

16 apr 21 - FEATURE: BRAZIL LAND GRABBING NATION

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The illegal takeover of public lands, deforestation and Bolsonaro's Administration **Did you know that illegal land grabbing is at the root of the occupation, possession and distribution of lands in Brazil?** Historically, illegal land grabbing has created and sustained an lopsided occupation framework of public lands distribution. It affected how land ownership processes took place in the country and how unequal the distribution of lands is. This problematic land use model is associated with major economic, political and socio environmental consequences. Despite being a centuries-old problem, land grabbing nevertheless continues to severely impact the development of Brazil and remains an urgent issue that the country needs to solve in order to reduce deforestation and meet its climate targets. Instead, the steep increase in criminal land occupation and deforestation in the past few years, especially after the election of President Jair Bolsonaro, feeds the trend of privatizing public lands at the expense of constitutional articles that guarantee the demarcation and protection of indigenous and traditional lands, as well as natural areas for conservation purposes. In this **special feature** by Smoke Signal, we explain **what is land grabbing, how it happens**, the key **related legislation** and why the current government **favours environmental crime** with direct impacts on deforestation rates, forest fires and violence against rural and traditional communities in Brazil. **THE LAND AND THE LAW** **Land grabbing**, known in Brazil as *grilagem*, is the irregular, criminal and private appropriation of public lands that belong to the Union, to States and Municipalities; according to the Brazilian legislation, it is considered a crime against public property. To try to legalize the illegal appropriation of public areas, the invaders forge real estate titles which are registered at local notary offices; the procedure is then repeated at different governmental institutions from municipal, state and federal levels; the criminals coordinate and cross the information from the fake papers to make the process seem legitimate. Most of the remaining federal public lands are located in the North and Midwest Regions, which present the highest records of illegal land grabbing of Brazil. An investigation carried out by the federal government in 1999, followed by an official inquiry by the Federal Congress in 2000 and 2001, identified at least 100 million hectares of lands under suspicious registries and documentation. Based on the results from the investigation, **Incra**, the Brazilian agency for land issues, cancelled titles for more than 70 million hectares of rural properties, of which one third were in the Amazon state of Pará. More than twenty years after this exposure ? which confirmed the scale of the land grabbing problem in the country ?, the legal instruments and systems to control land use and possession in Brazil remain essentially flawed. There is not a single and unified database of land titles and registries, and the information declared by land owners at different governmental institutions from municipalities, states and the union are not checked for integrity. The real state notary offices that register lands titles are also not controlled nor regularly inspected by the government. In the absence of control, frauds are rife. Schemes such as *paper lands* ? rural properties that exist only on paper work without backing in reality; multiple documents overlapping the same portion of land; and even land titles declaring larger extensions than the actual size of the alleged property still happen frequently. With the advancement of information technologies, land frauds evolved and diversified into digital cons. Since 2005, dozens of websites and Facebook pages trading irregular land titles for properties located in the Amazon have been denounced by newspapers. **LAND REGULARIZATION: FOOL'S GOLD** While illegal land grabbing continued to take over Amazon and Cerrado (the Brazilian Savannah) public areas, different governments adopted **plans to regularize land titles**, i.e., the establishment of rules to formalize the concession of public lands that were occupied irregularly. Those plans directly affect the legislation for land use in the country, in specific the **Forest Code** (Law 12651/2012) and the **Agrarian Reform Law** (Law 8628/1993). *The Agrarian Reform Law (8629/1993) regulated the articles of the 1988 Federal Constitution related to the agrarian and land reform by affirming that the rural property that fails to fulfill the social function of the land as established in article 9 is liable to expropriation by the Union*. Law 8629 determines what constitutes a rural real estate according to its destination: agriculture, cattle farming, plant-based extractivism, forestry or agroindustry. It also defines and details the concept of property size through a classification system of fiscal units: small properties size up to 4 fiscal units; medium size up between 4 and 15 fiscal units, and large, which size above 15 fiscal units. In 2009, Brazilian president Lula sanctioned Measure 458 aiming to regularize the situation of irregular properties with sizes up to 1,500 hectares/4 fiscal units located in the Amazon that had been occupied until 2004. At the time, the government claimed that the

measure was meant to aid small and family landowners and foster inspection and punishment of illegal land grabbers. Measure 458 later became **Law 11952/2009**. Almost a decade later, president Temer issued Measure 759/2016, opening land regularization plans to properties all over the country (not only within the Amazon region) with sizes up to 2,500 hectares that had been occupied until 2008. In practice, Measure 759 broadened the timeframe of the regularization plans, opening possibilities of more recently grabbed lands to be legalized and the criminals to be dismissed without charges. Measure 759 then became **Law 13465/2017**, updating several articles of the Agrarian Reform Law and Lula's government Law 11952/2009. As soon as he took federal office at the dawn of 2019, president Bolsonaro issued Measure 910 to introduce a new land regularization plan. Strongly criticized by experts, civil society and indigenous organizations, **Measure 910** intended to further delay the timeframe of land regularization to areas occupied until the year of 2014 and expand the size of lands liable to the plan to 15 fiscal units, i.e. large estates. Stuck at the Lower House in the National Congress, the deadline to vote passed and Measure 910 did not come into effect. Soon after, Bolsonaro's government introduced **Bill 2633**, a renewed attempt to change land regularization while keeping several misguided premises from the original text of Measure 910. Since May 2019, Bill 2633 has been moving slowly through the commissions of the Chamber of Deputies, in part due to the Covid-19 pandemic; if voted and approved, it will once again alter the 2009's Law 11952. *The **Environmental Rural Registry (ERR)** was formally established by the Forest Code legislation and implemented through an Administrative Instruction (2/2014) issued by the Ministry of the Environment. It is a mandatory digital public record for all private rural properties, created to centralize data and information for the environmental management and economic development of the land, while directing actions to combat deforestation. Thus, the ERR database gathers information about the private rural properties with regards to their legal reserves status (proportion of private forest areas that must remain preserved), permanent conservation areas, forest management and native vegetation. The integrity of the information declared on the ERR is the responsibility of the reporting landowner, who can be criminally charged in case of entering unfaithful, false and misleading claims into the registry. The Forest Code legislation clearly stresses that the registry at the ERR does not correspond to a property title and must not be considered for land regularization purposes. However, the ERR has increasingly been used by criminal land grabbers to create a fake history of occupation and use of stolen public lands. In theory, all registries at the ERR that overlap with non-designated public forest areas, indigenous territories and conservation units should be reviewed and cancelled, as well as prompt investigations into land grabbing crimes.* **THE FOREFRONT OF DEFORESTATION** The main strategy adopted by the criminal land grabbers is to force a “productive occupation” of the terrain. By effectively using the land, they create an appearance of historic presence in the area with the sole intent of consolidating possession in the near future via a land regularization plan or juridical maneuvers. In the Brazilian Amazon, this *fait accompli* dynamic translates into illegal logging, deforestation and arson to clear lands for pasture and crops. The Amazon region houses more than 50 million hectares of non-designated forests – public lands not covered by any protection status. Such areas are extremely vulnerable to land grabbing and deforestation. According to Imazon, between 2018 and 2019, 35% of the deforestation in the Amazon state of Para happened in public Union lands, an indicator of criminal land grabbing activity. After invading a public forest area, usually the land grabber proceeds to illegally extract the timber with commercial value. Worth noting that to clearcut a hectare of tropical forest in a remote location in the middle of the Amazon is a complex and expensive logistics operation. Selling the wood provides resources to pay for opening access roads and hiring large machinery power. To clear the remaining bush, a common technique employed by the invaders is to attach a thick steel chain between two bulldozers that run through the area, followed by fires to clear the terrain for future cattle ranching and soy plantations. This devastating cycle draws a “productive facade” that disguises the irregular occupation of the public forest land. Supported by forged paperwork, the claims to the stolen lands are entered into a dysfunctional control system and eventually the invader finds ways to secure the property of the stolen areas. Often operating as a rural militia, the *modus operandi* of the land grabbing industry involves the use of heavy machinery, enough legal knowledge to cheat the law and resourcing to armed violence against local settlers, small farmers and indigenous communities. It is important to differentiate the land grabbers who act as professional assailants of public patrimony from the family, small rural communities and settlers that should be the priority of the land reform and regularization processes in the country. **THEY CLEAN WITH FIRE** A concrete example of the land grabbers strategy is what happens in the surrounding area of highway BR -163. The road connects Cuiabá in Mato

Grosso state to Santarém in Pará state and is a key transport route for grains produced in the region. A 2020 Greenpeace research about the area identified large fragments of deforestation that happened in properties right before or right after they were registered at the Environmental Rural Registry (ERR). Around 62% of the non designated public forests in the surroundings of highway BR-163 have already been registered at the ERR. Between 2019 and 2020, deforestation alerts in the region increased more than 200%. In August, 2019, the region was home to the emblematic **Day of the Fire**, a coordinated series of large fires on forest areas set intentionally by local land grabbers and farmers. Messages from the organizers were published by the local press announcing the action: (The producers) want August 10th to get the attention of authorities. In the region, the production advances without the support of the government. We need to show to the president (Jair Bolsonaro) that we want to work and the only way is deforesting. To clear cut our pastures, we use fire. They went beyond menacing words. On those 24 hours of that day of August 10th, 2019, INPE satellites registered a 300% increase on fires hotspots inside forest reserves located in the surroundings of highway BR-163, especially in the municipalities of Novo Progresso, São Félix do Xingu and Altamira, all in Pará state. Despite major national and international media coverage and promises of investigations and legal procedures by the Federal Police and Prosecution Office, a year after the Day of the Fire almost no charges were brought upon the criminals and the burnt areas were turned into pasture. Source for graphic: [IPAM 2020](#)

A recent study by Ipam showed a 55% increase of illegal registers of private rural areas overlapping with indigenous territories between 2016 and 2020. Over the same period, the number of self-declared private properties registered at the Environmental Rural Registry (ERR) that overlapped with indigenous lands increased by 75%; even though the ERR is not applicable to indigenous lands. By intensifying the dispute over already occupied or claimed territories, the land grabbing industry threatens traditional populations and fuels rural violence. The crime of stealing public forest lands and the growing pressure over indigenous and traditional communities are connected to the expansion of the agribusiness frontier in the Amazon and the Cerrado, which in turn directly implicates the productive chains for commodities such as soy and beef, a sector that responds for 25% of the Brazilian GDP and one of the main sources for export revenues in the country. Last but not least, land grabbing is at the basis of an economic cycle which erroneously uses the land provoking deforestation and GHG emissions. Without addressing the stealing of public lands and distributing, demarcating and regularizing the use of its territory and forest areas, Brazil will remain unable to meet its climate objectives.

BOLSONARO'S ADMINISTRATION: LAND GRABBING NATION In the first two years of Bolsonaro's administration, deforestation in illegally grabbed lands increased when compared to the previous five-years average. Between 2014 and 2018, the average was 112,800 hectares; in 2019, it jumped to 215,600 hectares and, in 2020, to 226,500 hectares, according to Ipam. The destroyed forest area in invaded public lands responds for 20% of all Amazon deforestation for the period. A series of factors foster land grabbing, from budget cuts for environmental and land controlling agencies to the empowerment of land criminals with the pro-agribusiness and anti-environmental enforcement speeches coming from high ranking government officials. Even worse, the current federal administration openly declares its preference for irregular land takeover by introducing legislation such as the Measure 910/2019, reintroduced as Bill 2633, under discussion at the National Congress and listed as a top priority on the political deals between the executive branch and the president of the Chamber of Deputies, Representative Arthur Lira (PP-AL). Among many problems, Bill 2633 turns into law an administrative order from the Ministry of Agriculture and Incra called Titula Brasil; in a rough translation it could be read as Let's Title Brazil. The Titula Brasil eases the obtaining of the tenure of the land by allowing a self-declaratory process by the owner, posing a concrete threat to indigenous lands and public forests that are yet not demarcated or formally protected. In this scenario, on-site inspections will no longer be mandatory and will instead be replaced by satellite monitoring. The Bill 2633 also wants to increase the size of properties liable to land regularization from 4 to 6 fiscal units and the timeframe of the occupation, broadening amnesty for land criminals and illegal forest destroyers. Several civil society organizations maintain a permanent campaign called [Saldão da Amazônia](#) [Amazonia for Sale] to pressure federal deputies to stop Bill 2633 from going to a vote. In yet another legislative front pro-land grabbing, this February, Senator Irajá (PSD/TO) presented Bill 510 in a renewed attempt to change Law 11952/2009. In Bill 510, Senator Irajá, who acted as rapporteur on the original Measure 910, insists on many of the critical points of the original Bolsonaro's government proposal: changes the timeframe for the land occupation, includes properties up to 2,500 hectares and removes environmental safeguards, according to an analysis by the Climate Policy Initiative

from PUC University in Rio de Janeiro. Just a few hours before publishing this feature on Land Grabbing, on the evening of April 15th, 2021, Smoke Signal's team (and the rest of Brazilian society) were taken by surprise by an emergency session called by the Federal Senate. Without warning or any public consultation, senators voted and approved Bill 4348/2019 by 64 votes in favour and 6 against. The declared purpose of Bill 4348 is to alter article 40 of the original 2009 land law in order to facilitate the regularization of rural settlements; however, the bill is not specific about which occupied areas are liable to be regularized. NGOs and experts believe the new bill will increase attacks of land grabbers over small farmers, fuelling the stealing of lands and impunity in the Amazon and other Brazilian biomes. The Bill will next be voted at the Chamber of Deputies to later be sanctioned by President Bolsonaro. To the land criminals, the regularization plan proposed by the Bolsonaro administration is a gift. It adds up to the weakening of the National Indigenous Foundation and the complete halt on demarcation processes, to the dismantling of environmental controlling agencies such as Ibama and to the stripping of land reform programs conducted by Incra. Shocking, but not surprising. **Sources:** <http://greenpeace.com.br/amazonia/pdf/grilagem.pdf>
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