

Joint report by the Indigenous Missionary Council (CIMI), FIAN Brazil, JUSTIÇA GLOBAL and ASSOCIATION OF JUDGES FOR DEMOCRACY for the third cycle of assessment of BRAZIL under the UN's Universal Periodic Review Mechanism: the human rights situation of indigenous peoples – focusing on access to justice, criminalization and legal barriers to effectively demarcating Brazilian indigenous peoples' land (time frame), October 2016.



CIMI - CONSELHO INDIGENISTA MISSIONÁRIO

INDIGENOUS MISSIONARY COUNCIL - CIMI

SDS Edifício Venâncio III suite 309/314 – Brasília – DF – CEP 70.393-902 – Brazil. www.cimi.org.br; international@cimi.org.br. www.facebook.com/conselhoindigenistamissionario.

CIMI - Indigenous Missionary Council is an organization linked to the National Conference of Bishops of Brazil (CNBB), whose primary goal is to support indigenous peoples in their fight for recovery, demarcation and integrity of their territories. Recently, CIMI has obtained the [*consultative status*](#) with the UN's Economic and Social Council (ECOSOC).



FIAN Brazil

www.fianbrasil.org.br; fian@fianbrasil.org.br; SDS; Ed. Venâncio IV, suite 308. CEP: 70.393-903. Brasília, DF, Brazil.

FIAN Brazil is the Brazilian section of FIAN International, and has been active for 16 years, promoting human rights, focusing specifically on the Human Right to Adequate Food and Nutrition.



Av. Beira Mar, 406/1207, Centro, Rio de Janeiro/RJ, Brazil – 20021-900

www.global.org.br; contato@global.org.br

Justiça Global is a non-governmental human rights organization focusing on the protection and promotion of human rights and the strengthening of civil society and democracy.



ASSOCIATION OF JUDGES FOR DEMOCRACY

www.ajd.org.br; juizes@ajd.org.br; Rua Maria Paula, no. 36, 11th floor, Bela Vista, CEP 01319-904, São Paulo, SP, Brazil.

Founded in May 1991, the entity is formed by Brazilian judges, and aims at democratizing the Judiciary and implementing Human Rights.

Introduction

1. The Brazilian civil society organizations, focused on the human rights work, and especially acting on behalf of the traditional peoples and communities in Brazil, among them the indigenous peoples, come before the United Nations Human Rights Council to present a contribution in connection with the 3rd monitoring Cycle of Brazil under the Universal Periodic Review (UPR) mechanism.

2. There has been little progress by the Brazilian State in the issues related to traditional peoples and communities in the past years. It may even be said that there have been setbacks regarding rights, according to the facts and data to be presented below.

3. Among the various aspects of such setbacks, three factors have been prominent in the latest years and are focused on in this report, given their importance for effectively respecting, protecting and promoting the human rights of traditional peoples and communities of Brazil, especially the indigenous peoples, namely: a) violation against the indigenous peoples' right to access to justice; b) legal barriers to effectively demarcating the lands of the Brazilian indigenous peoples, such as the time frame; c) criminalization of the social movements that represent traditional peoples and communities, as well as the organizations that assist those social movements.

4. The importance of the access of indigenous peoples to justice lies in the fact that such issue crosses through all human rights of such peoples, as well as their defense before the Brazilian judicial system. The time frame theory, in turn, basically imposes limits to the original right to land and territory, limiting, therefore, a basic right of fundamental importance. Finally, the criminalization of indigenous movements and related organizations prevents the exercise of the totality of such peoples' human rights, as the Brazilian State persecutes the leaders and makes it difficult for supporting movements and organizations to

act, making it impossible not only for them to enjoy their rights, but also to lead a fully democratic life.

5. Recommendations established in the last monitoring cycle of Brazil by the UPR, of 2012, mentioned some points on which this report focuses (exhibit 1) and based on the facts narrated below, there is no conclusion other than that the setbacks are confirmed, since most of the recommendations have not been followed by the Brazilian State, especially those on which this report focuses.

The indigenous peoples' right to access to justice and violations:

The right to take part in the actions related to their interests and the obligation to be called for such actions:

6. The current conflicts involving the land and territory of indigenous peoples in Brazil are mostly judicialized. Such conflicts are directly related to facts that have occurred in the past century, a time when the indigenous communities have faced physical, psychological and cultural violence, followed by a deceptive process of spoliation of their property and their land, promoted under the aegis of the State. Two official documents: the chapter on Violations against the Human Rights of the Indigenous Peoples of the National Truth Commission (Comissão Nacional da Verdade - CNV)ⁱ and the so-called Figueiredoii Report clearly show the violations endured by the indigenous peoples, particularly during the period of civil-military dictatorship.

7. Until the enactment of the Federal Constitution of the Federative Republic of Brazil, in October 1988, the indigenous peoples were under tutelage. In other words, indigenous people were prevented from registering their property or even going to court to protect it until such date, as they were not considered full

subjects of right. Thus, by means of various processes, indigenous property was dilapidated and their land was distributed to third parties through irregular processes.

8. Following such processes, indigenous people were taken from their villages, confined in artificial reserves and transformed in beggars, and called “lazy”. With the growing racial discrimination in Brazilian society, in the Brazilian State the so-called “institutionalized racism” was consolidated, by means of which the very State and its agents discriminate against traditional peoples and communities, among them the indigenous people. Through such processes, ancient, productive peoples have been subdued or simply eliminated.

9. Initially, indigenous people were subject to the so-called regime of tutelage, pursuant to the now revoked article 6, item IV, of the Civil Code, of 1916: “Forest dwellers will be subject to a regime of tutelage, laid down in special laws and regulations, which will end as they become adapted”. We lived under the aegis of integration, of assimilation, which was backed by the Brazilian Constitutions (Federal Constitution of 1934, article 5, XIX, ‘m’; Federal Constitution of 1946, article 5, XV, ‘r’, Federal Constitution of 1967, article 8, XVII, ‘o’). But the Federal Constitution of 1988 put an end to the integrationist regime, as it established, in its article 231, that “[...] **indigenous people and their social organization are recognized, as well as their customs, languages, beliefs and traditions, and the original rights to the lands traditionally occupied by them**, and it is incumbent on the Federal Government to demarcate them, protect and cause all their property to be respected”. Thus began the times of right to difference and cultural specificities of each indigenous ethnic group. The Brazilian State must respect the specificities, diversity and views of the world - worldviews or cosmovisions.

10. Indigenous peoples **have the right to participate directly in the actions that are about their rights**. In this regard, article 232 of the Federal Constitution sets forth: “**indigenous people, their communities and organizations are legitimate parties to go to court to defend their rights and interests**, and the Prosecution Office shall intervene in all acts of the

procedure”. **To participate in all actions that concern them is a human right of the indigenous peoples**, connected with other rights, such as due process of law, opportunity to be heard, adversary proceeding.

11. The indigenous peoples are competent to be in court. In the current legal system, indigenous people are collective subjects of rights, by means of the recognition of their social organizations, leaving the discriminatory tutelage behind and thus allowing them access to Justice, without this meaning that they cease to be indigenous people. The legal expert Carlos Marés thus explainsⁱⁱⁱ:

“The Constitution of 1988 acknowledges that indigenous people have the right to be indigenous, remain indigenous, with their social organization, customs, languages, beliefs and traditions. In addition, it recognizes their original right to the lands that they have traditionally occupied. This is a new concept, and a legally revolutionary one, because it breaks away from the repeated integrationist view.”

12. The indigenous people’s specific ways of being and living, therefore, depend on a territorial space, in which their culture, beliefs and traditions are developed. Therefore, the land has become to them the central theme of their demands.

13. Consequently, the new reality of the indigenous peoples defies the Brazilian Judiciary, in a way, to overcome its excessive - and not always efficient - formalism.

14. **Later, in 2004, Convention 169/OIT was enacted, by means of decree no. 5,051/2004, which imposes on the States the obligation to grant protection against violation of their rights, establishing that the indigenous peoples may bring legal claims, individually or through their representative bodies, to ensure effective protection of such rights.**

15. **It is incumbent upon the Judiciary to halt any action that may touch the sphere of indigenous people's rights, of any nature, without giving them the possibility to participate in such action. They may litigate in court, by themselves,** without being necessarily represented by any bodies, such as the National Indian Foundation (FUNAI), Federal Government, or even the Prosecution Office.

16. **One of the usual conducts of the Brazilian State/Judiciary that leads to violation of human rights is that in most actions the indigenous peoples are not even called to be parties in such cases and defend or express themselves.**

17. For the sake of example, we highlight one of the most emblematic cases of violation against the right to access to Justice. It is the case related to the Indigenous Land Guyraroká, of the Guarani and Kaiowá people, in the State of Mato Grosso do Sul. In 2015, said community was taken by surprise by a decision by the Federal Supreme Court (STF) that suspended the acts of the Ministry of Justice that, through Ordinance no. 3,219 of October 7, 2009, had declared that the Guyraroká land was to be the permanent property of the Guarani Kaiowá indigenous group. The land was 11,401 hectares in size. The community sought support from lawyers specializing in indigenous law and claimed nullity of all procedural acts, as it had not been called to be a party in the dispute. Therefore, the community was prevented from defending itself, considering that until the decision was rendered **the indigenous people were not even aware of the legal action.** In response, the indigenous community's appeal was denied on grounds that "Funai is the federal body of the Brazilian State in charge of protecting the Indians and their property, and it is incumbent on said body to carry out studies and surveys preceding demarcation, pursuant to art. 231 of the Federal Constitution, as well as Law 5,371, of 12.5.1967" iv.

18. This decision, taken by one of the panels of the STF, goes against the current legal system as regards indigenous peoples, considering that the 1988 Constitution did not include the ill-fated tutelage.

19. It is imperative that the Brazilian State/Judiciary start to incorporate in every lawsuit indigenous peoples' human rights, allowing and, specifically, making it

possible for them to participate in the cases related to their interests, by informing them of the processing of the case. Given that this is a matter of violation against human rights, a matter of nullity, which can be acknowledged on the court's own initiative, it would be advisable that the Brazilian State verified whether in the ongoing cases that touch on the interests of indigenous peoples, of any nature, they have been called to express themselves; if they have not, such procedural acts can be considered null.

Slowness of land demarcation cases

20. Various organizations have created a campaign with the slogan "I Support the Indigenous Cause", in December 2012, which resulted in over 20 thousand signatures collected in a very short time from professors, indigenous entities and scholars specializing in indigenous matters, intellectuals and artists. Such document was addressed to the Brazilian State, by its three powers: Executive, Judiciary and Legislative, and indicated that **"the lands are not demarcated with the promptness recommended by the Federal Constitution;** public works are carried out without any dialogue with the affected communities, in breach of the requirement for consultation and participation; official bodies remain vulnerable to pressures from local economic and political powers and/or have precarious structures. Thus the annihilation, social disintegration, oppression, deaths, threats, marginalization, exclusion, hunger, misery and all kinds of physical and psychological violence, aggravated, especially, among indigenous children and youth".

21. The Brazilian rule (article 5, item LXXVIII of the Federal Constitution), backed by the international commitments made by the country, requires that the lawsuits take a reasonable time to be prosecuted. The Federal Constitution establishes that **the term for conclusion of the demarcation of indigenous lands** (article 67 of the Transitional Constitutional Provisions) is five years.

22. The process of indigenous land demarcation is the responsibility of the State/Executive, which does not fulfill its role, for it does not follow the necessary procedures.

CURRENT SITUATION OF INDIGENOUS LANDS AS REGARDS THE ADMINISTRATIVE PROCEDURE FOR DEMARCATION

| General Situation of Indigenous Lands in Brazil | Number | % |
|--|---------------|--------------|
| Registered (Demarcation concluded and registered with the Land Registry of the District and/or with the Federal Government's Property Service) | 398 | 35.75 |
| • Ratified (with decree by the President of the Republic and awaiting registration) | 15 | 1.34 |
| • Declared (with Declaratory Ordinance by the Ministry of Justice, and awaiting demarcation) | 63 | 5.66 |
| • Identified (analyzed by Funai's Technical Group and awaiting decision by the Ministry of Justice) | 46 | 4.13 |
| • To be identified (included in Funai's schedule for future identification) | 175 | 15.72 |
| Without actions (land not included in Funai's list for study - claimed by the community) | 349 | 31.35 |
| • Reserved (demarcated as "indigenous reserves" at the time of the Indian Protection Service - SPI) or Subject to Ownership (owned by indigenous communities) | 61 | 5.48 |
| * With Restriction (land that received an ordinance by Funai's president restricting the use of the area to the right of entrance, locomotion or permanence of persons not part of Funai's staff) | 6 | 0.53 |
| Total | 1, 113 | 100 |

Source: Cimi / National Secretariat / August 2016.

DILMA ROUSSEFF GOVERNMENT

IN THE DEMARCATION OF INDIGENOUS LANDS

| | DILMA GOVERNMENT 1st YEAR (2011) | DILMA GOVERNMENT 2nd YEAR (2012) | DILMA GOVERNMENT 3rd YEAR (2013) | DILMA GOVERNMENT 4th YEAR (2014) | DILMA GOVERNMENT 5th YEAR (2015) | DILMA GOVERNMENT 5th YEAR (2016) | TOTAL |
|---|--|--|--|--|--|--|-------|
| Ratification Decrees | 03 | 07 | 01 | -- | 07 | 04 | 22 |
| Declaratory Ordinances by the Minister | 06 | 02 | 03 | 01 | 03 | 11 | 26 |
| Orders by Funai's President Approving Identifications | 09 | 11 | 06 | 02 | 04 | 9 | 41 |
| Expropriation Decree | -- | -- | -- | -- | -- | 01 | 01 |
| Area Restriction Ordinance | 01 | 01 | 02 | -- | 02 | 01 | 07 |
| Rectification Decree | | | | | | | |

Source: Cimi / National Secretariat / August 2016.

23. It must be said for the record that the indigenous land demarcation actions end up being jurisdictionalized. As regards the Judiciary, it is undeniable that the delay in deciding on cases, in all levels, related to the demarcation of indigenous lands has been a problem to be attacked, one that further aggravates the evident situation of violence which indigenous peoples have faced.

24. In the cases of demarcation of indigenous lands, the reasonability of the processing of the case must be limited by the parameters set for the Federal Government. The Judiciary's delay, in this matter, breaks the human rights pact, aggravates the indigenous communities' situation, especially due to the violation against rights established in article 231 of the Federal Constitution, which grants indigenous peoples respect to their social organization, customs,

languages, beliefs and traditions and **the original rights to the lands that they traditionally occupy.**

25. It is imperative that the **processing and trial of said actions be expedited** and that absolute priority be determined for the Judiciary in the entire Brazilian territory. This can be made through the National Council of Justice (CNJ), a body that is part of the structure of the Judiciary, which has been establishing goals to be met by all courts in the country, in various themes and viewpoints.

26. It is also essential that such body proceed to collect data from the entire country, as it has been doing in various matters, in order to have a detailed map of all cases pending, their progress and respective result. The CNJ has its own tools to feed those data nation-wide.

The legal theory of the time frame and tradition

27. The Brazilian Judiciary has been affecting rights gained and conferred by the 1988 Constitution, thus reducing their guaranteeing capacity. In this sense, the so-called Time Frame and Tradition Theory has been indicated as a great threat to the indigenous peoples' human rights.

28. The thesis is relatively recent, and was adopted by the en banc Federal Supreme Court (STF) in the trial on Case no. 3,388, related to the Raposa Serra do Sol Indigenous Land.

29. Such trial gave rise to a precedent that poses a risk to the original right of indigenous peoples. Although the STF has emphasized that the lands that were not occupied in 1988 do not lose their traditionality as a result of acts by non-Indians, other courts and some justices of the STF have been giving an interpretation to the theory that disregards the violence of the process that drove various indigenous communities from their lands, despite the constitutions previously valid in Brazil.

30. The Time Frame and Tradition theory has been causing the Judiciary to disregard the very serious violations against rights that took place during the military dictatorship, which caused indigenous people to not be able to be in their territory in 1988.

31. Important jurists in Brazilian law have been pointing to the illegality of many of the conditions used in the trial on the Case related to the Raposa Serra do Sol Indigenous Land. José Afonso da Silva, for example, indicates the arbitrariness of the date stipulated as the time frame by the abovementioned decision: October 5, 1988, the date of the enactment of the Constitution of the Federative Republic of Brazil. Da Silva also lists a series of valuable arguments against the time frame thesis, such as, for example, the fact that the Constitution simply acknowledged the indigenous peoples' right to their traditional territory. In other words, such right existed prior to the 1988 Constitution, and there is no logical sense in it becoming valid only after its enactment^{vi}.

32. Another fundamental factor that points to the unconstitutionality of the time frame thesis refers to the so-called persistent usurpation: according to the STF construction, there would be an exception to the time frame in the cases where the indigenous community was not in the required territory due to the persistent acts of third parties (usurpation). However, the definition of the exception of persistent usurpation was only better outlined by the STF after the trial on Case no. 3,388, with the extraordinary appeal 803,462-AgR/MS, including **only an effective possession conflict that was maintained through time until October 5, 1988. Thus, in case the indigenous community had already been completely expelled from its territory before such date, the exception was not applicable**^{vii}.

33. The theory of the legal framework, especially considering the history of atrocities and rights violations involving such peoples before the enactment of the 1988 Constitution, which can be observed, in part, in the two documents mentioned above, violates the indigenous peoples' rights to access to their land, if they have been denied them.

Criminalization of indigenous movements and related organizations

34. The criminalization by the Brazilian State and other societal players against indigenous peoples have been increasing in the latest years, also as a result of various social and political anti-Indian processes.

35. In the latest years, the congressmen representing agribusiness (the so called *ruralists*) have been acting to resume the discussion in Congress of instruments that are damaging to the peoples, such as the Constitutional Amendment Bill (PEC) 215/00, approved by a Special Committee in October 2015, **which makes new indigenous lands demarcations and titles to Afro-Brazilian settlements (*quilombos*) lands impossible, and makes occupation and exploitation of already demarcated indigenous lands**, that are in the peoples' possession and preserved by them, legal.

36. As a result of the progress of PEC 215/00 and other anti-Indian legislative proposals, congressional representatives that are part of the *ruralist* group, rural employers' unions officials and associations of agricultural commodities' producers spread hate and terror against the peoples and their communities. Hate and violence speeches have multiplied during 2014 and 2015. The results of this process have been collected, mainly, in the form of murders of indigenous leaders that fought for the demarcation^{viii} and protection of their traditional lands^{ix} and systematic paramilitary attacks against indigenous communities throughout Brazil.

37. In this sense, the situation of the Guarani and Kaiowá peoples in the State of Mato Grosso do Sul is emblematic. In 2015, **over a dozen paramilitary attacks against various communities of such people were registered**. Such attacks, made by militias commanded by farmers, have resulted in a murdered leader and dozens of injured Indians, including children and elderly people.

38. The paramilitary attack against Tekoha Nhanderú Marangatú is a good example. The action was preceded by a surge of lies spread by some farmers

with the intention of creating a sense of terror and animosity in the regional population against the Indians, in a premeditated attempt to legitimate the attack that was being carried out^x.

39. According to data from the CIMI, the Special Indian Health Office (SESAI) and the Special Indian Sanitary District of the State of Mato Grosso do Sul (Dsei-MS), between 2003 and 2015 a total 891 Indians were murdered in Brazil; nearly half of them (426, or 47%) only in the State of Mato Grosso do Sul^{xi}. This represents, in other words, four hundred and twenty-six (426) Indians killed in the latest years in just one of the Brazilian states.

40. Therefore, it can be concluded that there is currently an ongoing process of genocide against indigenous peoples in Brazil.

41. The attempt at criminalizing Indian leaders, anthropology professionals, organizations and people from the civil society that act in defense of the indigenous peoples' life projects in Brazil has also been intensified by *ruralists* in the past four years. In this sense, two Parliamentary Committees of Investigation (CPI) were created and activated under the control of representatives of the agribusiness. One at the Mato Grosso do Sul State Legislature, named CPI do Cimi^{xii}, and another at the Chamber of Deputies, named CPI da Funai/Incra^{xiii}.

42. **The possessory invasions to illegally exploit natural resources from indigenous lands, especially wood, were aggravated**, in 2015, by the gruesome practice of intentionally setting fire to such lands. This criminal act was practiced by loggers in retaliation for the fact that the Indians themselves protect the territory^{xiv}. The loggers' activity resulted in wide-scale increase of fires and consequently in the generalized destruction of fauna and flora in indigenous lands, and a serious threat to entire Indian families whose houses were burnt. **In the case of the Arariboia Indigenous Land**, of the Guajajara people, in the State of Maranhão, **fires have reached nearly 50%** out of 413 thousand hectares of the demarcated area^{xv}. Isolated peoples have continuously suffered with invasions and destruction of the lands^{xvi}.

43. Following the same line of crime, loggers have started to make death threats and to eliminate Indian leaders that oppose to the exploitation of their lands and that organize themselves to prevent it from happening^{xvii}. The case of the murder of the leader Eusébio Ka'apor, also in the State of Maranhão, is one such example.

44. In such cases, **the omission by the Brazilian State is seen from the lack of effective preventive actions to protect indigenous lands, to the impunity in the murder of Indian leaders.**

45. Among other situations, **the Brazilian government has remained silent as regards its responsibility to demarcate indigenous lands and to adequately care for the health of native peoples.** With this, the demand from the peoples for demarcation of their lands continued to accumulate, along with the increasing and unacceptable number of Indian deaths, especially during childhood.

46. Sectors of the Judiciary have upheld decisions that violently restrict indigenous rights. Beyond the Time Frame Theory indicated before, annulment of administrative acts for the demarcation of the indigenous lands Guyraroká, of the Guarani Kaiowá people, Limão Verde, of the Terena people, and Porquinhos, of the Canela-Apanhekra people, have been upheld in the past years.

47. **The very legal theory of the Time Frame may be used as a way to criminalize indigenous peoples, since it legitimates and legalizes the expelling and other violations and violence committed against the indigenous peoples in Brazil,** including in the recent past. It is like fuel to the flame of violence against the peoples and their territories, as it **signals** to historical and new indigenous land invaders alike that the **mechanism of violence, selective murders of leaders and use of paramilitary apparatuses to expel the peoples from their lands is legitimate**, convenient and even advantageous to their intent of continuing to take possession and exploiting those lands.

48. The peoples, in turn, in face of these attacks and criminalization attempts, are not intimidated, and remained united in systematic resistance and insurgence actions to defend and exercise their rights and life projects. In repossessions^{xviii}, self-demarcation^{xix}, protection of territories^{xx}, political incidence at different levels of the three powers of the Brazilian State^{xxi} and with multilateral bodies^{xxii}, they have shown the disposition and organization necessary to overcome the death projects and the very death imposed on them by the State and other societal players.

Recommendations

49. In view of the above, we present the following recommendations for Brazil:

50. Recommendation 1:

The Brazilian State must put an end to the administrative slowness in the actions for indigenous land demarcation, a factor that prevents other human rights of such peoples from being exercised, and is the main factor in the increase of criminalization and violence against the indigenous peoples of the entire country.

51. Recommendation 2:

The Brazilian State must focus on effectively investigating and punishing those that are guilty for the violent attacks that have been made against Brazil's indigenous peoples, as well as directly protecting the Indians, whenever necessary.

52. Recommendation 3:

The invasions of already demarcated Indigenous Lands, as well as the withdrawal of common assets from such territories (such as wood and minerals) show the omission of the Brazilian State, which should offer direct, immediate and actual protection to indigenous peoples and indigenous lands, whenever there is risk and in view of the nature of such invasions.

53. Recommendation 4:

Ensuring indigenous peoples the right to participate in all court cases in development and future cases, which may affect their rights, especially as regards the right to land, territory and traditional resources.

54. Recommendation 5:

Ensuring that a body that is part of the State/Judiciary (CNJ) establish goals for the entire country, prioritizing the cases that regard indigenous peoples, especially those regarding land demarcations, in view of the clear delay in judicial relief.

55. Recommendation 6:

Ensuring that all operators of the Judicial System, especially judges, are capable of acting in the theme of indigenous peoples' human rights, taking into consideration the international and regional regulation, through continuous training at the School of the Judiciary, CNJ campaigns and other means, and especially so that the application of the law be compatible with the rule of protection to indigenous peoples.

56. Recommendation 7:

Recommending that campaigns be conducted, at least annually, to inform and create awareness in the country's population about the indigenous peoples, with their participation, as a counter act to the climate of hate that is in place and to fight the structural and structuring racism in the Brazilian State.

i

Available at: <http://www.cnv.gov.br/images/pdf/relatorio/Volume%20%20-%20Texto%205.pdf>. Accessed on: August 4, 2016.

ii The Figueiredo Report was found in August 2012 at the Indian Museum, in the city of Rio de Janeiro, after having been lost for 45 years. It is made up of approximately 7 thousand preserved pages, containing 29 of the 30 original volumes. Available at: <http://www.docvirt.com/docreader.net/DocReader.aspx?bib=DocIndio&PagFis=0&Pesq=>. Accessed on: August 4, 2016.

iii SOUZA FILHO, Carlos Frederico Marés de. *O Renascer dos Povos Indígenas para o Direito*. 1ª Ed. (ano 1998, 5ª reimpr. Curitiba: Juruá, 2008.

iv Suit for a Writ of Mandamus 29.087 - STF. Full content of the Appellate Decision - Page 7. Available at: <http://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=6937880>. Accessed on: August 15, 2016.

-
- v SILVA, José Afonso da. *Parecer sobre a Tese Jurídica do Marco Temporal e Tradicional*, p. 8. S.d.
- vi *Ibid.*, p. 8.
- vii *Ibid.*, p. 11.
- viii http://cimi.org.br/site/pt-br/?system=news&conteudo_id=8294&action=read
- ix <http://www.ihu.unisinos.br/noticias/542263-na-onu-secretario-do-cimi-denuncia-assassinato-de-indigena-kaaapor-no-maranhao> e <http://www.cimi.org.br/File/ONUCleberPortugues.pdf>
- x <https://www.diplomatique.org.br/print.php?tipo=ac&id=3141>
- xi CIMI, op. cit., p. 79.
- xii <http://www.cimi.org.br/site/pt-br/?system=news&action=read&id=8354>
- xiii <http://www2.camara.leg.br/camaranoticias/noticias/DIREITO-E-JUSTICA/499549-CAMARA-CRIA-CPI-PARA-INVESTIGAR-ATUACAO-DA-FUNAI-E-DO-INCRA.html>
- xiv <http://www.greenpeace.org/brasil/pt/Noticias/Fogo-terras-indigenas-no-Maranhao-voltam-a-sofrer-ataques/>
- xv <http://noticias.uol.com.br/meio-ambiente/ultimas-noticias/redacao/2015/10/28/incendio-em-terra-indigena-no-maranhao-esta-controlado-diz-ibama.htm>
- xvi <http://g1.globo.com/fantastico/videos/t/edicoes/v/madeireiros-ameacam-tribo-indigena-na-amazonia/4037147/>
- xvii <http://www.ihu.unisinos.br/noticias/532903-madeireiros-ameacam-indios-na-amazonia>
- xviii http://www.cimi.org.br/site/pt-br/?system=news&conteudo_id=8235&action=read
- xix <https://www.youtube.com/watch?v=o8uUa1kqLOM>
- xx <http://www.redebrasilatual.com.br/cidadania/2015/05/indios-ka2019apor-arriscam-a-vida-para-expulsar-madeireiros-de-sua-terra-6620.html>
- xxi <http://www.cptnacional.org.br/index.php/publicacoes/noticias/acoes-dos-movimentos/3025-em-brasilia-indigenas-manifestam-se-contra-matopiba-usinas-hidreletricas-e-a-pec-215> e <http://g1.globo.com/distrito-federal/noticia/2015/04/indigenas-fecham-esplanada-e-fazem-a-to-em-frente-ao-planalto.html>
- xxii http://www.bbc.com/portuguese/noticias/2015/10/151020_brasil_violenca_indios_if_cc e <http://www.cimi.org.br/site/pt-br/?system=news&action=read&id=8084>