

dossiê

# **Environmental racism, necropolitics, and climate crisis: reflections from the humanitarian crisis of indigenous peoples and traditional communities in Brazil**

**Racismo ambiental, necropolítica e crise climática: reflexões a partir da crise humanitária dos povos indígenas e comunidades tradicionais no Brasil**

**Racismo ambiental, necropolítica y crisis climática: reflexiones desde la crisis humanitaria de los pueblos indígenas y comunidades tradicionales en Brasil**

**Mariana Rodrigues Viana<sup>1</sup>**

<sup>1</sup>Universidade Nova de Lisboa, Nova School of Law, Lisboa, Portugal. E-mail: mariviana90@hotmail.com. ORCID: <https://orcid.org/0009-0001-2220-3429>.

Submetido em 23/07/2023

Aceito em 12/10/2023

## **Como citar este trabalho**

RODRIGUES VIANA, Mariana. Environmental racism, necropolitics, and climate crisis: reflections from the humanitarian crisis of indigenous peoples and traditional communities in Brazil. *InSURgência: revista de direitos e movimentos sociais*, Brasília, v. 10, n. 1, p. 143-171, jan./jun. 2024.

**insurgência**

*InSURgência: revista de direitos e movimentos sociais* | v. 10 | n. 1 | jan./jun. 2024 | Brasília | PPGDH/UnB | IPDMS  
ISSN 2447-6684



Este trabalho está licenciado com uma Licença Creative Commons 4.0.  
Este trabajo es licenciado bajo una Licencia Creative Commons 4.0.  
This work is licensed under a Creative Commons Attribution 4.0.

# Environmental Racism, Necropolitics, and Climate Crisis: Reflections from the Humanitarian Crisis of Indigenous Peoples and Traditional Communities in Brazil

## Abstract

This paper explores the link between Brazil's neo-extractivist model, environmental degradation, violation of indigenous peoples' and traditional communities' rights, and implications within the climate crisis. It addresses key questions: 1) How does the violation of these rights relate to neo-extractivism? 2) How has the legal field been used to perpetuate this model? 3) Why is ensuring indigenous peoples' and traditional communities' rights vital during the climate crisis? The study adopts an interdisciplinary approach, analyzing data reports on conflicts, violence, and environmental impacts. Furthermore, it surveys relevant regulations and proposed bills. Findings underscore necropolitics, environmental racism, and the urgent need to address these intertwined challenges.

## Keywords

Indigenous Peoples and Traditional Communities. Neo-extractivism. Environmental racism. Necropolitics. Climate Crisis.

## Resumo

Este artigo explora a relação entre o modelo neoextrativista no Brasil, a degradação ambiental, a violação dos direitos dos povos indígenas e comunidades tradicionais, e as implicações para a crise climática. Aborda questões-chave: 1) Como a violação desses direitos se relaciona com o neoextrativismo? 2) Como o campo jurídico tem sido utilizado para perpetuar esse modelo? 3) Por que é vital garantir os direitos dos povos indígenas e comunidades tradicionais na crise climática? O estudo é interdisciplinar, analisando relatórios sobre conflitos, violência e impactos ambientais. Realiza também um levantamento de regulamentos e projetos de lei relevantes. Os resultados destacam a necropolítica, o racismo ambiental e a urgência de enfrentar esses desafios entrelaçados.

## Palavras-chave

Povos Indígenas e Comunidades Tradicionais. Neoextrativismo. Racismo Ambiental. Necropolítica. Crise Climática.

## Resumen

Este artículo explora la relación entre el modelo neoextractivista en Brasil, la degradación ambiental, la violación de los derechos de los pueblos indígenas y las comunidades tradicionales, y las implicaciones para la crisis climática. Aborda preguntas clave: 1) ¿Cómo se relaciona la violación de estos derechos con el neoextractivismo? 2) ¿Cómo se ha utilizado el campo jurídico para perpetuar este modelo? 3) ¿Por qué es vital garantizar los derechos de los pueblos indígenas y comunidades tradicionales en la crisis climática? El estudio es interdisciplinario, analizando informes sobre conflictos, violencia e impactos ambientales. Además, revisa regulaciones y proyectos de ley. Los resultados destacan la necropolítica, el racismo ambiental y la urgencia de abordar estos desafíos.

## Palabras-clave

Pueblos Indígenas y Comunidades Tradicionales. Neoextractivismo. Racismo Ambiental. Necropolítica. Crisis Climática.

## Introduction

The recognition and protection of indigenous peoples' and traditional communities' rights have become crucial issues in our times, particularly in Brazil. The country has drawn international attention due to the prevailing violence against these peoples, as exemplified by cases such as the murder of Bruno Pereira<sup>1</sup> and Dom Phillips, Brazilian indigenist and British journalist, in June 2022, in the Vale do Javari region, an indigenous territory located in the west of the state of Amazonas (Gonzalez-Roman, 2022).

More recently, in early 2023, the Yanomami indigenous land, the largest indigenous territory in the country, has become the center of a humanitarian crisis. The crisis has emerged due to the escalating presence of illegal mining, particularly in the part of the territory situated in the state of Roraima. The magnitude of this crisis has garnered significant global media attention, which highlighted that the Yanomami region looked like a 'concentration camp' (Boadle, 2023).

This case exemplifies a larger context, a project of death policy directed towards indigenous peoples and traditional communities in Brazil. It ultimately led to the denunciation by the Articulation of Indigenous Peoples of Brazil - APIB, in late 2021, at the International Criminal Court (ICC), against former President Bolsonaro for genocide and crimes against humanity, which will be expanded to include the Yanomami case (Articulation of Indigenous Peoples from Brazil, 2021).

On the other hand, the violation of these rights and the intensification of neo-extractivism have raised concerns regarding environmental racism and its ramifications for the global community, particularly in light of the climate crisis. This is due to the fact that safeguarding the territorial rights of indigenous peoples and traditional communities is paramount in combating deforestation and tackling the climate crisis - indigenous lands alone are responsible for protecting 30% of Brazilian biodiversity (Fundação Nacional dos Povos Indígenas, 2012).

According to Climate Watch, an online platform managed by World Resources Institute, Brazil ranks as the fifth-largest emitter of greenhouse gases globally, accounting for nearly 3% of total emissions. Deforestation is responsible for nearly half of Brazil's carbon emissions (Associated Press, 2023). Furthermore, Brazil encompasses 60 percent of the Amazon Basin and harbors biodiverse ecosystems

<sup>1</sup> It is noteworthy that Bruno Pereira, a career servant of the National Indian Foundation (Funai), was relieved of the position of general coordinator of Isolated Indians after combating illegal mining in the Yanomami Indigenous Land, in Roraima (Carvalho, 2019).

that deliver vital services at both regional and global levels (United States Agency for International Development, 2022). Hence, the country's leadership in these matters is of utmost importance, and investigating the root cause of the issue, namely the unsustainable development model, is relevant.

In this sense, this article aims to explore the connection between the neo-extractivist development model adopted in Brazil, the degradation of biomes such as the Amazon and the Cerrado, the violation of indigenous peoples' and traditional communities' rights, as well as the implications within the context of the climate crisis. The main argument sustained is the significance of ensuring indigenous peoples' and traditional communities' rights for both Brazilians and the global community. This article addresses several research questions. First, to what extent does the violation of indigenous peoples and traditional communities' rights in Brazil correlate with the intensification of neo-extractivism? Second, how has the legal field been utilized to sustain this development model in the country? Lastly, why is it important not only for Brazilians but also for the global community to ensure the rights of these communities in a moment of the climate crisis?

To answer these questions, a comprehensive and interdisciplinary documentary and bibliographic methodology is employed. The analysis combines quantitative and qualitative approaches, including the examination of data reports on conflicts and violence against indigenous peoples and traditional communities in Brazil. Additionally, the impact of these violations on the environment and climate change is analyzed. A thorough survey of regulations and proposed bills that have contributed to the violation of rights in Brazil is also conducted.

The article is structured as follows: Section 1 provides an overview of the theoretical framework, focusing on concepts like neo-extractivism, environmental racism, and necropolitics. Section 2 examines the indigenous peoples' and traditional communities' humanitarian crisis in Brazil, highlighting its connection to neo-extractivism and the implications for the climate crisis. Section 3 analyzes the role of the legal field in sustaining this development model. Finally, in the concluding remarks, the paper emphasizes the importance of ensuring the rights of these communities and provides recommendations for future action.

In summary, this article contributes to the understanding of the complex dynamics between the violation of indigenous peoples and traditional communities' rights, neo-extractivism, and the climate crisis. By examining these issues, it sheds light on the challenges faced by these communities, considering the context of

environmental racism and necropolitics, and emphasizes the global significance of protecting their rights amidst the climate crisis.

## **1 Neo-Extractivism, Environmental Racism, and Necropolitics**

The humanitarian crisis faced by indigenous peoples and traditional communities in Brazil cannot be understood without considering the neo-extractivist model adopted in the country. As Acosta (2013, p. 62) points out, “extractivism is a mode of accumulation that started to be established on a massive scale 500 years ago”. According to the author, the capitalist system was structured through the invasion and colonization of the Americas, Asia, and Africa, during which extractive accumulation was driven by the needs of the metropolises, which became producers of manufactured goods while the colonies served as exporters of raw materials.

In this sense, Acosta (2013, p. 62) defines extractivism as activities that involve the extraction of large volumes of non-processed (or partially processed) natural resources primarily for exportation. This includes not only minerals and oil but also agrarian, forestry, and fishing extractivism. The author clarifies that “extractivism has been a mechanism of colonial and neocolonial plunder and appropriation” taking on various forms over time but always aiming to meet the needs of the global North's industrial development and well-being, without considering the sustainability of this model or resource depletion (Acosta, 2013, p. 63)<sup>2</sup>.

Acosta analyzes how extractivism has been a constant feature in countries of the global South, and while some elements have changed, this development model “seems to be at the heart of the production policies of both neoliberal and progressive governments” (Acosta, 2013, p. 63). Indeed, as Santos (2021, p. 24) points out, when progressive governments came to power in several Latin American countries in the early 2000s, they added their own characteristics to the model, such as the recovery of state centrality and extensive freedom for market forces, which came to be known as neo-extractivism or neo-developmentalism. The author emphasizes that this model “is part of a concept of progress in which

<sup>2</sup> As Gonzalez (2015, p. 152) explains, the terms North and South can be used to distinguish wealthy industrialized nations (such as the United States, Canada, Australia, New Zealand, Japan, and members of the European Union) from less prosperous nations in Asia, Africa, and Latin America that share a history of political and economic domination.

one of the deadliest consequences is environmental destruction” (Santos, 2021, p. 24).

Similarly, Gudynas (2009, p. 201-202) notes that neo-extractivism not only perpetuates but also advances territorial fragmentation, with relegated areas and extractive enclaves associated with global markets. In some cases, it exacerbates the social and environmental impacts of extractive sectors. The author concludes that “neo-extractivism is part of a contemporary version of development specific to South America, where the myth of progress and development is maintained through a new cultural and political hybridization” (Gudynas, 2009, p. 221, free translation).

Therefore, it is no wonder that Santos (2021, p. 24-25) argues that one of the most persistent colonial legacies is the portrayal of Asia, Africa, and Latin America as Third World continents, underdeveloped, and the creation of developmentalism as a structuring discursive field of post-World War II social and political reality. As the author observes, anything that hinders economic growth is considered an obstacle to development, creating an inherent incompatibility between the adopted development model and the effectiveness of human rights.

Hence, indigenous peoples and traditional communities are perceived as obstacles to development within the context of neo-liberal neo-extractivism, which has been intensified in Brazil during the Bolsonaro administration (2019-2023). Under this government, the liberal agenda has been strengthened, transitioning towards an ultra-liberal stance. That is why Wanderly, Gonçalves, and Milanez (2020, p. 561, free translation) refer to this model as “marginal ultra-liberal neo-extractivism” as it “adds a marginal character to the actions of the State and its leaders who encourage and condone crimes, propose unconstitutional and anti-national measures, avoid democratic debates, and use the subterfuge of false information (fake news)”.

The discourse of neo-extractivism as an economic solution and a path to the country's development at the expense of encroaching upon ancestral territories of indigenous peoples and traditional communities and environmental degradation became evident in the speeches of former President Bolsonaro, who went as far as to state, in an impromptu speech at the doorstep of the Planalto Palace to gold miners, that “the interest in the Amazon is not in the Indian, nor in the damn tree. It's in the ore! [...] How can a rich country like ours, which has the entire periodic table underground, continue to see you suffering here?” (Lindner, 2019, free translation).

Similarly, this discourse was clear in the speech of former Minister of the Environment, Ricardo Salles, who, in a ministerial meeting made public by a Supreme Court's decision, advocated for “running the cattle herd”<sup>3</sup>, changing regulations, and simplifying environmental norms while media attention was focused on the Covid-19 pandemic (G1, 2020). However, as Acosta (2013, p. 61) argues, the extractivist potential is more of a “resource curse” than a solution for development. The author analyzes that accumulated experiences demonstrate that resource-rich countries, whose economies are based on extractivism, face greater difficulties in developing, to the point where they seem condemned to underdevelopment.

As the author explains, the Inter-American Development Bank (IDB) itself has acknowledged this curse of natural resources almost as a tropical fatalism in several of its reports. In this sense, the author highlights some ills of extractivism, such as the volatility of prices of raw materials in the international market; the super concentration of profits in a few economic groups that generally do not create incentives for domestic investments, leading to the denationalization of the economy; the low generation of direct and indirect employment; the impacts on communities in whose territories or surroundings extractive activities take place; as well as the severe degradation of the environment (Acosta, 2013, p. 63-71).

It is precisely these ills of ultra-liberal neo-extractivism that are evident in Brazil during this moment of humanitarian crisis for indigenous peoples and traditional communities, associated with a context of environmental and climate injustice. This is the reason why this conjuncture is perceived as an exacerbation of environmental racism in the country<sup>4</sup>. Bullard (2000, p. 98) introduced the concept of environmental racism, defining it as “any policy, practice, or directive that differentially affects or disadvantages (whether intended or unintended) individuals, groups or communities based on race or color”, in reference to environmental injustices faced by the Black population in the United States.

The concept of environmental racism in the international context also encompasses the disadvantaged ecological relationships between the global North and South. Therefore, environmental racism is a product of colonialism, with continuity in

<sup>3</sup> The expression “run the herd” refers to the approval of sub-legal reforms aimed at relaxing socio-environmental legislation.

<sup>4</sup> Environmental racism is closely related to environmental and climate injustice, as the disadvantaged ecological relationships between the global North and South, notably the global South's export-oriented production, result in environmental problems like climate change and biodiversity loss. These issues disproportionately affect vulnerable populations, including racial and ethnic minorities (Gonzalez, 2015, p. 154-155).

contemporary times through neocolonialism and neo-extractivism. From this perspective, the concept was expanded to encompass other peoples in the Brazilian reality, such as indigenous peoples, quilombolas<sup>5</sup>, riverine communities, and other traditional populations, whose territories, lives, and ways of life are threatened and violated by sectors connected to neo-extractivism. Based on the Brazilian scholar Pacheco (2008, p. 721), environmental racism can be defined as "social and environmental injustices that fall disproportionately on ethnic groups that have been made vulnerable".

According to a survey from the "Map of Conflicts: Environmental Justice and Health in Brazil" by Fiocruz, Brazil has at least 626 conflicts related to the discrimination of populations and ethnic minorities due to environmental degradation, thus involving environmental racism. Among the activities generating conflicts, monocultures stand out with at least 180 conflicts; followed by mining, gold mining, and steel production with at least 124 conflicts; dams and hydroelectric power plants with at least 109 conflicts; livestock farming with at least 88 conflicts; and logging with at least 80 conflicts (Fiocruz).

Nonetheless, the dismantling of socio-environmental protection agencies in the country in recent years and the anti-indigenous and anti-traditional communities' agenda, particularly in favor of agribusiness, has highlighted a context of environmental racism intertwined with necropolitics. This has become even more evident with the humanitarian crisis exposed by the case of the Yanomami indigenous peoples. Mbembe (2003, p. 39) coined the concept of necropolitics, understood as "contemporary forms of subjugation of life to the power of death". In these cases, the notion of biopower would be insufficient, which is why the author proposes the notion of necropolitics and necropower to explain the "new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of *living dead*" (Mbembe, 2003, p. 40).

Mbembe's necropolitics offers a novel approach as it draws both on Foucault and on a decolonial approach. The colonial experience, which involved not only the

<sup>5</sup> Quilombos are communities created since colonial times by enslaved black people who resisted the slavery regime that prevailed in Brazil for over 300 years. A Comissão Pró-Índio de São Paulo explains, "quilombos were formed from a wide variety of processes that include the escape of slaves to free and generally isolated lands. However, freedom was also acquired through inheritance, donations and land revenues as payment for services rendered to the state or for stays on the lands they occupied and cultivated. There are also cases of land purchase both during the term of the slave regime and after its abolition". Today, there are contemporary quilombos, that are included in a broader concept of traditional communities (Comissão Pró-Índio de São Paulo, 2019).



enslavement of the African peoples, but also the massive extermination of the indigenous peoples in the Americas, allowed Mbembe to see real spaces of death, also marked by the state of exception, where death became a form of political management, process observed today with neocolonial practices (Mbembe, 2003, p. 21). This is precisely what has been happening to indigenous peoples and traditional communities in the country, but whose impacts go far beyond them, being global in the face of the issue of climate change, as will be demonstrated in the next section.

As Ailton Krenak, indigenous leader, sustains, “for governments, the death of those who generate costs for the state is good for business. In other words: let the vulnerable die” (Krenak, 2020, p. 05). However, as the author explains, Mother Earth is teaching us a lesson, making clear that the idea of humanity as a separate concept from nature needs to be abandoned (Krenak, 2020, p. 06). In other words, anthropocentrism needs to be abandoned, which entails ensuring socio-environmental rights, including those of indigenous peoples and traditional communities.

## **2 Reflections from Indigenous Peoples' and Traditional Communities' Humanitarian Crisis in Brazil: Linkages to Neo-extractivism and Climate Crisis Implications**

The case of the Yanomami indigenous peoples has shocked Brazil and the world, making headlines in various global news outlets and exposing the existing humanitarian crisis involving indigenous peoples and traditional communities (Nicas, 2023; Gozzi, 2023; Phillips, 2023). The largest indigenous territory in the country, the Yanomami Indigenous Land is facing a public health emergency due to the lack of assistance to a population struggling with the encroachment of illegal mining and numerous cases of severe malnutrition and malaria. Malnutrition affected over 50% of children, in addition to the high number of malaria cases, which are related to the expansion of illegal gold mining (Coll; Vilar de Menezes, 2023).

Only under the new government, led by President Lula, the Ministry of Health declared a public health emergency in the Yanomami territory (Brasil. Ministério da Saúde, 2023), despite the critical situation having existed for a long time. Indeed, it is paradigmatic that the first death from Covid-19 among indigenous peoples in Brazil was that of a Yanomami (Coll; Vilar de Menezes, 2023).

The APIB dossier pointed out that the massive invasion of illegal gold miners in the Yanomami indigenous land reached staggering figures, with over 20.000 miners causing devastation to an area equivalent to the size of 500 football fields. The document also highlights that the advancement of the COVID-19 pandemic has further exposed the devastating impacts of dismantling support systems for indigenous communities, including the disintegration of SESAI (Special Secretariat of Indigenous Health). This, coupled with the emergence of a new and highly contagious virus with a high fatality rate, has tragically resulted in the loss of over 1.1 thousand indigenous (Articulation of Indigenous Peoples from Brazil, 2021, p. 21- 28).

It is important to note that there were already decisions mandating actions by the Brazilian State regarding this case, both by the Supreme Federal Court and the Inter-American Commission on Human Rights. In the face of the State's omission during the pandemic, APIB took the initiative to approach the Supreme Court by proposing a Claim of Noncompliance with Fundamental Precept (ADPF). The ADPF 709 achieved success in its demand to compel the Union to establish an emergency plan to combat the spread of COVID-19 in indigenous territories. In May 2021, the Supreme Federal Court ruled on the ADPF 709, ordering the removal of invaders from the Yanomami Indigenous Land, which clearly has not been complied with by the Brazilian state (Articulation of Indigenous Peoples from Brazil, 2021, p. 36).

On the other hand, on June 17, 2020, the Inter-American Commission on Human Rights (IACHR) issued Resolution 35/2020, which grants precautionary measures of protection in favor of members of the Yanomami and Ye'kwana indigenous peoples, also not complied with by the Brazilian state (Inter-American Commission on Human Rights, 2020).

However, as highlighted in the APIB dossier, this case stands as an example of a structural scenario of increasing invasions and conflicts in the territories of indigenous peoples and traditional communities, driven by large corporations and individuals interested in exploiting these lands for mining, agriculture, or other interests, resulting in both environmental degradation and more violence and death for these communities (Articulation of Indigenous Peoples from Brazil, 2021, p. 15). Recent data is indisputable in demonstrating an intensification of this process in the country. The report "Violence against Indigenous Peoples in Brazil - 2021 Data" by the Indigenous Missionary Council (Cimi) indicates that for the sixth consecutive year, there has been an increase in cases of land invasions, illegal resource exploitation, and damage to property in Indigenous Territories (Conselho Indigenista Missionário, 2022, p. 08).

In 2021, Cimi recorded 305 cases of this type, affecting at least 226 Indigenous Territories in 22 states, nearly three times the number recorded in 2018, when 109 cases were counted. The report further exposes that in addition to the increase in the number of cases and affected lands due to the illegal actions of gold miners, loggers, hunters, fishermen, land grabbers, among others, the invaders have intensified their presence and brutality, as evidenced in cases such as the Munduruku people in Pará and the Yanomami people in Roraima and Amazonas (Conselho Indigenista Missionário, 2022, p. 08).

The data on interrupted indigenous lives recorded by the report confirms this statement. In 2021, 176 indigenous peoples were murdered, six fewer than in 2020, which had the highest number of homicides since the Cimi began tracking this data in 2014. In contrast, the number of indigenous suicides in 2021 was the highest ever recorded during the same period, with 148 cases. The report explains this situation as being caused by a sequence of actions taken by the Executive power, which promoted the exploitation and privatization of indigenous lands, as well as by the efforts of the federal government and its supporters to pass laws that undermine the constitutional protection of indigenous peoples and their territories. It concludes that this set of actions provided the necessary confidence for invaders to advance in their illegal actions (Conselho Indigenista Missionário, 2022, p. 08).

To illustrate the relationship between the intensification of neo-extractivism and the incursions on these ancestral territories and the lives of indigenous peoples and traditional communities, the data from a sector that has gained attention due to the Yanomami case is revealing - mining. Data from the National Institute for Space Research (Inpe) shows that illegal mining on indigenous lands increased more than eight times between 2016 and 2022. According to Inpe, based on data obtained through alerts from the Real-Time Deforestation Detection System (Deter), in 2016, during Michel Temer's government, the mining area in indigenous lands was 12.87 km<sup>2</sup>, whereas in 2021, during Jair Bolsonaro's administration, it increased to 114.26 km<sup>2</sup>, an increase of 787% (Stabile; Casemiro, 2023).

As Porto and Rocha (2023, p. 493) explain, mining and mining activities have direct impacts on indigenous peoples, such as the loss of territory, deforestation, water pollution, the reduction or degradation of arable land, the reduction in the variety and availability of wild animals and other forest resources, fields, and waters, as well as indirect impacts resulting from related productive activities, such as mining transportation systems, manufacturing industries, export infrastructure, all of which have impacts on the territories located in or around those areas, in

addition to the impacts resulting from other marginal activities that worsen processes of vulnerability, such as arms and drug trafficking and prostitution.

For these reasons, the authors conclude that allowing these activities within indigenous territories is an update of the colonial policies of extermination that all the legal frameworks developed in the last century sought to prevent. And they question: “Until when and what must we do to stop killing and dying for material wealth that prevents life on the planet and happiness to so many human beings” (Porto; Rocha, 2022, p. 499).

In the face of this extermination scenario, the APIB submitted a communication to the ICC on August 9, 2021, to denounce former President Bolsonaro for genocide. The organization requests that the prosecutor’s office of the Hague Tribunal examine the crimes committed against indigenous peoples since the beginning of Bolsonaro’s mandate in January 2019, especially during the COVID-19 pandemic. According to a section of the communication, “the dismantling of public structures for social and environmental protection, and also of those addressed to protecting Indigenous Peoples resulted in the escalation of invasions in Indigenous Lands, deforestation and fires in Brazilian biomes, and also increased illegal mining in the territories” (Articulation of Indigenous Peoples from Brazil, 2021).

Indeed, this conjuncture highlights a true policy of death directed towards indigenous peoples and traditional communities, a necropolitics. The escalation of conflicts in rural areas does not only involve mining offensives, nor does it solely affect indigenous territories. According to the report “Conflicts in the Brazilian Countryside 2021” by the Pastoral Land Commission (CPT), the number of recorded conflicts in rural areas during the Bolsonaro government is the highest in the entire historical series since 1985. There is a growing trend of conflicts related to land expropriation targeting indigenous peoples and traditional communities, in contrast to the situation in the 2000s and early 2010s, when the cases primarily involved landless individuals and settlers (Comissão Pastoral da Terra, 2022, p. 88-89).

As highlighted by the Directorate of the Brazilian Agrarian Reform Association (ABRA), the indicator of areas affected by conflicts in rural areas has increased 3.7 times since 2016, compared to the period 2011-2015, expanding from 63 million to 302 million hectares. This expansion encroaches upon public lands, protected areas, and traditional territories of indigenous peoples, quilombolas, and riverine communities, with deforestation driven by loggers and land grabbers associated with agribusiness in the Amazon (Associação Brasileira de Reforma Agrária, 2022, p. 26).

Furthermore, the Annual Deforestation Report in Brazil 2021, produced by MapBiomas, indicates an increase in detected deforestation across all six Brazilian biomes between 2020 and 2021, with the Amazon and the Cerrado standing out, accounting for 89.2% of the deforested area in 2021. According to the mapping, the Amazon had the largest deforested area, representing 59% of the total, followed by the Cerrado with 30.2% of the deforested area. Regarding the drivers of deforestation, it is worth noting that deforestation due to pressure from agribusiness accounted for nearly 97% of all deforestation validated by MapBiomas, followed by mining and mining activities, representing 0.6% and 0.1% of the total deforestation, respectively (MapBiomas, 2022, p. 39-56).

It is important to highlight that the accumulated deforestation map in the Amazon, Cerrado, and Pantanal has followed the expansion of agricultural activities for Brazil's main commodities – beef and soy – which historically advance from the Central-South to the Brazil Central and Matopiba<sup>6</sup> regions, as well as the Amazon. As stated in the report "Agro is Fire" between 1985 and 2019, 90% of deforestation in Brazil occurred for the opening of pasture areas and monocultures, while 10% was for other uses (Articulação Agro é Fogo, 2021, p. 08).

On the other hand, according to data from the Greenhouse Gas Emissions Estimation System (SEEG), there was a 9.5% increase in gross greenhouse gas (GHG) emissions in Brazil in 2020, possibly making it the only major emitter on the planet to experience an increase during the COVID-19 pandemic year, mainly due to deforestation, especially in the Amazon and the Cerrado. This led to a 23.6% increase in GHG emissions from land-use changes (deforestation and emissions from forest residue burning) in 2020 (Sistema de Estimativas de Emissões de Gases do Efeito Estufa, 2021, p. 03-04).

46% of Brazil's gross greenhouse gas (GHG) emissions in 2020 came from land-use changes. The agricultural and livestock sector accounted for 27% of the total emissions, predominantly (65%) from emissions generated by ruminant animal digestion, which produces methane – commonly known as cow belching (enteric fermentation). When combining the emissions from land-use changes and the agricultural and livestock sector, it can be concluded that 73% of the national GHG emissions are directly or indirectly linked to rural production and land speculation (Sistema de Estimativas de Emissões de Gases do Efeito Estufa, 2021, p. 04).

These data demonstrate that all of these crises are interconnected, and “there is a growing consensus on the catastrophic consequences of global warming and the

<sup>6</sup> Region composed of the Cerrado biome in the states of Maranhão, Tocantins, Piauí, and Bahia.

plundering of the earth's resources" (Santos, 2021, p. 26). In this context, ensuring the territorial rights of indigenous peoples, quilombolas, and other traditional communities, as well as protecting these populations, are fundamental measures to curb deforestation and, on a macro scale, contribute to addressing the climate crisis.

The use of the legal framework to serve economic interests has reached its limit, and it is time to recover the consensus agreed upon by Brazilian society in the 1988 constitutional process and, more importantly, to advance the legal protection of nature and indigenous and traditional communities. Nonetheless, the current political landscape has revealed that despite Bolsonaro's departure, the "cattle herd continues to run" as destructive measures for the environment and indigenous peoples continue to advance in the legislative sphere, as will be discussed in the next section.

### **3 The use of the legal field: the "Combo of Death"**

As Bercovici (2010, p. 96) clarifies, political dictatorship has been replaced by the economic dictatorship of markets, creating a permanent state of economic exception in the periphery of capitalism. This includes adapting domestic law to the needs of capital in order to reduce the possibilities of interference by popular sovereignty. The author adds that traditionally, powers would interfere with political and economic freedoms for the collective well-being, but today there is a reverse movement, limiting the rights of the population to ensure private property and capitalist accumulation.

It is precisely this movement that is observed when there is a relaxation of socio-environmental legislation in Brazil to secure the interests of sectors connected to neo-extractivism, within a context of environmental racism and necropolitics. According to Shiraishi Neto (2022, p. 10-12), despite the comprehensive and diverse nature protection system established by the Brazilian Federal Constitution of 1988, this system has been shaped to align with the needs of the market economy, transforming Brazilian socio-biodiversity into a mere object and commodity. As the author explains, this has been achieved through the weakening and elimination of legal safeguards and a significant lack of government commitment to environmental governance. In fact, in recent years, there has been a deliberate agenda of nature destruction, disregarding the potential environmental causes of the COVID-19 pandemic and the latest reports from the Intergovernmental Panel on Climate Change (IPCC).

The list is extensive, including several bills and institutional strategies that pose a significant threat to the rights of indigenous peoples and traditional communities. Among these, particular attention will be given to those that are deemed more alarming and marked by constitutional concerns. This collection of measures has come to be known as the “Package of Destruction” or the “Combo of Death” (Observatório do Clima, 2022).

Indeed, as analyzed by Cardoso and Beghin (2022), ensuring socio-environmental rights had never been a priority on the agenda of successive governments in Brazil. However, it is crucial to emphasize that in the last administrations, this issue evolved into a deliberate policy marked by environmental racism. This policy was developed in close collaboration with the National Congress, serving a strategy of converting lands to the dynamics of agribusiness.

Among the institutional strategies for the relaxation of the socio-environmental legislation, three stand out. The first is Normative Instruction N. 01/2021 from the National Foundation of Indigenous Peoples (FUNAI) and the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA), which authorizes partnerships between indigenous and non-indigenous peoples for the economic exploitation of territories, without any consultation with those affected<sup>7</sup> (Brasil. Ministério da Justiça e Segurança, Ministério do Meio Ambiente, Fundação Nacional do Índio, Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis, 2021). According to the Indigenous Missionary Council (Cimi), this policy reverts to the practice of leasing and dispossession of indigenous territories (Conselho Indigenista Missionário, 2021a).

The second is Normative Instruction N. 09/2020 from FUNAI, which regulated the application, analysis, and issuance of a document called the Declaration of Boundary Recognition (DRL) by FUNAI. The DRL provides certification to both property owners and private possessors, confirming that their property boundaries respect the boundaries of Indigenous Territories. However, under this normative, only homologated indigenous lands, indigenous reserves, and fully regularized indigenous dominion lands were considered, while delimited indigenous lands, declared indigenous lands, and physically demarcated indigenous lands were disregarded (Brasil. Ministério da Justiça e Segurança, Fundação Nacional do Índio, 2020). In response to this, the Indigenistas Associados, an association of FUNAI civil servants, stated that “Normative Instruction 09 transforms FUNAI into an institution certifying properties for

<sup>7</sup> In a search conducted on the IBAMA website on October 16, 2023, it was verified that Joint Normative Instruction N. 1, dated February 22, 2021, is currently in effect.

squatters, land grabbers, and lot developers in Indigenous Lands” (Indigenistas Associados, 2020, p. 01, free translation).

The new administration recently revoked Normative Instruction N. 09/2020 through Normative Instruction N. 30, dated August 9, 2023, which demonstrates some effort to end the institutional strategies aligned with the “Combo of Death”. This new directive establishes fresh guidelines for issuing Declarations of Boundary Recognition, while also defining parameters for the reassessment of declarations issued during the period in which the prior Normative Instruction was in effect. However, a lot of damage has already been done. According to data from INCRA’s Land Management System (SIGEF), in 2020, shortly after the publication of Normative Instruction N. 09, the number of certified properties within indigenous areas lacking formal regularization increased from 3 to 58. This situation is now subject to review by FUNAI (Fundação dos Povos Indígenas, 2023).

The third is the Normative Opinion 001/2017 issued by the Attorney General’s Office (AGU) on July 20, 2017. This opinion imposes various restrictions on the demarcation of Indigenous Lands and draws upon conditions established in the Raposa Serra do Sol Indigenous Land case, from 2009, and the doctrine of the so-called “temporal framework”, which asserts that Indigenous peoples are entitled to the demarcation of lands only if they can prove continuous possession since October 5, 1988, the date of the Brazilian Constitution’s promulgation. In effect, Normative Opinion 001/2017 serves to impede and reassess ongoing or completed demarcations, undermining the rights of Indigenous communities<sup>8</sup>.

The effects of this opinion were suspended in 2020 by a decision of the Supreme Federal Court (STF) until the judgment of the Extraordinary Appeal (RE) 1017365, which has been recognized as having general repercussions (Supremo Tribunal Federal, 2020). According to estimates by the Socio-Environmental Institute (ISA), this judgment regarding the temporal framework could have negatively affected the demarcation of approximately 303 Indigenous Lands inhabited by over 19.000 indigenous individuals (Galzo, 2021)<sup>9</sup>.

<sup>8</sup> According to an article by the National Indigenous Mobilization, the Opinion was issued by the AGU during Michel Temer’s administration, amidst negotiations by the former president to prevent corruption allegations against him. The negotiations involved the release of amendments to lawmakers and also addressing the agenda of sectors and caucuses, such as the ruralist caucus (Mobilização Nacional Indígena, 2020).

<sup>9</sup> During the article’s review process, on September 21, 2023, in the judgment of the Extraordinary Appeal (RE) 1017365, the Plenary of the STF rejected the temporal framework by a vote of 9 to 2, and the thesis was established on September 27<sup>th</sup>. The thesis recognizes the constitutional



Among the bills, some that are part of the so-called “Combo of Death” will be highlighted. The first notable bill in the national spotlight is Bill N. 490/2007, known as the Temporal Framework Bill, which was approved on May 30, 2023, by the Brazilian Chamber of Deputies (Brasil. Câmara dos Deputados, 2007). This bill aims, among other things, to change the process of demarcating indigenous lands in Brazil by transferring the authority for the demarcation of Indigenous Lands from the Executive Branch to the Legislative Branch and enshrining into law the temporal framework doctrine that recently underwent discussion in the Supreme Federal Court (Articulação dos Povos Indígenas do Brasil, 2023a, p. 01). This doctrine asserts that Indigenous peoples are only entitled to the lands they occupied on the date of the promulgation of the Brazilian Federal Constitution - October 5th, 1988 (Articulação dos Povos Indígenas do Brasil, 2023, p. 06). Various protests against the bill and the temporal framework thesis are taking place across the country (G1, 2023; G1 2023a).

The Bill N. 490/2007 was ‘rebranded’ in the Senate, receiving a new number: Bill N. 2903/2023. On the same day that the STF concluded the judgment of RE 1017365, establishing the thesis that rejects the temporal framework, the Federal Senate approved Bill N. 2903/2023, which was then sent for either veto or enactment by the President of the Republic (Articulação dos Povos Indígenas do Brasil, 2023c). The Articulation of Indigenous Peoples of Brazil (APIB) sent Letter N. 207/2023 – AJUR/APIB to President Lula da Silva, requesting a total veto of Bill N. 2.903/2023, arguing the disregard by the National Congress for the decisions of the STF, as evidenced by the approval of Bill N. 2903/2023 under an urgent regime to secure political timing and exert pressure on the STF, challenging its decision and the rights of indigenous peoples (Articulação dos Povos Indígenas do Brasil, 2023b).

Moreover, APIB points to the formal unconstitutionality of the bill, as it seeks to amend fundamental rights provided in the constitution through ordinary legislation. They also highlight substantive unconstitutionality, given that the precedent from the Raposa Serra do Sol case is not binding, whereas the thesis of general repercussions of RE 1017365 is binding, understanding that the Federal

protection of original rights to lands traditionally occupied, regardless of the existence of a temporal framework on October 5, 1988, while also ensuring compensation for good-faith occupants (Supremo Tribunal Federal, 2023). It is worth noting that an analysis by Cimi of the legal thesis against the temporal framework defined by the STF understands that the established thesis, by endorsing compensations, caters to the demands of ruralist sectors, imposing the federal government with the burden of settling the bill, at the expense of the continued presence of the possessor in the indigenous area – which is a federal asset for the exclusive use of indigenous peoples – thereby encroaching and causing other harm to the property, lives, and ways of life of indigenous peoples (Conselho Indigenista Missionário, 2023).

Constitution establishes the original nature of indigenous territorial rights to traditionally occupied territories, regardless of a temporal framework. Furthermore, APIB argues that the bill proposes the mitigation of exclusive indigenous land use, relaxes the policy of non-contact with isolated and recently contacted indigenous peoples, and introduces environmental and climatic setbacks, considering the vital role of indigenous lands in preserving native vegetation (Articulação dos Povos Indígenas do Brasil, 2023c, p. 01-35).

Secondly, attention is drawn to Bill N. 2.633/2020, known as the Land Grabbing Bill, which is a version of Provisional Measure (MP) N. 910/2019. It aims to amend the rules for land regularization in federal lands, particularly Law N. 11.952/2009 (BRASIL. Câmara dos Deputados, 2020). One of its objectives is to expand the exemption from prior inspection by the National Institute for Colonization and Agrarian Reform (Incra) for properties of up to six fiscal modules, facilitating land grabbing by invaders, especially in indigenous and quilombola territories (Imazon, 2020, p. 10-11).

Finally, it is important to note that Bill N. 191/2020 (Brasil. Câmara dos Deputados, 2020), also known as the Genocide Bill, signed by former Minister of Mines and Energy Bento Albuquerque and former Minister of Justice Sérgio Moro, was only withdrawn from processing at the request of the current administration through MSC n.107/2023, signed by the current Minister of Justice and Public Security, Flávio Dino (Brasil. Ministério da Justiça e Segurança Pública, 2023).

Thus, the challenges posed in addressing the dismantling of socio-environmental rights are enormous and require governmental effort from the new President Lula, who has shown positive signals in this regard so far. Lula has already initiated legal changes through decrees that reinstate action plans for the prevention and control of deforestation in all Brazilian biomes (Brasil, 2023), revive the Amazon Fund (Brasil, 2023a) that has been dormant since April 2019, and revoke the decree that established the Support Program and Interministerial Commission for the Development of Artisanal and Small-Scale Mining (Brasil, 2023b). Additionally, it is worth mentioning the comprehensive reformulation of the federal public administration proposed through Provisional Measure N. 1.154/2023 (Brasil, 2023c), including the creation of two relevant ministries - the Ministry of Indigenous Peoples (MPI) and the Ministry of Racial Equality (MIR).

However, the challenges also extend to the Legislative branch, given the bills currently under consideration that represent a threat to socio-environmental rights, including the rights of indigenous peoples and traditional communities, with a notable mention of the approval of Bill N. 2903/2023 by the Senate, which is

now awaiting the President's veto or enactment. They further extend to the Judiciary and institutions of the justice system in general, as demonstrated by the recent Supreme Federal Court (STF) judgment that is now facing challenges from Congress, which has approved legislation conflicting with the STF's decision, leaving the current legal uncertainty evident. Furthermore, these challenges extend to the international community, considering that the guarantee of socio-environmental rights, especially for indigenous peoples and traditional communities, is of global interest in the context of intensifying climate change and global warming.

The environmental services provided by indigenous peoples, quilombola communities, and other traditional communities are crucial for addressing the climate crisis. To exemplify the importance of the environmental services of these peoples, a recent study by MapBiomass attests that over a 30-year period (1990-2020), Indigenous Lands lost only 1% of their native vegetation area in Brazil, whereas in private areas, it was 20.6% (MapBiomass, 2022). However, these services are compromised when the Legislative and Executive branches align with the interests of the neo-extractive sector in Brazil, especially agribusiness. This is evident through the dismantling of public structures for social and environmental protection that occurred in the previous government and the ongoing dismantling of the normative framework for socio-environmental protection, including those that safeguard the territorial rights of these peoples and communities, promoted by the National Congress. The results, as analyzed in the previous section, are more violence and death for these communities and also environmental degradation, with impacts on the entire global community.

Therefore, in addition to efforts to halt the "Combo of Death", strengthening international cooperation with Brazil for the protection of nature and these populations is of fundamental importance, including the relevance of resuming negotiations between the European Union and Brazil for the formation of a strategic partnership for a sustainable environment, with the renegotiation of the EU-Mercosur agreement (Quintanilha *et al.*, 2022). Another extremely important measure is the establishment of legal frameworks to exclude nature destruction from the market, which will put pressure on companies involved in neo-extractivism to adopt different practices.

In this regard, it is worth highlighting that the European Parliament approved a landmark deforestation law that prohibits the import of commodities such as coffee, beef, soy, and others into the EU if they are linked to the destruction of global forests (Abnett, 2023). However, as pointed out by WWF, other ecosystems beyond forests, such as grasslands, savannahs, and wetlands, should already be

included in the scope of the law. Additionally, it was noted that the inclusion of a human rights element in the proposal is too limited and does not effectively protect the rights of indigenous peoples and local communities, indicating the need for more ambitious proposals (WWF, 2022).

## Conclusion

In this paper, the argument presented highlights a profound connection between the intensification of the neo-extractivist development model in Brazil, the environmental degradation of biomes such as the Amazon and the Cerrado, the increased violation of the rights of indigenous peoples and traditional communities, particularly through encroachments on their ancestral territories, in a context of heightened environmental racism and necropolitics, and the increase in greenhouse gas emissions contributing to climate imbalance.

Furthermore, it has been demonstrated that one of the strategies employed operates within the legal sphere, with repeated attempts aimed at adapting domestic law to the needs of capital. These attempts range from infralegal to legal measures, representing the flexibilization of socio-environmental legislations established in recent decades, particularly those that guarantee rights to indigenous peoples and traditional communities. In a macro sense, these strategies constitute a true affront to the principles set forth in the 1988 Federal Constitution and the consensuses agreed upon by Brazilian society during the constituent process.

Moreover, it is argued that at this moment when the climate issue is a global priority, ensuring socio-environmental rights, especially those of indigenous peoples and traditional communities, is an essential challenge that extends not only to Brazil but to the entire international community. It is important to seek another model of development in harmony with nature, which implies prioritizing the rights and perspectives of indigenous peoples and traditional communities. Internally, it requires efforts to halt the so-called “Combo of Death” and to reinstate policies for socio-environmental protection and the demarcation of indigenous and quilombola territories. On the international front, more effective measures are required. The EU deforestation law is a starting point, but more ambitious frameworks are necessary.

## Reference

ABNETT, Kate. EU lawmakers back ban on goods linked to deforestation. *Reuters*, April 19, 2023. Available at: <https://www.reuters.com/markets/europe/eu-parliament-approves-law-banning-imports-deforestation-linked-goods-2023-04-19/>. Access on: July 22, 2023.

ACOSTA, Alberto. Extractivism and Neoextractivism: Two Sides of the Same Curse. In: LANG, Miriam; MOKRANI, Dunia (ed.). *Beyond Development. Alternative Visions from Latin America*. Quito: Fundación Rosa Luxemburgo, 2013.

ARTICULAÇÃO AGRO É. FOGO. *Agro é fogo: Um Dossiê sobre grilagem, desmatamento e incêndios na Amazônia, Cerrado e Pantanal*, 2021. Available at: <https://agroefogo.org.br/download-dossie/>. Access on: 20 May 2023.

ARTICULAÇÃO DOS POVOS INDÍGENAS DO BRASIL. *Não ao Marco Temporal: Cartilha sobre o julgamento decisivo para o futuro dos povos indígenas do Brasil e o enfrentamento da crise climática*, 2023. Available in: [https://apiboficial.org/files/2023/06/marcotemporal\\_cartilha\\_v7.pdf](https://apiboficial.org/files/2023/06/marcotemporal_cartilha_v7.pdf). Access on: July 21, 2023.

ARTICULAÇÃO DOS POVOS INDÍGENAS DO BRASIL. *Nota Técnica 05/2023-AJUR/APIB*, 2023a. Available at: <https://apiboficial.org/files/2023/05/Nota-Tecnica-da-APIB-sobre-o-PL-4902007.pdf>. Access on: 10 May 2023.

ARTICULAÇÃO DOS POVOS INDÍGENAS DO BRASIL. *Ofício n. 207/2023 – AJUR/APIB*, 2023b. Available at: [https://apiboficial.org/files/2023/10/Of%C3%ADcio-N-207\\_2023-%E2%80%93-AJUR\\_APIB.pdf](https://apiboficial.org/files/2023/10/Of%C3%ADcio-N-207_2023-%E2%80%93-AJUR_APIB.pdf). Access on: 17 Oct 2023.

ARTICULAÇÃO DOS POVOS INDÍGENAS DO BRASIL. *Senado aprova PL do Marco Temporal, Apib cobra veto de Lula e STF encerra Julgamento*, 2023c. Available at: <https://apiboficial.org/2023/09/27/senado-aprova-pl-do-marco-temporal-apib-cobra-veto-de-lula-e-stf-encerra-julgamento/>. Access on: 17 Oct 2023.

ARTICULATION OF INDIGENOUS PEOPLES FROM BRAZIL. *International Complaints Dossier of Brazil's Indigenous Peoples*. Brasília: APIB, 2021. Available at: [https://apiboficial.org/files/2021/08/DOSSIE\\_en\\_v3web.pdf](https://apiboficial.org/files/2021/08/DOSSIE_en_v3web.pdf). Access on: 19 May 2023.

ARTICULATION OF INDIGENOUS PEOPLES FROM BRAZIL. *UNPRECEDENTED: APIB denounces Bolsonaro before the ICC, in The Hague, for indigenous genocide*. 9 ago. 2021. Available at: <https://apiboficial.org/2021/08/09/unprecedented-apib-denounces-bolsonaro->

before-the-icc-in-the-hague-for-indigenous-genocide/?lang=en. Access on: 6 May 2023.

ASSOCIAÇÃO BRASILEIRA DE REFORMA AGRÁRIA. Violência, desmonte de políticas públicas e pilhagem dos territórios: o projeto nacional atual para o campo brasileiro. In: *Conflitos no campo: Brasil 2021: CPT Nacional*, 2022.

Available at:

<https://www.cptnacional.org.br/downloads?task=download.send&id=14271&catid=41&m=0>. Access on: 7 May 2023.

ASSOCIATED PRESS. Brazil's Lula Lays Out Plan to Halt Amazon Deforestation, Make Country 'Global Reference' on Climate. *U.S. News*, 5 jun. 2023. Available at: <https://www.usnews.com/news/world/articles/2023-06-05/brazils-lula-lays-out-plan-to-halt-amazon-deforestation-make-country-global-reference-on-climate>. Access on: 9 May 2023.

BERCOVICI, Gilberto. O estado de exceção econômico e a periferia do capitalismo. *Pensar - Revista de Ciências Jurídicas*, v. 11, n. 1, 2010. Available at: <https://doi.org/10.5020/23172150.2012>. Access on: 10 May 2023.

BOADLE, Anthony. Brazil official says Yanomami region looks like 'concentration camp'. *Reuters*, 24 jan. 2023. Available at: <https://www.reuters.com/world/americas/brazil-official-says-yanomami-region-looks-like-concentration-camp-2023-01-24/>. Access on: 5 May 2023.

BRASIL. Câmara dos Deputados. PL 191/2020. Available at: <https://www.camara.leg.br/propostas-legislativas/2236765#:~:text=Entenda%20a%20proposta%20O%20Projeto%20de%20Lei%20191%2F20,pose%20defende%20o%20aproveitamento%20econ%C3%B4mico%20de%20territ%C3%B3rios%20ind%C3%ADgenas>. Access on: 10 May 2023.

BRASIL. Câmara dos Deputados. PL 2633/2020. Altera as Leis n<sup>os</sup> 11.952, de 25 de junho de 2009, 14.133, de 1<sup>o</sup> de abril de 2021 (Lei de Licitações e Contratos Administrativos), e 6.015, de 31 de dezembro de 1973, a fim de ampliar o alcance da regularização fundiária; e dá outras providências. Available at: <https://www.camara.leg.br/propostas-legislativas/2252589#:~:text=PL%202633%2F2020%20Texto%20original%20Siga%20esta%20proposta%20Ementa,fundi%C3%A1ria%3B%20e%20d%C3%A1%20outras%20provid%C3%A2ncias.%20Entenda%20a%20proposta>. Access on: July 21, 2023.

BRASIL. Câmara dos Deputados. PL 490/2007. Altera a Lei n<sup>o</sup> 6.001, de 19 de dezembro de 1973, que dispõe sobre o Estatuto do Índio. Available at: <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=345311>. Access on: 10 May 2023.

BRASIL. Decreto nº 11.367, de 1º de janeiro de 2023. Available at:  
[http://www.planalto.gov.br/ccivil\\_03/\\_ato2023-2026/2023/decreto/D11367.htm](http://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/decreto/D11367.htm).  
Access on: July 22, 2023.

BRASIL. Decreto nº 11.368, de 1º de janeiro de 2023a. Available at:  
[http://www.planalto.gov.br/ccivil\\_03/\\_ato2023-2026/2023/decreto/D11368.htm](http://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/decreto/D11368.htm).  
Access on: July 22, 2023.

BRASIL. Decreto nº 11.369, de 1º de janeiro de 2023b. Available at:  
[http://www.planalto.gov.br/ccivil\\_03/\\_ato2023-2026/2023/decreto/D11369.htm](http://www.planalto.gov.br/ccivil_03/_ato2023-2026/2023/decreto/D11369.htm).  
Access on: July 22, 2023.

BRASIL. Medida Provisória Nº 1.154, de 1º de janeiro de 2023c. Available at:  
[https://www.planalto.gov.br/ccivil\\_03/\\_Ato2023-2026/2023/Mpv/mpv1154.htm](https://www.planalto.gov.br/ccivil_03/_Ato2023-2026/2023/Mpv/mpv1154.htm).  
Access on: July 22, 2023.

BRASIL. Ministério da Justiça e Segurança Pública. Mensagem nº. 107/2023.  
Available at:  
[https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?codteor=2254208](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2254208).  
Access on: July 21, 2023.

BRASIL. Ministério da Justiça e Segurança, Fundação Nacional do Índio.  
Instrução Normativa nº 9, de 16 de abril de 2020. Available at:  
<https://dspace.mj.gov.br/handle/1/6651>. Access on: 10 May 2023.

BRASIL. Ministério da Justiça e Segurança, Ministério do Meio Ambiente,  
Fundação Nacional do Índio, Instituto Brasileiro do Meio Ambiente e dos  
Recursos Naturais Renováveis. Instrução Normativa Conjunta nº 1, de 22 de  
fevereiro de 2021. Available at: <https://dspace.mj.gov.br/handle/1/6142>. Access  
on: 10 May 2023.

BRASIL. Ministério da Saúde. Portaria GM/MS nº 28, de 20 de janeiro de 2023:  
Declara Emergência em Saúde Pública de importância Nacional (ESPIN) em  
decorrência de desassistência à população Yanomami. Available at:  
<https://www.in.gov.br/web/dou/-/portaria-gm/ms-n-28-de-20-de-janeiro-de-2023-459177294>. Access on: 14 May 2023.

BULLARD, Robert. *Dumping in Dixie: Race, Class and Environmental Quality*. 3.  
ed. Boulder, Colorado: Westview Press, 2000.

CARDOSO, Alessandra; BEGHIN, Nathalie. Política socioambiental entre o  
desmantelamento e a retomada: desafios à vista. In: *Dossiê Fase 3: Brasil em  
chamas: o poder político no rastro dos incêndios: Articulação AGRO é FOGO*,  
2022. Available at: [https://agroefogo.org.br/dossie/politica-socioambiental-entre-  
o-desmantelamento-e-a-retomada-desafios-a-vista/](https://agroefogo.org.br/dossie/politica-socioambiental-entre-o-desmantelamento-e-a-retomada-desafios-a-vista/). Access on: 10 May 2023.

CARVALHO, Igor. After combating illegal mining in Indigenous Lands, Funai  
coordinator is fired. *Brasil de Fato*, 14 out. 2019. Available at:

<https://www.brasildefato.com.br/2019/10/14/apos-combater-mineracao-ilegal-em-terras-indigenas-coordenador-da-funai-e-demitido/>. Access on: 3 May 2023.

COLL, Lianna; VILAR DE MENEZES, Adriana. Situação dos Yanomami expõe abandono dos indígenas pelo Estado. *Unicamp*, January 24, 2023. Available at: <https://www.unicamp.br/unicamp/noticias/2023/01/24/situacao-dos-yanomami-expoe-abandono-dos-indigenas-pelo-estado>. Access on: 9 May 2023.

COMISSÃO PRÓ-ÍNDIO DE SÃO PAULO. QUILOMBOLAS COMMUNITIES IN BRAZIL. *Observatório Terras Quilombolas*, November 26, 2019. Available at: <https://cpisp.org.br/direitosquilombolas/observatorio-terras-quilombolas/quilombolas-communities-in-brazil/>. Access on: 9 May 2023.

CONSELHO INDIGENISTA MISSIONÁRIO. *Nota pública: nova normativa da Funai retoma política de arrendamento e esbulho dos territórios indígenas, 2021a*. Available at: <https://cimi.org.br/2021/02/nota-publica-nova-normativa-funai-retoma-politica-arrendamento-esbulho-territorios-indigenas/>. Access on: 10 May 2023.

CONSELHO INDIGENISTA MISSIONÁRIO. Relatório: *Violência contra os Povos Indígenas no Brasil – Dados de 2021, 2022*. Available at: <https://cimi.org.br/wp-content/uploads/2022/08/relatorio-violencia-povos-indigenas-2021-cimi.pdf>. Access on: 8 May 2023.

CONSELHO INDIGENISTA MISSIONÁRIO. *Uma análise da tese jurídica contra o marco temporal definida pelo STF, 2023*. Available at: <https://cimi.org.br/2023/10/analise-juridica-marco-temporal-stf/>. Access on: 17 Oct 2023.

FIOCRUZ. *Mapa de Conflitos: Injustiça Ambiental e Saúde no Brasil*. Available at: <https://mapadeconflitos.ensp.fiocruz.br/breves-consideracoes-conceituais-e-metodologicas-sobre-o-mapa-de-conflitos-e-injustica-ambiental-em-saude-no-brasil/>. Access on: 8 May 2023.

FUNDAÇÃO NACIONAL DOS POVOS INDÍGENAS. *As Terras indígenas são responsáveis pela preservação de 30% da biodiversidade brasileira*. 14 jun. 2012. Available at: <https://www.gov.br/funai/pt-br/assuntos/noticias/2012/as-terras-indigenas-sao-responsaveis-pela-preservacao-de-30-da-biodiversidade-brasileira>. Access on: 7 May 2023.

FUNDAÇÃO NACIONAL DOS POVOS INDÍGENAS. *No Dia Internacional dos Povos Indígenas, Funai anula a IN 09 e dá mais um passo na garantia dos direitos dos Povos originários*. August 09, 2023. Available at: <https://www.gov.br/funai/pt-br/assuntos/noticias/2023/no-dia-internacional-dos-povos-indigenas-funai-anula-a-in-09-e-da-mais-um-passo-na-garantia-dos-direitos-dos-povos-originarios>. Access on: 16 Oct. 2023.



G1. Indígenas fazem atos e bloqueios de rodovias contra o marco temporal. *G1*, June 7, 2023a. Available in: <https://g1.globo.com/mg/minas-gerais/noticia/2023/06/07/indigenas-bloqueiam-rodovia-fernao-dias-na-grande-bh.ghhtml>. Access on: July 21, 2023.

G1. Ministro do Meio Ambiente defende passar 'a boiada' e 'mudar' regras enquanto atenção da mídia está voltada para a Covid-19. *G1*, 22 maio 2020. Available at: <https://g1.globo.com/politica/noticia/2020/05/22/ministro-do-meio-ambiente-defende-passar-a-boiada-e-mudar-regramento-e-simplificar-normas.ghhtml>. Access on: 3 July, 2023.

G1. Protesto reúne 16 etnias indígenas em ato contra projeto que altera demarcações de terras. *G1*, June 4, 2023. Available in: <https://g1.globo.com/sp/sao-paulo/noticia/2023/06/04/protesto-reune-16-etnias-indigenas-em-ato-contra-projeto-que-altera-demarcacoes-de-terras.ghhtml>. Access on: July 21, 2023.

GALZO, Wesley. Marco temporal em julgamento no STF põe em xeque demarcação de mais de 300 terras indígenas. *Estadão*, August 24, 2021. Available at: <https://www.estadao.com.br/politica/marco-temporal-em-julgamento-no-stf-poe-em-xeque-demarcacao-de-mais-de-300-terras-indigenas/#:~:text=Marco%20temporal%20em%20julgamento%20no%20STF%20hoje%20põe,xeque%20demarcação%20de%20mais%20de%20300%20terras%20in> indígenas. Access on: 10 May 2023.

GONZALEZ, Carmen G. Environmental Justice, Human Rights and the Global South. *Santa Clara Journal of International Law*, 2015. Available at: <http://digitalcommons.law.scu.edu/scujil/vol13/iss1/8>. Access on: 7 May 2023.

GONZALEZ-ROMAN, Daniela. Brazil charges three men over killings of British journalist and indigenous expert. *CNN*, 22 jul. 2022. Available at: <https://edition.cnn.com/2022/07/22/americas/brazilian-prosecutors-dom-philips-bruno-pereira-intl-hnk/index.html>. Access on: 3 May 2023.

GOZZI, Laura. Brazil airlifts starving Yanomami tribal people from jungle. *BBC News*, January 24, 2023. Available at: <https://www.bbc.com/news/world-64381922>. Access on: 13 May 2023.

GUDYNAS, Eduardo. Diez tesis urgentes sobre el nuevo extractivismo. Contextos y demandas bajo el progresismo sudamericano actual. In: GUDYNAS, Eduardo. *Extractivismo, política y sociedad*. Quito: Centro Andino de Acción Popular and Centro Latino Americano de Ecología Social, 2009.

INDIGENISTAS ASSOCIADOS. *Nota Técnica: a Instrução Normativa da Funai nº 09/2020 e a gestão de interesses em torno da posse de terras públicas, 2020*. Available at: <https://indigenistasassociadosorg.files.wordpress.com/2020/04/2020-04-27-nota-tc3a9cnica-in-09.pdf>. Access on: 10 May 2023.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. *Resolution 35/2020*. Precautionary Measure No. 563-20: Members of the Yanomami and Ye'kwana Indigenous Peoples regarding Brazil. July 17, 2020. Available at: [https://www.oas.org/en/iachr/decisions/pdf/2020/res\\_35-20\\_mc\\_563-20\\_br\\_en.pdf](https://www.oas.org/en/iachr/decisions/pdf/2020/res_35-20_mc_563-20_br_en.pdf). Access on: 24 May 2023.

JARDIM WANDERLEY, Luiz; JUNIOR DE ASSIS FERNANDES GONÇALVES, Ricardo; MILANEZ, Bruno. O interesse é no minério: o neoextrativismo ultraliberal marginal e a ameaça de expansão da fronteira mineral pelo governo Bolsonaro. *Revista da ANPEGE*, v. 16, n. 29, 2020. Available at: <https://doi.org/10.5418/ra2020.v16i29.12457>. Access on: 8 May 2023.

KRENAK, Ailton. *Ideas to postpone the end of the world*. Translation: Anthony Doyle. Toronto: House of Anansi Press, 2020.

LINDNER, Julia. O interesse na Amazônia não é no índio e nem na árvore, é no minério. *Estadão*, 1 out. 2019. Available at: <https://www.estadao.com.br/sustentabilidade/bolsonaro-o-interesse-na-amazonia-nao-e-no-indio-e-nem-na-arvore-e-no-minerio/>. Access on: 6 May 2023.

MAPBIOMAS. *Fatos sobre o papel das terras indígenas na proteção das florestas*, 2022. Available at: [https://mapbiomas-br-site.s3.amazonaws.com/downloads/Colecction%206/Fatos\\_sobre\\_o\\_Papel\\_das\\_Terras\\_Ind%C3%ADgenas\\_18.04.pdf](https://mapbiomas-br-site.s3.amazonaws.com/downloads/Colecction%206/Fatos_sobre_o_Papel_das_Terras_Ind%C3%ADgenas_18.04.pdf). Access on: 18 Oct 2023.

MAPBIOMAS. *RAD 2021: Relatório Anual de Desmatamento no Brasil*, 2022. Available at: <https://alerta.mapbiomas.org/relatorio>. Access on: 15 May 2023.

MBEMBE, A. Necropolitics. *Public Culture*, v. 15, n. 1, p. 11-40, January 1, 2003. Available at: <https://doi.org/10.1215/08992363-15-1-11>. Access on: 6 May 2023.

MOBILIZAÇÃO NACIONAL INDÍGENA. Entenda o que é o “Parecer Antidemarcação” e o que está em jogo. *Conselho Indigenista Missionário*, May 5, 2020. Available at: <https://cimi.org.br/2020/05/entenda-parecer-antidemarcacao-stf/#origem-parecer>. Access on: 10 May 2023.

NICAS, Jack. The Amazon's Largest Isolated Tribe Is Dying: Illegal mines have fueled a humanitarian crisis for the Yanomami Indigenous group. Brazil's new president is trying to fight back. *NY Times*, March 25, 2023. Available at: <https://www.nytimes.com/2023/03/25/world/americas/brazil-amazon-indigenous-tribe.html>. Access on: 1 May 2023.

OBSERVATÓRIO DO CLIMA. *Pacote da destruição: o que dizem os projetos de lei em pauta*, 2022. Available at: <https://www.oc.eco.br/wp-content/uploads/2022/03/Combo-da-morte.pdf>. Access on: 10 May 2023.

PACHECO, Tania. Inequality, environmental injustice, and racism in Brazil: beyond the question of colour. *Development in Practice*, v. 18, n. 6, 2008. Available at: <https://doi.org/10.1080/09614520802386355>. Access on: 3 May 2023.

PHILLIPS, Tom. Lula accuses Bolsonaro of genocide against Yanomami in Amazon. *The Guardian*, January 22, 2023. Available at: <https://www.theguardian.com/world/2023/jan/22/lula-accuses-jair-bolsonaro-genocide-yanomami-indigenous-amazon>. Access on: 2 May 2023.

PORTO, Marcelo Firpo de Souza; ROCHA, Diogo. Neo-extractivism, mining, and vulnerability of indigenous peoples as an expression of persistent colonialism in Brazil. *Saúde em Debate*, v. 46, n. 133, April, 2022. Available at: <https://doi.org/10.1590/0103-1104202213317>. Access on: 5 May 2023.

QUINTANILHA, Alexandre et al. *Manifesto Brasil-EU: Clima Estável Patrimônio Comum da Humanidade*, 2022. Available at: [https://www.commonhomeofhumanity.org/\\_files/ugd/deeae3\\_8ff213b0db294d3ba65a86f53a17f11e.pdf](https://www.commonhomeofhumanity.org/_files/ugd/deeae3_8ff213b0db294d3ba65a86f53a17f11e.pdf). Access on: July 22, 2023.

SANTOS, Boaventura de Sousa. Human Rights, Democracy and Development. In: SANTOS, Boaventura de Sousa. *The Pluriverse of Human Rights*. New York: Routledge, 2021. Available at: <https://doi.org/10.4324/9781003177722-3>. Access on: 7 May 2023.

SHIRAIISHI NETO, Joaquim. Diante da queda do céu, “endireitar” o direito ambiental à luz do pensamento dos povos indígenas. *Revista da Faculdade de Direito da UFG*, v. 46, 2022.

SISTEMA DE ESTIMATIVAS DE EMISSÕES DE GASES DE EFEITO ESTUFA. *Análise das emissões brasileiras de gases do efeito estufa e suas implicações para as metas climáticas do Brasil 1970 – 2020*: SEEG, 2021. Available at: <https://seeg.eco.br/2023/03/21/seeg-9-1990-2020/>. Access on: 10 May 2023.

STABILE, Arthur; CASEMIRO, Poliana. Garimpo aumentou 787% em terras indígenas entre 2016 e 2022, aponta Inpe. *G1*, February 11, 2023. Available at: <https://g1.globo.com/meio-ambiente/noticia/2023/02/11/garimpo-aumenta-787percent-em-terras-indigenas-entre-2016-e-2022-aponta-inpe-infografico.ghtml>. Access on: 3 May 2023.

SUPREMO TRIBUNAL FEDERAL. Suspensos Efeitos de parecer da AGU sobre terras indígenas até julgamento final de RE sobre o tema. *STF*, May 7, 2020. Available at: <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=442891&ori=1>. Access on: 10 May 2023.

SUPREMO TRIBUNAL FEDERAL. STF derruba tese do marco temporal para a demarcação de terras indígenas. *STF*, September 21, 2023. Available at:

<https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=514552&ori=1>. Access on: 16 Oct. 2023.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT. Brazil Climate Change Country Profile FACT SHEET – NOVEMBER 13, 2022. 13 nov. 2022. Available at: <https://www.usaid.gov/climate/country-profiles/brazil>. Access on: 9 May 2023.

WWF. EU leaders seal deal for groundbreaking law to stop deforestation. WWF, December 6, 2022. Available at: <https://www.wwf.eu/?8350966/EU-leaders-seal-deal-for-groundbreaking-law-to-stop-deforestation#:~:text=EU%20leaders%20seal%20deal%20for%20groundbreaking%20law%20to%20stop%20deforestation%20|%20WWF&text=The%20EU%20will%20no%20longer,law,%20reaching%20a%20historic%20agreement>. Access on: July 22, 2023.

# About the author

## **Mariana Rodrigues Viana**

PhD Candidate at the NOVA School of Law - NOVA University Lisbon, and FCT (Fundação para a Ciência e a Tecnologia) PhD Scholarship Holder. Holds a Master of Laws and a Bachelor of Laws from the Federal University of Maranhão (UFMA). Researcher at CEDIS (Research Centre on Law and Society) and at Nova Green Lab, both affiliated with Nova School of Law.