

REPORT ON THE EVALUATION OF THE PUBLIC POLICY OF

# LANDHOLDING REGULARIZATION AND ENVIRONMENTAL IMPACTS CAUSED BY ILLEGAL OCCUPATION OF PUBLIC LAND IN BRAZIL'S LEGAL AMAZON

*From the Committee on the Environment (CMA), in compliance  
with the provisions of Federal Senate Resolution No. 44/2013.*

## SUMMARY FOR READING

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**Rapporteur:** Senator FABIANO CONTARATO

Brasilia – Federal District  
November 1, 2022



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By the Resolution of the Federal Senate No. 44/2013, the Committee on the Environment (CMA) of this Legislative House approved the Request No. 1/2022 in the 8th Extraordinary Meeting, held on April 27, 2022, establishing that it would be evaluated by the CMA, during 2022, the environmental impacts generated by the illegal occupation of public land by the Public Policy of Landholding Regularization, with particular focus on the Legal Amazon.

The reasons for choosing this topic for evaluation are mainly because Brazil leads the ranking of countries that have most promoted illegal deforestation since the 1990s. In 2004, the Action Plan for Deforestation Prevention and Control in the Legal Amazon was launched, returning positive results due to the coordination of three axes: (i) land and spatial planning, (ii) environmental surveillance and control, and (iii) stimulus of sustainable production activities. From 2005 to 2014, deforestation of more than 11 million hectares or 22 billion adult trees was prevented, which is considered the most significant contribution of a single country to any strategy to mitigate greenhouse gas emissions on the planet. It means an 82% reduction in the annual deforestation rate due to the effective implementation of such a Plan.

Unfortunately, this scenario has changed since 2015. What could have happened to interrupt this trajectory of progress? One of the causes for the reversal of the previous decade's course was the ever-increasing rate of deforestation in the Amazon biome, particularly on public land, as a direct result of land grabbing for speculation. And that is the main focus of this Report.

Over the past few years, complaints have been made that the National Environmental Rural Registry (CAR) has been receiving entries of illegal properties on both designated and undesignated public

land. There are cases of entries overlapping with Undesignated Public Forests (FPND), Indigenous Land (TI), and Conservation Units (UC) that could not be accepted in the system as private property or even legitimate possession, therefore, could not be registered in the CAR. Despite being an essential instrument for environmental surveillance and regularization of rural properties, CAR has been a secure path to legitimizing land grabbing in public land all over the country, especially in the Amazon.

Therefore, the link between land grabbing registered in the CAR and deforestation as a means of proving ownership over the land, without any immediate interest in the production or proper use of the area, is one of the main drivers of deforestation: 66% of the cases occurred in lands that were illegally claimed as private, according to the Amazon Environmental Research Institute. By the end of 2020, the Institute indicated that more than 14 million hectares of Undesignated Public Forests were illegally registered as private property in the CAR, and 3.4 million hectares had already suffered deforestation.

Because the CAR system works on a self-disclosure basis, land grabbers have registered their alleged rural properties in Undesignated Public Forests, misrepresenting a right to land that they do not have under current legislation. And the increase in land grabbing is just one of the many harmful consequences of this process, which involves corruption, gang formation, slave labor, violence against Indigenous peoples, timber theft, and illegal mining.

According to a report by the Innovation, Intelligence, and Sustainable Development Goals Laboratory of the National Council of Justice (CNJ), 2,789 registrations overlap with Indigenous Lands, totaling more than 380.5 thousand hectares, based on the information provided by the Brazilian Forest Service (SFB). In this respect, it is

crucial to understand how CAR's filters are being operated, which actions should be taken to prevent registrations in undesignated public land, and to inform the population - and other nations - how unlawful registrations will be suspended or regularized.

It is worth remembering that Brazil has committed, before more than 100 countries at the United Nations Climate Summit (COP26), held in 2021 in Glasgow (UK), to halting illegal deforestation by 2028 and reducing greenhouse gas emissions by 50% by 2030, through collective actions to halt and reverse forest loss and soil degradation. Also, ahead of this Summit, the Federal Senate passed Bill 6539/2019 to revise CO2 emission targets so that Brazil, as a country, becomes "net zero" by 2050. According to this law, governments and society will have to make additional efforts, whereas landholding regularization is one of the significant obstacles to effective control of deforestation and more investments in agriculture, livestock production, and low-carbon production systems.

Unfortunately, there is a concerted effort to weaken the primary function of landholding regularization programs, which are intended to recognize situations that have been consolidated for many years. Instead of undertaking and applying the legislation in force, the federal administration and its allies in the Parliament insist on loosening the process to make it easier to benefit medium and large properties instead of just granting land titles, as provided by law, for old occupations by small landholders, which correspond to more than 90% of the beneficiaries applying for landholding regularization.

As happened with other environmental policies, the current administration has dismantled various governmental agencies, especially INCRA. The government discontinued actions previously in the process of improvement, suffocating the agency financially and in terms of human resources.

One of the most prominent examples of interruption in INCRA is the halt of policy directed to the regularization of Quilombola territories. Regrettably, we perceive strong indications of institutional prejudice. While the Government invests and celebrates the precarious titling of lots in settlements, no financial and human resources are allocated to the regularization of Quilombola territories. Therefore, correcting this course is not only a matter of management but mainly of rescuing the dignity and the fundamental rights of the Quilombola population.

The landholding regularization policy needs to be resumed and pushed forward in Brazil without encouraging predatory practices, such as occupying areas with native vegetation and illegal deforestation. Public lands should be designated to serve the public interest, such as for agrarian reform, creation and implementation of nature conservation units, recognition of Indigenous and Quilombola lands, forest licensing, national security strategies, and even for small farmers in old and in consolidation settlements, in suitable areas for agricultural development.

Hence, the National Congress plays a vital role by legislating and supervising the application of current legislation by the executive branch, evaluating the legislation's effectiveness, proposing corrective measures, and improving the policy before any change. Under the institutional mission of oversight of the Executive Branch by the Legislative Branch, and within the scope of this evaluation, it is necessary and urgent to analyze landholding regularization as a public policy, also evaluating its interface with environmental control and regularization and with the prevention and reduction of illegal deforestation in the Amazon.

Considering the massive tearing down of the Public Administration that deals with landholding regularization and environmental defense, this report brings numerous suggestions. Let me emphasize a few of them without diminishing the importance of the others.

### **1. Recommendation for discussion and passing of the following Congress legislation**

1. Bill 486/2022, which criminalizes the fraudulent use of the CAR;
2. Project of Amendment to the Constitution 7/2022, which prohibits the titling of public lands covered by forests or other forms of native coverage and establishes a deadline for designation of public forests until December 31, 2026;
3. Bill 4450/2021, which bans CAR registration for rural properties located in protected areas and Undesignated Public Forests, with the suspension of the CAR's validity in those cases;
4. Bill 5518/2020, which expands forest licensing to more activities, such as environmental services and restoration;
5. Bill 6230/2019, which establishes the "Plans for Deforestation Prevention and Control and strategic actions for deforestation prevention, surveillance and control

nationwide and provides new wording for Law No. 9605, 12 February 1998, which establishes criminal and administrative sanctions for environmental crimes”;

6. Bill 6539, 2019, which revises Brazil’s CO2 emission targets to become “net zero” by 2050.

## **2. Implementation of actions to improve the CAR:**

1. Integration of data managed by the SFB, States, and Municipalities, and by the Judiciary (notary public and registry offices), integrating the CAR with Public Registries, requiring CAR registration for any real estate transaction, free of charge;
2. Automatic blocking of CAR registration in case of possession or ownership of rural property on (designated and undesignated) federal public land, with automated notice to land agencies to take appropriate action, including in court, promptly, against any attempt to grab public land;
3. Remote, automated, and mandatory administrative embargo by federal and state environmental agencies in case of illegal deforestation, with a remote application of fine, directly using the CAR system, or other online or virtual means, using public notice in case of deforestation in properties outside the CAR.

### **3. Recommendations for the fight against land grabbing in Brazil:**

1. Increase budget allocation and strengthen land governance, which is responsible for defining and enforcing all rules and regulations for the correct use of land in the country, limiting the possibilities of fraud and corruption, and speeding up the performance of audits, controls, and inspection actions the occupation of the territory;
2. Improve transparency in the agencies and institutions responsible for Brazilian land governance and adopt mechanisms to protect whistleblowers, environmental defenders, and citizens who conduct social control against threats and retaliation from land grabbers;
3. Promote and strengthen special operations and investigations by the Federal Police, and mobilize anti-corruption and anti-laundering instruments in the fight against land grabbing;
4. Review current non-statutory regulations, revoking art. 12 of Decree No. 10592/2020, which prioritizes titling of forests; rescind the decisions of the Technical Chamber that designated public forests for landholding regularization; and deny new applications of titling that overlaps with public forests;
5. Establish a rule or norm requiring a commitment to recover illegal deforestation before titling;

#### **4. Recommendations for sound land governance policy:**

1. Integration of land registry, with regularization of existing private possessions, allowing for transparent transaction and exchange of land, and establishing the base for correct, effective, and fair collection of both Rural and Urban Property Tax, where applicable;
2. Creation of a land governance management agency under the Cabinet of the President, of a higher hierarchy than the ministries, for coordination and mediation of territorial planning actions over various agencies that work with land (such as ICMBio, SFB, Funai, and state agencies), dealing with different sectors of civil society and academia;
3. Redefine and resume the public policy of landholding regularization of Quilombola territories, providing appropriate funding for its implementation, with the participation of Quilombola communities at all stages, as provided in the Convention 169 of the ILO.

#### **5. Recommendations for the fight against illegal deforestation due to shortcomings of the current land regulation model:**

1. Restore the PPCDAM and PPCerrado, Plan for Deforestation Prevention and Control in the Amazon and Cerrado, which was discontinued and terminated by the current federal administration;
2. Use expert satellite images to identify deforestation in public civil actions (ACP) accurately;

3. Prevent landholding regularization of areas that recently suffered illegal deforestation, using the Terra Legal system and MPF images to conduct land regularization process at INCRA, and seek reparations for the environmental damage caused by deforestation in the Amazon, and seizure and forfeiture of that areas;
4. File new public civil actions each year, through the Federal Attorney General's Office, in partnership with the Federal and State Prosecution Service, for increasingly smaller areas that suffered deforestation, intending to expand environmental protection;
5. Urgently establish Conservation Units (or other types of Protected Areas) on the more than 50 million hectares of undesignated public lands in the Amazon, as these areas are the main target for speculation and invasion by land grabbers;
6. Increase transparency of environmental and land data, with the large-scale automated remote seizure of areas that suffered illegal deforestation, and suspension of the CAR and landholding regularization of properties with illegal deforestation;
7. Implement large-scale remote seizure by public notice of areas that suffered illegal deforestation, blocking the use in case of illegal deforestation in public areas outside the CAR, and preventing federal and state landholding regularization of those areas.

## **6. Recommendations against illegal occupation and deforestation in Undesignated Public Forests:**

1. Cancellation and suspension of registrations with the SICAR of areas overlapping with public lands and FPND by the Brazilian Forest Service and environmental agencies of the Amazon states;
2. Resume FPND designation procedures by the States and the Federal Government;
3. Resume large-scale inspection (within the scope of the Plan for Deforestation Prevention and Control of in the Amazon - PPCDAm) with the punishment of land grabbers responsible for invasion and deforestation of public lands, reinstating the operational capacity of the control agencies (IBAMA, ICMBio, FUNAI, INCRA), with the prosecution of illegal activity against the environment;
4. Support judicial cases against land grabbers in the Amazon region, and work to improve the technical quality of complaints (Public Civil Actions filed by the Federal and State Prosecution Services).

I count on the support of my colleagues to approve this report.

