

INSTITUTO SOCIOAMBIENTAL
Data _____ 1 _____
Cau. I4D00082

Prepared Statement of Stephan Schwartzman, Senior Scientist,

Environmental Defense Fund

before the

Subcommittee on Western Hemisphere Affairs

Committee on Foreign Affairs

U.S. House of Representatives

Washington D.C.

July 14, 1993

**Indigenous Peoples of Brazil:
Human Rights and the Environment**

Mr. Chairman, I am Stephan Schwartzman, anthropologist of the International Program of the Environmental Defense Fund. I am testifying today on behalf of EDF and the National Wildlife Federation. The Environmental Defense Fund is a national non-profit organization with over 200,000 members that links science, law and economics to seek solutions to environmental problems. The National Wildlife Federation is the largest conservation and education organization in the nation, with 5,000,000 members. The EDF and NWF International Programs have since 1985 monitored the policies and programs of the international financial institutions to promote environmental and social reforms in them. Brazil, as one of the largest borrowers from the World Bank has been a key case, and the effects of World Bank projects on indigenous populations has been one of the key points at issue in the discussion between the Bank and the environmental community. My understanding of indigenous peoples concerns is based in my experience as an anthropologist. I lived for a year and a half with the Panará Indians (also known as Krenakore) of Mato Grosso state between 1980 and 1983, while conducting PhD thesis research, and have continued working with indigenous groups, rubber tappers, Amazon peasants, and nongovernmental organizations since then.

The situation of Brazil's indigenous peoples is of critical concern internationally not only because of the human rights issues at stake, and

not only because of the importance to global environment of indigenous lands. The problems facing Brazil's Indians demonstrate the connections between human rights and environmental protection, with implications far beyond Brazil or the Amazon. The indigenous peoples of Brazil, who today see their lands invaded by desperate gold miners or colonists, or plundered by loggers and ranchers, who suffer devastating epidemics of white peoples diseases, and who still risk assassinations that go ignored or unpunished by the courts, are paying the costs of a model of development that has benefitted a tiny elite at the expense of the poor and politically powerless, and has caused enormous environmental destruction. The legal recognition, or demarcation, of indigenous lands, as well as their effective protection and development of strategies for the environmental and economic sustainability of those lands, are critical steps towards creating a sustainable, and socially just model of development.

In this statement, I want to review the legal status of Indian lands in Brazil, and to highlight several crisis situations to which we in the US have connections, either through World Bank projects, or as major consumers of tropical timber, particularly mahogany. I will then outline several steps that this subcommittee can take to constructively contribute to solutions to these crises.

The Legal Status of Indigenous Lands in Brazil

There are 200 indigenous peoples in Brazil, that number approximately 250,000 people (0.2% of the national population), that speak 170 distinct languages. The Brazilian Constitution recognizes Indian land rights to 80 million hectares (197 million acres), or about 10% of the national territory. (Ricardo, Carlos A., "Quem fala em nome dos indios?", Povos Indigenas no Brasil 1987-1990, Aconteceu Especial 18. CEDI, 1991) Over 90% of the recognized Indian land in Brazil is in the Amazon, and Indian lands represent about 18% of the Amazon. There is evidence of the existence of some 53 isolated Indian groups, that is, groups with no regular contact with the national society, although FUNAI has confirmed the existence of only 12 of these.

Article 231 of the Constitution of the Federal Republic of Brazil of 1988 recognizes Indian rights to the lands they traditionally occupy, and assigns to the Federal government the responsibility for demarcating and protecting those lands and the wealth in them. Indigenous lands are the property of the federal government, but the Indians have permanent

possession and usufruct of the lands. The demarcation process is the legal and physical means whereby the government gives administrative recognition to the Indians' pre-existing land rights. The demarcation process as presently constituted includes the following steps:

Identification - The National Indian Foundation (FUNAI) (Brazil's Indian agency) recognizes a given area as occupied by Indians and conducts anthropological studies of the area; FUNAI approves the identification studies and publishes a description of the area in the Federal Register, and sends the studies to the Ministry of Justice;

Delimitation - The Minister of Justice reviews the studies, publishes a document declaring the area to be occupied by Indians, and authorizes the demarcation;

Demarcation - The area is physically demarcated (including signs at regular intervals declaring the area as indigenous land, and clearing of pathways on borders not defined by natural features such as rivers);

Validation of Demarcation (homologação) - The demarcation is validated as correct by the President;

Registry - The area is registered in the appropriate regional land office and the Department of the National Patrimony.

The process of demarcation, as referenced in the Constitution 1988, includes all of the above steps. The Constitution also stipulates that all remaining Indian lands be demarcated within 5 years, that is, by October of 1993.

There are 519 known indigenous areas in Brazil (not including the lands of isolated indigenous groups). Of these, 251 are either fully demarcated, or have received presidential validation of the physical demarcation. The broadly representative, and technically well informed Forum in Defense of Indigenous Rights, representing over 40 indigenous, human rights, and environmental organizations calculates that 106 known areas have not even been identified, another 61 areas have been identified, 68 have been delimited but not physically demarcated and 33 have been delimited, and physically demarcated but have not had Presidential validation of the demarcation. That is, 268 are in varying stages of demarcation prior to the legally critical step of Presidential validation of the

physical demarcation. Of these, more than 100 do not even have the documentation necessary to begin the demarcation process (those not identified). Obviously, the constitutional requirement for demarcation of all remaining Indian lands by October of 1993 will not be met.

This is of particular concern, since the process of Constitutional revision also starts this year, and efforts to reduce the extent of existing indigenous areas, and other attempts to undermine indigenous rights, are already underway. The previous administration in Brazil took critically important steps in demarcating the 9 million hectare Yanomami area, home to the and the Mekragnoti area of the Kayapo, but subsequently sectors of the military, mining interests and regional political elites have mobilized for reducing the extent of indigenous lands, and undermining indigenous rights in the constitutional revision process.

US Links to the Indigenous Peoples of Brazil

The US is connected to indigenous peoples in Brazil in two major ways. Many indigenous areas have been affected by multilaterally financed development projects, particularly World Bank projects. Since the US is the largest shareholder in the World Bank, and US tax dollars, along with the contributions of the other major donor nations, allow the institution to exist and operate, the effects of Bank projects on indigenous peoples, and the extent to which the Bank implements its own policy on indigenous peoples and economic development, is a legitimate concern of the US Congress. Indeed, members of the Congress have raised concerns with the effects of various World Bank projects to good effect, and Congressional oversight has been critically important in promoting reforms in the multilateral lending institutions. In addition, the US is a major importer of tropical hardwoods, and the second largest consumer of Brazilian mahogany. Predatory logging, especially for mahogany, is wreaking havoc on Indian lands in the Amazon, and the US can do a great deal to help create incentives for far more sustainable uses of tropical forest--and the natural resource base of many indigenous areas--than presently exist.

Indigenous Areas in World Bank Projects

In the early 1980s, the World Bank financed two major infrastructure and agricultural colonization projects in the Brazilian Amazon--the Polonoroeste project, in Rondonia and Mato Grosso states, and the Carajas Iron Ore project, in Pará and Maranhão states. Polonoroeste, in which the Bank

invested \$434 million of an estimated \$1.6 billion total project cost, financed the paving of 1,500 kilometers of the BR-364 road, as well as feeder roads, agricultural colonization, and environmental protection actions. There are about 10,000 Indians in some 67 areas in the project area, some of whom were to be assisted by an "Amerindian Special Project". The Carajas Iron Ore Project, a massive iron mine, an 890 kilometer railroad for ore transport and deep water port, cost over \$3 billion, of which the World Bank loaned \$304 million, but orchestrated much more private and bilateral financing. The Amerindian Special Project for Carajas intended to assist some 15,000 Indians in 24 areas in Pará, Tocantins, and Maranhão.

For large part of the indigenous peoples affected by these projects, the effects of uncontrolled predatory development have been far greater than any mitigation provided through the special projects. The statement submitted to this subcommittee by Dr. Terence Turner on behalf of the Commission for Human Rights of the American Anthropological Association, illustrates a tragic and disgraceful case in point, in the Alto Turiacu and Caru indigenous areas, and the undemarcated Awa-Guaja lands in northern Maranhão. These areas fall within the Carajas Amerindian Project. While the Bank can point to progress in demarcation of various areas, the uncontrolled migration, deforestation, spread of epidemic diseases, land conflicts, and invasion of Indian lands and pillage of their natural resources following in the wake of the infrastructure development boom, far outweigh the marginal benefits of measures actually executed on behalf of the indigenous communities. While the Alto Turiacu and Caru areas are demarcated, both have been massively invaded by landless peasants, ranchers and illegal loggers. A fraudulent land-titling company operated by members of the regional elite has sold false titles to large part of one of the reserves, and ranchers invading the reserve maintain a private army to protect their claims by force. Six Indians are reported to have been killed in the last three years. The Awa-Guaja, one the last nomadic hunting and gathering groups in the Amazon, include uncontacted groups, and there are reports of massacres against them. The Awa-Guaja area has not yet been demarcated, although funds are available and the group is utterly vulnerable to introduced diseases and outside influences. The prospects are for pressure to increase in these areas, in part owing to the spread of charcoal production from the native forest for pig-iron production--made possible by the Bank's project. Local authorities, including police and the courts have been completely ineffective, and may in some instances be complicit with the pillage of Indian lands.

Recent reports from Indian areas in Rondonia and Mato Grosso, in the Polonoroeste project area, suggest a similar situation. In the Aripuanã Indigenous Park, inhabited by the Cinta Larga, as well as in the Surui and Zoro areas, illegal logging and mining, is rapidly exhausting the natural resource patrimony of the areas as well as destructuring the traditional social organizations of the groups. In Rondonia, a mahogany boom entirely consumed the reserves of the timber in the state outside of Indian areas by the mid-1980s. Dozens of loggers then began to systematically assail the Indian areas, frequently with the collaboration of FUNAI officials. The director of the Aripuanã Park at the time introduced a completely illegal gold mining operation (garimpo) into the reserve. Most of the indigenous reserves with mahogany on them in 1987 were subject to logging contracts signed by then-president of FUNAI, Romero Juca, which were subsequently annulled in federal court. ("O ouro verde das terras dos indios" CEDI, Novembro 1992) Many of these contracts gave loggers massive concessions in exchange for services FUNAI was in any case obligated to provide, such as health posts and schools, and underestimated the value of the timber, while overestimating the cost of the services provided. Some groups initially resisted invasions of loggers and small farmers, such as the Zoro, but in the absence of basic services--particularly health care, in a context of rampaging malaria and other epidemic diseases introduced by uncontrolled development--have ceded to the constant pressure of the loggers, and are now signing logging contracts themselves. The most recent report from the Zoro area calculated that in the dry season, when logging activity is at its peak, some 30 heavy trucks a day of mahogany were leaving the area. The Indians, typically illiterate and in any case without effective means to control the quantities of timber extracted, are perforce selling their inheritance for a pittance. Internal divisions in the groups have been exacerbated, and traditional leaders that resisted deals with the loggers have been demoralized.

Even in the absence of minimally adequate services and under enormous pressure, some groups continue to resist, as is the case of some Nambiquara groups in Mato Grosso. In the Sarare and Vale do Guapore Indigenous Areas, local indigenous rights groups report that an armed conflict among Nambiquara sub-groups is imminent. The Wassussu, Sarare, Hahaintessu, Negarote and Mamainde have refused to deal with loggers who have pressured them and stolen timber from their lands for year. Failing in repeated efforts to mobilize police action to prevent the invasion of their lands and theft of their timber, the Nambiquara have seized and burned logging trucks and engaged in armed confrontations. Two loggers

and two miners have been killed in the Guapore area in the last year, and anti-Indian sentiment is strong in the regional towns. The loggers have enlisted other Nambiquara groups, particularly the Nambiquara do Campo, who have no mahogany on their land, to pressure the former groups and serve as armed guards on incursions to steal timber. Although two court orders for the imprisonment of illegal loggers were issued last year, the police have yet to execute them. A FUNAI agent with some 15 years of experience among the Nambiquara, who has worked tirelessly to move the agency and local authorities to enforce the law, Marcelo dos Santos, was forced last year to leave the state after years of increasingly menacing death threats. In addition, the Sarare Indigenous Area suffered an invasion by 3,000 gold miners (garimpeiros) in 1991. The World Bank, when informed of a federal court decision ordering FUNAI and the Environmental Institute (IBAMA) to remove the miners, required the government of Mato Grosso to carry out the removal and design a plan for the environmental rehabilitation of the area degraded, as a condition for the approval of a new loan for the state. The loan was approved after the due removal of the miners, but now another 1,000 armed miners have reinvaded the area. The potential for large scale violence--with disastrous results for the Indians--in this situation is enormous.

One of the environmental protection actions of the Polonoroeste project in Rondonia was the creation of the Guapore Biological Reserve. The reserve is inhabited by two uncontacted indigenous groups. Since the late 1980s, the area has been subject to illegal logging for mahogany, with cover from local politicians, as well as irregular sale of lots in the reserve. The uncontacted groups are at extremely high risk from introduced diseases, and unless rapid measures are taken to secure their lands and provide medical services, face massive population loss or even extermination.

In both the Polonoroeste and Carajas projects, the Bank was willing to accept assurances that measures to protect Indian lands and indigenous populations would be taken in the course of the project, and financed infrastructure development before the government demonstrated the political will, and wherewithal, to carry out those measures. The World Bank's own internal evaluation of the Carajas project states, with reference to the Amerindian special project, "What is required, more specifically, is the effective guarantee of Amerindian rights--as defined under both the 1973 Indian Statute and . . . the 1988 Brazilian federal constitution--to the exclusive use of the natural resources on the lands they inhabit."

ISA

The Rondonia and Mato Grosso Resource Management Projects, involving Bank financing of \$167 million and \$205 million respectively, while not principally aimed at infrastructure development, may similarly fail to adequately protect indigenous groups from invasion and the sack of their natural resources. Both projects, conceived in the aftermath of the notorious Polonoroeste Project and approved at the end of 1992, support land use zoning plans to be carried out by the respective state governments, and include services in indigenous areas. But both were also approved in the absence of substantial demonstration of the requisite political will to make these plans effective. The disastrous circumstances in Indian areas in Rondonia and Mato Grosso outlined above were in full course while the new loans were being prepared and appraised, but with the exception of the mining invasion of the Sarare area, the Bank required little if any action on the part of local authorities to enforce existing legislation. The Bank's insistence on removal of the miners from Sarare was no doubt conditioned by the lawsuit filed by the nongovernmental Nucleus for Indigenous Rights, which obtained a federal court decision ordering FUNAI and IBAMA to remove the miners.

A broadly representative forum of nongovernmental organizations in Rondonia has repeatedly criticized the Rondonia project, in letters to the Bank as well as in a public hearing in the Environment Committee of the Brazilian House of Representatives, arguing that government agencies are already violating the zoning plan, even as the project starts, and that critical policy changes negotiated as conditions of loan approval are being ignored by key organs of government. A similar NGOs forum in Mato Grosso has argued that key sectors of the civil society affected by the loan--rural workers unions, church groups, environmental and human rights groups, as well as indigenous organizations--have been excluded from even minimal information on the planning process for the Mato Grosso project. The Mato Grosso forum has voiced serious doubts about the institutional capacity of the state executing agencies to carry out the complex project.

It is possible that the \$255 million G7 Pilot Program for the Conservation of Brazilian Tropical Forest, coordinated by the World Bank, and funded by the G7 nations, may provide a more promising model for international assistance for forest preservation and indigenous peoples. While bureaucratic delays within Brazilian government have held up the project, the indigenous areas component would support identification and demarcation of indigenous areas in the Amazon, health care, and a pilot indigenous resource management plan.

Mahogany and Indigenous Areas

The extraction of mahogany (*Sweitenia macrophylla* King) is without doubt on the leading edge of the destruction of the Amazon forest and the violation of indigenous rights in Brazil. It is not accidental that the very serious threats to the cultural and physical survival of indigenous groups in World Bank project areas cited above all involve illegal logging, chiefly of mahogany. These cases could easily be multiplied, as for example in the Vale do Javari in Amazonas, where loggers operate in proximity to isolated indigenous groups, putting them at risk of extinction, or in the Kampa area in Acre, where loggers subjected the Kampa to debt peonage in the timber trade. Mahogany is by far the most valuable timber in the Amazon; it is worth orders of magnitude more than other Amazon hardwoods and has a ready export market. The high export value of mahogany and almost complete lack of enforcement of environmental and other legislation with regard to its exploitation makes Amazonian mahogany more like gold or coca than other timber products, as is also suggested by the frequent violence associated with its extraction. Further, while subsidies for cattle ranching have been largely phased out or restricted, timber producers still enjoy tax holidays and subsidies for their operations in the Amazon (Prado and Deusdara Filho, "Sumario Conclusivo: Politicas publicas e uso dos recursos florestais na Amazonia", FUNATURA, 1992. mss.)

Brazilian mahogany production and export have increased very rapidly over the last decade, with extremely serious effects. Between 1985 and 1990 loggers in Pará state alone opened some 3,000 kilometers of irregular and unauthorized roads, including roads in indigenous areas, vastly increasing the potential cattle ranching and colonization frontier, utterly without regard to government control. Efforts at management or replanting are nearly nonexistent, although considerable experience with management exists in Central America. In 1992, the Brazilian Botanical Society listed mahogany as an endangered species, and the fear that the species may become extinct in the next decade at present rates of exploitation is more and more frequently voiced. In frontier areas such as southern Pará and Rondonia, sites of rapid frontier expansion in the 70s and 80s, much if not all of the existing mahogany is in either indigenous reserves or other protected areas. Hence the increasing pressure on these areas since the mid 80s, and the intense social disruption in Indian areas caused by logging invasions. So grave is this situation that 65 Brazilian nongovernmental organizations--indigenous organizations, environmental groups, rural workers unions, human rights, and church groups--have called

for a moratorium on the extraction of mahogany in the Amazon, in order that a rational and sustainable policy can be worked out.

The US is the second largest consumer of Brazilian mahogany, after the UK, and Brazil supplied on the order of 75% of US mahogany imports from 1978 to 1991 (Jimerson, L., "Mahogany in the USA: a study for FUNATURA", 1993). We are a major market for this and other tropical hardwoods from the Brazilian Amazon. In light of the urgent situations surrounding mahogany extraction in Indian areas, as well as its environmental effects, the Congress can and should look closely at ways that the US can help create better incentives for sustainable uses of the forest.

Conclusion

Mr.Chairman, the United States has great opportunity--and indeed responsibility--to positively contribute to finding sustainable solutions in the Amazon. In order for the US to make that contribution, or to play a credible leadership role on any international environmental issue (the pillage of the natural resources of Indian lands in the Amazon is an environmental issue, as well as one of human rights), we must first put our own house in order. The international reception our government received at the Earth Summit in Rio last year suggested that very clearly. The US is now starting to do this, through the President's acceptance of the Biodiversity Convention, his commitment to limit US emissions of greenhouse gases, through the proposal to limit logging in our old growth forests, and thorough the Secretary of the Interior's proposals to economically rationalize the use of public lands in such a way that use becomes more ecologically sustainable. I urge you to work with your colleagues in the Congress to support those initiatives, for they are critical to US credibility as a global environmental leader.

One channel through which the Congress can make a difference in the Amazon is the multilateral banks. It is important to recall that it was very largely the monitoring and oversight of the US Congress of the multilateral banks that effected the environmental reforms in the World Bank and Inter American Development Bank, the adoption of environmental impact assessment procedures in the banks, as well as constructively influencing various major projects. Continuing, indeed expanded monitoring and oversight--focusing on paradigmatic cases--can make a critical contribution to the sustainable and socially equitable development of the Amazon.

It is also urgent that the Congress look more closely at the effects of the mahogany trade on indigenous populations and the Amazon forest. The need to make this market less socially destructive, and more environmentally sustainable, and to halt the blatant pillage of resources guaranteed to the indigenous peoples of the Amazon by law, is clear. It would be an excellent use of the resources of the Congressional Research Service to compile a study of US consumption of mahogany and the effects of mahogany exploitation on indigenous groups, and the environment. In this context, it would be very useful to look at how Amazon mahogany gets to US consumers. The CRS has recently issued first rate reports on foreign assistance and indigenous peoples, and biotechnology, intellectual property rights and indigenous peoples, and can produce a high quality study to inform further action.

One action that would begin to create better incentives for the sustainable use of tropical forest immediately, and help to address the problems outlined above, would be to label tropical timber or tropical timber products by species and country of origin. American consumers can help to create positive incentives for more sustainable, and more equitable use of tropical forest resources, but they cannot do so in the absence of minimal information on the products available. More information than species and country of origin would eventually be necessary for consumers to make informed choices that send the right market signals. But a simple labelling requirement would be an enormous step. It would make the most predatory actors in the Amazon think twice, and begin to create terrific opportunities for entrepreneurs who want to market sustainable wood, and want to see that the Indians and other forest communities get a better deal. In 1991, Mr. Kostmayer introduced H.R. 2854, the Tropical Forest Consumer Information and Protection Act of 1991, which contained among other provisions, a labelling requirement. I strongly urge you to consider, with your colleagues, ways of reviving this useful initiative and putting it into practice.

Statement of Steve Schwartzman, anthropologist, on behalf of The Environmental Defense Fund and the National Wildlife Federation, before the Subcommittee on Western Hemisphere Affairs, Committee on Foreign Relations, US House of Representatives, July 14, 1993

Mr. Chairman, I am Steve Schwartzman, anthropologist of the Environmental Defense Fund. I am testifying today on behalf of EDF, a national environmental organization with 200,000 members, and of the National Wildlife Federation, the largest conservation organization in the country, with 5,000,000 members. I thank you for the opportunity to address this subcommittee, and for your concern with the situation of Brazil's indigenous peoples. I know this concern is shared by many of the members of EDF and NWF.

Mr. Chairman, the fate of Brazil's indigenous peoples is a global concern today because the most basic human rights are at issue. There are 200 indigenous societies in Brazil, speaking 170 different languages and numbering 250,000 people. In this century alone some 80 entire societies have vanished in Brazil, victims of disease, massacres, forced labor, and the plunder of their natural resources. There are still about 50 uncontacted Indian groups in the Brazilian Amazon, groups that have no regular contact with the national society. Many of these peoples are at risk of extinction because their lands are invaded by predatory loggers and ranchers, or desperate miners and colonists.

The fate of Brazil's Indians is also a global concern because it is intertwined with the fate of the greatest repository of biological diversity on the planet, the Amazon forest. The same

radically unsustainable model of development that has devastated Brazil's Indians, has left 1% of the country's landowners in control of half of the agricultural land, while half of the landowners occupy only 3% of land, and very quickly deforested about 10% of the Amazon, mostly for the short term profit of that tiny elite. The forest peoples have immense knowledge of ecosystems that could become the basis of the next industrial revolution, in benefit of Brazil and the world, and many of these indigenous groups are actively seeking to halt the depredation of their resources. We in the US--and this subcommittee--can do a great deal to help them.

The US is the second largest consumer of Brazilian mahogany, and the mahogany trade is on the cutting edge of the destruction of the Amazon and the indigenous peoples. Many of the most pressing threats to the survival of isolated Indians, the most violent conflicts, most scandalous pillage of indigenous resources, and most flagrant omission of governmental authorities, are results of the predatory exploitation of mahogany. In Mato Grosso, indigenous rights groups fear a bloodbath as Nambiquara Indians desperately resist armed incursions into their lands by loggers. In Rondonia, two uncontacted tribes, living in the Guapore Biological Reserve--which should have been protected under a World Bank project--are facing a catastrophe as illegal loggers supported by local politicians plunder the reserve. A similar tragic situation is related in Dr. Turner's statement on behalf of the AAA, on the Awa-Guaja of Maranhao. Such examples could be multiplied.

One reason that mahogany exploitation is so destructive is that there is no incentive for any other kind of exploitation--of mahogany or other hardwoods. American consumers can help to create better incentives, but only with information on the products that are available. One immediate, and simple, step toward creating incentives for sustainable, and more socially equitable, use of forest resources, is the labelling of tropical timber by species and country of origin. This was proposed in HR 2854, and I urge you, Mr. Chairman to consider, with your colleagues, introducing such a measure.

In addition, the subcommittee could call on the CRS to prepare a study of the effects of mahogany extraction on indigenous groups and the Amazon forest, as well as on how mahogany gets to the American consumer. Such a study could very usefully inform further action.

Finally, Mr. Chairman, the US is the largest shareholder in the World Bank, a major international actor in the Amazon. The Congress has played a critical role in promoting reforms in the Bank, and should monitor very closely ongoing Bank projects in the Amazon and other multilaterally financed development projects that affect indigneous populations.

Mr. Chairman, thank you again for your interest.

Prepared Statement of Megaron Txucarramae,
Brazilian Indigenous Leader,
before the
Subcommittee on Western Hemisphere Affairs
Committee on Foreign Affairs
U.S. House of Representatives
Washington D.C.

July 14, 1993

I must say although the rights of the indigenous peoples of Brazil are legally recognized, those rights continue being disrespected. This is because our rights conflict with the interests of powerful groups who want to illegally exploit our lands and natural resources. Therefore, the indigenous question is almost always invisible, becoming known to society only when violent clashes occur or there is organized pressure.

Thus, our problems are not a priority for the government. All concrete measures are delayed, and every solution is hard won. The Government is, almost always, absent or late, and does not enforce the laws relating to indigenous rights. It simply lets time pass, it seems to me, counting on the disappearance of the our peoples, or betting that we will be forgotten.

A. Civil Rights

I want to say that I understand that our rights of citizenship include the recognition of our difference in the first place, and, as a consequence, the right to special support from the State in all matters in which we become involved with non-Indians.

The constant delay of judicial proceedings concerning violent attacks against indigenous persons and communities amounts to judicial impunity for such acts, with the complicity of public institutions.

I would like to cite two flagrant examples:

ISA

The massacre of 14 Ticunas Indians -- men, women and children -- killed in a ambush by loggers in October of 1988. The 17 persons accused of committing the crime have until today never been judged and continue in liberty.

The case of the Guarani leader Marçal de Souza, who was assassinated in 1983 at the instigation of a rancher who had invaded the lands of that people. Despite all the evidence, the rancher was recently tried and found not guilty. The prosecution is seeking a new trial.

B. The Right to Land

The Brazilian constitution of 1988 granted indigenous peoples the right to their traditional lands and stipulated a period of 5 years -- which is about to end this October -- for the Government to demarcate all of our areas. The indigenous peoples of Brazil live in more or less 520 different areas. Of these, the government has demarcated around 280. However, there are still at least 170 areas for which the political decision of the government is pending -- which is to say that those areas are still not recognized. Among these areas, there are some such as the Indigenous Areas of Alto Rio Negro in Amazonas and Raposa Serra do Sol in Roraima that have not been demarcated by the government because of intense pressure on the part of local economic interests. Besides these there are some 70 other areas whose boundaries have already been established by the Ministry of Justice but have not been physically demarcated due to lack of financial resources.

As can be seen, the government will not fulfill its constitutional obligation.

If this were not enough, practically all the indigenous areas in the country -- demarcated or not -- are being invaded by ranchers, goldminers, and loggers, and the government has taken no action to definitively remove them.

C. The rights to the natural resources and wealth of our lands

We have been victims of predatory processes of mining and logging of tropical hardwoods in our areas.

When the impetus for these invasions has not come from the government, they occur as a result of governmental inaction and complacency. I think that the goldminers and loggers have simply copied the Government, which has always in these cases, made use of corruption, coercion, and blackmail.

A perfect example is the case of my relatives, the Kayapo of Gorotire: in 1981 they took action and expelled the gold miners who were trying to establish themselves in their undemarcated territory. The Government then bargained with my kinsmen in the following manner: You let the miners work and we will demarcate your land. Of course everyone agreed. The Gorotire had for a long time wanted their land demarcated and had continually struggled for this.

The result of this is that, today, 100% of the Gorotire are highly contaminated by methyl-mercury, according to the results of a scientific investigation done by the Fundação Mata Virgem. The Fresco river, the village water source, is without life, silted and polluted.

This calamitous situation is repeated in various other indigenous areas. The Government, in spite of knowing this, has until now done nothing to correct its error, carrying out its constitutional duty to defend the indigenous territories and patrimony, and does not seem disposed to do so.

Aside from the environmental and moral losses, there remains our concern with the future of the indigenous peoples victimized by this assault, recently aggravated by the inclusion of our "in situ" gene banks, developed and conserved over millenia at no cost to occidental civilization.

These resources are being appropriated by your scientists and businessmen, with no return or respect for our long term labor of selection and maintenance of these genetic resources. To the contrary, the traditional peoples of the world are likely to pay dearly for the products created through quick manipulation of their ancient genetic resources.

In their avarice for quick and easy profits, supported by the avidity and lack of awareness of the consumers of the so-called 1st world, regional economic interests are sacrificing equally precious plants and animals that, I am sure, could serve us all, and not only the rich.

Help us. Help yourselves. There is still time.

Present Situation of Indigenous Lands

Without recognition	106
Identified, sent to Ministry of Justice	18
Identified	43
Delimited	68
Demarcated	33
Demarcated, validated by President	164
Registered	87
Total	519

Luciano Pizzatto
(Brazilian Federal Representative)
Testimony Before the Subcommittee on Foreign Affairs
U.S. House of Representatives
Washington, D.C.
July 14, 1993

This statement represents my personal assessment of the condition of the Brazilian indian communities and on some aspects of our environment.

As a Forest Engineer and now as a politician, I have been confronted with the various aspects of the main problem of indian communities - the respect those communities and their traditions deserve vis-a-vis the unavoidable integration to other societies and their habits.

Disregarding any ideological component in the setting up of programs, institutional policies and even specific indian legislation, I think that, in Brazil, the greatest challenge to be addressed will be how to maintain respect for the INDIAN WILL and how to apply this WILL to the relationship with a modern, dynamic community that each day permeates all areas of indian life independently of our intentions or interests.

This INDIAN WILL, that differs from one community to another and may even change in the same community, is now supporting the new indian leadership, which is making use of their traditional interlocutors, particularly certain NGO's, to try to negotiate with the government authorities and other interested parties (even foreign countries) in a direct, transparent and objective way, so that traditional spokesmen are reduced to a supporting role.

Due to this situation we have to address such new challenges as:

- a) If we want the indian communities to have freedom to maintain and exploit their preserves, we should guarantee that the financial results will be managed by those communities directly. This will be possible in some cases but impractical in others.
- b) The possibility of the end of the State's patronage of the indians can not happen without the guarantee of minimal conditions of maintenance of the traditions and culture of each tribe, but at the same time should support an advance to a more equal relationship between the indians and other communities.

In these two examples, one can feel the complexities of the Indian situation in Brazil, at the moment when the Congress is debating a new Indian Statute, which may be approved this fall and thereafter will govern all legal aspects of indian life.

LAISA

The new Statute should be an instrument of progress, should represent the result of a minimal consensus of the interests involved and take into consideration the three proposals already in discussion in the Congress.

Concerning the situation of the traditional indian lands, the period established in the 1988 Constitution, for the regularization of indian land ownership throughout the country will end. This indian land totals 87 million hectares (217,5 million acres, or more than twice the area of the State of California) in 504 indian territories belonging to about 250 thousand individuals from 200 hundred tribes. The regularization is being delayed by difficult institutional conditions, lack of financial resources and difficulties in solving regional conflicts.

Moreover the indian preserves, especially in the north of the country, include areas with enormous natural resources, such as forests, minerals and biogenetic resources, and the pressures to exploit them are natural and often irresistible.

Taking into consideration all of these factors, my opinion on the main questions of interest for this commission is this:

1. There has been an improvement in the awareness of the government and public opinion concerning the importance of the question of indigenous peoples, but there still exists a wide range of conflicting opinions over the dimensions of indian claims to preserve areas, that should be addressed by a major clarification effort, easing of tensions and finding of alternatives in order to avoid stimulating conflicts and to promote full awareness among the whole Brazilian people and interested foreign nations.

2. FUNAI (National Indian Foundation) and other involved ministries, particularly the Ministries of Health and Education, do not have financial and human resources to fulfill adequately with their missions.

3. The self-sufficiency of many indian communities through the administration of their natural resources would be possible if we could establish clearly how, in legal and institutional terms, this administration would be regulated.

4. The mining and illegal timber exploration are still the major problems that have led to the destruction of indian preserves in the country. In the first case, mining is done by gold prospectors, thousands of them, who are not working only by hand but are effectively small enterprises, which are mechanized, own small planes and have great environmental impact. In the second case, dishonest timber merchants utilize the indian preserves for raw material sources without any reforestation and forest management.

5. The Government has showed political will and has taken steps to restrain the mining and illegal timber exploitation but the dimension of the problem is much greater than the capacity to control it.

6. The level of the problems raised in the indian communities by indiscriminate contact with other people, especially the clandestine gold prospectors is increasing, with serious health problems, prostitution, destruction of tradition and culture and conflicts over land ownership.

7. It is necessary to recognize the cultural, environmental and historical diversity of Brazil's indigenous groups, so that all indian communities, not just those of the Amazon, receive support from assistance agencies.

8. In environmental terms, Brazil has made progress, reducing the areas of deforestation and the intensity of forest burning (approximately 1 million ha/year = 2,5 million acres/year according to INPE/NASA-1993), implementing some pilot programs of forest management and even wildlife protection, beginning the demarcation of extraction preserves and discussing these problems with society. It seems that in these cases there is more political interest than in the indian question itself.

9. As for deforestation incentives as well as taxes on forest land the government is already acting to restrict and reduce these incentives but without ending them completely. The future presentation and approval of Amazon zoning will allow better application of regional criteria. In relation to the taxation of natural forests as unproductive land, this distortion continues to exist and in some municipalities it is still even considered that only deforestation proves that land is used. This is a point that deserves closer attention.

10. Concerning the revision of the Federal Constitution which will begin in October, 1993, there is concern about the maintenance of the current text and its benefits for the indians, but it seems that the tendency of most congressmen is to keep or even to extend the advances already made, as long as there is effective pressure from society, the NGO's and indian communities.

Even considering this observation, which I regard as more positive than the situation a few years ago, we still urgently need ways to bridge the huge gap between the need to balance ecological, economical and social functions and the reality of poverty and hunger.