminal law, subject to the rules of special legislation;

Article 229.

Parents have the duty to assist, rear, and educate their minor children and children who have attained majority have the duty to help and support their parents in old age, need, or illness.

Article 230.

The family, society, and the State have the duty to protect the elderly and to assure their participation in the community, defending their dignity and welfare and guaranteeing them the right to life.

Paragraph 1. It is preferable that programs to assist the elderly be carried out in their homes.

Paragraph 2. Those over the age of 65 are guaranteed the right to travel free of charge on urban mass transit vehicles.

Chapter VIII - The Indians

Article 231.

Indian social structure, customs, languages, beliefs, and traditions are recognized, as well as their native rights to the lands that they traditionally occupy, it being the province of the Union to establish the boundaries thereof and to protect all the [Indian] assets and see that same are respected.

Paragraph 1. Lands traditionally occupied by the Indians are deemed to be those inhabited permanently by Indians, those used for their productive activities, those essential to the preservation of the environmental resources necessary to their welfare, and those necessary to their physical and cultural reproduction according to their uses, customs, and traditions.

Paragraph 2. Lands traditionally occupied by the Indians are intended for their permanent possession; they have exclusive usufruct rights to the riches of the soil, the rivers, and the lakes existing thereon.

Paragraph 3. The utilization of water resources, including potential sources of energy, and the prospecting for and mining of the mineral riches on Indian lands may only be carried out with authorization from the National Congress, after hearing the views of the affected communities; said communities are assured a share in the proceeds from the mining, pursuant to law.

Paragraph 4. The lands that are the subject of this article are nontransferrable, may not be made available for any purpose, and the rights to them are imprescriptible.

Paragraph 5. The removal of Indian groups from their lands is prohibited, except ad referendum by the National Congress in case of disaster or epidemic that places their population at risk, or in the interest of the nation's sovereignty following a decision of the National Congress; in any event, their immediate return after cessation of the risk is guaranteed.

Paragraph 6. Acts having as their object the occupation, dominion, and possession of the lands to which this article refers, or the exploitation of the natural riches of the soil, the rivers, and the lakes existing thereon, are null, void, and extinct except as regards an important public interest of the Union as may be provided in complementary law; nullity and extinction do not generate any right to indemnification or to suits against the Union except, pursuant to law, regarding the improvements derived from the good faith occupation thereof.

Paragraph 7. The provision of Article 174, Paragraphs 3 and 4, do not apply to Indian lands.

Article 232.

The Indians, their communities and organizations have standing to sue to defend their rights and interests, and the Office of Government Attorney shall intervene in all the procedural acts.

Appendix G:  
MINERS IN YANOMAMI LANDS.

**CIMI — CONSELHO INDIGENISTA MISSIONÁRIO**

SDS - Edifício Venâncio III - Sala 809/14 — Caixa Postal 03679  
CEP 70.084-970 - Brasília - DF - Brasil  
C.G.C. (M.F.) 00 479.105/0001-75

Newsletter n. 120

**NUMBER OF MINERS IN LANDS  
OF YANOMAMI INDIANS INCREASES**

With the end of the rain season, the number of miners in the Yanomami Indian Area, located in the states of Roraima and Amazonas, Brazilian Amazonia, is increasing. According to FUNAI (National Indian Foundation) there are about 1,000-1,500 invaders in the Indian territory, who keep some 30 clandestine runways in operation.

Not even the Federal Police, which after the massacre of 16 Yanomami last year set up a station in the area, has managed to prevent the invasion or remove the miners. FUNAI says it lacks the means to act: since February, the helicopter of the Brazilian Air Force it was using for this purpose is not available to it. In this period, FUNAI and the Federal Police had only three small airplanes.

The 3,132 cases of malaria registered among the Yanomami last year are mainly blamed on the presence of miners in their lands. For as long as the miners are not removed, the disease will continue to afflict the Indians. Their removal, however, will not be effective if the government allows them to return.

**GUARANI KAIOWA**

Angry at the death of a newborn child, the Guarani Kaiowa Indians expelled the last family of settlers which was still living in the Takuaryty/Ivykuarusu Indian Area, in the state of Mato Grosso do Sul. According to the Indians, the child died of cold and hunger. After driving the invaders out, the Indians are now in possession of the whole area. Although the demarcation of the Area was homologated, that is, confirmed by the President of the Republic, the Guarani could not occupy it due to a decision of a federal court, which favored the invaders of the Indian territory.

In a documento that was sent to the government, the Guarani Kaiowa claim: "We are tired of suffering so much, seeing our people die soon after being born. What will it take for you to act? The death of all our people?"

Brasília, July 7, 1994  
CIMI - Indianist Missionary Council

**CIMI — CONSELHO INDIGENISTA MISSIONÁRIO**

SDS - Edifício Venâncio III - Sala 909/14 — Caixa Postal 03679  
CEP 70.084-970 - Brasília - DF - Brasil  
C. G. C. (M. F.) 00 479.105/0001-75

2

Newsletter n. 123

**ONE YEAR AFTER THE MASSACRE OF YANOMAMI INDIANS,  
THE MINERS INVOLVED IN IT ARE STILL AT LARGE**

One year ago, Brazilian miners killed sixteen Yanomami Indians in the Venezuelan territory, close to the border with Brazil. The massacre shocked the world, but those who committed it are still at large. The Federal Police don't even know where they are and some people deny that the massacre ever took place.

The Federal Police reached the conclusion that it was a genocide, since the miners intended to kill not one person, but a whole community. Of the 23 miners involved in the massacre, only two were arrested and released shortly thereafter. The Federal Court in Roraima, the state where a large part of the Yanomami territory is located in Brazil, determined that all miners accused of the massacre were to be arrested, but the Federal Police could not find them. The crime of genocide lapses after a period of 20 years, and the penalty for it varies between 12 and 30 years in prison.

Many articles were published in Brazilian newspapers stating that there was no genocide, since no bodies were found, except the skeleton of a female Indian. This argument is supported by the lawyer of the miners. However, the fact is that the bodies of 14 Indians were cremated by the Yanomami, according to their tradition, and the ashes were stored to be consumed in a funerary ritual; the body of the woman whose skeleton was found had not been cremated and an additional body was not found.

According to the Attorney General's Office of Roraima, which is following up the case, the evidence raised so far confirms that there was indeed a massacre: the skeleton of the female Indian, the deposition of the Indians who survived, the Indians huts that were burned by the miners and the anthropological report on the deaths. The Attorney General did not request an examination of the ashes because he considered it would violate the traditional customs of the Yanomami.

It is estimated that there are 1000-1500 miners inside the Yanomami area. Although mining activities are forbidden in this territory, miners often broadcast local radio messages saying that such prohibition has been lifted, with the aim of attracting a larger number of invaders. The Federal Police and FUNAI (National Indian Foundation) are still without funds to remove the miners from the area.

Brasília, July 28, 1994  
CIMI- Indianist Missionary Council

ORDINARY LAW ON INDIAN AFFAIRS

**CIMI — CONSELHO INDIGENISTA MISSIONÁRIO**

SDS - Edifício Venâncio 111 - Sala 309/14 — Caixa Postal 03679  
 CEP 70.084-970 - Brasília - DF - Brasil  
 C.G.C. (M.F.) 00 478.105/0001-75

**CIMI BULLETIN 119**

**BILL WOULD END STATE  
 GUARDIANSHIP OF BRAZIL'S INDIANS**

After a year without making progress the bill proposing a new Statute for the Indigenous Peoples was approved this week in the Chamber of Deputies. The bill, sponsored by Deputy Luciano Pizzato, would end the state's role as guardian of Indians. However, Indians would still not be recognised as peoples, but merely as indigenous societies.

The end of guardianship would have an effect, for example, on the administration of indigenous property, which would now be carried out by the Indians themselves. Indians would also be able to enter into contracts without requiring the government indigenous agency as an intermediary.

On intellectual property rights, the bill guarantees indigenous communities the right to keep secret knowledge about the environment, animal and vegetable species, seeds, drugs and biological and genetic processes. The use of this knowledge without authorisation would be a crime.

One of the most controversial proposals concerns the rule that would oblige the federal government to compensate Indians for any harm they suffer in any transaction if the government did not take the necessary measures to prevent the harm.

Another controversial measure provides for the participation of Indians in the teams that initiate the process of demarcation which secures protected status for indigenous land. Since state governments are generally opposed to the protection of indigenous territories, demarcation at present is often difficult, despite the criteria laid down by the federal Constitution. There will also be a right to use the courts to force the federal government to take measures to secure demarcation.

As regards mining on indigenous land, the deputy wants all prospecting applications made by mining companies before 1988, when the Constitution was promulgated, to be accepted. There are applications affecting almost all indigenous areas in Brazil.

The new statute still has to be passed by the Senate. Because of the elections in October, it is unlikely that the vote will take place this year.

Brasília, June 30, 1994  
 CIMI - Indianist Missionary Council

# POVOS INDÍGENAS NO BRASIL

1987 / 88 / 89 / 90



**ACONTECEU**  
ESPECIAL 18

CEDI  
Centro Ecumênico de  
Documentação e Informação

## A classificação da situação jurídica das terras indígenas

A classificação das terras indígenas conforme a situação jurídica, utilizada pelo CEDI/PETI, levou em consideração as fases do processo de reconhecimento oficial das terras de posse (identificação, delimitação, homologação e regularização), assim como as outras situações previstas no Estatuto do Índio: as reservadas e domínias indígenas. Agregou-se a estas as categorias externas: "sem providência", "em identificação", "adquiridas para assentamento" e "interditadas".

O documento citado logo abaixo da situação jurídica (veja nos quadros publicados nos capítulos por região) é o que estabelece (ou informa) aquela situação e, deve ser lembrado, só apresentamos aqui a situação jurídica mais atual.

São as seguintes as categorias usadas para indicar a situação jurídica da terra:

**Sem providência:** para as Terras Indígenas que não tenham qualquer forma de reconhecimento oficial ou não tenham entrado no processo regular de demarcação.

**Em identificação:** no caso de terras para as quais tenha sido designado pela Funai um grupo de trabalho (GT/Funai) para proceder os trabalhos preliminares no sentido da delimitação da área, sem contudo terem sido apresentados os resultados destes.

**Identificada:** para aquelas que já tiveram sua identificação preliminar concluída por um GT/Funai, com a apresentação de relatórios e proposta para delimitação.

**Delimitada:** para as terras que tenham sido reconhecidas como de ocupação dos índios, seja por Portaria da Funai (antes do Decreto 88.118/83), decreto presidencial ou Portaria interministerial.

**Homologada:** que receberam decreto presidencial homologando a demarcação física realizada pela Funai.

**Regularizada:** foram assim consideradas apenas as áreas que tenham tido sua demarcação homologada e já estejam registradas no Cartório de Registro de Imóveis da Comarca e no Serviço de Patrimônio da União.

**Reservada:** áreas reservadas aos índios por ato do executivo que não se confundem com as de "posse imemorial", (Art.

26 Lei 6001/73) podendo ser das seguintes modalidades: reserva indígena, parque indígena e colônia agrícola indígena (não há caso de território federal indígena). Procedemos neste caso à seguinte diferenciação:

- Reservada - decreto presidencial.

- Reservada/SPI - decreto estadual, conforme prática da época.

**Domínial Indígena:** áreas de domínio da comunidade em forma de doação e/ou título privado.

**Interditada:** através de Portaria da Funai que estabelece limites provisórios de uma determinada área onde o órgão indigenista passa a ter "poder de polícia" (Lei 5371/67). Reconhece a existência, ou pelo menos indícios, de índios no interior da área descrita. A interdição não é um ato regular de reconhecimento formal dos limites da posse indígena. Frequentemente, a área inicialmente interditada coincide com aquela posteriormente delimitada.

**Adquirida para assentamento:** a inclusão desta categoria de terras se deve à dificuldade de enquadrá-las em outras categorias. São terras adquiridas pela Funai por compra ou doação, para as quais os índios serão ou já foram transferidos.

Logo a seguir dessa categoria, aparecem nos quadros publicados nos capítulos por região, outras informações sobre a situação jurídica da área:

- Reg CRI - áreas já registradas no Cartório e que, portanto, já foram demarcadas fisicamente;

- Reg SPU - áreas já registradas no Patrimônio da União;

- Com parecer do GTI - áreas que têm parecer do GTI para delimitação ou homologação;

- Dem. Física ( ) - áreas que já foram demarcadas fisicamente, com a data da demarcação entre parênteses.

A denominação de domínio público "demarcada" não aparece aqui como categoria, por não ser, ou não representar em si uma etapa no processo de regularização da terra, e sim uma fase intermediária entre a delimitação e a homologação. Consideramos demarcação enquanto ato físico e delimitação como ato jurídico que declara uma terra de posse dos índios.

### BRASIL

#### Quadro resumo das terras indígenas CEDI / Museu Nacional, 1990

Situação jurídica	Qtd. terras	%	Extensão	%	População	%
Sem providência	90	17.11	37598	0.05	6802	2.89
Identificada	79	15.02	11649828	14.67	39865	16.92
Interditada	68	12.93	30236329	38.09	18238	7.74
Delimitada	93	17.68	10289348	12.96	46969	19.93
Homologada	136	25.86	16321220	20.56	91364	38.78
Regularizada	60	11.41	10853773	13.67	32378	13.74
TOTAL	526	100.00	79388096	100.00	235616	100.00

Para a montagem do quadro resumo considerou-se:

SEM PROVIDÊNCIA = Sem providência + Em identificação

IDENTIFICADA = Todas as identificadas

INTERDITADA = Todas as interditadas

DELIMITADA = Todas as delimitadas + Domínias indígenas sem reg. CRI + Todas as adquiridas para assentamento

HOMOLOGADA = Todas as homologadas + Reservadas que não tenham reg. CRI e SPU + Reservadas/SPI que não tenham reg. CRI e SPU

REGULARIZADA = Todas as regularizadas + Domínias indígenas com reg. CRI, Reservadas/SPI com reg. CRI e SPU, Reservadas/SPI com reg. CRI e SPU

## BRASIL

Terras indígenas por região e unidade da federação  
CEDI / Museu Nacional, 1990

Região	Unidade da federação	Terras reconhecidas						Terras não reconhecidas			
		Qtd.	%	Extensão	%	População	%	Qtd.	%	População	%
Norte	Acre	23	10.18	1814248	2.55	6538	6.01	1	2.13	99	6.00
	Amazonas	113	50.00	26653136	37.43	52287	48.05	20	42.55	1234	74.79
	Amapá	4	1.77	1008349	1.42	3837	3.53	2	4.26	40	2.42
	Pará	35	15.49	25005525	35.12	11374	10.45	7	14.89	169	10.24
	Rondônia	14	6.19	3614529	5.08	3942	3.62	15	31.91	50	3.03
	Roraima	30	13.27	10937578	15.36	26035	23.93	1	2.13	50	3.03
	Tocantins	7	3.10	2171324	3.05	4794	4.41	1	2.13	8	0.48
Subtotal		226	100.00	71204689	100.00	108807	100.00	47	100.00	1650	100.00
% em relação ao total de terras indígenas no Brasil			54.20		82.23		47.55		52.81		24.26
Nordeste	Alagoas	6	11.54	5663	0.28	3669	7.96	5	31.25	700	15.69
	Bahia	17	32.69	124676	6.10	7034	15.27	7	43.75	1100	24.65
	Ceará	1	1.92	4675	0.23	884	2.14	2	12.50	2662	59.66
	Maranhão	16	30.77	1788208	87.46	12147	26.37	2	12.50	0	0.00
	Paraíba	2	3.85	25738	1.26	6120	13.29	0	0.00	0	0.00
	Pernambuco	8	15.38	91857	4.49	15862	34.43	0	0.00	0	0.00
	Piauí	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
	Rio Grande do Norte	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sergipe	2	3.85	3697	0.18	250	0.54	0	0.00	0	0.00	
Subtotal		52	100.00	2044514	100.00	46066	100.00	16	100.00	4462	100.00
% em relação ao total de terras indígenas no Brasil			12.47		2.58		20.13		17.98		65.60
Centro-Oeste	Goiás	3	3.53	39743	0.30	117	0.25	3	20.00	54	12.41
	Mato Grosso do Sul	32	37.65	610307	4.67	29952	64.59	5	33.33	356	81.84
	Mato Grosso	50	58.82	12427277	95.03	16306	35.16	7	46.67	25	5.75
Subtotal		85	100.00	13077327	100.00	46375	100.00	15	100.00	435	100.00
% em relação ao total de terras indígenas no Brasil			20.38		15.10		20.27		16.85		6.40
Sudeste	Espirito Santo	3	13.64	4492	5.68	884	11.28	0	0.00	0	0.00
	Minas Gerais	6	27.27	64627	81.74	5431	69.30	1	50.00	0	0.00
	São Paulo	11	50.00	9186	11.62	1273	16.24	1	50.00	6	100.00
	Rio de Janeiro	2	9.09	760	0.96	249	3.18	0	0.00	0	0.00
Subtotal		22	100.00	79065	100.00	7837	100.00	2	100.00	6	100.00
% em relação ao total de terras indígenas no Brasil			5.28		0.09		3.43		2.25		0.09
Sul	Paraná	14	43.75	67404	36.84	6178	31.31	1	11.11	195	78.31
	Rio Grande do Sul	13	40.63	80998	44.27	8978	45.51	5	55.56	54	21.69
	Santa Catarina	5	15.63	34557	18.89	4573	23.18	3	33.33	0	0.00
Subtotal		32	100.00	182959	100.00	19729	100.00	9	100.00	249	100.00
% em relação ao total de terras indígenas no Brasil			7.67		0.21		8.62		10.11		3.66
TOTAL GERAL		417	100.00	86588554	100.00	228814	100.00	89	100.00	6802	100.00

## AMAZÔNIA

Terras indígenas por unidade da federação  
CEDI / Museu Nacional, 1990

Unidade da federação	Terras reconhecidas						Terras não reconhecidas				
	Qtd.	%	Extensão	%	População	%	Qtd.	%	População	%	
Acre	23	7.40	1814248	2.32	6538	4.76	1	1.75	99	5.91	
Amazonas	122	39.23	27346538	34.98	54916	40.01	20	35.09	1234	73.67	
Amapá	4	1.29	1008349	1.29	3837	2.80	2	3.51	40	2.39	
Maranhão	16	5.14	1788208	2.29	12147	8.85	2	3.51	0	0.00	
Mato Grosso	51	16.40	12381475	15.84	16306	11.88	8	14.04	25	1.49	
Pará	35	11.25	25005525	31.98	11374	8.29	7	12.28	169	10.09	
Rondônia	14	4.50	3614529	4.62	3942	2.87	15	26.32	50	2.99	
Roraima	39	12.54	3051922	3.90	23406	17.05	1	1.75	50	2.99	
Tocantins	7	2.25	2171324	2.78	4794	3.49	1	1.75	8	0.48	
Subtotal	311	100.00	78182118	100.00	137260	100.00	57	100.00	1675	100.00	
% em relação ao total de terras indígenas no Brasil			71.33		98.53		59.99		63.33		24.63



# POVOS INDÍGENAS NO BRASIL

## 1987 / 88 / 89 / 90

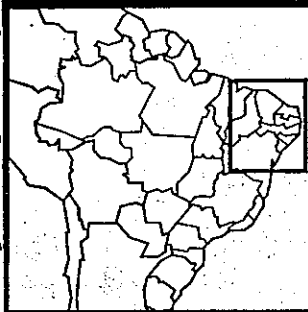


**A CONTECEU**

ESPECIAL 18

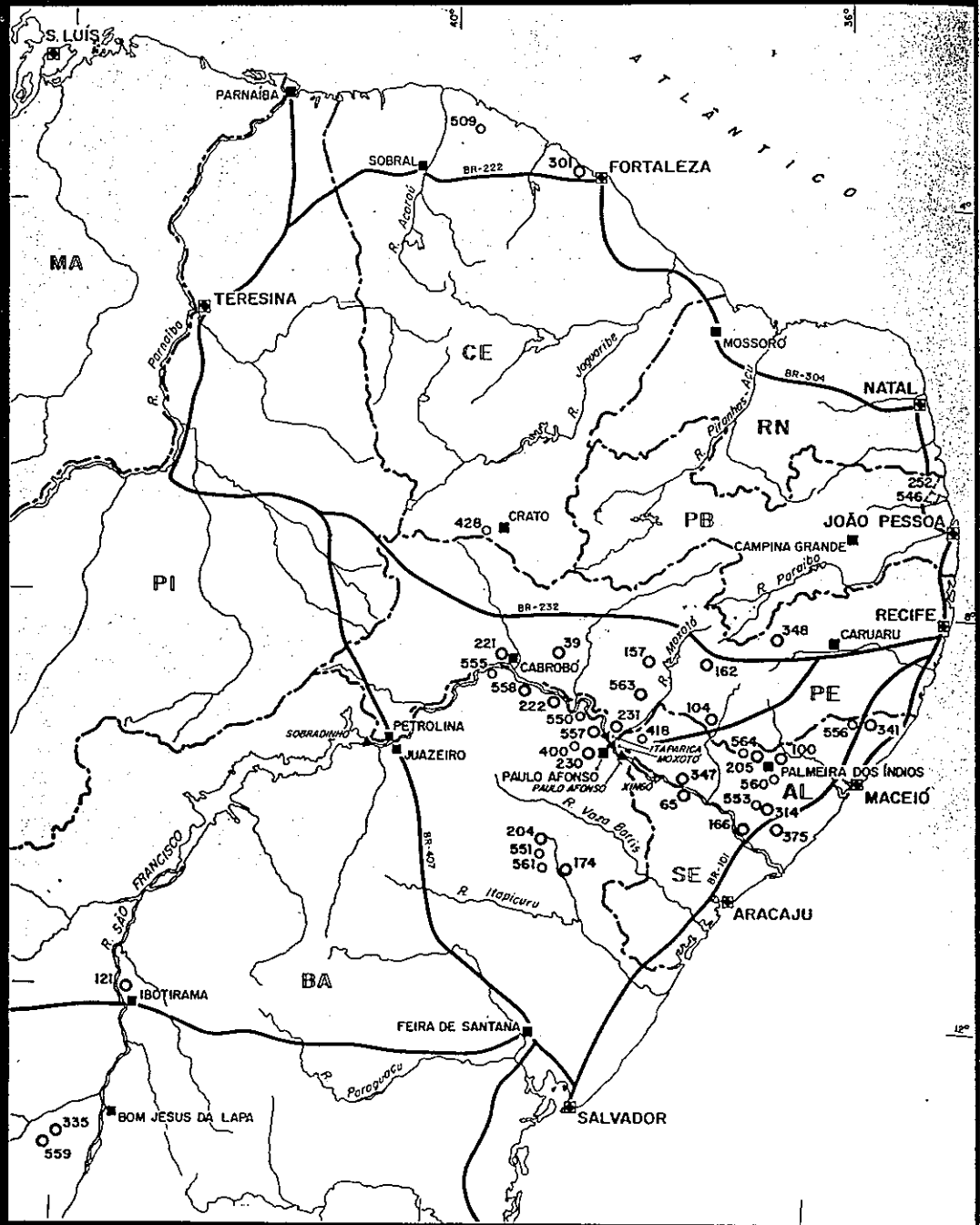
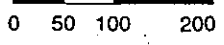
CEDI  
Centro Ecumênico de  
Documentação e Informação

# 10. Nordeste



- limite interestadual
- rodovia implantada
- cidade
- ⊠ capital de estado
- ▲ usina hidrelétrica (construída / em construção)
- ÁREAS INDÍGENAS
- reconhecidas oficialmente
- reconhecidas oficialmente (fora de escala)
- GRUPOS FORA DE A.I.
- localização de aldeamentos

CEDI/1990



## NORDESTE Terras indígenas reconhecidas oficialmente CEDI / Museu Nacional, 1990

Ref. mapa	Terra indígena	Povo	População (nº, fonte, data)	Situação jurídica	Extensão (ha)	Município	UF	Observações
348	Al Xucuru	Xucuru	T 3445 Funai: 89	Identificada. Área do PI reservada/SPI com 14 ha. Port. 136/69. Port. Funai/PP/218 de 14/03/69 para identificação.	26980	Pesqueira	PE	

**XUCURU**

**Pressão por demarcação**

Mais de 4.500 Xucuru, no município pernambucano de Pesqueira, estão em pé-de-guerra, mobilizados em torno da exigência de demarcação de suas terras, constantemente invadidas por fazendeiros, prevendo-se um confronto de graves proporções com os invasores se a Funai não atender as reivindicações dos indígenas.

Os Xucuru exigem também a contenção dos projetos pecuários na área, além da imediata aplicação em seu benefício dos dispositivos estabelecidos na nova Constituição, ficando assegurados assim seus direitos materiais, culturais e históricos, sabendo-se que eles vivem na região desde o século passado.

(Diário Popular, 23/10/88)

**Funai veta agropecuária e promete demarcação**

A Funai deverá vetar a implantação do projeto da Agropecuária Vale do Ipojuca S/A, que teve parecer aprovado na última reunião do Conselho Deliberativo da Sudene para receber recursos do Finor, por estar situado numa região habitada por 4.500 índios, espalhados por 17 aldeias, na serra do Ororubá, município de Pesqueira.

Na área de 2.000 ha destinada ao projeto, não existe problemas com posseiros, grilagem ou algo semelhante, mas vem ferir os interesses dos índios, pela importância histórica da região, onde existe um cemitério antigo, e por contrariar as normas estabelecidas pela Funai, relativamente à aprovação de um parecer favorável à sua implantação.

O projeto da Agropecuária Vale do Ipojuca S/A, teve

seu parecer analisado pelo Conselho Deliberativo da Sudene, na última reunião do dia 30 de setembro, quando foi aprovado sob a condição de que os recursos do Finor somente seriam liberados mediante apresentação de certidão fornecida pela Funai, de que a área que irá servir de suporte físico ao empreendimento não abranja terras da reserva indígena.

Técnicos da Divisão Fundiária da Funai reuniram-se na última terça-feira com os índios Xucuru para com eles debater as questões conflitantes. O encontro teve momentos de tensão, quando os índios exigiram do sertanista Cícero Cavalcanti a devolução da espada, dos botões e do capote de capitão da Guerra do Paraguai, levados por ele em 1944.

O sertanista participou da reunião com os índios para explicar o seu procedimento na época, "uma vez que era comum no SPI confiscar pertences antropológicos e etnológicos das tribos para catalogá-los e facilitar na identificação da existência das aldeias".

Na reunião, ficou determinado ainda, que a Funai irá trabalhar para a demarcação das terras indígenas na região, inclusive lutar pela desapropriação de uma área de 110 ha pertencente ao Minter, de acordo com reivindicação dos índios Xucuru.

Quanto ao clima de tensão entre fazendeiros e índios na região, os técnicos da Funai garantiram que, se necessário, pedirão reforço à PF, para conter os ânimos, enquanto os Xucuru assumiram o compromisso de evitar qualquer confronto na área.

(Diário do Nordeste, 27/10/88)

**Antigas ameaças**

Sem serem atendidos pela Funai, que, segundo afirmaram, "não deixou que todos entrassem no órgão, só os líderes", os Xucuru, de Pesqueira, dirigiram-se à sede da Ação Católica Operária, reuniram a Imprensa e denunciaram, entre outras coisas, o não cumprimento das determinações constitucionais no que diz respeito ao índio e as ameaças que vêm recebendo de muitos fazendeiros "acobertados pela própria Polícia". Vestidos a caráter, com um shenunpre na cabeça, artefato feito em palha de coqueiro que utilizam para dançar o Tore - um ritual religioso - e que agora também faz parte das proibições do "homem branco", uma comissão de cinco índios, entre eles o cacique José Pereira de Araújo, entregaram documento (ver Box) exigindo que "sejam tomadas providências pelas autoridades, pois estamos morrendo de fome". As ameaças não são recentes mas, segundo informaram, "agravaram-se depois que começamos a exigir nossos direitos", que é simples e está respaldado pela Constituição: "A demarcação de área tradicional, ou seja, por eles habitadas em caráter permanente".

No intuito de intimidar e prejudicar a luta pelos seus direitos, os índios contaram que "os fazendeiros avisaram estar preparados para enfrentá-los, ficam ron-

**Fomos proibidos de dançar nossa dança religiosa, o Toré**

*Pesqueira 20 de fevereiro 1989.*

*Nós, representantes da Comunidade Indígena Xucuru, Pesqueira vimos denunciar as ameaças que estão ocorrendo na nossa área.*

*Fomos proibidos de dançar nossa dança religiosa, o toré pelos fazendeiros e o delegado.*

*A comunidade quer que as autoridades tomem providências para desarmar os fazendeiros, porque eles dizem que estão preparados para enfrentar-nos.*

*Não queremos tomar terra de ninguém mas queremos que a Funai demarque a nossa área, já que a área é mais antiga de Pernambuco mas é mais irregular.*

*Estamos com medo e não estamos mais seguro para andar sozinhos e até à ida à feira estamos obrigados de andar em grupos.*

*Nosso missionário foi ameaçado de morte semana passada por dois pistoleiros e nós queremos que ele pode voltar para nossa área sem correr risco de vida, já que eles ajudam a gente de reivindicar os nossos direitos. Pedimos as autoridades de ter pena dos índios porque os índios não tem terra para plantar.*

*Nós só somos homens quando temos fava, beiju e milho para comer.*

*Estamos morrendo de fome e exigimos de ser tomados providências pelas autoridades.*

*José Pereira de Araújo - cacique*

*Francisco de Assis Araujo - vice-cacique*

*Antonio Severiano de Santana*

*Satumino Alves Feitosa*

*Antonio Herculano da Silva*

*Antonio Rosa de Lima*

dando armados as casas das lideranças, obrigando-as a andar em grupos para que se sintam mais protegidos e até ameaçaram os missionários que os acompanham aos órgãos oficiais para pedir a demarcação da terra". (Diário de Pernambuco, 22/02/89)

**Área invadida é retomada**

Mais de 300 índios Xucuru reocuparam, no dia 5 de novembro, a Área Pedra D'Água, de 110 ha, no município de Pesqueira (PE), que fora invadida por 15 posseiros. Em nota distribuída à imprensa, autoridades e população - assinada pelo cacique Francisco de Assis e três lideranças indígenas, com o apoio de mais de duas dezenas de entidades populares, parlamentares e líderes de três povos indígenas do Nordeste -, os Xucuru exigem que a Funai garanta os limites da área e reassente os invasores num outro local, num prazo de 40 dias.

Os índios querem, ainda, que a Funai conclua o processo de demarcação de toda a área indígena, iniciado em 1989. O documento responsabiliza a Funai por qualquer atentado que possa ocorrer contra a vida de homens, mulheres e crianças que estão no território retomado.

**Local sagrado** - Os índios afirmam que toda a área tradicional Xucuru está invadida por fazendeiros e pequenos e médios posseiros, o que deixa os indígenas sem local para suas roças. Segundo eles, a mata da Pedra D'Água é um local sagrado de rituais, proibido aos brancos. Acrescentam que existe uma área agricultável comunitária circundando a mata, que serve para ajudar a organização do povo. Justificam também que há dois anos vêm solicitando à Funai a retirada e reassentamento dos posseiros, os quais "inclusive estão de acordo com essa posição da comunidade indígena", salienta o documento.

No momento, a Área Pedra D'Água encontra-se sob o controle dos Xucuru, que estão terminando de cercá-la, para evitar seu desmatamento. Até agora, a Funai não tomou nenhuma providência. O documento dos líderes Xucuru enfatiza que o órgão nem mesmo compareceu a uma reunião combinada com a comunidade indígena para o dia 9 de novembro. (Porantim, nov-dez/90)

**CIMI — CONSELHO INDIGENISTA MISSIONÁRIO**

SDS - Edifício Venâncio 111 - Sala 309/14 — Caixa Postal 03679  
 CEP. 70.084-970 - Brasília - DF - Brasil  
 C.G.C. (M.F.) 00.478.105/0001-75

Newsletter n. 121

**INDIAN IS ABDUCTED BY FARMERS  
 AND ILLEGALLY ARRESTED IN BRAZIL**

Indian Gérson de Souza Lima, vice-chief of the Pataxó Hã-Hã-Hãe, was abducted this week by farmers and illegally arrested under charges of carrying a gun without a licence and of having let it off. G,rsion is one of the main leaders of the Pataxó Hã-Hã-Hãe, who live in the Paraguassu-Caramuru Indian Area, in the state of Bahia, Brazilian Northeast region. The farmers are invaders of the traditional territory which the Indians recovered late last year but from where they were expelled by the Military Police.

Gérson de Souza Lima was abducted when he was being taken in a truck to the city of Camacah, where he would be hospitalized due to health problems; 15 other Indians were accompanying him. The truck was stopped on its way by three cars with ten men armed with machine-guns and rifles who forced him to get off the truck. The farmers took him to the Police Station of the city of Pau Brasil, where he was arrested by an officer and a sargeant of the Military Police.

The vice-chief was then taken to the Police Station of Camacah, a municipality next to Pau Brasil, where the officer in charge interrogated him in the presence of the farmers. None of the Indians who witnessed the abduction was heard by the officer, not even the Funai (National Indian Foundation) official who was driving the truck. The Pataxó had to be taken to the hospital to be seen by a doctor and was then brought back to the police station, where he remains in prison.

Since last year, when the Pataxó Hã-Hã-Hãe tried to recover their lands, the climate is tense in the region. Last Monday, the vice-chief had an argument with some farmers and shot into the air from a truck. He was arrested by military policemen and taken to the Police Station of Pau Brasil. His gun was seized, he was released and a formal investigation began.

By abducting the Pataxó, the farmers intended to forge a crime for which he had been arrested the previous day. The Police, in turn, connived at the action of the farmers, because they agreed to arrest the vice-chief in spite of his abduction. Even if the arrest were legal, the police officer should have granted him bail, which he refused to do. Therefore, the arrest of G,rsion de Souza Lima is an abuse of authority. Several Indians are awaiting the release of the vice-chief at the Police Station.

Brasilia, July 14th, 1994  
 CIMI - Indianist Missionary Council

**CIMI — CONSELHO INDIGENISTA MISSIONÁRIO**

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C.G.C. (M.F.) 00 478.105/0001-75

Newsletter n. 122

**INDIANS IN BRAZIL RUN FOR DEPUTY**

Indians in Brazil intend to win a seat in Parliament. At least nine of them are running for a seat as federal deputy and state deputy at the elections to be held on October 3. It is not the first time that Indians put themselves up as candidates: however, as opposed to previous elections, most of the nine candidates were designated candidates by Indian organizations. In all Brazil's history, only one Indian, Mário Juruna Xavante, was elected deputy.

The parties chosen by the nine Indians are leftist or center-leftist, because they are usually more sensitive to Indian issues. Six of them opted for the PT (Workers' Party). A poll carried out last year by the newspaper Folha de São Paulo showed that of all parties, the PT is the one that stands up most for the demarcation of Indian lands.

Most of the candidates, precisely six of them, belong to states located in Brazilian Amazonia. Some of them, like Euclides Makuxi and Pedro Mendes Tikuna, live in regions where the population is mostly made up of Indians.

As candidates, the Indians intend to play an active role in the political life of the country as a means to ensure Indian rights. "We want to have representatives who may be spokespersons for all our fights at the Legislative Branch," said Gérson Baniwa, candidate for state deputy in the state of Amazonas.

**PATAXÓ INDIAN IS RELEASED FROM PRISON**

Pataxó Hã-Hã-Hãe Indian Gérson Souza de Melo, who was abducted by farmers and illegally arrested by policemen last week, was bailed out of prison. His abduction was an attempt to intimidate Pataxó Indians who are trying to recover their invaded traditional territory. The climate is tense: military policemen are illegally controlling the movement of people into and out of the area. Using loudspeakers, farmers are inciting the population of the city of Pau Brasil to ask the removal of the Pataxó Hã-Hã-Hãe from the region. These Indians live in the south region of the state of Bahia, in the Brazilian Northeast. The correct family name of Gérson is Souza de Melo, and not Souza Lima, as had been disseminated before.

Brasília, July 21, 1994  
Cimi - Indianist Missionary Council

**CIMI — CONSELHO INDIGENISTA MISSIONÁRIO**

SDS - Edifício Venâncio 111 - Sala 309/14 — Caixa Postal 03679  
CEP 70.084-970 - Brasília - DF - Brasil  
C.G.C. (M.F.) 00 479.105/0001-75

Newsletter n. 118

**INDIANS IN BRAZIL DENOUNCE INVASION  
OF THEIR LANDS BY DRUG TRAFFICKERS**

A group of Tembé and Urubu Kaapor Indians are in Brasília to denounce that marijuana (*cannabis sativa*) is being planted and trafficked in their lands, located in the states of Pará and Maranhão, Brazilian Amazonia. The lands which have been invaded are located in the Alto Rio Guamá Indian Area, particularly, and in the Alto Tiruaçu Indian Area. Six Indian leaders denounced this situation to the Federal Police.

The weed is probably being cultivated in the Alto Rio Guama Area by squatters who invaded the Indian territory and were persuaded to do so by drug traffickers. According to the Indians, several families of squatters have switched from food crops to planting marijuana.

No precise information is available on how much marijuana is being planted, but the Tembé say that there are several plantations both inside and outside the Indian area. One of them occupies about 10 hectares. Marijuana crops have grown so much that one of the plantations is located at only two kilometers from one of the villages and the drug is being used as currency to pay for freight and boat trips across the Alto Guamá river.

The Tembé say that "it is impossible to live together" with marijuana planters and traffickers. They invade their hunting areas, kill animals and damage the environment. They said they will take care of the situation themselves if the Federal Police do not take prompt measures. In this case, violent acts could occur, as the Indians told the Police that the traffickers are providing the planters with weapons. Last year, the Tembé arrested three of them, but released them after being threatened with reprisals.

**PARESI**

Forty Paresi Indians who were about to be expelled from the Estação Rondon Indian Area, in the state of Mato Grosso, were allowed to remain in their lands, according to a decision of federal judge Rubem Martinez Cunha. In April, CIMI (Indianist Missionary Council) launched a campaign in support of the Paresi. Letters and telegrams were sent to the judge, asking him to annul the decision to evict them from their lands.

Brasília, June 23, 1994  
CIMI - Indianist Missionary Council