

Delay and Interventionism: the ominous effects of authoritarianism on the recognition and administration of indigenous lands in Brazil

The Brazilian Anthropology Association (ABA) issues this declaration to join other statements of repudiation of the behavior of current President Jair Messias Bolsonaro, who, by reissuing Provisional Measure nº. 870, of 1 January 2019, which had already been rejected by the national congress, returns competence for demarcations of indigenous lands to the Ministry of Agriculture. It is fitting to reiterate the staunch opposition of the Federal Public Ministry MPF to this measure (NOTA TÉCNICA Nº 1/2019-6^aCCR - <http://www.mpf.mp.br/atuacao-tematica/CCR6/documentos-e-publicacoes/publicacoes/nota-tecnica/2019/nota-tecnica-1-2019-assinada.pdf>). This detailed brief from the federal Public Ministry demonstrates that the measure is legally inappropriate because it does not consider the specificities of indigenous peoples and the official indigenist agency FUNAI, the National Indian Foundation, or the most suitable bureaucratic-administrative conditions for guaranteeing effective compliance with constitutional determinations governing the indigenous. The issue is the recognition of the guarantee to the use and administration of lands traditionally occupied by indigenous peoples. It is also important to highlight the procedural irregularity involved in the issue of this provisional measure (now under nº 886), considering that it maintains the content and spirit of the first measure that was analyzed and rejected in a single session of the legislature.

This lack of respect for norms and the obstinate effort to return indigenous affairs to an administrative branch that is clearly unfavorable to compliance with the legal rights of indigenous peoples manifests a precise ideology, expressed in an authoritarian policy that seeks to challenge and neutralize constitutional determinations. In this process, the current government gives continuity to strategies undertaken for decades by agribusiness interests that contest and delay the granting of indigenous rights. The strategy to systematically oppose FUNAI's administrative procedures, through legal challenges to the recognition and regularization of indigenous lands, has revealed an intentionality that has been well received by the new government. Administrative measures have been placed in a pre-determined space of judicial limbo because of constant delays to the implementation of FUNAI decisions. Deep legal insecurity has been produced in

fierce conflicts over land ownership that often involve violence. Previous governments saw their administrative measures increasingly attacked and paralyzed under strong pressure from agribusiness interests. The current government, however, does not suffer from this pressure because it openly defends unchecked agribusiness. Thus, unable to count on a revision of the federal Constitution, the new government has placed the executive branch at the service of the tactics to delay recognition of indigenous lands. President Bolsonaro himself has declared on various occasions that if it was up to him, “not one more centimeter” would be demarcated as indigenous land in Brazil.

It is important to highlight another current aspect, the authoritarian attitude found in state actions (and not only of those of government). If, on one hand, delaying tactics proved to be effective for paralyzing the regularization of land ownership by indigenous people's, when the issue is the execution of infrastructure projects that affect indigenous lands, the attitude is quite different and interventionist. A recent judicial decision is emblematic. Opposing the vote of the reporting judge in the suit and of the lower court decision, the 5th division of the Federal Court for the 1st Region, authorized work to begin on electric transmission lines planned to cross the Indigenous Land of the Waimiri-Atroari (<https://www1.folha.uol.com.br/mercado/2019/06/contra-relator-trf-autoriza-obra-de-governo-bolsonaro-sobre-terra-indigena-em-rr.shtml>) in Amazonas and Roraima states. The decision violates International Labor Organization Convention 169, which determines that such projects require previous free and informed consent from the indigenous peoples. This acceleration in the courts contrasts with the delays in legal processes involving demarcations of indigenous lands in Brazil. The case of the Waimiri-Atroari is particularly telling, especially because it was a people that was nearly completely decimated during the military dictatorship – as indicated by data gathered by the National Truth Commission (<http://cnv.memoriasreveladas.gov.br/images/pdf/relatorio/Volume%202%20-%20Texto%205.pdf>). Today, despite the information presented by this commission including that found in the “Figureiredo Report”, the Brazilian state is once again testing this people. The refusal to listen to them and the speed in the new infrastructure project on the

Waimiri-Atroari Indigenous Land require that Brazilian society take a stand committed to the democratic state of law that is threatened by executive branch authorities. It cannot be forgotten that the Brazilian state, regardless of who is leading the executive branch, must guarantee remedial actions to the indigenous peoples affected by this type of construction project.

In sum, the current authoritarianism of certain segments of the Brazilian state is characterized by practices that on one hand promote delays, and on the other, intervention, both aimed to defend a developmentalist profile at any cost, presented as the only way of life to be pursued and to which should be submitted the various peoples and communities that compose the Brazilian nation. These policies and practices reveal a deep lack of commitment to, if not manifest hostility towards, the principles established by the federal Constitution that stand above and independent from these dominant interests, and aim to promote a pluri-ethnic and multi-cultural Brazil.

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