

BRAZIL

Congress' approval of Bill 490 (PL490) will result in Brazil's denial of the fundamental land rights of indigenous peoples

Indigenous Peoples Rights International (IPRI), an international organization for the defence of the rights of Indigenous Peoples, shares the deep concern expressed by indigenous and civil society organizations regarding the approval of Bill 490 (which includes the Time Frame thesis) by the Chamber of Deputies in Brasilia last May 24th of 2023.

Bill 490 (PL490) will be voted on next May 30th. It is a dangerous threat to indigenous peoples' rights and compromises Brazil's international human rights obligations. If the vote goes through, it will allow the legal dispossession of traditional indigenous lands and the imposition of extractive projects within indigenous territories, without their free, prior, and informed consent, leading to irreversible environmental and cultural impacts and extermination of indigenous peoples. This Bill also seeks to transfer the faculties of indigenous land demarcation from the Executive Branch to the Legislative Branch, diluting the powers of the Environmental and the Indigenous Peoples' ministries, currently led by an indigenous woman, Sonia Guajajara.

“The transfer of the competence of the indigenous land demarcation to Congress is a dangerous mistake. This measure puts at risk the rights of indigenous peoples and opens space for political influences and economic interests to prevail over ancestral rights.” - Sonia Guajajara, Minister of Indigenous Peoples

The Time Frame thesis arbitrarily establishes that indigenous peoples only have the right to the demarcation of the lands that were in their possession on October 5, 1988 or that were in physical or judicial dispute as of that date. In other words, the recognition and protection of their lands are subjected to the -date of promulgation of the Federal Constitution.

“The history of indigenous peoples does not begin in 1988. And our rights cannot be taken away. They are threatening our existence in a genocide legislated in the Chamber with PL 490! It's time to defend life!” - Celia Xakriabá, indigenous federal deputy

This thesis is defended by agribusiness and sectors seeking to exploit the resources on the traditional lands of indigenous peoples. It jeopardizes the demarcation of indigenous lands, including those already demarcated.

As pointed out by the former UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz¹, the application of a Time Frame thesis is contrary to the rights of indigenous peoples under international human rights law, specifically [UNDRIP](#), and the related standards and jurisprudence of the InterAmerican Human Rights System and the UN Treaty Bodies.²

IPRI observes a worrying setback in the aforementioned demarcation processes and indigenous rights recognition, derived from the deep-rooted racism and anti-Indigenous practices within the Congress, inherited by the Bolsonaro administration.

“The Time Frame is a legislated genocide. A theory that inverts the entire history of Brazil. A bill that violates the Brazilian Constitution. An attack on the rights of Indigenous Peoples. An attack on our greatest possibility for confronting the climate crisis, the Indigenous Lands”- Sonia Guajajara

Brazil’s Constitution recognizes some of the fundamental rights of Indigenous Peoples and the country was a pioneer in the demarcation of their territories. The legal recognition of indigenous peoples’ ancestral lands is paramount for the survival of distinct peoples. This initiative, promoted by the powers interested in appropriating the lands that indigenous peoples have preserved for millennia, represents a dangerous step backward in the international commitments of the Brazilian State, including its capacity to confront climate change. IPRI would like to call on the Congress of Brazil to:

- Vote against the adoption of Bill 490 (PL490).
- Decline to approve the Time Frame thesis
- Prevent diluting the mandate and responsibilities of the Ministry of Indigenous Peoples (**Ministério dos Povos Indígenas**), a historical achievement of the indigenous peoples’ struggle
- Return to the Ministry of the Environment the control of the rural environmental registry, a key tool in the fight against illegal deforestation and land grabbing, and of water resources.
- Ensure that Brazil fully complies with its international obligations regarding the full protection and recognition of the rights of indigenous peoples to their lands, territories, resources, and self-determination.

¹ Tauli-Corpuz, Victoria. (6 February 2020). Mandate of Special Rapporteur on the rights of indigenous peoples. Communication report and search OHCHR.

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25062>

² CERD, General Recommendation No. 23: Indigenous Peoples, 18/08/97, para. 5.

- Review and discard the upcoming legislative proposals that represent a setback to the respect of the human rights of indigenous peoples in Brazil: Bill 1654/2023 (Mining in ILs); Bill 2633/2020 and Bill 510/2021 (Land Grabbing); Bill 2159/2021 (Changes Environmental Licensing); Bill 177/2021 (allows Brazil to withdraw from ILO Convention 169), among others.