

SALSA Statement Condemning Brazil's Proposed Law #490/2007

The Society for the Anthropology of Lowland South America, an international scholarly organization composed of professors, students, and practitioners, joins our voice to those of Indigenous leaders protesting Proposed Law #490/2007, now under discussion in the Brazilian Congress. On Wednesday, June 23, 2021, this law passed a procedural hurdle within the Committee on the Constitution, Justice, and Citizenship; it now will be considered by the entire Chamber of Deputies (Brazil's lower house of Congress) and, if passed, will be heard by the Senate.

Strongly supported by the agro-industrial sector, Law #490 provides for several changes in the territorial rights of Indigenous Peoples as guaranteed by Brazil's Constitution. The law applies the "time limit thesis" (*marco temporal*) to the question of demarcating Indigenous territories. This fringe legal theory holds that Brazil's Indigenous Peoples have the right only to lands they happened to occupy at the time of the promulgation of the Brazilian Constitution (October 1988). If adopted, the *marco temporal* standard would likely prevent the demarcation of any additional Indigenous territories (237 territories are currently in legal limbo), while also placing at risk the 441 fully demarcated and registered Indigenous territories. Furthermore, Law #490 would open Indigenous territories to predatory activities, including mining, ranching, commercial agribusiness, and dam construction. It goes so far as to allow the State to "retake" lands if there are significant "alterations of cultural traits" within Indigenous communities. Finally, the law threatens people living in voluntary isolation by imposing uninvited contact on highly vulnerable Indigenous communities by third parties such as missionaries in the name of the "public good."

As anthropologists committed to learning from and advocating alongside peoples in lowland South America, we are shocked and saddened by the broad support this Law enjoys in Brazil's Congress. Indigenous Peoples' rights to territory and self-determination are not only clearly guaranteed by Brazil's constitution, but are also underpinned by numerous international treaties to which Brazil is a signatory (e.g. ILO Convention 169, United Nations Declaration on the Rights of Indigenous Peoples). The Brazilian Constitution further guarantees the right of Indigenous Peoples to be consulted, to make decisions in their own manner, and to have these decisions respected by the state. In the broader view, Indigenous Peoples and their territories precede the founding of Brazil by millennia, and were vastly reduced by violence, disease and forced dislocations during five hundred years of colonialism.

On this basis, colleagues in the legal community have concluded that Law #490 is clearly unconstitutional. In addition to violating Indigenous Peoples' "original rights to territory" (Constitutional Articles 231 & 232), the law represents a *de facto* amendment to the Constitution, and thus much meet a much higher legislative threshold than a simple majority-vote bill. We hope that the Federal Supreme Court will strike this law down swiftly after it proceeds from Congress and the Executive branch. Meanwhile, we fear that laws like these, even when they fail, will continue to incentivize further land invasions, accompanied by greater violence, racism, and dehumanization of Indigenous Peoples in Brazil.

It is gravely symbolic that the bill was approved in committee while Indigenous demonstrators were brutally repressed outside the congressional chamber – with the military police using rubber bullets and tear gas against peaceful protesters including elderly people and children – and with scenes inside the chambers that included Indigenous Congresswoman Joênia Wapichana’s speech being cut short.

SALSA is strongly opposed to PL#490/2007. This law gives the green light to land grabbers, throwing in jeopardy the lives and hopes of Indigenous Peoples along with the very existence of the socioenvironmental systems they steward. In the words of Indigenous lawyer and leader Eloy Terena: “PL#490 is the declaration of extinction of Indigenous Peoples.” SALSA stands by the Indigenous Peoples of Brazil in their struggle for territory, education and health and will do all it can to ensure these rights are implemented and guaranteed.

June 26, 2021.