



DENI DEMARCATION 2003

GREENPEACE



BRIEFING

The Demarcation Process

Indigenous People in Brazil

By 1500, when the Portuguese arrived in Brazil, the Indigenous population was estimated between 2 and 4 million people, according to ISA (Social and Environmental Institute, a Brazilian NGO). Most of these people were settled along the banks of the Amazon River and its tributaries. Forced to work as slaves, transported from their lands, and killed by introduced diseases brought by the colonizers, they were reduced to some 350,000 by the late 19th century. According to anthropologist Darcy Ribeiro, 55 Indigenous populations vanished in the first half of the 20th century. However, due to protectionist measures, the Indigenous population started rising later in that century.

The most recent available data from 2000 indicates that there are close to 350,000 Indigenous people from at least 217 different nations remaining in Brazil. Of this total, 113,391 are in the Brazilian State of Amazonas. However, this data is not definitive – names and numbers are subject to change due to the long process of qualified data collection. There are 53 references to “isolated” Indigenous people, who have not yet been contacted by FUNAI, the National Indigenous Foundation (a government agency) and therefore are not included in official lists.

Finally, and only when the current Brazilian Federal Constitution was written in 1988, were Indigenous rights given significant weight. After centuries, the right to be Indigenous and to stay Indigenous was constitutionally recognized. Issues such as social organization, languages, traditions and the land were addressed in the articles of the Constitution.

What does Demarcation mean?

The law considers Indigenous rights over their territories to be original rights, i.e., a right that existed before the adoption of the legislation itself. Therefore, the demarcation of lands is merely recognition by the government of what is, has been and will always be Indigenous domain. It is also a legal vehicle to be used by Indigenous populations in order to preserve their territory.

To demarcate an Indigenous territory is to officially recognize the lands that are traditionally inhabited or otherwise used by such populations. The demarcation guarantees to the Indigenous population the right to keep invaders out of their lands and to choose means of living in the forest. The actual physical demarcation is the opening of clear trails in the forest creating a visible border between Indigenous lands and other territories (see box for more detailed information on the demarcation process).

Once Indigenous lands are demarcated, they become properties protected by the Federal Union. “Such lands are designated to be for exclusive use and possession of the Indigenous People and they own exclusive rights over natural resources exploitation of the rivers, the lakes and the richness of the soil”, states FUNAI web site, charged with implementing Indigenous people rights.

According to FUNAI, only half of the Indigenous lands in Brazil have been demarcated and around 1/5 have not yet even started with the process. The demarcation of Indigenous lands is based on anthropological studies that identify the limits, and is complemented by historical, environmental, cartographic and sociological data. Such studies aim to recognize which



DENI DEMARCATION 2003

GREENPEACE



lands the natives use to live and to produce food and what is the necessary space to guarantee their cultural and physical survival.

The 1988 Constitution established 1995 as the deadline for the demarcation of all Indigenous lands in the country. The failure to meet this important deadline opened the doors to further threats to the survival of Indigenous Peoples. "The government has not only failed to enforce the ultimate law of the country, but has shown a complete lack of support and compassion for the people that have been occupying this land before Brazil even existed as a country", said Nilo D' Avila, Greenpeace campaigner in the Amazon.

The Deni Demarcation Case

In 1985, a team led by German anthropologist Gunter Kroemer of CIMI (Indigenous Missionary Council) carried out the first attempted identification of the borders of the Deni lands. They defined an area of 916,000 hectares as being of traditional Deni use. However, the FUNAI anthropologist officially in charge disappeared before delivering his reports and the process ground to a halt.

Two years later, a team of CIMI people went back to the Deni area and completed the research. This time the government did not accept the proposed map because no FUNAI representative was involved in the field research. However, the 916,000 hectares that had been identified in 1985 were acknowledged and restricted to use by the Deni.

Eleven years later, in 1998, FUNAI announced the creation of a Working Group to identify the boundaries of the Deni territory. The following year, anthropologist Rodrigo Padua Rodrigues Chaves was sent to the Deni lands. Chaves' report concluded that the Deni territory amounts to a total of 1,530,000 hectares. The report was delivered to FUNAI on November 2000 and was published in summary in *Diário Oficial da União* (Brazil's official government journal) on February 21st, 2001. The "comment period" (see box) ended on May 21st 2001, and only then was the proposed demarcation map accepted.

On September 2001, the Deni finally took matters into their own hands and started cutting the demarcation line around their traditional territory in the Amazon rainforest themselves. A team of Brazilian experts plus an international team of 13 Greenpeace volunteers – from Brazil, Chile, the UK, the Netherlands, Sweden, Spain, Greece, Germany, Austria, the US and China – provided logistical support to the Deni people for almost two months while they demarcated the most vulnerable frontiers of their lands.

On September 28th 2001, 17 days after the Deni started the process, Greenpeace received a letter from FUNAI ordering the immediate suspension of the self-demarcation of the Deni Indian land until the Minister of Justice had formally acknowledged Deni ownership. In the face of Brazilian government attempts to shut them down, the Deni Indian chiefs pledged that they would continue to physically cut a border around their lands to keep out illegal loggers. Three non-governmental organisations, including Greenpeace, declared their continued support to the Deni people.

A month later, the efforts of the Deni people were finally recognized. The formal decree signed by Brazilian Minister of Justice was officially announced in October 16th, in Brasilia, granting formal recognition of the Deni's rights to their traditional land. The Government Decree holds the Deni's lands in perpetuity for their sole use. Industrial activities, such as logging, are now prohibited.



DENI DEMARCATION 2003

GREENPEACE



The year 2002 was consumed by bureaucratic processes and restricted by the Amazon weather. During this period, Greenpeace, CIMI and OPAN prepared a land vigilance program aiming to ensure the protection of the Deni's borders, which will be implemented after the conclusion of the physical land demarcation.

At the end of the bureaucratic processes, PPTAL (Brazilian Project for the Integrated Protection of Indigenous Lands and Populations of the Legal Amazon) allocated funds to ensure that the Deni could supervise and follow-up the official demarcation of their own territory. The SETAG Company won the bidding process opened by the Brazilian Government to formally complete the Deni land demarcation, which they started in May 2003, and expect to have completed by early August 2003.

BOX: The Step-by-Step Demarcation Process

Official demarcation is a long and bureaucratic process. The first step is the dispatch of an anthropologist to the Indigenous area, who writes a report detailing use of the territory. With the assistance of geographers and engineers, the information on land use is turned into cartographic delimitations. These delimitations are used as the basis for drawing a more accurate map of the territory. All sociological and cartographic data are combined into a written report.

The summary of the report is then published in *Diário Oficial da União* (Brazilian Government Journal) and a 90-day period is opened for challenges to the proposed demarcation area. This 90-day deadline for comments is called "contradictory" and its purpose is to allow concerned people the opportunity to request compensation for eventual losses caused by the demarcation.

After these 3 months, FUNAI sends the report and any additional documentation to the Ministry of Justice, who is in charge of approval of the project for the physical demarcation. Once approved, the territory is finally ready to be demarcated.

A bidding process is opened by FUNAI to choose the company that will win the contract to do the physical demarcation. Physical demarcation means the opening of a strip of cleared land, possibly hundreds of kilometers long, to create a visible border in the forest. Once the company is selected, a team of topographers and geographers are sent to the area to cut the trails and erect signs indicating that the area is Indigenous territory.

When the physical demarcation is concluded, the President of the Republic signs a decree officially creating the Indigenous territory. The decree registers the lands as federal property with a concession for use by its Indigenous inhabitants.