

# CLEAN BIOFUELS AND THE GUARANI INDIANS OF MATO GROSSO DO SUL: HUMAN COSTS AND VIOLATION OF RIGHTS<sup>1</sup>.

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## 1. INTRODUCTION

*"Brazilian sugarcane (...) is not grown in the Amazon Rainforests but on Brazilian farmland"*

Unica Newsletter

People within and outside Brazil often think of Brazilian indigenous populations in very generic terms. This failure to address these ethnic groups in their specificity causes misinterpretations regarding the existing differences among them. According to FUNAI, the Brazilian Federal Agency for Indigenous Affairs, there are approximately 220 ethnic different groups in this country, people who speak as many as 180 languages<sup>4</sup>. The differentiation of these ethnic groups, among other things, is the result of three important factors: a) linguistic differences; b) the environmental factor; c) historical reasons.

Images of indigenous people in the Amazon region generally conjure up the notion of groups living in isolation or in quasi-isolation situations; peoples living in their own land, where livelihood and sustainability is easily attained. Groups, which, while making their own living in their land, have to struggle to keep intruders at bay; invaders who strategically find ways to squatter and exploit the indigenous land by depleting them from their natural resources, polluting rivers, cutting down trees for lumber, opening areas for crops, mining for precious metals, bringing disease, famine, etc. While this representation of the situation of the indigenous peoples in the North part of the country may be understood as a fair depiction of reality, the same cannot be said of the indians of the rest of Brazil, for in most part, they have long been evicted from their ancestral land and have been in a struggle to regain their lost territory.

The Official site to the Brazilian Federal Government lists the "Important advancements of the Constitution of 1988", which includes "Assured delimitation of indigenous land"<sup>5</sup>. The article 231 of the Constitution gives the legal provisions:

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4 See [http://www.funai.gov.br/portal/indios/fr\\_conteudo.htm](http://www.funai.gov.br/portal/indios/fr_conteudo.htm), captured on May, 4<sup>th</sup>, 2013.

5 See [http://www.brasil.gov.br/para/visit-and-live/brazilian-way-of-life/constitution/br\\_model1?set\\_language=en](http://www.brasil.gov.br/para/visit-and-live/brazilian-way-of-life/constitution/br_model1?set_language=en)

"Indians shall have their social organization, customs, languages, creeds and traditions recognized, as well as **their original rights to the lands they traditionally occupy**, it being incumbent upon the union to demarcate them, protect and ensure respect for all of their property"

Paragraph 1 of the above mentioned article states that:

**"lands traditionally occupied** by indians are those on which they **live on a permanent basis**, those used for their productive activities, those indispensable to the preservation of the environmental resources necessary for their well-being and for their physical and cultural reproduction, according to their uses, customs and traditions."

Paragraph 6 goes further to provide that

"Acts with a view to occupation, domain and possession of the lands referred to in this article or to the exploitation of the natural riches of the soil, rivers and lakes existing therein, are null and void, producing no legal effects, except in case of relevant public interest of the union, as provided by a supplementary law and such nullity and voidness shall not create a right to indemnity or to sue the union, except in what concerns improvements derived from occupation in good faith, in the manner prescribed by law".<sup>6</sup>

The Constitution of 1988 also provides that within a five year period all indigenous land in Brazil should have been demarcated. The Indigenous Statute, prior to the Constitution, Law No. 6001 of 1973, also establishes the same deadline for demarcations. Thus, all indigenous land should have been officially regularized years before.

In a similar vein, the International Labor Organization Convention 169, to which Brazil is *signataire* also establishes that the traditional lands of tribal peoples should be recognized.

The notion of "lands traditionally occupied" as expressed above leaves no grounds for doubt: when the Constitution was written, in the late 1980's, the conception of indians and the model of land occupation referred almost exclusively to those peoples living in the North part of the country, where massive settlement is relatively recent. Those indians in the North, for instance, struggle today against those recent settlements in the region, where colonizers and entrepreneurs make use of violence to force the communities out of their geographic spaces. In the Amazon, historical and environmental conditions have made it possible for the communities to remain in their traditional places. If it is incumbent upon the Union to demarcate those lands,

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6 For an English version of the Brazilian Constitution, see [http://www.stf.jus.br/repositorio/cms/portalStfInternacional/portalStfSobreCorte\\_en\\_us/anexo/constituicao\\_ingles\\_3ed2010.pdf](http://www.stf.jus.br/repositorio/cms/portalStfInternacional/portalStfSobreCorte_en_us/anexo/constituicao_ingles_3ed2010.pdf)

demarcation means showing the limits to the territorial claims and then make certain that intruders will leave.

However, the picture is completely different in other regions of the country, as it is the case of the territorial claims of the Guarani Indians, the focus of this text. In the case under investigation, the indians are no longer occupying their *Tekoha* – their traditional land -, for "the whites", the newcomers, with the help of and incentive from the State, long ago, displaced the Guarani from their traditional land, mostly by violent means. While in the North the indians' struggle is to remain in the land, in the State of Mato Grosso do Sul, the Guarani 's effort is to regain it.

The present text concerns the sugarcane expansion on the Guarani traditional land in Mato Grosso do Sul. The epigraph above states that *"Brazilian sugarcane (...) is not grown in the Amazon Rainforests but on Brazilian farmland"*, a statement that conveys the idea that our biofuels are absolutely environmentally and socially clean. Our task is to demonstrate that much of this farmland in Mato Grosso do Sul was once occupied by Guarani Indians – the people who were there before- who should have had their land officially recognized long ago by the Brazilian government. The longer this recognition takes, the more the sector grows, accentuating the already dramatic situation of this people

## **2. RECOGNIZING AN INDIGENOUS LAND**

The process of granting an indigenous land full recognition derives from the Constitution and is regulated by the Presidential Decree 1775/1996, which sets the standards for the regularization, observing procedural phases. The first step is the putting together of a working group coordinated by a FUNAI-commissioned anthropologist who conducts a study among the community with the aim to identify (the families, the history of the group, the belonging of this group to the territory) and delimitate the area claimed. The second step takes place after FUNAI has analyzed the report and its summary is published, for publicity, in the Brazilian Official Press (Diário Oficial da União). Following the publication, land owners have 90 days to contend the results of the report. After contention is analyzed, the next step: the process is sent to the State Minister of Justice, who can approve it in full, approve it with restrictions or disapprove it. Being accepted, the Minister of Justice issues an ordinance so that the demarcation posts be placed on the limits of the land declared as indigenous. Subsequent to the Ministerial Declaration, comes the ratification by a Decree issued by the President of the Republic, whereupon the land is inscribed on the local notary office and on the Service of Public Assets of the Union (SPU – Serviço do Patrimônio da União). This whole administrative process, being all deadlines met, should take no

longer than two years; nonetheless, there are other matters to consider aside from the administrative steps presented above. For instance, by not accepting the terms by which an indigenous land is demarcated, land owners file judicial actions against the demarcation and wage a political war against FUNAI, the indians and the land recognition (Lima & Guimarães: 2009), a process which sets the indians back from regaining their land.

### 3. HOW THE GUARANI LOST THEIR LAND

The Guarani Indians in Mato Grosso do Sul were practically the sole inhabitants of an extensive area stretching 100 Km (about 65 miles) on each side of the border with the neighboring Paraguay. Two hundred years ago, they occupied an area of 25% of the present Mato Grosso do Sul<sup>7</sup>, corresponding to 8.7 million hectares. The first major impact on the Guarani territory came with Brazilian-Paraguayan War, which turned out to attach part of that country's territory onto ours. In order to protect the newly attached border, the Federal Government issued a concession for the exploration of mate tea herb to a company – Companhia Matte Larangeira – which extended over 1 million hectares (Moreira da Silva: 2002), and overlapped with the Guarani Territory. The operation of the Matte Larangeira upon the indigenous land did not have any significant impact on the communities, for as the indians were used as menial labor-force by the company, they managed to remain in the area of their *tekoha* and were able to live according to their customs, traditions and culture. The early years of the XX Century saw the inception of the official Brazilian indigenous public policy, both integration and assimilation -oriented, with the establishment of the SPI (Service of Indigenous Protection), which from 1915 to 1928, created 8 reservations for the Guarani of Mato Grosso do Sul. These tiny Reservations, the largest of which has 3600 hectares, together amount to no more than 19.939 hectares; the primary aim of these Reservations was to remove the Guarani from their traditional land, while opening space for the development of economic activities, where in the following decades were to be established ranches and farms, where pasture was formed for cattle and forest cut down for corn and soybean plantations. The occupation by newcomers did not occur until the 1950's. Meanwhile, the Guarani refused and resisted to occupy the Reservations, despite official attempts to attract them. Instead, they hid in the thick forests or worked for the Companhia Matte Larangeira, as they remained in their *tekoha*. The scenario started to change dramatically, however, in the 1950's. With the end/decline of the activities carried out by Matte Larangeira, in the late 1930's and early 1940's, Federal and State Governments took actions through incentives, so that newcomers would arrive and settle in. Against current legislation, indigenous territory progressively became farms and

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7 The State of Mato Grosso do Sul has a total area of 357, 124 km<sup>2</sup>, with 2.5 million inhabitants.

ranches and land owners were given titles to their properties. Little by little, as the properties were being formed, the indigenous presence turned incompatible with the economic activities developed and the communities were forced (by violence or by the use of various strategies) to leave, many of them taking abode at the tiny Reservation, finding temporary jobs on the farms or living in makeshift camps by the roadsides. (Brand: 1997; Cimi: 2001, Eremites & Marques Pereira: 2009, Moreira da Silva: 2002, Mura: 2006, Pereira: 2002, Thomaz de Almeida: 1991 and 2001)

The eviction of the communities did not happen in a single blow, but over the years. Throughout the 1970's and early 1980's, when tractors with chains started being used, the fast-growing forest devastation and resulting eviction caused the communities to finally leave their *tekoha* and pack the Reservations with people. The Reservation of Dourados best illustrates what many anthropologists and historians designate by "indigenous confinement". The Brazilian Vice-Attorney General remarked that "the Reservation of Dourados is perhaps the greatest tragedy known in the history of indigenous peoples in the whole World" (Duprat: 2011: 24). In an area of approximately 3600 hectares, live a population of nearly 12 thousand people. The average of 0.3 hectare per person makes it impossible to maintain livelihood or keep many traditional cultural traits, compelling the Guarani to undergo many cultural changes. Being a Reservation an involuntary congregation of people, brought together by historical factors closely associated to colonialism, the bundle of people constitutes no community, but a number of communities forced to live side by side. These various communities – each derived from extended-families of different *tekohas* – are not necessarily politically aligned with one another, which causes tensions and conflicts to build. In traditional times, when there used to be plenty of territory, conflict resolution took place by one group moving away from the other. In days of "confinement", however, one such strategy of conflict resolution is unattainable, resulting in escalating violence. Due to minimal average space in the Reservations, internal conflict over land possession started developing, which, in the long run, led the Guarani to seek alternatives to the territorial model imposed to them through colonialism.

Outside their *tekoha*, in the Reservations, uncomfortable with the demographic pressures within the areas where they were established, unable to live in accordance with their customs and traditions, unrest started brewing, which led to the beginning of the indigenous movements to regain access to their land. (Thomaz de Almeida: 2001, Mura: 2006).

The "Great Guarani Assembly" known as *Aty Guasu*, which gathers and mobilizes Guarani Indians from the whole state, around a sense of belonging to the same ethnic condition, has managed, since the 1980's, to put in effect a tremendous political force against the bureaucratic oblivion, political resistance and judicial decisions, in a movement that can be strongly characterized as de-colonizing and which not only mobilizes its traditional leaders but also involves

the participation of a growing number of intellectual indians, such as teachers and masters and doctorate students.

The Guarani main strategy consists of re-occupying their traditional land and thus, forcing FUNAI to carry out the *tekoha*'s officialization; strategy which, many a time, has resulted in confrontations, with indigenous casualties, some of them taking the lives of relevant Guarani leaders.

The Guarani and the *Aty Guasu* were quick to realize that if they stood alone in this struggle against gigantic political and economic forces, they would not go far. It is for no other reason that these indigenous groups have sought allies to carry out their political intents. Most of those allies are NGOs ( PKÑ (Kaiowa Ñandeva Project), CIMI [Indigenous Missionary Council, a Roman Catholic Church organization], Reporter Brasil, Survival International, FIAN International, Amnesty International) which have enabled the communities to voice their territorial concerns, by campaigning and making public the atrocities suffered by the Guarani. Within the *Academia*, the Guarani find relevant partners, especially, among anthropologists, historians and lawyers: for instance, a bulk of theoretical and historical knowledge have been incorporated into the identification and delimitation reports. In the Civil Service, two allies stand out: the General-Advocacy of the Union and the Public Ministry (Ministério Público Federal), which together have played active and key roles in the juridical battles ensuing indigenous land demarcation.

The Public Ministry was endowed by the Federal Constitution of 1988 with the mandate to oversee the interests and rights of the indigenous communities and has been the driving force in demanding FUNAI and the Union to demarcate the indigenous lands. In 2007, the Public Ministry made FUNAI sign a CAC (*Compromisso de Ajustamento de Conduta*), an extra-judicial document by which Funai was bound to promote the demarcation of all pending *tekohas* in the south part of Mato Grosso do Sul -39 *tekohas* altogether.

The signing of the CAC took place under very peculiar circumstances: a) demographic pressures within the Reservations reaching a threshold; b) the Guarani people's patience growing thin; c) Funai's constantly giving the Guarani the run-around; d) violence, infant mortality, malnutrition and suicide rates on the rise; e) the increasing number of occupations by the Guarani and the rise of political unrest; f) the expansion of sugar cane plantations accompanied by the promise of installation of several sugar mills.

#### **4.THE PLIGHT OF THE GUARANI AND THE IMPACT OF THE BIOFUELS**

The plight of the Guarani and the urgent demand for their land recognition have been reported by different organizations and institutions, governmental and non-governmental,

in and outside Brazil.

For instance, the United Nations Special Rapporteur on the the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, James Anaya, wrote in 2009 that

“A problem to be confronted in the process of recognizing and securing indigenous land is non-indigenous occupation of the land. This problem is especially pervasive in areas outside of the Amazon region where there is heavy non-indigenous settlement, including the agrobusiness belt in southwestern Brazil. Tensions between indigenous peoples and non-indigenous occupants have been especially acute in Mato Grosso do sul, where indigenous peoples suffer from severe lack of access to their traditional lands, extreme poverty and related social ills, giving rise to a pattern violence and that is marked by numerous murders of indigenous individuals as well as by criminal persecution of indigenous individuals for acts of protest.” (Anaya: 2009: 29)

Survival International, on its report to the United Nations’ Committee on the Elimination of racial discrimination, stated that

"The lives and livelihood of the Guarani Indians in the state of Mato Grosso do Sul in Brazil are being seriously damaged by the denial of land rights. The occupation and theft of their land by industries and governmental colonisation schemes has resulted in a desperate and explosive situation where the Guarani suffer from unfair imprisonment, exploitation, discrimination, malnutrition, intimidation, violence and assassination, and an extremely high suicide rate." (Survival: 2010: 2)

The Congressional Investigation Committee aimed at investigating the causes, consequences and responsibilities for the death of infant indians by malnutrition from 2005 to 2007 recommended the Presidency of the Republic, the Ministry of Justice and FUNAI

"to take administrative measures to ensure sufficient and suitable territorial space for the Guarani, Kaiowa and Terena people, who find themselves confined in the Dourados Indigenous Reservation, to bring to an end the administrative demarcation procedures of the land traditionally occupied, reviewing the present borders of the land already demarcated" (Alves: 2008: 197)

Subsequent to a mission in 2008, Fian International (an organization with the status of consultant to the United Nations), after visiting many locations in Brazil, with a view to investigating the impact of public policies ( aimed at fostering the development of agrofuels) upon the human rights of peasant and indigenous communities to food, work and the environment, remarked that the Guarani people in Mato Grosso do Sul have been

" victims of violation of the human rights to adequate food. In the past three years more than 35 indigenous children have died as result of mal-nutrition, many indians have been murdered and others have committed suicide, and many have taken to alcoholism.

At the root this situation lies the lack of land and access to food, which is a consequence of land-grabbing and the destruction of the traditional territories occupied by the indigenous peoples. Throughout history there has been a process of violence against the lifestyles of the Guarani Kaiowa populations, which has led the indians to no longer being able to live up to their culture. This situation will be further aggravated by the establishment of all sugar mills expected to take place in the state in the next three years. The process of indigenous land identification will be certainly hindered by landowners' interests, since an area of 200.000 hectares is to be set aside for sugarcane production." (Fian: 2008: 49)

Amnesty International stresses that on account of not having their land recognized, the Guarani, especially those waiting for regularization living on the roadsides are particular susceptible to vulnerability:

"The situation in Mato Grosso do Sul remained acute. According to the Missionary Council for Indigenous Peoples (Conselho Indigenista Missionario, CIMI), 1,200 families were living in extremely precarious conditions, encamped by the side of highways, awaiting restitution of their lands. Delays in the demarcation process exposed communities to heightened risk of human rights violations. A group of armed men repeatedly threatened and attacked 125 families of the Guarani-Kaiowa community of Pyelito Kue after they reoccupied traditional lands in the municipality of Iguatemi, Mato Grosso do Sul state. In September [2011], armed men arrived in two trucks and fired rubber bullets, set fire to shacks, beat individuals and shouted threats as the community fled in panic. Several people, including children and the elderly, were seriously injured in an attack described by federal prosecutors as genocide and the formation of a rural militia. In November [2011], 40 gunmen, many hooded, attacked the Guaiviry encampment near the Brazil-Paraguay border, shooting Indigenous leader Nisio Gomes dead and taking his body away in a truck. His fate was not known at the end of the year. (Amnesty International: 2012: 88)

In order to better enlighten the logic of the human rights violations and the failure of the Brazilian Government to comply with the Constitution and with the ILO 169/1989 Convention, as well as the impact of the sugarcane expansion in the State of Mato Grosso do Sul on the Guarani people, for analytical purposes, one might find useful the different Guarani land occupation models, as presented below. The models as systematized and succinctly put by Guimarães (2013: 6)

a) Indigenous Lands created by the extinct SPI, by means of Reservations, in the early XX Century,

between 1915 and 1928. In all, 8 Reservations: Dourados, Amambai, Limão Verde; Piraju'y; Porto Lindo; Caarapó; Takuapery e Sassoró;

b) Regularized Indigenous Lands, where there are neither administrative nor judicial pending matters, and where the communities enjoy full occupation of the land. These are the cases of Sucuri'y, Panambizinho, Pirakua, Sete Cerros, Rancho Jacaré, Guaimbé, Jaguari, Guasuti, Cerrito, Jaguapiré.

c) Indigenous lands characterized by administrative and/or juridical process under way. As far as the administrative process is concerned, in accordance with Decree 1775/1996, the land will fall into one of the following categories : **1) administrative:** a) identification and delimitation; b) declaration by the State Minister of Justice; c) physical demarcation, d) ratification by the President of the Republic, d) registration.; **2) judicial:** dissatisfied with the administrative measures carried out, landowners often resort to the Judiciary in order to contend the land regularization process, which often paralyzes or nullifies FUNAI's work, leading to appeals on Higher Courts, delaying the land recognition even more. These are the cases of the following Guarani Lands: a) Panambi-Lagoa Rica (Identified and Delimited); b) Potrero Guasu, Sombrerito, Yvy Katu, Taquara, Guyraroká e Jatayvari (Declared Indigenous by the Minister of Justice); c) Arroi-Korá, Takuaraty/Yvykuarusu, Jarará, Ñande Ru Marangatu (Ratified by the President); d) Nandévapeguá, Iguatemipeguá, M'barakay, Dourados-Amambaieguá, Amambaieguá, Guayviri, Urucuty, Pakurity, Apyka'i, Passo Piraju, Kokuei, Apapeguá, Laranjeira Ñanderu, Brilhantepeguá (under study).

d) Indigenous lands claimed by the Guarani with no administrative steps under way, such is the case for Laranjal and Cerro'i.

All these land situations are deeply affected by the expansion of sugarcane, which is virtually everywhere, inflicting problems upon indigenous lands, fully regularized or not. While sugarmills are not necessarily situated within indigenous areas, the same cannot be said of the plantations. One of the main reasons for that being so is that the state-run institution (IMASUL) responsible for giving environmental licensing to the construction of the mills simply ignore the indigenous presence or the claims to their lands in the areas of cultivation. Take, for instance, the Reservation of Dourados, surrounded by sugarcane plantations. Take the already regularized land Cerrito, facing the same problem; Take Jatayvary, with still administrative and judicial pending matters, which is doubly hit, by sugarcane in the surroundings and by plantations cultivated within the space already declared by the Minister of Justice; and finally, consider the situation of Apy Ka'i, a land not occupied by the community, for most of its territorial claims fall right into a large plantation. Apika'i, it must be said, is a small community living by a roadside after a judicial sentence issued an eviction order. Their small huts, built on the roadside, is flanked on both sides by

sugarcane suppliers for two different sugarmills, São Francisco and Bunge.

Wherever there are sugarcane plantations, the Guarani complain about the use of chemicals by cultivators, which pollute their creeks, streams and rivers, affecting the quality of the water used for cooking, drinking, bathing and washing. This is especially so in the areas where there is no running water or where water distribution does not reach all residences. The spraying of such agrochemicals (herbicides and pesticides), by tractor or by plane, assert community leaders, has been responsible for the killing of fish and small animals.

The impact of the sugarmills are more than simply environmental. The biofuel industry growing by leaps and bounds, with its promises of regional progress and economic development<sup>8</sup>, aggravates the already existing prejudice against the Guarani, worsening the already biased perceptions of the indians by locals, viewed as indolent, stupid, animal-like, dirty, and above all, a stumbling block for progress and development. It is no wonder that there is so much resistance against the demarcations.

Another significant impact has both economic and political nature. For instance, the rich top soils of Mato Grosso do Sul have always been hailed for their excellence and fertility, making them very valuable in the market place. The simple prospect of the establishment a sugarmill makes land speculation soar sky high. That has been the case on many locations and what makes matters worse is the fact that many of the richer soils overlap with the indigenous demands for their *tekoha*. If the the battle for land recognition had always been fierce, it became even more so. Until very recently, the demarcation of an indigenous land was a private matter/problem of an individual or of a small group of landowners. The signing of the CAC between the Public Ministry and Funai determining that all Guarani *Tekohas* be regularized, together with the new economic perspectives brought by the biofuel industry have made the whole economic sector to unite against the demarcations. The agrobusiness, it must be said, no longer stands alone, but now has as important allies: the state government, the state house of representatives, the city councils, trade unions, the press and other means of mass communication. In a nutshell, all major political forces in the state. Not to mention the political forces outside Mato Grosso do Sul. Those coalition forces have gathered efforts in attempts to make Constitutional changes and reform the rules by which an indigenous land is recognized, in an explicit attempt to reverse the already recognized lands and keep other *tekohas* from being regularized. So far, no such changes have taken place; however, as their movement gains momentum, it might turn out that something may happen to the detriment of the indigenous communities.

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<sup>8</sup> According to the State Government, 68 biofuel plants are seeking installation in Mato Grosso do Sul, 29 already established and 28 under negotiation. Government officials sources inform that each mill creates 600 jobs. Official predictions are that 180 thousand direct jobs and 800 thousand indirect jobs will be created. This is the major reason why such undertakings are exempt from state taxes for the next 15 years, as a way of incentive. ( Fian: 2008: 49)

## **5. THE SALVATION PROMISES OF THE BIOFUEL INDUSTRY AND ENVIRONMENTAL RACISM**

Brazil became a pioneer in the 1970s, when the world was struck by the oil crisis, by producing the first ethanol-run vehicles. By then, ethanol emerged as a domestic solution for the escalating oil crisis, for it enabled car owners to convert their gas-run automobiles into vehicles powered by alcohol. The second generation of vehicles, known flex cars or hybrid cars, which could run at any percentage of ethanol added to gas, did not emerge until the early years of the past decade (2003), and sprang as a remedy to global concerns - carbon emissions and the greenhouse effects - as ethanol became regarded as both a "clean" and "renewable" fuel. That production of biofuels placed Brazil in the avant guard of a new technology, which could be exported with a view to external markets.

As it turns out, the expansion of sugarcane from 2004 onwards occurs almost at the same time that the country starts assuming a new position in the global market and as Brazil stands as an emerging economy.

According to Mendonça et ali ( 2012) the increase of ethanol production is strongly linked to two factors. First, State support: "The State support for the [sugarcane] agrobusiness includes constant negotiation of billions of Reais in debt, fiscal incentives, subsidized credit and interests, market security by means of international trade agreements and the re-emergence of incentives to the production of biofuels" (p. 4). The second factor being the close interconnections of the biofuel industry with financial capital: "the most recent growth period of the ethanol production in Brazil took place after an inflexion in the international capacity for financial investments" (Mendonça et ali: 2012: 13).

An important thing to be considered is that, unlike the 1970s when ethanol production were meant to meet the domestic needs, today's efforts are directed to satisfy the country's demands, to attract foreign investiments, and, most especially, to go beyond borders, reaching other markets.

UNICA – the Brazilian Sugarcane Industry Association – held, in late june 2013, a meeting entitled "Ethanol Summit 2013", meant to discuss with multiple experts the destiny of the ethanol biofuel industry. The newsletter about the Summit organized by the Association brings interviews and reports providing valuable information for the present analysis.

The Newsletter opens with an article whose headlines reads: "Brazil and the United States: Celebrating Leadership and Growing Partnerships on Biofuels" . The opening article states that

“Brazil and the United States are working together to develop a thriving energy partnership. (...) A beacon for alternative energy, Brazil has certainly

attracted attention from the U.S. in recent years, as the relationship evolved with emphasis on renewable energy. Both countries are now looking for ways to achieve a ‘power surge’ that takes the relationship to the next level. (...) The two countries have worked together to provide global leadership in their mutual commitment to renewable fuels and have steadily laid the groundwork over the past decade for a true global biofuels market—**part of a clean, affordable and sustainable solution to the planet’s growing energy needs**. Brazil is one of the largest producers and exporters of ethanol fuel along with the United States, now the world’s number one ethanol producer. Together, the two countries account for nearly 90 percent of global production. Brazil’s ethanol, derived from sugarcane, has become the best-known blueprint for a sustainable biofuel economy. **The country has been lauded for its pioneering use of ethanol to reduce emissions and pollution . (...)**

There are no longer any passenger cars or small trucks built in Brazil that run strictly on gasoline; - nearly all automotive production in Brazil now involves flex-fuel technology, which allows vehicles to run on straight ethanol, gasoline or any mixture of the two fuels. And every gallon of gasoline sold in Brazil since the late 1970s includes between 20 and 25 percent ethanol. With about 11 million vehicles, the United States has the second largest fleet of flex-fuel vehicles in the world— behind only Brazil, which has the largest fleet by far: more than 16 million vehicles, which represent 57 percent of all cars currently on the road. **Flex-fuel vehicles running on low carbon fuels such as sugarcane ethanol help reduce emissions and can be part of a broader policy to reduce dependence on fossil fuels**. For the first time ever, ethanol is free of trade barriers in both Brazil and the U.S., a situation achieved in late 2011 when the U.S. Congress allowed ethanol subsidies to expire. Since then, U.S. tariffs are gone and Brazil maintains no duty on ethanol imports”. (UNICA Newsletter: 2013: 1) (Emphasis ours)

Elizabeth Farina, the new CEO of UNICA remarks that “this **clean and affordable renewable** fuel helps **cut dependence on imported oil and improves the Environment**.”. In an interview, Farina explains the reasons why the United States would be interested in converting its vehicles to flex ones.

“Two main reasons. First, it’s good for **energy security**. Sugarcane ethanol is one more reliable option for diversifying energy supplies and **improving U.S. energy security so Americans are not dependent on any one source or country**. Second, **it’s good for the environment**. Sugarcane ethanol **emits significantly fewer heattrapping greenhouse gases than gasoline** and other types of ethanol.

It is one of the few fuels designated by the U.S. Environmental Protection Agency as an “advanced renewable fuel” because **it reduces carbon dioxide emissions by more than 60 percent compared to gasoline**.

(...)

Most gasoline sold in the U.S. today contains at least 10% ethanol, and

vehicles built after 2001 can use gasoline containing up to 15% ethanol. American cars and trucks consumed over 15 billion gallons of renewable fuel in 2012, **making ethanol an important part of the U.S. fuel supply**. In Brazil, ethanol has been blended into gasoline since the 1920s and since the late 1970s, all gasoline sold in the country contains between 20 and 25% ethanol. (UNICA Newsletter: 2013: 3) (Emphasis ours)

Aldhemar Alteri, UNICA's communication director, summarizes the atmosphere after 2007, a landmark for the industry:

“Brazil was drawing a lot of world attention at the time because flex-fuel cars, introduced by the auto industry in 2003, had become a resounding success in a relatively short period of time. That triggered renewed and significant growth in Brazilian sugarcane, with more than 100 new mills launched between 2002 and 2009. **Ethanol became an environmental solution everyone wanted to consider**, and Brazil was the focus of all the attention because its use of ethanol to replace gasoline was by far the most successful in the world. Then came the United States...

(...)

The U.S. announced its Renewable Fuel Standard in 2007 and sent a strong message to the world that ethanol would become a vital ingredient in its future energy plans. The U.S. decision was followed by meetings between then- Presidents George W. Bush and Luiz Inácio Lula da Silva, first in Washington, then in São Paulo. Both presidential encounters were heavily focused on the ethanol industry, which drew even more world attention to Brazil. After all, the world's biggest economy and biggest energy consumer had just decided to make ethanol an important part of its future plans, and when people wondered why, they inevitably turned to Brazil to see what the fuss was all about." (UNICA Newsletter: 2013: 4) (Emphasis ours)

The Newsletter also brings an article featuring Gina McCarthy, President Obama's nominee for the EPA (The Environmental Protection Agency):

“**Carbon pollution** is leading to more frequent and intense **heatwaves** that **increase mortality**, especially among the poor and elderly,' she said in testimony to Congress last year. '**Climate change impacts in certain regions of the world (potentially leading, for example, to food scarcity, conflicts or mass migration) may exacerbate problems that raise humanitarian, trade and national security issues for the United States!**'” (UNICA Newsletter: 2013: 5) (emphasis ours)

The excerpts above highlight two points: a) National security reasons associated with the independence on foreign oil supplies, a major concern for both countries, the United States and Brazil; b) an alleged global concern with the environment, for biofuels potentially reduce carbon emissions, greenhouse effect and global warming. These latter issues being part of the global agenda that comes as a last-ditch effort to save the planet, it is no wonder

why the biofuels industry has experienced a rapid growth and acceptance. But one should question what the *human* and *social costs* are for such undertakings. One should question how this rapid-growing industry is affecting the indigenous populations in Brazil, particularly the Guarani people in Mato Grosso do Sul.

Acselrad (2009) points out that situations of environmental racism often arise when solutions to everyday collective problems are unevenly shared. The global environmental changes are everybody's business and burden, however, when an ethnic group has to pay a higher price, that constitutes environmental racism. Such kinds of racism involve not only disproportionate onuses, but are strongly connected to a more encompassing ethnic discrimination, and to public and private policies which, while promoting changes, disregard the affected communities. As Bullard (2005: 1) & puts it, "environmental racism is a link in the chain of unsustainable development. It involves the denial of human rights [and] environmental protection (...)". In a similar vein, Zhouri (2008: 7) explains that "global policies made from abstract and distant formulations are generators of environmental injustice, to the extent that, as they are implemented, they inflict risks and damage upon society's most vulnerable social levels"

What are the high costs the Guarani pay, then? As pointed out previously, the biofuel mills have made land disputes harsher and made the land regularization even harder to achieve. That has led to a continued history of violation of human rights, tension, violence, criminal persecution, famine, mal-nutrition, infant mortality, suicide, murders, impunity, environmental risks, poor water quality, pollution, aggravation of prejudice, killing of fauna and flora.

The next section presents a study case in which the situation of the Guarani Kaiowa Community Jatayvary faces environmental racism and injustice brought about by the establishment of a Bunge facility nearby.

## **6. THE CASE STUDY OF JATAYVARY**

The Guarani Tekoha Jatayvary lies in the heart of the Ponta Porã, a Municipality with approximately 80,000 people, stretching out over a surface of 5.328 km<sup>2</sup> (3.5 times bigger than São Paulo, the Brazilian largest city and 3.4 times bigger than London), on the border with Paraguay. Jatayvary was delimited with a total area of 8.800 hectares, that is, 1.65% of the overall area of Ponta Porã, a city historically characterized by large estates, and where is common to hear that "there is too much land for few indians".

Unable to occupy the whole *tekoha*, they only use a tiny portion of 180 hectares - an open field, where there used to be pasture prior to the occupation - where 60 families live or around 300 people, of which 95 are children between the ages of 0 -11, 25 are senior citizens above 60, and 130, women. The rest of the area is used economically by farmers and ranchers who raise cattle and cultivate corn, soybeans and, of late, sugarcane.

The community has firm convictions that when the whole land is finally occupied, the overall conditions of existence and livelihood will improve and nature will recover from its depleted condition. Meanwhile, the expansion of economic activities has only harmed the environment and the lack of appropriate living conditions has led to poor sanitation, which is often the attributed cause of diarrhoea, dysentery, vomiting and infantile undernourishment.

The occupation area is bordered on the one side by a paved interstate highway and on the other by a small patch of thick forest on the other far end. It is also flanked on the one side by a dusty road and by a huge sugarcane plantation, on the other. The other plantations are located far off. By the dusty road, dozens of trucks loaded with sugarcane make their way through, from the scene of production to the sugarmills, night and day, during harvest time, cutting through the indigenous land.

In the 180 hectares, the Guarani of Jatayvary have built their thatched huts, often surrounded by the trees they have planted during the years of occupation and by their subsistence farming, whose main crops are corn, manioc, beans and potatoes. Unlike most indigenous areas in Mato Grosso do Sul, Jatayvary has no school of its own for the Municipality stubbornly asserts that, being an "invasion" rather than an indigenous land, such facility could not be built with public funds.

As FUNAI's anthropological study shows, the extended families that lived in Jatayvary were progressively forced to leave. The last groups remained in the area until a relative recent time, when they were forced to finally find other places, mostly in the Reservations of Dourados and Caarapó. The report by Thomaz de Almeida (2005: 47) points that the last families to move were still in the area around the 1980s.

The Guarani re-occupied the area in 1999, just before the anthropologist commissioned by FUNAI began the studies. Bureaucratic problems at FUNAI, however, led the anthropologist to take five years to finally turn his report in. When the anthropological study was under scrutiny by FUNAI, in 2005, a Court order suspended the regularization process and matters remained that way for the next six years. The process was not resumed until 2010, and the land was finally declared indigenous by the Minister of Justice in 2011. In March 2013, orders were issued that the physical demarcation posts be placed on the limits of the land, thus, taking one step further in consolidating the administrative demarcation. Escorted by Federal Police Officers, a FUNAI

team had to make a turn around as a group of mobilized farmers stood on their way and did not allow the demarcation job to be done. The posts have not yet been placed to this day.

If no obstacles had been placed to the regularization of the land – a process that in accordance with the Decree 1775/96 should take no longer than 2 years - the Guarani would be occupying today the *Tekoha* in its entirety. Constant delays, however, allowed the new economic activity to set in, causing numerous problems to the community.

Bunge began operating in Ponta Porã in 2009, when it became the major stockholder of Usina Monte Verde. The industrial plant is located outside Jatayvary, which is 15 Kilometers away. The sugarcane monocultural activities take place in the areas surrounding Jatayvary and also occupy the space already declared as indigenous, around 988 hectares, or 11,24% of the declared land, according to FUNAI's estimates (2012). As stated by Bunge/ Monte Verde, sugarcane is produced by 5 suppliers through two different modes of contract: leasing and partnership. (Bunge/Monteverde: 2012)

The community has long complained about the continued deforestation of the remnant patches of woods in the area, perpetrated for agricultural purposes. That was intensified as sugarcane suppliers were getting ready to plow the fields. With the advent of sugarcane cultivation, risks to the health of the community were reported to FUNAI, which in early 2012, requested IMASUL – the state-run institution responsible for licensing – a copy of the environmental impact study and copies of the licenses issued, so that the environmental impacts on Jatayvary could be assessed (FUNAI: 2013: 2).

The analysis of the documents sent to FUNAI by IMASUL treated the Guarani as "invisible" as in the environmental studies "there were no references to the indigenous populations in the area of direct influence of the project, the specific study of the indigenous component not being conducted, under the argument that there were indians only in the area of indirect influence. It is important to highlight that, according to the study presented 'the area of direct influence was established as that of the implementation of the sugarmill, that immediately affected by atmospheric emissions and noise" (FUNAI: 2013: 2).

FUNAI also reports that the environmental studies produced by the entrepreneurs to the licensing institution also failed to present the plotting of the properties where sugarcane was to be cultivated so that it was not possible to verify the existence of farms overlapping the already identified *tekoha* (FUNAI: 2013: 2). Had such information be contained in the environmental studies, FUNAI would have to be consulted, which did not happen. The licensing, therefore, concludes FUNAI, is fraught with formal vices.

Putting it other way, the concession of licensing by IMASUL was a blatant disregard for the Federal Constitution (Art. 20, XI, Art. 22, XIV, art. 225 and art. 231), Law No.

5.371/1967, Law No. 6001/1973, Decree No. 1141/1994, Law No. 6938/1981, CONAMA Resolution No. 237/1997, Decree No. 7778/2012, Interministerial Ordinance No. 419/2011 and Instructions No. 01 and No. 4 (FUNAI/ 2012)

On a technical report (FUNAI: 2012) entitled "The indigenous Perception as to the impacts of sugarcane plantation in Jatayvary", there are plenty of evidence to show the risks brought about by the cultivation to the community, their health conditions and the environment. The document was written after a fieldtrip to the area, when a FUNAI civil servant brought together a group of Guarani residents in Jatayvary for a collective interview. Below is a significant citation:

"So far two harvests have been concluded in the areas of cultivation, in the period of approximately two years. Mechanical gathering of the sugarcane is the main technique employed in the area, but manual/burning harvesting has also been reported.

As reported by the indians, the harvesting machines usually work intensively, during harvest time, both night and day, without pre-established working schedules. The intense noise produced by the machines annoys the residents of Jatayvary, especially during the families' sleeping time.

Last year's burning of the sugarcane straw (...) lasted about four hours. The indians say that the dispersion of the smoke affected the respiratory health of the inhabitants.

There were two overflights in the indigenous land to spray agriculture chemicals, however the indians were unable to specify the kind of substance, whether they were toxic material or not. The fact is that after the pulverization the indians experienced sickness, with headaches, and throwing-up anxieties and allergy. They asserted that in the plantations cultivated on the border of the occupied land agrochemicals are generally used, and those substances drift to the indigenous area.

Another issue addressed concerns the heavy traffic of vehicles on the access road to Jatayvary. Sugarcane-loaded trucks go through the road and cause many inconveniences. The first one refers to the high speed usually developed by teamsters as they pass through, fact that brings risks to the residents, notably the children. Another thing is that besides the annoying noise and the trepidation it causes on the houses, the passage of those trucks lifts an enormous quantity of dust. These suspended particles drift to the dwelling places and other locations of the village, having a tremendous negative effect on indigenous health, such as respiratory and allergic problems." (FUNAI: 2012: 12-13)

One of the most striking environmental incidents occurred in 2011. On the dirty road, while cutting through the indigenous land, coming from one of the fields at the far end of the area, as it was passing a small bridge, a truck burdened with sugarcane capsized, letting fall all of its contents on a stream. The overturned vehicle remained on the spot for two days until a truck came along to tow it away. As for the tons of sugarcane deposited on the creek, no one, neither supplier nor from the sugarmill, lift a finger to remove what subsequently became material in decomposition. The Guarani of Jatayvary claim as a consequence of the accident, for a long period

the water was improper for any use.

## 7. THE CURRENT SITUATION

Aware of the situation in Jatayvary, the Public Ministry wrote the President of Bunge in Brazil requesting information on the cultivation of sugarcane in indigenous land. Another letter was sent to the company's presidency requesting a list of sugarcane suppliers. Furthermore, in the same letter, Bunge was informed that its apparent non-compliance with International Conventions would be notified to Bonsucro<sup>9</sup>, the London-based certification agency..

On a Document entitled "Proposal of maintenance of contracts of production partnerships upon areas demarcated as indigenous". Bunge clearly acknowledges that on undertaking majority control of Monte Verde's stockshares, it became liable of all previous leasing and partnership contracts. The company admits being knowledgeable that FUNAI delimited the area known as Jatayvary as indigenous, upon which the following farms bound by contracts with Bunge overlap: a) Fazenda Dependência; b) Fazenda Guarida; c) Fazenda El Shaday,d) Fazenda Santa Luzia; e) Fazenda Três Marias. However, the document concludes by stating that "we propose the maintenance of the production partnership contracts celebrated with land owners of the areas delimited as indigenous, until their validity, upon which we commit not to renew them."

Bonsucro has been reported on the delicate situation, though it has so far taken no significant step. All it has informed is that the official language to file a complaint is English and that it falls to the complainant the burden of the proof. Its promise "to instruct companies that intend to acquire sustainable raw material/supplies, as well as provide the financial sector with a tool for carrying out sustainable investments" is yet waiting to be fulfilled.

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<sup>9</sup>"Bonsucro is a "multi-stakeholder" association created to reduce the environmental and social impacts of the sugarcane production through the development of standards and a certification program for transforming the sugarcane industry. This is an industry initiative in which Bonsucro has been working to unite stakeholders and develop a means for reaching its objectives within the sugarcane market. WWF oversees and supports this protocol.

The Bonsucro standard was created with the objective of supplying a mechanism for reaching sustainable production for sugarcane and its derivatives, **with regards to economic, social, and environmental aspects of the activity**. It incorporates a conjunction of Principles, Criteria, Indicators and Verifiers that are used to certify sugar cane producers, instruct companies **that intend to acquire sustainable raw material/supplies, as well as provide the financial sector with a tool for carrying out sustainable investments.**

(...)

The standard is based on a conjuncture of measurement tools that permit the aggregation of information and transparency regarding the impacts caused by the sector. Although the certification unit is the sugar factory, audit evaluations are carried out for the factory, as well as for the productive areas that supply the factories with raw materials." (Emphasis mine) (see <http://www.ibd.com.br/en/Bonsucro.aspx>).

## 8 FINAL REMARKS

The situation of the Guarani as presented above started its deterioration with the implementation of integration and assimilation-oriented policies in the early decades of the XX century, to aggravate with the concession of titles to new-comers to settle in on the traditionally occupied lands, leaving the indians with no choice but to accommodate in the Reservations, which, over the years, have become packed with people and completely inhospitable. All that has been worsened by the Brazilian State's incapacity and inability to officially recognize the Guarani *Tekohas*.

What began as a problem of domestic nature, now has reached global dimensions as the stumbling blocks to the demarcations are not just a matter of the local and regional powers associated with landowners, but the heavy influence of transnational financial investments, with the incentive of the Brazilian Government.

The backdrop against which the biofuel industry flourishes is not simply of economic nature, but, most importantly, the last-ditch effort to save planet earth from its environmental risks by using renewable and clean fuels. Being everyone's duty to improve environmental conditions, it is not fair to expect that the Guarani Indians pay a higher price. That constitutes a blatant disregard for the human rights of those communities, as well a bare-faced case of environmental racism.

By turning a blind eye on the plight of Guarani, policy-makers, economy planners, international financiers, licensing agencies and environmental certifiers become accomplices to the multi-violations against this people, what many have labeled as genocide and ethnocide.

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