The legislature and the anti-indigenous offensive in Brazil: An analysis of the proposals in the Brazilian Congress concerning Indigenous lands (1989-2021)

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Abstract:
The Constitution of 1988, conceived after 21 years of civil–military dictatorship in Brazil, represented advancement towards the acknowledgement of indigenous rights by the State. However, since then, several political and economic sectors have articulated against these rights, especially those of a territorial nature. Based on a survey of bills at the Brazilian Congress, I seek to emphasize the active role of the legislative branch in this process. Although not exhaustive, the research found the creation of 81 proposals between 1989 and 2021, being bills that intend to change the regulations on Brazilian indigenous lands. Critical analysis of this set of projects highlighted two main aims: the first, which is economic, is the opening of indigenous lands to private capital, especially agribusiness and the mining sector. The second, which is political, is the expansion of the State’s control over indigenous territories. I conclude by demonstrating how the accumulation of bills and argumentative strategies strengthened this anti-indigenous offensive in recent years. In this regard, the current Bolsonaro administration represents a dramatic moment, because in addition to the commitment of the Executive Power to advance this anti-indigenous agenda, the Federal Congress is the most conservative since the last civil–military dictatorship.
Introduction

As Manuela Carneiro da Cunha points out in the book *História dos Índios no Brasil* [Indigenous Peoples’ History in Brazil] (Cunha, 1992, p. 133) if, in the first three centuries of Brazilian colonization, the legislation surrounding the ‘indigenous issue’ concerned, above all, the regulation of access to the indigenous workforce, from the nineteenth century to the present day, the central matter is, basically, access to their lands and wealth.

Contrary to what common sense supposes, which places colonization as an already concluded historical episode, the gradual economic mobilization of indigenous territories and their wealth is a contemporary phenomenon that some authors conceptualize as ‘internal colonialism’ (González Casanova, 2007). This process, understood from the State perspective as the mobilization of its ‘territorial funds’, is configured as a spatial dynamic inherent to the Nation-State, within what would become known as the ‘colonial path’ of capitalist development (Moraes, 2011).

This process of deterritorialization relies on various strategies from the State, not occurring homogeneously throughout history. Nor is it exempt from conflicts, contradictions and disputes, not only within state powers, but also from their relationship with indigenous peoples, their political agencies and organizational strategies (Oliveira, 2016).

Seeking to understand this process in Brazil, especially in its legal-territorial aspect, I aim here to offer answers to the following research problems: what has been the role of the Brazilian legislative power in the contemporary offensive against the territorial rights of indigenous peoples? What strategies have been used in the projects and what challenges do they pose to indigenous movements and organizations? Can geographic reasoning help us to understand this question, both at a theoretical and political level?

As methodology, I carried out a survey of bills dealing with indigenous lands (ILs) in Brazil, created by the Brazilian legislative power from January 1989 to June 2021 (see Appendix, at the end of the article). The data were obtained from the search engines of the Deputies Chamber (www.camara.leg.br) and the Federal Senate (www.senado.gov.br). The research found 81 bills, which can be accessed through the following link: https://bit.ly/3ytbeC4.

Archived projects were not considered, only those that are active or that have been attached to active projects. Proposals that refer to issues other than indigenous lands were also not considered. Finally, legislative proposals considered ‘positive’ for indigenous lands were not included, both because they constitute an exception to the total universe of projects, and because most of them were shelved. As an example of positive projects found, I can mention initiatives that directly or indirectly support environmental conservation in indigenous lands.

Clarification about the analysis was divided into three parts. In the first part, I seek to provide an overview of the so-called ‘indigenous question’ in the context of the Federal Constitution of 1988. I emphasize the legal advances achieved, as well as the limitations in the realization of these rights. I also present data on the anti-indigenous offensive underway in Brazil, suggesting a geographic logic and historical continuity in such actions, highlighting, however, a dramatic rise in violence in the current government of president Jair Bolsonaro.

In the second part, I begin the analysis of anti-indigenous legislative proposals involving ILs, presenting the data found in the survey, such as types of projects, status, origin, etc. Although the Brazilian State has recognized indigenous peoples as subjects of law, the participation of this portion
of the population in institutional policy is almost null at the federal level. Since 1988, only one indigenous woman – Joênia Batista de Carvalho, from the political party ‘Rede’ in the province of Roraima – has been elected a federal deputy. This is reflected in the projects found. Again, I suggest a geographical logic in the creation of these projects, taking the state of Roraima as an explanatory example.

In the third part, I deepen my analysis using a qualitative approach, where I classify the projects into eight different ‘macro-aims’. I demonstrate that the legislative power plays a central role in the contemporary war against indigenous peoples in Brazil. Two aims stand out in the projects found: the political control of Funai and indigenous lands in general, and the opening of indigenous lands to the exploitation of private capital, especially mining and agribusiness.

I conclude by pointing out the challenges faced by Brazilian indigenous peoples in the current conjuncture. Considering the political alignment between the executive and the legislative branches, in the sense of a pragmatic strategy to advance the anti-indigenous agenda, I point out that indigenous peoples are fighting a war on two different fronts. In their own territories, against multiple illegal or criminal actors, and on the front of institutional politics, against the Brazilian State itself.

The Brazilian State and the indigenous peoples after the Federal Constitution of 1988: a brief background

The Constitution of 1988, conceived after 21 years of civil–military dictatorship in Brazil, represented advancement towards the acknowledgement of indigenous rights by the State. Within the context of the ‘Citizen Constitution’, the country recognized itself as multi-ethnic and multicultural, formally ending the long period of State assimilationist policies (Lima, 1995). At the constitutional level, indigenous peoples are no longer under tutelage and are now legally considered subjects of rights (Article 232), with their own cultures, languages and social organizations.

In general terms, there has been a demographic growth of the indigenous population since then: the 1991 census recorded 294,000 people, while the 2000 census recorded 734,000. According to the latest official data, the indigenous population in Brazil in 2010 was 897,000 people (0.47% of the country’s total population), with 305 different ethnic groups and 274 different languages (IBGE, 2012). This population has also had increasing access to education, strengthening indigenous organizations in the defence of their socio-territorial rights. According to INEP’s Higher Education Census data, in 2019, 56,257 indigenous people had enrolled in higher education institutions, a growth of 675% compared to 2010 when there were 7,256 (INEP, 2020).

Following the theory of the indigenato, the Constitution recognized the original and imprescriptible rights of the indigenous peoples on the lands that they traditionally occupy, admitting therefore that this right is even prior to the creation of the Brazilian State. The legal-territorial concept of the ‘Indigenous Lands’ was then formulated regarding inalienable and unavailable areas that belong to the federal government, but of permanent ownership and exclusive fruition of the indigenous peoples [Article 231] (Amado, 2019). By law, these areas cannot be leased, nor can they be exploited by private mining or agribusiness capital. In the Constitution it was also defined that by the year 1993 all indigenous lands in Brazil would have to be demarcated.

Almost 30 years after this period, the indigenous peoples are living a dramatic moment. About one-third of the territories claimed by indigenous organizations as indigenous territories are not yet demarcated, and none have been sanctioned since the 2016 parliamentary coup (ISA, 2021a). The
demarcated ILs currently represent 13% of the Brazilian territory, where some 517,000 indigenous people lived in 2010 (57.7% of the total population), according to the last census (IBGE, 2012). Even though indigenous peoples are all over the country, 98% of this area is within Amazon.²

The Brazilian indigenous and environmental policy has been under serious attack over recent years. Thus, anthropologist Manuela Carneiro da Cunha does not exaggerate when saying that there is a ‘war’ against the indigenous peoples in Brazil (Cunha, 2021). The number of assassinated indigenous people, which is perhaps the most evident aspect of this war, has almost doubled since 2003 (Graph 1):


![Graph 1](https://example.com/graph1.png)

*Source: Conselho Indigenista Missionário (CIMI)*

*The number of indigenous people assassinated in Brazil increased by approximately 170% between 2003 and 2019. The considerable increase from 2014 is due to a change in the source of the data, as they began to be provided by the Special Secretariat for Indigenous Health (SESAI), based on the Access to Information Law (12.527/2011). Graph elaborated by the author based on the ‘Violence against the indigenous peoples in Brazil’ annual reports (CIMI), from 2003 to 2019.*

At the core of this war, there is an important element: the indigenous lands. Around this legal territorial figure, tensions, disputes and radically different forms of conception and production of space are mobilized. As Sonia Guajajara, from the Executive Coordination of Brazil (APIB, Brazilian acronym for Articulação dos Povos Indígenas do Brasil), points out:

>You cannot look at us, indigenous peoples, and think that we have the same understanding of territory as you [non-indigenous person], which in your case is one of exploitation and destruction thinking about profit, and thinking of money. That is not our understanding. For us, our territory is sacred, we need it to exist. You look at an indigenous land and call it an unproductive land. We call it life […] we defend life, we defend our identity, and we will shed

² It is important to emphasize that there is a historic situation of confinement of indigenous people outside the Amazon, with innumerable cases of violence and social misery. According to the Instituto Socioambiental, ‘from a total of 298 Indigenous Lands outside the Legal Amazon, 146 have not yet had their recognition process completed. These lands represent only 1.6% of the total area of Indigenous Lands in Brazil, although they are home to 45% of the indigenous population in It’s’. Confer: [https://terrasindigenas.org.br/pt-br/quem-sao](https://terrasindigenas.org.br/pt-br/quem-sao)
even the last drop of blood to defend our territories, to ensure the existence of our peoples (Guajajara, 2019).

On the one hand, the main political demand of the indigenous peoples is the guarantee of their territorial rights as stipulated in the Constitution, there included the autonomy for them to develop their ways of life and relations with the entities in their territories (fauna, flora, supernatural, humankind). Regarding this, the territory is the foundation of these peoples’ existence, it is the space of life and diversity from which all their culture is articulated (Capiberibe & Bonilla, 2015, pp. 294–295).

In opposition to this perspective, there are interests from agribusiness, mining, and the development of megaprojects. Such sectors understand space as any other goods so, for them, indigenous lands are basically areas for the expansion of economic activities. The aforementioned groups’ main political demands are the opening of the ILs to capitalist exploitation and the indigenous peoples’ submission to the market logic.

It is precisely within this geographical, economic and ethnic ‘border zone’ that agrarian conflicts are currently intensifying in Brazil. In these areas, indigenous peoples are portrayed by agribusiness advocates as an impediment to ‘development’ and ‘progress’, with violence being one of the main approaches to economic expansion and modernization of capitalist social relations. In 2019, of the 113 indigenous people murdered in Brazil, 40 were from Mato Grosso do Sul and 26 were from Roraima, states where agribusiness and mining/logging are expanding, respectively (Map 1):
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Indigenous peoples assassinated in Brazil (2019).

Although no Brazilian president from 1990 to 2018 failed to accept the demands from the agribusiness and mining sectors, no one did so with such support and enthusiasm as Jair Bolsonaro. Known for his racist and authoritarian positioning, Bolsonaro extended political control over the National Indian Foundation (FUNAI, Brazilian acronym for Fundação Nacional do Índio) early in his term, in 2019. This meant the weakening of the technical staff and the appointment of anti-indigenous allies in management positions. The indigenous agency is responsible for land demarcation and guaranteeing indigenous rights. Currently chaired by the Federal Police chief Marcelo Augusto Xavier de Souza, FUNAI has become an extension of the Ministry of Agriculture, firmly controlled by the ruralist caucus.

The ruralist caucus, as the ‘Parliamentary Front of Agriculture’ (PFA) has become known as, is a thematic and non-partisan group that represents and defends the interests of agribusiness and, in general, major landowners. At present, the ruralist caucus is one of the most influential in Congress, and in the current Parliament (2018–2022) constitutes 195 Representatives (38% of the total) and...
32 Senators (28% of the total).

Bolsonaro has declared at several interviews and public speeches that ‘there will not be a centimetre more for the indigenous lands’, thus being the first president of Brazilian history to openly defend actions against these peoples (Neto, 2019). He supported illegal mining activities and illegal logging in the ILs (amidst the COVID-19 pandemic) (Schreiber, 2020), criminalized indigenous organizations (Amado & Vieira, 2021), persecuted leaderships of the indigenous movements (Galvani, 2021), facilitated for farmers the license to carry firearms (Deutsche Welle, 2019), and even nominated a former evangelic missionary to command FUNAI’s General Coordinating Body of Indigenous Communities in Isolation and Initial Contact (Jucá, 2020).

Added to this, there are Bolsonaro’s disastrous denialist policies regarding the COVID-19 pandemic, including spreading false information and distributing medicines without scientifically proven efficacy to indigenous peoples. The federal government has also tried to prevent differential medical care in indigenous lands, notwithstanding the immunological fragility of this population to a virus like COVID-19. (Pires, 2020; Vasconcelos & Alkmin, 2021). At the end of 2020, the indigenous Raoni Metuktire and Almir Suruí denounced Bolsonaro to the International Criminal Court, with headquarters in The Hague (The Netherlands), for crimes against humanity (Oliveira, 2021). This accusation was also made by the APIB in August 2021.

This policy increased the environmental destruction and agrarian conflicts in Brazil. In 2020, the Documentation Centre of the Pastoral Land Commission (CPT, acronym for Comissão Pastoral da Terra) reported 178 events of trespassing on indigenous territories, affecting 55,821 families. To get an idea of the increase in this phenomenon, in 2019 the CPT had registered nine occurrences of trespassing, involving 39,697 families. Therefore, the increase in the number of occurrences from 2019 to 2020, the year of the pandemic, was over 1,800% (CPT, 2020). In turn, Legal Amazon recorded 8,381 km² of deforestation between August 2020 and June 2021, the biggest devastation for the period in ten years, according to the Institute of People and the Environment of the Amazon (Imazon, acronym for Instituto do Homem e Meio Ambiente da Amazônia) (Imazon, 2021).

The Legislative Branch’s proposals involving indigenous lands in Brazil

Despite this recent upsurge in violence against indigenous peoples, the political offensive against these groups of the population has structural roots within the logic of the Brazilian State. Certain political and economic sectors began to articulate themselves in the following year of the Federal Constitution, seeking to extend political and economic control over indigenous lands supported by the Legislative Branch.

At the federal level, the Brazilian legislative power is practised by the National Congress, hence composed of two houses: the Federal Senate and the Chamber of Deputies. Senators and Federal Deputies are elected by direct and secret vote. It is up to them, among other tasks, to propose, analyse, discuss, vote and approve the laws that rule the daily life of all Brazilians. The Chamber of Deputies is composed of representatives of the population, and the Senate of representatives of the provinces and the federal district.

The survey presented here comprehends distinct types of bills before the Legislative Branch, whose intents aim at, somehow, to attack indigenous territorial rights. The spreadsheet is unrestricted access (https://bit.ly/3ytbeC4), and the empirical pieces of evidence that sustain the arguments here presented can be consulted and confronted on that basis. Although our search does not possess an exhaustive character, the research found the existence of 81 proposals within this premise, created
between January 1989 and June of 2021 (please see the appendix graph at the end of the article). Of these 81 projects, 19 are still pending their approval in Congress (having the remaining 62 been appended to these). It is through the following propositions that the anti-indigenous agenda currently advances in the Legislative Branch:

### Anti-indigenous pending bills currently in progress in the Brazilian Legislative Branch

<table>
<thead>
<tr>
<th>Proposal/Year (link)</th>
<th>Party</th>
<th>Province</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill 4881/1990</td>
<td>Multiparty</td>
<td>-</td>
</tr>
<tr>
<td>Bill 2057/1991</td>
<td>Multiparty</td>
<td>-</td>
</tr>
<tr>
<td><strong>Constitutional Amendment Bill 133/1992</strong></td>
<td>PMDB – Movimento Democrático Brasileiro – Brazilian Democratic Movement.</td>
<td>Pará</td>
</tr>
<tr>
<td>Bill 1610/1996</td>
<td>PFL</td>
<td>Roraima</td>
</tr>
<tr>
<td><strong>Bill of Legislative Decree 381/1999</strong></td>
<td>PTB – Partido Trabalhista Brasileiro – Brazilian Labour Party.</td>
<td>Paraná</td>
</tr>
<tr>
<td><strong>Bill of Legislative Decree 2540/2006</strong></td>
<td>PTB</td>
<td>Roraima</td>
</tr>
<tr>
<td><strong>Constitutional Amendment Bill 45/2013</strong></td>
<td>PSD – Partido Social Democrático – Social Democratic Party</td>
<td>Tocantins</td>
</tr>
<tr>
<td><strong>Bill of the Senate 349/2013</strong></td>
<td>PSD</td>
<td>Tocantins</td>
</tr>
<tr>
<td>Bill 2395/2015</td>
<td>PSB – Partido Socialista Brasileiro – Brazilian Socialist Party.</td>
<td>Tocantins</td>
</tr>
<tr>
<td><strong>Constitutional Amendment Bill 132/2015</strong></td>
<td>PSDB – Partido da Social-Democracia Brasileira – Brazilian Social Democracy Party.</td>
<td>Santa Catarina</td>
</tr>
<tr>
<td><strong>Constitutional Amendment Bill 187/2016</strong></td>
<td>PSB</td>
<td>Tocantins</td>
</tr>
<tr>
<td>Bill 7813/2017</td>
<td>PRB – Partido Republicano Brasileiro – Brazilian Republican Party (currently Republicanos, Republicans).</td>
<td>Roraima</td>
</tr>
<tr>
<td><strong>Bill 9051/2017</strong></td>
<td>PP – Progressistas – Progressives.</td>
<td>Rio Grande do Sul</td>
</tr>
<tr>
<td>Bill 191/2020</td>
<td>Executive Branch</td>
<td>-</td>
</tr>
<tr>
<td><strong>Bill 2633/2020</strong></td>
<td>Solidariedade – Solidarity.</td>
<td>Minas Gerais</td>
</tr>
<tr>
<td><strong>Bill of Legislative Decree 177/2021</strong></td>
<td>PMDB</td>
<td>Rio Grande do Sul</td>
</tr>
</tbody>
</table>

*Table 1*

*Elaborated by the author using data from the Chamber of Deputies (www.camara.leg.br) and the*
Among the 81 projects found, the predominant share was created by the Chamber of Deputies (85%), being followed by the Federal Senate (11%), and the Executive Branch (4%). Regarding the types of projects, the following panorama was discovered: Bills (66.7%); Proposals of Constitutional Amendment Bills (23.5%); Bills of Legislative Decree (4.9%); Bills of Supplementary Law (3.7%); and Senate Bills (1.2%) (Map 2):

Bills aiming to flexibilize the indigenous territorial rights (Legislative Branch, 1989–2021)

Since the bills represent political engagements at a local/regional level, there is a strong correlation between their economic purposes and their geographical origin. As shown above, the provinces that created more anti-indigenous projects between 1989 and 2021 were Roraima (12), Santa Catarina (9) and Mato Grosso (9), whose economies are strongly tied to agribusiness and/or mining. The analysis found that the projects have different strategies or approaches. For example, one side advocates that the Brazilian Congress should first approve these activities; in contrast, another side eliminates this necessity, allowing private capital agreements directly with the groups. In the same vein, one party defends the impacted indigenous communities to be heard (not just consulted). At the same time, there are those that do not mention this need.
Of all the projects, at least 11 Brazilian provinces sought to regulate, parting from the Federal Legislative Branch, mining or hydroelectric exploitation in ILs. Among these, Roraima stands out, with seven projects in total. In addition to having a solid anti-indigenous parliamentary base, Roraima is currently one of the most violent provinces against these peoples.

As seen in Map 1, this province has the second-highest rate of indigenous assassinations in Brazil, in addition to several cases of territorial invasion by non-indigenous people. Roraima, in the northern part of the Brazilian Amazon, is abundant in gold, diamonds and other minerals and has about 46% of its area demarcated as indigenous land (ISA, 2021b). It is estimated that there are currently more than 20,000 gold miners illegally in Yanomami IL (Valente, 2019) and another 4,000 in Raposa Serra do Sol IL, both located in this province (Vidon, 2021).

Seeking to understand the huge effort of deputies and senators of this province in the opening of indigenous lands to mining, I drew a map with the ‘mining processes’ registered there (Map 3):

![Mining processes in Roraima, Brazil (June 2021)](https://bit.ly/3ranSor)

*Map 3*

_In the map above, the areas in red represent the mining processes registered in Roraima up to June 2021, while the areas in green represent the indigenous lands. The overlapping polygons demonstrate the previous positioning of the mining capital aiming to regulate, by legislation, the mining in the ILs. The information is official, provided by the Geographic Information System on Mining (SIGMINE) [https://bit.ly/3ranSor]. Map elaborated by the author._

A mining process is a polygon that defines the area where a person or company has priority and exclusive right to commercialize the mineral substances of an economic value mapped within these limits. Each mining process receives a unique identifier number when registered with the National Mining Agency (ANM, Brazilian acronym for _Agência Nacional de Mineração_), becoming an administrative process of this body, therefore mappable and quantifiable. While not necessarily meaning
authorization for mining, this record allows us to understand the economic and political interests related to mining in specific regions.

The spatial extension of the mining processes, with large areas overlapping demarcated indigenous lands, provides us with an idea of the dimension of mining companies lobbying within the Congress. The progressive rise in the price of gold and other minerals, at least since the 2008 crisis, has further increased the pressure for mining exploitation in ILs.

**An anti-indigenous Legislative Branch: Control and economic exploitation as central intentions of the Brazilian State**

Intending to identify common logic between the 81 projects, I have conducted a qualitative interpretation of their interests, which allowed me to organize them into eight ‘macro-aims’. This has made it possible to visualize the main interests involved and each of their weights in the sum of the projects found (Graph 2):

![Anti-indigenous projects organized by macro-aims](image)

**Graph 2**

*Graph elaborated by the author using data from the Chamber of Deputies (www.camara.leg.br) and the Federal Senate websites (www.senado.gov.br).*

The graph shows that 37% of the projects have as their primary aim the opening of indigenous lands to the mining and/or exploitation of water resources, which include the hydroelectric potential. This category possesses the highest number of projects created so far – precisely, 30 –, many of them from 1989, the year that followed the constitutional convention, which demonstrates the tremendous long-standing interest of mining and energy capitals in the exploitation of indigenous lands.

In second place, totalling 28.4%, 23 proposals aim to undermine the power of FUNAI to favour non-indigenous in incidents of agrarian conflicts. The criticisms revolve around the legitimacy of the work conducted by the agency, which violates the right to private property according to the proponents.
In general, the projects aim to make the demarcation process more complex, establishing conditions and demanding the need for compensation for the non-indigenous, in case they have parcels within the area demarcated as IL. Currently, the compensation is restricted only to improvements and not to the land itself, given the original right of indigenous peoples over them. Due to the generalized process of invasions and land grabbing (illegal occupation of land employing forged deeds) of ILs, this would put in practice a great budgetary impediment for new demarcations.

It is worth mentioning that projects in this category began to be created in the mid-2000s by the ruralist caucus. At that time, in Roraima, indigenous people from the ethnicities Wapichana, Patamona, Makuxi, Taurepang, and Ingarikó claimed the approval of the Raposa Serra do Sol IL, then trespassed by rice farmers. This happened in 2005, during the term of President Luís Inácio Lula da Silva, and it engendered strong opposition from the state government and the military forces, who had taken a stand against the indigenous people.

The conflicts continued until 2008 when the federal police forced non-indigenous people to evict the area, which in law is called ‘disintrusão’ [desintrusão], being the act or effect of removing from property someone who has taken possession of it illegally or without the owner’s authorization. Despite all the criticisms, the demarcation followed the legal requirements established by the Constitution, having no problem or defect that would relieve the process. Agribusiness sectors then began to articulate at the national level so that this would not be repeated in other areas of the country, with these legislative proposals being a result of this reaction. It is important to take into account that the Brazilian Supreme Court created a list of 19 ‘conditions’ for the demarcation of this IL, which was a trap to make all other indigenous territories juridically insecure.3

In third place, bringing together 21% of the surveyed projects, some seek to transfer the responsibility of demarcation of indigenous lands from the Ministry of Justice (FUNAI) to the Federal Congress. In other words, the criterion would no longer be technical/scientific, but political. The 17 proposals in this macro-aim, as in the previous category, involved emptying FUNAI’s attributions and turning the Congress into a kind of ‘moderating power’ on the matter and having the final decision over new demarcations, or even the ratification of demarcations already made. Given the mostly anti-indigenous composition of the Congress, this would mean a disaster for these peoples’ territorial rights.

In fourth place, with 6% of the total, five proposals seek to regulate the opening of indigenous lands to agribusiness and forest exploitation. Impelled by the ruralist caucus, these projects were created in 2016, aiming to facilitate the exploitation of ILs via contracts signed directly with the indigenous communities. Some projects even mention the permission to use genetically modified organisms (GMOs) in these crops, although this type of cultivation is currently prohibited in Brazilian indigenous lands.

The other macro-aims have a small volume of projects but are still very dangerous. They were conceived after the 2016 parliamentary coup and take advantage of the situation to promote the anti-indigenous agenda. Like the other projects, they pursue two main purposes: to regulate the exploitation of ILs by the capital and expand the State’s power over indigenous peoples and their territories.

Let us look at examples. Two propositions – Bill 9051/2017 and Bill 5531/2019 – attempt to ensure the validity of non-indigenous possessory titles throughout the demarcation process, which

3  For more information on these conditions, see: ‘Raposa Serra do Sol: STF imposes 19 conditions for demarcation of indigenous land’. Available at: https://bit.ly/3HpjVRZ
in most cases lasts for decades. The main argument is that while there is no ratification of IL, the areas should be considered private property. Thus, they must be able to be traded, economically exploited, and even receive government credit for it.

Two other projects – Bill 10631/2018 and Bill 334/2019 – seek to expand State control over the civil registration of indigenous people. The justification would be the alleged practice of duplication of civil registrations or the lack of State registration of the indigenous people’s birthplaces. The idea behind the project is to prevent the mobility of indigenous groups between their territories.

In turn, the Bill of Legislative Decree 177/2021 aims at denouncing the Convention 169 (C169) of the International Labour Organization (ILO). As is well known, Brazil ratified this document in 2002 and it is considered, at a global level, a fundamental text concerning the rights of indigenous and tribal peoples. Currently, the C169 has been one of the primary mechanisms for defending territorial rights by indigenous peoples, as it allows access to international law.

Finally, there is Bill 191/2020, urgently sent to the Chamber of Deputies by Brazilian President, Jair Bolsonaro. The idea of the project is to compile a large part of the previous macro-aims as a pragmatic way of facilitating their approval by the Brazilian Congress. In addition to mining and hydroelectric exploitation, the proposal provides the possibility of exploring oil and gas, logging, mining, and the opening of these lands to agribusiness. The project also allows enterprises to be conducted without the consent of indigenous communities, which is contrary to the aforementioned Convention 169 of the ILO (Angelo, 2021).

Taking these ‘macro-aims’ as an analysis element, I sought to categorize the anti-indigenous bills based on the geographical location, even though it is the deputies and not the provinces who propose the laws. However, as seen earlier, this allows us to understand the correlation between the projects’ aims and the economic interests of the provinces where they were presented (Graph 3):

**Macro-aims of the projects concerning the proposing Brazilian provinces (2021)**

![Graph 3](criminologicalencounters.org)
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The darker the tone/ the larger the area, the more projects were created. For example: In ‘macro-aim B’, Roraima (largest area/darkest tone) has the largest number of projects, followed by São Paulo and then Rondônia. Graph elaborated by the author using data from the Chamber of Deputies (www.camara.leg.br) and the Federal Senate websites (www.senado.gov.br).

The graph above shows that provinces with a solid presence of agribusiness consequently tend to create projects that profit this sector, as in the case of the states of Mato Grosso, Santa Catarina and Rio Grande do Sul. Likewise, provinces with elevated mining or hydroelectric potential tend to act to open up ILs to mining or the construction of dams.

As done with geographical space, I have also classified the ‘macro-aims’ of anti-indigenous projects over time, by year of creation. The aim here was to understand the existence (or not) of patterns by historical periods (Graph 4):

**Macro-aims per year of project creation (1989-2021)**

![Graph 4](image)

Anti indigenous projects organised by macro aims and year of creation. As mentioned before, the Federal Congress joined these bills as they had similar aims, amounting to 19, which are currently in progress (Table 1). Graph elaborated by the author using data from the Chamber of Deputies (www.camara.leg.br) and the Federal Senate websites (www.senado.gov.br).

As can be seen, almost every year since 1999 some type of bill has been created to flexibilize indigenous land rights. However, within this period, four moments stand out from the others regarding the number of proposals: 1989, 2007, 2015, and 2020. It is important to remember that these bills have been added to one another, leading to the 19 currently being processed, which, somehow, sum up the 32 years of anti-indigenous attacks by the National Congress.

The year 1989 stands out for the considerable number of projects (seven, in total) aimed at regulating mining and hydroelectric exploitation in ILs. It is evident that immediately after the constitutional convention, the regulation of mining exploitation was one of the main aims of the Legislative Branch towards ILs.

As of 2004, the anti-indigenous agenda expanded again, reaching its peak in 2007, with seven proj
ects. This time, in addition to mining, the intentions turned to the demands of agribusiness. That year, seven projects were created to undermine FUNAI's power, favour non-indigenous people in territorial conflicts, increase the Federal Congress’s authority over demarcations and stipulate mandatory compensation in case non-indigenous people were removed from the area. At the time, Congress tried to shield Brazilian agribusiness, given the unfolding of the case of Raposa Serra do Sol IL.

Later, in 2015, on the eve of the parliamentary coup, there was another peak, with seven proposals. As in previous projects, the agenda sought to favour mining and agribusiness activities. However, a new strategy was conceived during this period: in addition to the usual attacks against FUNAI, as seen in previous years, agribusiness and the forestry sector also began to seek a strategic approach with some indigenous peoples (macro-aim 'C').

The purpose was to regulate ‘partnerships’ between these sectors and the peoples so that forestry and agribusiness would supposedly be carried out by the indigenous people themselves within the ILs. It is from the same period that the concept of ‘autonomy’ was appropriated by Brazilian agribusiness, which started to use this old struggle flag as a legal justification for such projects. The argument, also used subsequently (as in Bill 1443/2021), claims that the State must recognize and respect the autonomy of the indigenous peoples over their territories, including the opening of ILs to agribusiness and forest exploitation.

In 2020, amid the pandemic, there was a new moment of escalation of the anti-indigenous agenda. Roughly speaking, the projects are similar to those from previous years. The exception for this year was the aforementioned Bill 191/2020, created emergently by the Executive Branch, namely Jair Bolsonaro. The project aims at compiling demands from different economic sectors into a single proposal to facilitate their approval, taking advantage of the political and economic scenario. In addition to mining and hydroelectric exploitation, the proposal grants the possibility of oil and gas exploration, as well as to logging and mining activities, and the opening of these lands to agribusiness, all with no demand for approval from the indigenous communities affected by it.

**Conclusion**

Although the 1988 Constitution brought significant advances concerning indigenous land rights, the fact is that these rights were not fully implemented for these peoples. It is not by chance that the main struggle of Brazilian indigenous movements today is, precisely, compliance with what is determined by the Federal Constitution.

As I have tried to demonstrate throughout the article, since the year that followed the Constitution, part of the Legislative Branch, through several strategies and an increasing number of projects, has aimed at the flexibilization of indigenous territorial rights (see Appendix). In documental research on the websites of the Brazilian Federal Congress, I found 81 bills, created between January 1989 and June 2021, with this aim.

Of this set, 19 are currently in progress (24% of the total), with the remaining 62 being attached to these, that is, linked to active proposals. This survey has unrestricted access and can be accessed through the following link: [https://bit.ly/3ytbeC4](https://bit.ly/3ytbeC4).

A first approach allowed me to verify that there is a strong correlation between economic purposes and the geographical origin of the bills. A good example is the province of Roraima, located in the northern Brazilian Amazon, abundant in gold, diamonds and other minerals. There, a solid anti-in-
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The indigenous parliamentary base has sought to liberate mining on indigenous lands since 1989, with seven different bills. Even if the data cannot prove it, this indicates a strong lobby of private capital within the federal legislative power.

Subsequently, I performed a qualitative analysis, categorizing the projects based on eight ‘macro-aims’. Overall, the projects analysed have two main aims. The first, economic, is the opening of indigenous lands to private capital, with the consequent subordination of the indigenous population to capitalist relations of production. The second, political, is the expansion of the State’s authority and control over indigenous peoples and their territories.

At the private level, the main economic sectors interested in this opening are agribusiness, mining companies and forestry companies. Their intention is to expand their activities into the interior of indigenous lands, which is currently illegal.

At the federal state level, part of the Brazilian Congress has been attempting to supplant FUNAI’s power, not only demanding the last word on new demarcations but also detaining control over indigenous lands previously demarcated, submitting them to ‘national interests’. Thus, they are aiming for a free endorsement for interventions within ILs, such as the construction of hydroelectric plants, the flooding of territories, the implementation of power transmission systems, the exploration of oil and gas, railway construction, highways, ports, or any other project considered as ‘strategic’ to the country.

As I tried to indicate, this anti-indigenous agenda has been magnified in recent years, both in the number of projects (that have been accumulating since 1989) and in legal strategies for the achievement of its intentions. The present scenario of Jair Bolsonaro’s government represents a dramatic moment for the indigenous peoples in Brazil since, in addition to the commitment of the Executive Power to advance this anti-indigenous agenda, the Federal Congress is the most conservative since the last civil–military dictatorship (Queiroz, 2018).

In this context, the severe health crisis caused by the COVID-19 pandemic has been used by the Brazilian government as a ‘window of opportunity’ for the advancement of such proposals. In turn, the indigenous peoples continue their long war of resistance: on the territorial front, against multiple illegal actors or criminals, and on the political-institutional front, against the Brazilian State.

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References


Appendix Graph: Legislative projects for the flexibilization of indigenous territorial rights (1989–2021)

Graph made by Frederico Castro Nunes, based on data survey carried out by the author. Source: Chamber of Deputies (www.camara.leg.br) and the Federal Senate websites (wwwсенадо.gov.br), in July 2021. To access this graph digitally, click on: https://bit.ly/37Jg82j.
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