

# Decree 1775: An Attack on Indian Lands in Brazil

"Decree 1775 is more than a setback; it's a death sentence for many Indigenous groups."—  
COIAB (Council of Indigenous Peoples and Organizations of Brazil)

Indigenous organizations and their allies initiated a major campaign of resistance after Brazilian President Fernando Henrique Cardoso signed Decree 1775, responsible for the demarcation of Indian lands, on January 8th, 1996. As the cherished baby of Minister of Justice Nelson Jobim, Decree 1775 offers a 90-day period for "states and municipalities containing the area to be demarcated, and other interested parties" to exercise the *contraditório*, or legally contest the process. Additionally, it subjects 344 of the 554 Indian Areas in

from gold miners and ranchers (see article page 20). Now, with Decree 1775, those efforts appear to have been in vain.

Indigenous organizations point out that one of the major problems with Decree 1775 is that it was devised in absence of open debate. Many Indigenous and indigenist entities had requested meetings to discuss the impacts of the decree. CAPOIB, an Indigenous umbrella organization based in Brasília active in the fight against Decree 1775, points out that on August 15th, 1995, President Cardoso assured

equipped to deal with the eminent onslaught of legal claims against Indigenous areas.

In addition, CAPOIB claims that Decree 1775 will create an "industry of indemnities," since it calls for the compensation of parties claiming a loss of land due to demarcation, with titles to show for it. All claims of indemnity made on Indigenous areas not yet registered are valid. The agribusiness company Colonizadora Terranorte Ltda. already solicited compensation for lands belonging to the Enawene-Nawe Indigenous

area in Mato Grosso state; a sum to the tune of 7.6 million Brazilian reais (US\$7.9 million).

In Pará state

alone, the summed indemnities for all contested Indigenous areas would reach approximately US\$1.4 billion.

Indigenous voices say Decree 1775 "risks the lives of Indigenous people," and add that invasions and the proliferation of diseases in indigenous areas will increase. Recent news from Brazil prove this analysis to be correct. According to confirmed and unconfirmed reports, invasions are presently occurring in a host of Indigenous areas, including Barão de Antonina (Kaingang), the Mundurucú area in Amazonas, Rio Guamá (Tembé) in Pará, Panambizinho and Sete Cerros (Guarani-Kaiowa), both in Mato Grosso, Coroa Vermelha (Pataxó) in Bahia, Surui and the area of the Uru-Eu-Wau-Wau in Rondonia. Other threatened areas contested by the government and the military for their "strategic value" are Kricati (Maranhão), Baú (Pará), Marãiuapsede (Mato Grosso), and Raposa Serra do Sol near the border with Guyana.

§ 8º Desde o início do procedimento demarcatório até oventa dias após a publicação de que trata o parágrafo anterior, poderão os Estados e municípios em que se localiza a área sob demarcação e demais interessados manifestar-se, apresentando ao órgão federal de assistência ao Índio razões instruídas com todas as provas pertinentes, tais como títulos dominiais, laudos periciais, pareceres, declarações de testemunhas, fotografias e mapas, para o fim de pleitear indenização ou para demonstrar vícios, totais ou parciais, do relatório de que trata o parágrafo anterior.

Brazil to revision because they have yet to be entered into the country's official land registry. Armed with such legal backing, contenders of Indian lands have already started invading and staking their claims inside Indigenous territories. Indigenous organizations and NGOs in Brazil, in solidarity with international forces, are working to pressure the Brazilian state to revoke the new decree.

## What's Wrong with Decree 1775?

Indigenous forces and indigenist NGOs have been unanimous in their protest of the new decree. After the passing of Decree 22/91, which in fact allowed for the demarcation of several Indigenous Areas, many Indigenous nations fought especially hard to demarcate their land. The Macuxi in Raposa Serra do Sol, for example, have been leading an international campaign for demarcation, to secure their territory

them that he would not make any decision without discussing the matter in detail with Indigenous organizations. Even after the signing of Decree 1775, Minister Jobim was quoted as saying, referring to Brazilian NGOs leading the international campaign against the decree, "These groups are not interested in solving the indigenous problem. They are interested in creating problems and we will have no dialogue with those who cause problems" (*Folha de São Paulo*, Feb. 6).

In a clever fashion, Decree 1775 effectively paralyzes land demarcation by subjecting the process to the interminable bureaucracy of legal court battles over land. FUNAI (National Indian Foundation), which has historically lacked anthropologists and lawyers, will be responsible for carrying out required legal, geographical, and ethnographic work prior to any demarcation or as part of any revision. FUNAI, however, is ill-

According to Jobim, the new decree abides by the constitution (section 55 of article 5) because it guarantees a third party the right to contest a judicial process through the *contraditório*, a "basic element of democracy", says Jobim. He also argues that the court cases against Decree 22/91 stalled in the Federal Supreme Court will no longer have a base now that the new decree contains this clause; otherwise, all the areas demarcated under decree 22/91 could have been declared unconstitutional. For Jobim, the Brazilian government's image will improve because they have fixed a legal "error" that will finally put a stop to the endless demarcation procedures.

However, one of the strongest arguments against the new decree, and one adopted by a number of leftist political leaders in Brazil, is that it goes against the spirit of the Brazilian constitution. The Brazilian constitution states that, with regards to traditional Indian lands, it is the duty of the "Union to demarcate them, protect them, and assure the respect

of all of their resources." Many argue that the new Decree prevents this basic duty from being fulfilled.

"It frightens us to see that the government intends to revitalize, with the new decree, titles to land that the constitution regards as 'null and void,' since they were created centuries ago when the land was clearly Indigenous," says Congressman Nilmario Miranda (President of the Committee for Human Rights of the Chamber of Deputies).

Jobim is wasting no time in implementing Decree 1775. Soon after the passing of the decree, he sent letters to several governors primarily in the Amazon region listing for them the areas to be revised in their respective states. For example, in a letter to the governor of Pará state dated the 11th of January, he listed 14 Indigenous areas up for revision, including two whose combined area is only 58 hectares.

## Indigenous Peoples and NGOs React

A well articulated number of forces, from Indigenous organizations and NGOs in Brazil to human rights, environment, church groups, and even some governments around the world formed in response to the reversal of policy on Indigenous lands in Brazil. Strategies for revoking the decree have varied, but the majority center on directly pressuring the Brazilian state through letters, the press, faxes, and other similar means.

Interesting, too, has been the route taken by CAPOIB—representing more than 100 Indigenous groups in Brazil—which sent a letter to the World Bank and the ambassadors of the G-7 countries and the European Union requesting the "temporary suspension of resources destined for projects which have among other priorities the demarcation of Indigenous lands, such as Projeto Terras Indígenas, Planaforo, and Prodeagro," since those funds would likely fall prey to the legal quagmire which

**Art. 9°** Nas demarcações em curso, cujo decreto homologatório não tenha sido objeto de registro em cartório imobiliário ou na Secretaria do Patrimônio da União do Ministério da Fazenda, os interessados poderão manifestar-se, nos termos do § 8° do art. 2°, no prazo de noventa dias, contados da data da publicação deste Decreto.

promises to ensue from the revision of dozens of existing Indigenous areas. The CAPOIB document claims that "since it took office over a year ago, the government of Fernando Henrique Cardoso has been putting in place a deliberate policy of reduction of indigenous territories."

Indigenous organizations are also calling for the cancelation of German funds (\$22 million) donated to Brazil after the 1992 Earth Summit for the protection of tropical rainforests (Pilot Program for the Protection of Tropical Rainforests). Part of that effort included funds specifically destined for the demarcation of Indian Areas. Indigenous groups point out that Decree 1775 does not comply with the objectives of the grant and they fear that some of the funding from Germany could be diverted to the revision of existing areas.

Other major efforts against the decree include a motion of unconstitutionality put forward by the Brazilian Workers

Party and a strongly worded protest letter signed by 80 environmental and human rights groups sent to President Cardoso from the Coalition in Support of Amazonian Peoples and Their Environment, a coordinating body based in Washington DC. The letter exhorts him to revoke the Decree. The Coalition counts amongst its members most of the well known US environmental and pro-Indigenous organizations such as National Wildlife Federation, Environmental Defense Fund, Sierra Club, International Rivers Network, Rain Forest Action Network, Amanaka'a, and SAIIC. The Coalition plans to support the efforts of Brazilian indigenous and human rights organizations and will discuss funding development projects linked to indigenous areas in Brazil with multinational agencies.

Decree 1775 must be viewed within the larger context of the long term plans held by a consortium of governmental and private interests to develop large areas of the Amazon basin and other nat-

ural areas, as with the mammoth Hidrovia project (see page 28), and progressively integrate the entire region into the national and international economic system. In defiance of the International Decade of Indigenous Peoples declared by the United Nations in 1993, the new decree sets down the foundations for a future of large scale development unimpeded by Indigenous groups staking claims to their traditional lands and resources. ♣

*You can support the efforts of Indigenous peoples in Brazil by sending, faxing, or emailing your letters of protest to the following addresses:*

*Fernando Henrique Cardoso, President of the Republic, Palácio do Planalto, Brasília - DF - 70.160-900, Fax: 55-61-226-7566, email: pr@cr-df.mrp.br; Nelson Jobim, Minister of Justice, Esplanada dos Ministerios-Bloco T, Brasília - DF - 70.064-900, Fax: 55-61-224-2448, email: njobim@ax.apc.org*