



URGENT APPEAL

New threat to indigenous territories and destruction of fundamental rights and human rights of indigenous peoples in Brazil

October 4th, 2023

Submitted to the following United Nations Special Rapporteurs

Mr. José Francisco CALI TZAY, Special Rapporteur on the rights of Indigenous Peoples (hrc-sr-indigenous@un.org)

Ms. Mary LAWLOR, Special Rapporteur on the situation of human rights defenders (hrc-sr-defenders@un.org)

The listed organizations once again¹ respectfully address this **urgent appeal** to the United Nations with the purpose of highlighting the risk of serious human rights violations of indigenous people in Brazil due to Bill no. 2,903, of 2023, from the Federal Senate of the Brazilian National Congress (“Bill 2903”).²

As explained in a previous Urgent Appeal, this Bill, which follows Bill 490/2007 passed by the Chamber of Deputies in May of this year, is incompatible with international human rights standards because:

- 1) establishes the thesis of the temporal milestone (‘marco temporal’, in Portuguese) for the demarcation of indigenous lands, in other words, it conditions the right to their ancestral territories only for the peoples who were on them on October 5, 1988, the date of the promulgation of the Constitution;
- 2) authorizes the construction of roads, dams, and other enterprises on indigenous lands without prior, free and informed consultation;
- 3) allows the cultivation of soybeans and cattle on indigenous lands;
- 4) creates rules to make the demarcation process endless so that it is impossible to

¹ Em 30/05 encaminhamos um apelo e o Projeto de Lei então tramitava na Câmara dos Deputados com o número PL 490/2007.

² SENADO FEDERAL. *PL 2903/2023*. Disponível em: <https://www25.senado.leg.br/web/atividade/materias/-/materia/157888>. Acesso em: 28/09/2023.



conclude it;

- 5) prevents the removal of invaders of indigenous lands until the demarcation process is completed, enabling invasions and facilitating the actions of organized crime;
- 6) ends the policy of non-contact with indigenous peoples in isolation;
- 7) reformulates constitutional concepts of indigenous policy, such as traditional occupation, original rights, and the exclusive use of territories by indigenous peoples
- 8) allows lands that have already been demarcated and homologated to be retaken by the Union if there is a change in the "cultural traits" of the indigenous people or other changes caused by the "passage of time," undermining the perfect legal act, the acquired right and creating racist criteria that have been surpassed by international legislation, such as the idea of "acculturation" and the possibility of the definition of indigenous identity being determined based on subjective and unilateral criteria of the Brazilian state.

In addition to the rejection of all the proposed amendments to the text, Bill 2903/2023 was hastily approved in the Federal Senate on September 27 by 43 votes to 21. There was no consultation with important committees such as the Human Rights, Environment and Social Affairs Committees, which would have allowed for a more technically based and wide-ranging dialogue, nor did the Legislative Branch carry out any process of free, prior and informed consultation or allow for the active participation of indigenous peoples and human rights organizations.

We highlight that a week earlier, the Federal Supreme Court (STF, in Portuguese) rejected the application of the temporal milestone thesis by nine votes to 2. On the same day, the 27th, in parallel with the Senate's vote on Bill 2903/2023, the STF concluded its judgment on the unconstitutionality of the time frame, as well as reaffirming the constitutionality of other indigenous rights that are directly attacked by Bill 2903/2023, such as the right of indigenous peoples to exclusive use of their territories.³

After the approval of the bill last Wednesday, it will undergo a analysis by President Luiz Inácio Lula da Silva, who must, within 15 days, sanction or veto the text, partially or in its entirety⁴. Given the flagrant unconstitutionality and violation of rights presented by all the provisions of Bill 2903/2023, the signatory organizations here highlight the importance of a **full veto** of the text as the only measure capable of guaranteeing the existential dignity of

³ Articulação dos Povos Indígenas do Brasil (APIB). [On the same day that the Supreme Court concluded the Time Frame trial, the Senate approved Bill 2903, considered a genocidal threat to indigenous peoples in Brazil](#). Acesso em 3 de outubro de 2023.

⁴ The deadline is October 20th, 2023.



indigenous peoples and their lands.

If President Luiz Inácio Lula da Silva partially or fully vetoes Bill 2903/2023, the text will go back to the National Congress for analysis, which can overturn them. The law will come into force in the likely scenario in which Congress will overturn the presidential vetoes. Although it is subject to constitutional control by the Supreme Court, all this process has generated a legal uncertainty and intensified local conflicts in the territories.

Given the facts denounced, **the signatory organizations request the UN's special procedures:**

1. To urge the Brazilian state, especially the Ministry of Justice, the Ministry of Indigenous Peoples, the Ministry of the Environment and Climate Change, and the Civil House, to recognize that Bill 2903/2023 is flawed in terms of its constitutionality and conventionality, as well as being an undeniable social step backward, to push for a **full veto** of the proposal.
2. To **issue a joint press release** drawing attention to the seriousness of the situation and expressing the opinion of the rapporteurs on the incompatibility of this legislation with international human rights standards.
3. In addition, we ask that each mandate makes a statement on social networks and available communication channels as soon as possible, so that we can raise awareness globally.

Signed by

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 Articulação dos Povos e Organizações Indígenas do Nordeste, Minas Gerais e Espírito Santo (APOINME)
 Comissão de Defesa dos Direitos Humanos Dom Paulo Evaristo Arns (Comissão Arns)
 Conectas Direitos Humanos
 Conselho Indigenista Missionário (Cimi)
 Coordenação das Organizações Indígenas da Amazônia Brasileira (COIAB)
 Greenpeace Brasil
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