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Human Rights and the Indians of Brazil

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Isolated from national society and delicately linked to their surrounding natural environment, various Brazilian Indian tribes have suffered -- and are still threatened by -- devastating consequences when they come into abrupt contact with the forces of modern development and when their lands The case of the Indians of Brazil thus are taken away. presents a significant example for the consideration of the humanitarian consequences of the political and economic options facing Latin American elites and for the evaluation of development models in terms of the extent to which they violate or promote human rights. This paper begins with a review of (alleged) examples of human rights violations committed against the Brazilian Indians. The issues raised by these examples are then examined from philosophic, economic, and political perspectives.

The roughly 185,000 Indians that remain in Brazil constitute a small minority in a country whose population exceeds 120 million. Most of these Indians reside in the sparsely populated Brazilian Amazon, living in government-established reserves or parks, in groups of fewer than five hundred. These tribes often require extensive territories to survive; their traditional economies are based on swidden (impermanent) agriculture, hunting, fishing, and the gathering of forest foods. In 1967, the Brazilian Indian population stood at 245,000; subsequent population losses have largely resulted from the interaction of these Indians with outside groups.

Some Indian Human Rights Examples

The most notable (alleged) human rights violation concerns the Yanomami Indians of the Brazilian Amazon (state of Amazonas, federal territory of Roraima). They constitute the largest unacculturated group of indigenous people in South America. In December 1980, several Indian support groups filed a complaint against the Brazilian government before the Inter-American Commission on Human Rights, alleging that the government was violating the rights of these Indians. Referring to the OAS (Organization of American States) Declaration of the Rights and Duties of Man, these support groups cited violations of seven articles: Article I--life, liberty, and security of person; Article II--equality before law; Article III -- religious freedom and worship; Article VIII--residence and movement; Article XI--preservation of health and well-being; Article XVII--basic civil rights; and Article XXIII--right to property. Five activities of the Brazilian government were mentioned: the permission of mining and highway construction on Indian lands; the failure to



protect and enforce Indian rights to possession of land; the failure to insure rights through the creation of a park; the failure to prevent government agents from dislocating and disrupting Yanomami communities; and the failure to protect the Indians against disease. Additionally, the complaint cited the unequal status of Indians in Brazilian law, which has left them politically and legally powerless to prevent the disruption of their rights. Under the Brazilian constitution, Indians are given the legal status of tutelage or wardship. There is no legal recognition of Indian land ownership: the Constitution states that all land they occupy belongs to the Union. While an emancipation statute exists that allows the granting of full Brazilian citizenship, no Indian individual or community has yet been emancipated into full entitlement of all political and civil rights. Brazilian Indian statute does guarantee that Indians have permanent possession of land that they inhabit, but this right extends only to topsoil wealth. Most significantly, the Statute states that Indian land can be expropriated for national security or development.

In May 1981, the government submitted its response to the above charges. It argued that domestic laws--specifically, the Indian statute--provided adequate guarantees for Indian protection. The response denied and minimized specific allegations in the complaint. It also stated that mineral prospectors had been removed from the region.

With respect to the government response, the Anthropology Resource Center, one of the Indian support groups, noted that 1500 mineral prospectors remain on Yanomami territory. The government has delayed their evacuation and the local Roraima government has encouraged their presence. On June 12, 1981, the Indian support groups submitted a rejoinder to the Commission. It alleged additional violations of Yanomami rights since December 1980. These violations include continued colonization of Yanomami lands, further invasion by miners and gold prospectors, and government permission of mining activities, such as the issuing of Interministerial Decree 006, which authorized state-owned mining corporations to survey and extract minerals on Indian lands.

Since May 1981, the Brazilian government has interdicted 21 million acres of land for a Yanomami Park but has not issued a legal decree to set up the park and remove existing ranching and mining projects. In the past, government interdicted areas have been revoked or subject to continuous political or economic invasions. It is unclear whether mineral and lumber development will be allowed in the park and which agencies will be chosen to administrate it. FUNAI (the Brazilian government's Indian Federation) is attempting to persuade Yanomami communities south of the interdicted area to move into it. Additionally, FUNAI has been meeting with Indian support groups regarding the provision of health-care assistance to the Indians but no action has been taken.



For the purposes of this paper, it will prove useful to divide the alleged violations into two categories. "First-category" violations involve <u>land-use</u> <u>disputes</u> between the Indians and the government (or private corporations with government permits). "Second-category" violations have less direct economic implications for the Brazilian government. These involve the failure by the government to provide vaccination and other health services to the Indians. Additionally, this category shall include government failure to enforce Indian rights against <u>extra-legal</u> activities by private actors (such as companies acting without permits).

A second major controversy of Brazilian Indian policy involves the Carajas project in the Northeast Amazon (state of Para). This \$60 billion project will consist of three phases, involving 160,000 square miles. The first phase is the minerals and metals project, supplemented by a hydroelectric dam to provide energy locally. By 1984, the dam's completion date, FUNAI intends to relocate approximately 7500 Indians as well as 100,000 peasant families. The Parakanan Indians will lose 80-90 percent of their territory. According to the Anthropology Resource Center (Paul Aspelin),

The Parakanan have already suffered greatly from successive waves of rapid culture shock, epidemics of deadly disease, prostitution, repeated forced relocation, and nearly total resource deprivation. This additional shock may be sufficient to finish them forever.²

Overall, seven Indian nations on ten reservations will be relocated, suffering land loss, resource loss, forced relocation, and possibly rapid culture shock as well as epidemics.

The Brazilian goverment anticipates that over two dozen minerals will be mined, including copper, gold, aluminum, manganese, nickel, tin, bauxite, coal, and iron ore. It is estimated that total reserves in this area include 18 billion tons of iron ore (with 64 percent iron content, the highest ever found) and 1.2 billion tons of copper. The second project phase (currently in the planning stages) involves forestry and the farming of sugar, rice, soybeans, and rubber tree nurseries. The third phase emphasizes cattle ranching. Railway contruction connected with the project has already been completed.

State, national, transnational corporations are participating. There is extensive foreign involvement including Japan, West Germany, Belgium, Italy, France, and the United States. Exports from the project shall be used toward debt payments and the financing of further industrialization, although the current debt crisis has slowed project financing.

In other parts of Brazil, hydroelectric projects will lead to additional Indian relocation. In the south, the \$10 billion, 550 square mile (largest in the world), 12,000 mega-



watt capacity, Itaipu dam project has forced the relocation of 42,000 Indians. A 1981 FUNAI report cites an Electronorte preliminary study that proposes 18 hydroelectric facilities to be built in the next fifty years, directly or indirectly inundating the lands of 27,000 Indians. 5

Throughout Brazil, Indians have encountered (alleged) human rights violations in smaller communities. For example, the two hundred Tapirape Indians in the Northeast Mato Grosso had their land invaded in 1961 when the Tapiraguain Ranch purchased large tracks of land and cut the forest for pasture. Squatters arrived in 1964. In the late 1960's, the government offered the Indians 9230 hectares of land (less than the ranch occupied), including 2000 hectares inundated The Indians rejected this offer and from by water. 1966-1978 FUNAI ignored various demarcation proposals. In 1978, FUNAI pledged to demarcate Tapirape land by July 1981, but failed to do so, claiming they could not afford to indemnify the squatters (although they were not legally bound for such indemnification). FUNAI has managed, however, to send in police to protect the ranch from the Indians.6

Theoretical Perspectives

The conflicts between the Indians, on the one hand, and the government, the ranchers, the miners, and the colonizers, on the other, pose clear zero-sum trade-offs for the parties involved. Should we assume, hypothetically, that the actions of the government actually represent the society as a whole, this case poses difficult philosophical issues. In approaching this issue from a philosophical perspective, I shall leave aside questions regarding actual legal rights to land possession.

"Second-category" violations do not pose difficult theoretical questions because their zero-sum aspects are quite minimal. These cases are morally unambiguous since there is no good justification for the failure to vaccinate Indians against outside diseases and the failure to protect Indian lands from outside incursions, especially in light of their serious repercussions.

With respect to the land use issue, an argument on behalf of the government would emphasize the disproportionate land usage per Indian involved in park or reserve proposals. The Indians constitute a tiny minority in a country of over 120 million people, one-third of whom live in wretched poverty. This argument might insist that individual utilities be weighted equally, refuting the salience of the Indian losses by stressing the difficulty of making interpersonal utility comparisons.

One response to this utilitarian argument would use a Rawlsian rebuttal of strict utilitarianism, insisting instead on a moral framework based on justice as fairness. The inadequacy of Lockean contract theory—the Indians have not "consented" to join Brazilian society—suggests the use



of a Rawlsian veil of ignorance and its first principle of justice. The case for Indian rights might argue,

"Indigenous peoples have a natural, original right to live freely within their own territories...the special relationship of indigenous peoples to their land should be understood and recognized as basic to their cultures, spriritual way of life, integrity as a people, and economic survival."

A rejoinder to this argument might stress that the provision of rights also confers obligations to the general society which insures these rights. Since the Indians benefit from at least one public good--national defense--this debt must be paid to the society. Without contributing to the national treasury, the Indians are not entitled to citizenship rights.

This last argument is somewhat counter-factual; government policy in Brazil has largely threatened, and not protected, Indian interests. A rebuttal could rely on Nozick's emphasis on moral property rights and the process of property transfer. As Shelton Davis has remarked:

"In exercising this sovereign right (development)...the Brazilian government cannot abrogate the rights of other peoples and nations who have prior claims to resources, territories, and lands. Nor can the government carry out economic development programs which, in their planning or execution, threaten the physical, social, and cultural integrity of another nation or group of people."

The restoration of Indian lands can also be argued for by noting that the Indians are being called upon to bear development costs for a society that has nearly exterminated them.

A cost-benefit analysis that compares interpersonal utilities should also help the Indian case, because of the enormous harm that development projects cause the Indians: the loss of a sense of self-control and control over one's environment; feelings of rejection, loss, and despair; the loss of a culture--a way of living, thinking, believing, and doing; and socially, in the breakdown of community ties.

While this theoretical analysis does not go a long way toward a full understanding of the Indian situation in Brazil, it does highlight two important questions: first, the validity of the assumption that the society as a whole benefits from zero-sum land-use disputes that are resolved against the Indians; and second, the history of land transfers between Brazilian Indians and the outside world. These questions are explored in the next section of the paper.

Background



As a whole, the Amazon Basin covers one-twentieth of the earth's surface (7.9 million square kilometers) possessing one-third of its forests, one-fifth of its water, and providing one-half the world supply of oxygen through the photosynthesis of its trees. 10 Sixty percent of the basin lies in Brazil. The Brazilian Amazon constitutes 57 percent of Brazil's total land area, possessing 7 percent of its population, and 4 percent of its income. Through its develop-ment of the sparsely populated region, the Brazilian government has attempted to reinforce its sovereignty in this area and free the nation from population problems, poverty, and unemployment, without resorting to land reform. The Amazon has been used as a stop-gap solution for the financing of rapid industrialization and the achievement of socio-economic integration. 11 These ends have been sought through colonization projects for landless peasants and the treatment of the Amazon as a natural resource frontier for mining, lumbering, and ranching.

While government interest in the Amazon dates to the late nineteenth century, it was not until after the 1964 military coup that sufficient technology, capital, and power (in the form of a strong, centralized government) existed to act on a large scale.

In 1966, the government announced "Operation Amazon" and the creation of SUDAM (The Superintendency for the Development of the Amazon). A fiscal and tax incentive system was set up to encourage corporations to undertake projects in the region. Up to 50 percent of a corporation's tax debt could be placed in accounts for investment in approved projects located in the Amazon. By the late 1960's, over fifty international corporations had begun exploring the Amazon for minerals. The government began issuing "negative certificates" that denied the presence of Indians in an area (often inhabited by Indians) to allow the provision of land titles. While the government tended to regard the Amazon frontier as uninhabited, roughly 120 independent indigenous tribes lived in the region in groups ranging in size from one hundred (or so) to a few thousand. Officially, the government proclaimed that it sought to protect the Indians in the region while insuring that they were not an obstacle to development. Brazilian policy was also influenced by a desire to see the Indians integrated into the larger society. As the Minister of the Interior remarked in 1968: "What we want is a producing Indian, one who is integrated into the process of national development."12

In 1970, after a severe drought worsened the already wretched conditions in the Brazilian Northeast, the Plan for National Integration (PIN) was announced. Its goals were to address regional economic imbalances and to improve Brazil's overall economic development. Initially, the government hoped that as many as five million peasants would colonize the Amazon. However, only 40,000 had been relocated by 1975. Large infrastructure projects also began in 1970,



most notably the Trans-Amazon Highway Project, which involved the building of six highways that intersected the territories of 90 percent of Brazil's indigenous tribes. The human settlement of the Amazon was slowed by fiscal incentives that promoted capital-intensive industries and by land-intensive livestock ranchers. 14

In 1973, construction on Federal Highway BR-210 passed through Yanomami territory; this construction continued until 1976. Mining, cattle-raising, and colonization projects also infringed on Yanomami territory. This invasion was accompanied by a drastic decline in the Yanomami population between 1973 and 1976; the Indians lived in a state of misery, sickness, and shock, suffering from influenza, measles, and tuberculosis because of their abrupt contact with outsiders during this period. 15

In 1975, the Second Amazon Development Plan was announced; it stressed the importance of the Amazon as a resource frontier to boost Brazilian exports. That year, mining began on Yanomami territory. The government provided no vaccination for the Indians and no compensation for their lost territo-Meanwhile, sporadic fighting occurred. Between 1968 and 1979, groups of anthropologists, scientists, and missionaries petitioned the government to establish a land reserve for the Yanomami but no action was taken. In 1980, five thousand gold prospectors invaded Yanomami territory, encouraged by CODESAIMA (the Roraima Development Corporation), and brought whooping cough epidemic to the Indians. 16 Currently, Yanomami territory is suited for the potential mining of tin ore, uranium, thorium, and gold--strategic minerals that can fall under the heading of national security and development for the expropriation of Indian lands.

Additionally, in 1980, more than thirty Indian leaders were assassinated in what the Association of Brazilian Anthropologists called a state of siege. They charged FUNAI with "systematically avoiding its responsibilities to serve as the guardian of the Indian." ¹¹⁷

The Maldistribution of Growth

The development policies of the Brazilian government are largely designed to increase the growth of the modern industrial sector of the society. The need to finance this growth has attracted Brazil into using the Amazon as a resource frontier. This section examines whether these policies benefit the vast majority of the Brazilian population.

The distribution of income in Brazil is highly skewed; the bottom 50 percent of the society receives 14 percent of the income. 18 According to Sylvia Hewlitt, one-third of the Brazilian population lives in wretched or miserable poverty. Adjacent to the Amazon, the Brazilian Northeast suffers considerably; average per capita income is \$150. With a total population of 27 million, 5 million in the Northeast are jobless or underemployed. 19 The Brazilian economic miracle



was confined largely to the central and southern parts of Brazil, bypassing the Northeast. The economic miracle also bypassed infant mortality rates, which rose with per capita income.

The settlement of the Amazon has also been characterized by land conflicts between squatters (peasants who have resided on the land for several years without formal titles) and large transnational corporations. The squatters have lacked the wealth and access to government officials necessary to obtain land titles. The courts have supported the large landowners over the peasants in legal disputes. With respect to the distribution effects of cattle ranching in the Amazon, one economist concluded:

"SUDAM livestock projects should be awarded poor marks in the equity area. Since their direct employment of rural workers is insignificant, most income and all capital gains accrue to non-resident corporate entities...perpetrat(ing) the concentrated patterns of land tenure, chronic rural poverty, and social violence that have long characterized Amazonia."²⁰

The Indians, in particular, have only suffered negative consequences from development. One study found "considerable evidence that the Brazilian government perceives people as an obstacle rather than an asset for development." 21

Development in the Amazon has promoted national development goals at the expense of local ones. Extractive industries are not self-sustaining and no efforts have been made toward the promotion of self-sustaining development. In a country characterized by mass poverty, the use of food exports from the Amazon to finance high technology growth in the south suggests that the poorest sectors of society are not the beneficiaries of the income distribution resulting from Brazil's economic growth.

Economic Alternatives

The "first-category" human rights violations, involving zero-sum land use trade-offs, occur within the framework of a specific rapid-growth, high-technology development model. Alternative strategies for development should be discussed to examine more fully the choices of the Brazilian government.

The Amazon frontier has not performed well as a labor safety-valve, nor is it promising in the future for labor absorption. The Amazon does not present a viable solution to urban poverty, unemployment, and overpopulation. 22 Massive poverty in Northeast Brazil could, alternatively, be addressed through extensive primary education, provision of agricultural credit and technological assistance to small-scale farmers, and the provision of small-scale industrial



loans. Additionally, the Northeast currently suffers from the absence of a population policy that would encourage birth control usage and this lack of effort has also contributed to unemployment problems. Another way to prevent the current core-periphery drainage in Brazil would involve the taxation of corporations by local governments and the redirection of this revenue into the provision of public employment, housing, sanitation, and education. However promising, these reforms are highly unlikely with the current development model. This type of redirection offers little benefit to elites of the North or Southeast; on the contrary, they would be paying for it through increased government expenditures. 4

From an environmental perspective, government options can be ranked as follows: the best option is to develop outside the Amazon; the second best option is small-scale, high-return mining; development in non-forested areas ranks third. The worst environmental option is cattle ranching. 25 Indian human rights require zonation (the establishment of parks or reserves), without delay, along with the immunization of FUNAI staff who must remain free from infection.

The Amazon possesses a significant comparative advantage for mining. Such activities should be concentrated together and supplemented with adequate provisions for the treatment of water effluent wastes. Zonation and land-use planning should be emphasized. Aqua-culture potential could be exploited. Hydroelectric projects could be undertaken on a smaller scale than currently planned. Because of 1981 data showing that Brazil energy production capacity (154 megawatts) exceeded demand (124 megawatts), some observers have questioned the need for additional hydroelectric projects; demand estimates are speculative while current capital financing exacerbates Brazil's debt crisis. 26

In the Amazon, the government should limit lumbering to self-sustaining levels to allow for more permanent development. It should rationalize the land titling process, basing it on equity and fairness objectives as well as redirecting credit to small and medium-sized farmers while no longer subsidizing the corporate livestock sector.²⁷

Understanding the existence of these development choices facilitates the evaluation of government claims with regard to who benefits from zero-sum land-use controversies that involve Indians. However, as Marta Cehelsky writes:

"Given the improbability of a revolutionary redirection of the Brazilian development strategy, it would seem that a pragmatic, incremental approach offers the most hope for reform...The primary objectives of the military government are the generation of wealth, economic growth, and...international status ultimately equivalent to that of the first-ranking world powers...The present Brazilian government is in no sense willing to



risk dreams of greatness...for a gamble on social reforms."28

Political Perspectives

In June 1981 testimony before the Inter-American Commission on Human Rights, Shelton Davis remarked:

"The tragedy of the Brazilian case is that Indian societies are being needlessly victimized and destroyed by the same institutions that have the capacity to insure their physical integrity, their economic well-being, and their cultural survival,...their place as members of an independent and self-determining indigenous nation within the larger pluralistic society and culture of Brazil."28

The failure of the government to insure Indian health and well-being, its desire to integrate the Indians into development rather than to protect them from it and the government's clear pattern of delay in the zonation of Indian lands shall become more comprehensible after an examination of the ways in which military governments tend to perceive their societies.

The military as an organization tends to justify its existence by perceiving itself as the protector of a unified civil society with national values. There is a tendency to view the nation as an organic element, to fight wars against internal enemies, to organize internal space, and to oppose cultural violations. In the Brazilian case, the military has treated the Amazon as an internal colony in which riches can be extracted for the rest of the society, without consideration of local effects.

This psychological dynamic generates "second-category" human rights violations. However, these types of violations are the most likely to be remedied by external pressure. For example, international legal action, because of its delegitimating implications, can function as a psychological counter-weight. If "second-category" violations are caused deterministically by organizational imperatives, outside action can force the explication of motives, discouraging Brazilian Indian policy from human rights violations that have minimal zero-sum elements.

The Indian case is unique among Latin American human rights violations in that the infringement on Indian rights can result in gross decimation and total destruction. The incompatibility of high technology development with the survival of the Indians reinforces the idea that one main cause of mass slaughter is the effort to impose a grand scheme incompatible with the flow of the society. Such schemes are imposed on the society when the members of that society have little influence on their collective destiny. Such is the case in Brazil, where a centralized, authoritarian govern-



ment does not allow open political debate concerning development choices. A significant redirection of development policy in a manner less harmful to the Indians would require a change in decision-making processes to allow the articulation of viewpoints of non-elite groups, particularly the Indians themselves. With regard to the recent local elections, observers are agnostic about the potential for newly-elected officials to be responsive to different sectors of the society or to slower development strategies. The indian leaders, anthropologists, lawyers, missionaries, and medical personnel would be given access to information about proposed projects and participate in their planning. There is also a need for environmental and anthropological impact studies of proposed and current development projects. In the instance of the society of the second projects and participate in the second projects and participate in the second projects. In the second projects and current development projects.

By emphasizing the linkage of the development strategy to the nature of the political system, the observer, in the Brazilian case, can link causes to effects for an analytically cohesive result. Yet, it would be somewhat unrealistic to hope for an improvement in the Indian human rights situation through structural political reforms. There are two areas, however, where some progress can be made. First, legal battles will continue with regard to Indian land possession rights and amendments to the current Indian statute are still a possibility. Second, public financing institutions outside Brazil might play a more active role in promoting Indian human rights. One such organization, the World Bank, issued a report that recommends that the bank only assist projects that do not encroach on tribal land, unless the local Indians agree with the project's objectives and effective protective measures are taken against potentially harmful effects. 32 Where alternative financing is not available, the United States government, in its provision of bilateral aid, OPIC (Overseas Private Investment Corporation) coverage, and EXIM Bank loans, might take a similar approach (assuming the U.S. still promotes human rights). The recent Brazilian debt crisis, however, probably offers very little American leverage because U.S. bailout loans serve mutual interests.

The World Bank defined the four fundamental needs of indigenous societies as follows: the recognition of land and territorial rights; protection from contagious disease; time to adjust to the surrounding national society to the extent they desire; and cultural autonomy and self-determination. 33 Meanwhile, the Brazilian government remains committed to productive occupation of the Amazon frontier. In cases where such fundamental Indian needs conflict with the land usage desires of the current Brazilian government, Indian human rights can be expected to suffer. While the government views such land use decisions as economic choices, they are, in fact, fundamentally political, involving the allocation of values without consideration of a more pluralistic view of national identity or a more humanitarian view of the purposes of economic development.

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2. FOOTNOTES

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- 3. "Big Amazon Project Unfolds" New York Times, November 18, 1981, p. Dl.
- 4. Warren Hoge, "Brazil Makes Huge Lake, Mindful Man and Beast" New York Times, October 15, 1982, p. A2.
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- 6. Anthropology Resource Center, ARC Bulletin 8, September 30, 1981, pp. 11-13.
- 7. ARC Bulletin 8, p. 4
- 8. ARC Bulletin 7, July 25, 1981, p. 10.
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- 30. Robin Wright, Telephone interview, January 14, 1983.
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