

# To Dilma: Disqualifying Funai repeats the last military government.

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## Letter to President Dilma Rousseff

The attitude of the government disqualifying, through the Civil House, anthropological studies developed by FUNAI which are the basis for the administrative processes to effectively demarcate indigenous lands, have generated legal uncertainty for the interests of the indigenous peoples in Brazil.

The decision of the Chief of Staff of the Presidency of the Republic presented to the representatives of the agribusiness and parliamentarians of Mato Grosso do Sul, at a meeting last week in Brasilia which determines that Embrapa, Ministry of Agriculture, Livestock and Food Supply and Ministry of Agrarian Development, "will evaluate and give contributions" to anthropological studies conducted by FUNAI, repeats the actions of the last military government instituting the infamous "Big Group" of MIRAD, led by general Venturini, in order to "discipline" FUNAI and "assess" indigenous demands.

The path for the demarcation of indigenous land today is complex and in spite of the fact that Decree 1.775/96 (elaborated by former Minister Nelson Jobim) authorizes contradictions in every step of the administrative process, this process ends up in court by simple nomination, from FUNAI, by the technical team in charge of identifying an indigenous land. The judicialization is full of mishaps and legal craftiness, legal injunctions that act as an impediment, reaching absurdities such as, for example, [Complain 8070](#) (relative to the indigenous land Raposa Serra do Sol), which took time and labour of judges. Mechanism of judicial delaying that jostle the solution of conflicts for decades, affronting the constitutional duty of the Union that is to conclude a demarcation in five years, since the Constitution promulgated in 1988.

The process of Terena lands, where Oziel Gabriel, a 35 year old Indian, has just been murdered by the Federal Police, reached the Supreme Court after 13 years of procedural handling and when it reaches such a high instance of the Brazilian judicial system, with the approval from the plenary, where the evidence records accumulated throughout those years in court, from each party, was analysed, it returns to the judiciary system of Mato Grosso do Sul, for new investigation creating a loop for not solving the problem? Does it start from scratch?

The proposal from Minister Gleisi Hoffmann introduces a new escape route for creating legal contradictions. It is another mechanism that favours the generation of new legal impediments to be used by the agribusiness, providing the possibility for legal actions for land demarcation to keep on circulating indefinitely in the instances of the judiciary system. Now, it also includes questionings based on counter-reports and opinions from sectors of the State, whose interests are distinct from the interests of indigenous peoples, who are represented constitutionally by FUNAI, through anthropological reports approved by the Minister of Justice in issues of land demarcation.

This measure affects studies that have been previously approved by the Ministry of Justice, those that are awaiting ratification and those studies that are still being developed, opening possibilities for questioning in court lands that have been already demarcated, promoting illegal uncertainty, which will be evidently felt by all indigenous peoples involved in territorial disputes and the sectors of society that monitor and act on this problem.

With such measure, it is evident the responsibility of Minister Gleisi Hoffman for radicalizing the tension in Mato Grosso do Sul , which also affects indigenous peoples in other States. The government makes a mistake in choosing to deal with the problem by way of procrastination and the constitutional dismantling of the role of FUNAI, giving priority to aspects of the economic and electoral development instead of indigenous rights. It violates human rights and generates more tension in the Brazilian indigenous conflict.

In Mato Grosso do Sul, the solution of not demarcating indigenous land results in one of the several low intensity wars that we have in our country. Hundreds of thousands of people are affected and the change in the rite of handling indigenous land demarcation, opening for consultation and assessment of anthropological reports produced by FUNAI by sectors that oppose demarcation, as opposed to what the Civil House office has in mind, will only bring more indigenous resistance and more conflicts.

These peoples have lived in permanent conflict with the development of our society for many decades, in 1908 an area of one million hectares was leased to a company to produce *maté*, as if there were no indigenous peoples living in the area; 1955 there was a Parliamentary Inquiry Commission to determine the illegal appropriation of their lands by major political personalities from Mato Grosso; in 1965 one Police Inquire was established to investigate the theft of indigenous land; in 1968 the Figueiredo report, recently located, points to numerous violent acts and robbery of their land and income, these documents shed light on conflicts that have been dragging for decades, causing suffering and pain to one of the largest indigenous populations in Brazil.

In a country where we are still crawling in our right to access public information, where the law was passed along with the law that created the National Commission of Truth; where many documents are still hidden, out of institutional cataloguing and therefore out of public access, the hypothesis that demarcated land will no longer be eligible for expansion is antagonistic, when Brazilian society is searching for truth and memory, justice, reparation and non-repetition.

The justice of transition that we demand for the dead and the missing for political purposes, those affected by torture, those persecuted by the military dictatorship of 64, it also includes indigenous peoples from Brazil. In its large majority they were persecuted, suffered attacks, murders, slaughters, massacres, as well as torture, arrests, disappearances, forced removals, slavery and today such violations are the object of study by the National Commission of truth.

The attached document, which had disappeared for 45 years, contains the testimony given by the Regional Chief of Inspectorate of the Service for the Protection of Indigenous Peoples in Campo Grande to the prosecutor, Jader de Figueiredo Correia, president of the Investigations Committee of the Ministry of Interior, which indicates names of governors, senators, federal and state representatives, judges and others who illegally took possession of indigenous lands in the former state of Mato Grosso.

The indigenous issue will give the measure of the democratic evolution of our society, which is divided between either acknowledging the mistakes committed by the State, changing its conduct, making reparations for the rights of indigenous peoples and developing mechanisms for the non-repetition or follow the course of judicial procrastination and the reversal on human rights with the return of murders, demonstrations of misuse of force and censorship.

In the past many crimes were committed in the name of development and the national security law, today such practices are hidden behind the discourse for the need of "governance" and of a "government in dispute", however in practice those crimes remain the same, we have changed the actors but have not advanced to change the conduct of the Brazilian State, generating mechanisms of respect towards its citizens and assuring their rights.

**Signed by:**

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**Dalmo Dallari** – jurist and member of the Justice and Peace Commission of the Archdiocese of São Paulo

**Gilberto Azanha** – anthropologist and coordinator of the Centre for Indigenous Works

**Marcelo Zelic** – vice-president of Never Again Torture Group - SP and member of Justice and Peace Commission of the Archdiocese of São Paulo

**Roberto Monte** – member of the Human Rights Centre and Popular Memory of Rio Grande do Sul

**Annex:** Pages 3780 to 3785 from the court proceedings of the Investigation Commission of the Ministry of Interior from 1967 – 1968 known as Figueiredo report. It presents the testimony of Mr Helio Jorge Bucker, then Chief of the 5th Regional Inspectorate of the Service for the Protection of Indigenous Peoples, to the federal prosecutor, Jader de Figueiredo Correia, taken in 19/11/1967 in Campo Grande.

Click here for denunciations of theft of indigenous land: <http://pt.scribd.com/doc/145557905/Depo-i-Men-to-Helio-Jorge-Buck-Er>

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