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THE INSPECTION PANEL

**REPORT AND RECOMMENDATION
ON A REQUEST FOR INSPECTION**

BRAZIL

**PIAUI PILLARS OF GROWTH AND SOCIAL INCLUSION
PROJECT (P129342)**

MARCH 20, 2020

**The Inspection Panel
Report and Recommendation
on a
Request for Inspection**

Brazil: Piauí Pillars of Growth and Social Inclusion Project (P129342)

A. Introduction

1. On December 6, 2019, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) of the Piauí Pillars of Growth and Social Inclusion Project (the “Project”) in Brazil from three members of traditional communities in the *Cerrado* (savannas) region of Piauí. During its eligibility visit to Brazil, the Panel received seven additional signatures of representatives of five traditional communities in support of the Request. The additional Requesters authorized a member of the Pastoral Land Commission (*Comissão Pastoral de Terra – CPT*) of Piauí to represent them during the Panel process. The Requesters, as well as their representative, asked the Panel to keep their identities confidential.

2. The Requesters allege that local traditional communities have been left out of the land tenure regularization process under the Project. According to the Requesters, the Project promotes regularization mainly for agribusiness and large landowners whose farming practices destroy biodiversity, soil and water. They claim that the region has a history of land grabbing, which is being legitimized through the Project. As a result, they argue, local traditional communities are losing their lands, crops and subsistence. They also claim lack of social assistance, public safety and access to education.

3. The Panel registered the Request on January 21, 2020. Management submitted its Response to the Request on February 20, 2020. From February 29 to March 7, 2020, the Panel conducted its eligibility visit to Brazil.

4. In accordance with the Resolution establishing the Panel,¹ the purpose of this report is to make a recommendation to the Board as to whether an investigation into the matters alleged in the Request is warranted. Based on its assessment below, and considering: (i) the inclusion of traditional communities among Project’s land regularization coverage in 2018; (ii) the slow pace of land titling in traditional communities is due to factors outside the Project’s control; and (iii) the absence of a plausible link between the alleged land grabbing and the Project activities, the Panel does not recommend an investigation.

B. Description of the Project

5. The Piauí Pillars of Growth and Social Inclusion Project (P129342) was approved on December 21, 2015, for US\$120 million (IBRD Investment Project Financing). The Borrower is

¹ International Bank for Reconstruction and Development (Resolution No. IBRD 93-10), The World Bank Inspection Panel, September 22, 1993 (the “Resolution”), para 19. Available at: <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf>.

the State of Piauí, with a guarantee by the Federal Republic of Brazil. The total Project cost is about US\$1.13 billion, and the Borrower is the only co-financier. The expected closing date of the Project is December 31, 2020. It is a Category B project and was 74 percent disbursed at the time of receipt of the Request.

6. The development objectives of the Project are to “(a) reduce dropout of students in public secondary education; (b) increase access to diagnosis and treatment for patients with chronic diseases; (c) expand the registration of groundwater users in rural areas and land tenure regularization; and (d) increase the participation of rural family farmers in rural productive value chains.”² The Project triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Pest Management (OP 4.09); Physical Cultural Resources (OP/BP 4.11); Involuntary Resettlement (OP/BP 4.12); and Forests (OP/BP 4.36).

7. The Project includes two components, with the first focusing on the provision of support for the implementation of Eligible Expenditure Programs in the areas of public secondary education, health care for patients with chronic diseases, water resources management, land management and rural productive chains. The second component includes the provision of technical assistance to strengthen the Borrower’s public management.³

8. The aspects of the Project concerning land management, particularly subcomponents 1.4 and 2.2, are the subject of this Request. Subcomponent 1.4 focuses on (a) strengthening and modernizing the Piauí State Land Institute (*Instituto de Terras do Piauí – INTERPI*), (b) carrying out the identification, demarcation and registration of state land, (c) carrying out the Land Tenure Regularization Program, and (d) supporting the operationalization of the Land Tenure Regularization Center (LTRC).⁴ Subcomponent 2.2 focuses on capacity-building support and includes (a) the operationalization and maintenance of the State Land and Environmental Geotechnical Center (*Centro de Geotecnologia Fundiária e Ambiental – CGEO*),⁵ (b) the piloting of an integrated real estate registration system for notaries, and (c) the establishment of a computerized monitoring, information and management system for the Program for Employment and Income Generation in Rural Areas (*Programa Estadual de Geração de Emprego e Renda no Meio Rural*).⁶

9. The Project, as a multisector operation, is carried out by 12 implementing agencies. The State Secretariat of Planning (*Secretaria de Planejamento do Estado do Piauí – SEPLAN*) is the Bank’s main interlocutor and coordinator for Project preparation and implementation.⁷ INTERPI is responsible for the activities under Subcomponent 1.4 and technical assistance under Subcomponent 2.2. The identification and definition of target sites, mobilization of communities, cadastral record collection activities, georeferencing, cartographic plotting, and titling of rural land

² Project Appraisal Document (PAD) for the Project, dated November 30, 2015, p. vii.

³ Ibid.

⁴ Ibid., p. 8.

⁵ The CGEO provides state agencies, especially INTERPI and the State Secretariat of Environment and Water Resources (*Secretaria de Meio Ambiente e Recursos Hídricos do Estado do Piauí – SEMAR*), high-quality cartographic information to design and implement the programs under Project component 1. PAD, pp. 44, 45.

⁶ PAD, p. 9.

⁷ Ibid., p. 12.

are the responsibility of INTERPI. While some of these activities are conducted by its in-house staff, others are carried out by subcontracting and supervising private firms that provide georeferencing, cartographic plotting and titling services. INTERPI also coordinates with other agencies, such as the National Institute for Colonization and Agrarian Reform (*Instituto Nacional de Colonização e Reforma Agrária – INCRA*)⁸ and the Office of the Inspector General of the State Secretariat of Justice (*Corregedoria Geral de Justiça do Poder Judiciário do Estado do Piauí – CGJ*).⁹

10. According to the Management Response, the Bank team and Borrower are currently discussing a restructuring of the Project to adjust some aspects of its design, including: (i) changes in the Results Framework and Monitoring; (ii) changes to components and costs by introducing new technical assistance activities and dropping of others; (iii) reallocation between Disbursement Categories; (iv) change in disbursement arrangements and estimates; (v) considering triggering the Bank’s Policy on Indigenous Peoples (OP/BP 4.10) and the updating of safeguard instruments; and (vi) changes to [the Project implementation] indicators.¹⁰ The Panel understands that the target of titling 5,000 small-holder farmers under the Project is likely being reduced to 3,000, and that the closing date of the Project may be extended by up to a year. Management notes that the restructuring is still under discussion with the Borrower.¹¹

C. Summary of the Request

11. The section below summarizes the issues raised in the Request, and the full Request is attached to this Report as Annex 1.

12. The Request explains that rural communities in the *Cerrado* region of Piauí, which have been there for many generations, have been expelled from their lands, have had their support systems destroyed and their soil and water sources polluted, and have faced threats from land grabbers and agribusiness firms. The Requesters allege that land speculation in the area has been encouraged by international financial companies and development projects. They explain that against this background, the World Bank decided to finance actions by the Piauí State Government in the fields of education, social assistance, health and land tenure regularization. The Requesters argue that the Project, however, sparks insecurity in rural communities that are losing their means of support because of advances made by agribusinesses. The Requesters believe that the region’s history of land grabbing is now being legitimized by actions of the state using World Bank resources.

13. According to the Requesters, one of the objectives of the Project was to guarantee land rights of rural communities but despite the Project reaching an advanced stage, no traditional community has had its land regularized. The Requesters argue that only well-established communities as well as agribusinesses and large landowners have had their areas regularized, and local traditional communities have been left out. The Requesters argue that the land tenure

⁸ INCRA particularly provides support in the georeferencing of properties. PAD, p. 55.

⁹ PAD, p. 55.

¹⁰ Management Response to Request for Inspection Panel Review of the Brazil: Piauí Pillars of Growth and Social Inclusion Project (P129342), dated February 20, 2020, p. 2.

¹¹ Ibid.

regularization process in their areas is very slow, and the related uncertainty leaves communities vulnerable.

14. The Requesters explain that the agribusinesses and large landowners are expanding their monoculture crops by using chemical products that destroy biodiversity, soil and water. They argue that this agricultural model is one of the primary causes of climate change, which has disastrous consequences for local communities that are losing their lands, crops and subsistence. They argue that the *Cerrado*, with its enormous biodiversity and water sources, is being destroyed.

15. The Requesters also allege that they suffer threats to their lives and biodiversity on a daily basis. They explain that they are vulnerable in the presence of agribusiness and other land and agricultural development projects and are thus requesting an independent assessment of their situation. They argue that public safety is being compromised and that they lack social assistance. They also claim that their schools are closing. According to the Request, they are afraid of what may happen in their communities and to the physical safety of people living in the communities of the *Cerrado* region.

16. The Requesters indicated that they fear retaliation because the dialogue between the state and the communities is practically nonexistent. They explain that they are afraid that after this Request, the direct relationship between the state and the communities will be even more limited.

17. The Request contains as attachments a March 2018 statement titled, “*The World Bank’s land program in the State of Piauí, Brazil, is a license for land grabbing,*” endorsed by 31 civil society organizations, a July 2018 letter by INTERPI to the World Bank Country Director in Brazil, describing recent activities and challenges and a report prepared by FIAN International, the Social Network of Justice and Human Rights (*Rede Social de Justiça e Direitos Humanos*) and the CPT, titled, “*The Human and Environmental Cost of Land Businesses – the Case of MATOPIBA, Brazil,*” which analyzes the human rights and environmental impact of agribusiness expansion and land speculation in the Northeast of Brazil, including in Piauí. These attachments are available in Annex 1.

D. Summary of the Management Response

18. The Management Response is summarized below, and the full Response is attached to this Report as Annex 2.

19. Management in its response argues that, while it understands the Requesters’ concerns regarding their tenure security, the Project neither causes nor contributes to these concerns. Management explains that the Project is strengthening the land tenure of small-scale farmers and *Quilombola*¹² communities by supporting access to land titling, registration and legal ownership of the lands on which these communities live. According to the Management Response, many

¹² *Quilombola* communities are remnants of settlements of escaped slaves or *quilombos*. They typically do not have a separate language and do not self-identify as indigenous. They self-identify as *Quilombolas* and enjoy specific protection under Federal and State legislations. Piauí has 87 *Quilombola* communities certified by the Palmares Cultural Foundation (*Fundação Cultural Palmares* - FCP). Management Response, p. 4.

allegations in the Request are inaccurate and do not reflect the Project's objectives and activities. The Management Response emphasizes that the Project neither supports nor promotes regularization for agribusiness and/or large landowners, nor are they entitled to receive any support under the Project; the Project is also not supporting the sale of state land to such groups.¹³

20. Management argues that the Request does not refer to specific harm allegedly caused or likely to be caused by the Project and does not cite specific cases where communities' land rights or claims to land have been or are likely to be undermined by the Project's activities. Management states that the Request and its attachments refer to the impact of capital inflow from foreign investors that are reportedly acquiring farmlands through Brazilian intermediaries. According to Management, the Project has no relation to these investors, nor does it have any role in this process.¹⁴

21. The Management Response emphasizes that the Project supports Piauí's efforts to combat land grabbing by assisting CGJ to better regulate notarial services and supporting the Special Group for Land Tenure Regularization and Combating Land Grabbing (*Grupo Especial de Regularização Fundiária e de Combate à Grilagem* – GERCOG) to actively investigate illegitimate land claims and fraudulent land titling. Management also argues that the Project's support to INTERPI's paper-to-digital transformation will enhance transparency.¹⁵

22. Regarding the concerns that relate to the Project, such as the alleged non-inclusion of traditional communities¹⁶ in the Project and the perceived slow pace of the land regularization process, Management argues that they represent unfulfilled expectations. According to Management, the selection of small-scale farmers and *Quilombola* communities for land regularization support was part of Project design and the non-inclusion of other communities cannot be considered harm caused by the Project. Management also argues that this is not a matter of policy compliance. The Management Response explains that since 2018, the Bank agreed to provide support to traditional communities under the Project in response to their request. Management further emphasizes that delays in the process affecting these groups are rooted in complex legal and procedural requirements for land regularization beyond the Project's control. According to Management, the progress of land regularization for these traditional communities would be slower without the Project's support to INTERPI.¹⁷

23. In relation to the Requesters' concern about a lack of public safety, social assistance and support for schools, Management argues that the Project does not include any activity related to public safety, social assistance or elementary education. Management is aware of the communities' concerns regarding primary school closures in areas where traditional communities live but

¹³ Management Response, p. 6.

¹⁴ Ibid.

¹⁵ Ibid, p. vi.

¹⁶ Traditional communities are culturally differentiated groups who have their own forms of social organization and economic production, often based on a specific location, family labor force and focus on subsistence. They typically do not have a separate language. Traditional communities are recognized by law in the State of Piauí. Management Response, p. 4.

¹⁷ Ibid, pp. 6 and 7.

explains that they are unrelated to the Project. Management emphasizes that the Project does not support the construction of new schools, their closing or relocation.¹⁸

24. In conclusion, Management believes that it has followed the Bank’s operational policies and procedures applicable to the issues raised in the Request, and thus the Requesters’ rights or interests have not been and will not be directly and adversely affected by a failure of the Bank to implement its policies and procedures.¹⁹

E. Panel Review of the Request and the Management Response, and Eligibility Visit

25. Panel Member Mark Goldsmith, Operations Officer Birgit Kuba and Research Assistant Camila Jorge do Amaral visited Brazil from February 29 to March 7, 2020. The Panel team held meetings in Teresina, in rural areas in the southern part of Piauí and in Brasilia. During its visit, the Panel team met with the Requesters, their representative and other Project-affected community members, staff in the World Bank’s Country Office, officials of the Ministry of Economy, SEPLAN, INTERPI, CGEO and the LTRC.

26. The Panel expresses its appreciation to all those mentioned above for providing valuable information and for sharing their views. Particular thanks go to the World Bank Country Office staff in Brasilia for its invaluable assistance with logistical arrangements, as well as INTERPI and the Requesters for sharing detailed information and providing support during the Panel’s visit.

27. The Panel’s review is based on information presented in the Request, the Management Response, other documentary evidence, and information gathered through conversations with different stakeholders before, during and following the Panel’s visit to Brazil. The following review covers the Panel’s determination of the technical eligibility of the Request according to the criteria set forth in the 1999 Clarification (subsection E.1), observations on other factors (subsection E.2), and the Panel’s review (subsection E.3) supporting the Panel’s recommendation.²⁰

E.1. Determination of Technical Eligibility

28. The Panel is satisfied that the Request meets all six technical eligibility criteria of paragraph 9 of the 1999 Clarifications. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel’s assessment of the substance of the claims made in the Request.

- Criterion (a): *“The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.”* The Request was submitted by three members of traditional communities in the *Cerrado* region of Piauí,

¹⁸ Ibid., pp. 13 and 14.

¹⁹ Ibid., p. vi.

²⁰ “1999 Clarification of the Board’s Second Review of the Inspection Panel”, April 1999 (“the 1999 Clarifications”) available at

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>

where land regularization activities under the Project are taking place. During its eligibility visit to Brazil, the Panel received seven additional signatures of representatives of five traditional communities in support of the Request. The additional Requesters authorized a member of the CPT to represent them during the Panel process. The Requesters as well as their representative asked the Panel to keep their identities confidential. The Panel met the Requesters and their representative during its visit to Brazil and considers this criterion met.

- Criterion (b): *“The Request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the Requester.”* The Requesters allege that the land tenure regularization activities under the Project are contributing to and legitimizing land grabs by agribusinesses and large landowners in the region. The Panel is thus satisfied that this criterion is met.
- Criterion (c): *“The Request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.”* The Request and its attachments refer to meetings with representatives of the World Bank in Washington, D.C., and include letters different organizations, including FIAN International, sent to the World Bank Country Director in 2018 on the issues presented in the Request, as well as the Bank’s responses. The Panel is satisfied that this criterion is met.
- Criterion (d): *“The matter is not related to procurement.”* The claims do not raise issues of procurement and thus this criterion is met.
- Criterion (e): *“The related loan has not been closed or substantially disbursed.”* At the time of receipt of the Request, the Project was 74 percent disbursed. Therefore, this criterion is met.
- Criterion (f): *“The Panel has not previously made a recommendation on the subject matter or, if it has, that the Request does assert that there is new evidence or circumstances not known at the time of the prior Request.”* The Panel has not made a recommendation on the issues raised in the Request, and thus this criterion is met.

E.2. Panel Observations Relevant to its Recommendation

29. In making its recommendation to the Board and in line with its Operating Procedures, the Panel considers the following: whether there is a plausible causal link between the harm alleged in the Request and the project; whether the alleged harm and possible non-compliance by the Bank with its operational policies and procedures may be of a serious character; and whether Management has dealt appropriately with the issues, or has acknowledged non-compliance and presented a statement of remedial actions that address the concerns of the Requesters. Below, the Panel records its preliminary observations on the alleged harm and compliance, noting that in doing so, it is not making any definitive assessment of the Bank’s compliance with its policies and procedures and any adverse material effect this may have caused.

Contextual Information and Timeline

30. ***Historical Background and Rationale for the Project (pre-2015)***. The State of Piauí, located in the Northeast of Brazil, has a population of 3.12 million. Approximately half of the state's population lives in rural areas. It is one of the poorest states in Brazil with the third-highest illiteracy rate and highest income inequality.²¹ The *Cerrado*, the second largest biome after the Amazon, plays a central role in providing the region's food and water security, as well as preserving social diversity and cultural heritage.²² In Piauí, the *Cerrado* spans 28 municipalities in the north and south of the state. Over the past 20 years, with the arrival of large-scale farmers, the *Cerrado* gained recognition as a significant soybean and corn-producing region, continuously increasing its production and productivity.

31. The Brazilian Federal Land Reform program, which was launched in 1964, provided unproductive land to landless peasants through the creation of agrarian reform settlements. Today, small-scale farmers make up 90 percent of Piauí's agricultural establishment.²³ They include over 45,000 farms in agrarian reform settlements, of which 475 are administered federally, created by INCRA, and 234 are state, created by INTERPI.²⁴ Small-scale farms only cover 27.2 percent of Piauí's territory. By contrast, large-scale farms account for 2.2 percent of Piauí's farms, but cover 40 percent of the state's territory.²⁵ Small-scale farmers often do not have formal proof of ownership, but tenure informality also extends to medium- and large-scale farmers who dominate the *Cerrado* region and contribute significantly to the state's agricultural growth. The lack of formal real property rights has significant socioeconomic implications, as it exposes small-scale farmers to unfair dispossession, makes access to credit more difficult, and prevents subsistence farmers from adopting measures to increase productivity.²⁶

32. The Project Appraisal Document (PAD) explains that land grabbing by large-scale farmers as well as agribusiness companies has been common in the past and especially associated with the

²¹ World Bank Press Release: <https://www.worldbank.org/en/news/press-release/2015/12/21/brazil-more-social-inclusion-productivity-benefit-piaui-rural-poor> According to the Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística* – IBGE), Piauí's monthly nominal household income per capita is R\$827 (US\$179.47), placing the State in the 24th position out of the 27 states.

<https://cidades.ibge.gov.br/brasil/pi/panorama>

²² Covering over 20 percent of the territory, the Brazilian *Cerrado* is the richest savanna in the world and home to endangered species as well as many traditional communities. It is also the source of rivers and waterways providing food and water for the region as well as many of Brazil's largest cities.

<https://chainreactionresearch.files.wordpress.com/2017/09/farmland-investments-in-brazilian-cerrado-20170920.pdf>

²³ PAD, p. 9.

²⁴ In federal and state agrarian reform settlements land ownership is retained by the federal and state government, respectively. Management Response, p. 3. Historically, the creation of land reform settlements has been another important responsibility of INTERPI. Since its creation in 1980, the Institute has created approximately 200 settlements inhabited by more than 10,000 families who have been settled on state land without transferring the ownership. Thousands of families have received Concessions of Real Rights of Use (CDRU) and, since the adoption of state law 6,127/2011, INTERPI has issued 2,946 land titles. However, while these titles have not been registered, the terms of the CDRUs have often expired and land possessions have been informally transferred, usually to relatives or heirs. PAD, p. 37.

²⁵ Management Response, p. 3.

²⁶ PAD, pp. 9 and 10.

expansion of cattle ranching and, more recently, soybean production.²⁷ According to the non-governmental organization (NGO) GRAIN, illegal land grabs, also known as *grilagem*, occur when land deeds are falsified and later sold to large-scale farmers, investors and agribusiness companies. *Grilagem* uses political connections to falsify documents and acquire property titles through the connivance of local notaries and government officials claiming title over public lands and forests. In these cases, with forged property titles, the land becomes inaccessible to traditional communities which tend to suffer negative livelihood impacts, such as evictions and loss of hunting grounds as well as crops. These conflicts are the root of violence, social unrest and increased litigation in the region.²⁸

33. Since 2011, INTERPI has implemented a land tenure regularization program, granting state land to small-scale farmers.²⁹ This process aims to support thousands of land reform beneficiaries, small-scale farmers who have been peacefully occupying state land for more than five years and dozens of *Quilombola* communities, but progress has been limited by INTERPI's lack of capacity and difficulties in coordinating with the judiciary. As of early 2015, only 2,946 families and three *Quilombola* communities have had their real property rights formalized.³⁰

34. ***The Project and its Implementation.*** In 2015, Piauí adopted a new law and instituted a state land regularization program with the goal of issuing 11,000 titles to small-scale farmers and six collective titles to *Quilombola* communities.³¹ At the time of appraisal of the Project in November 2015, INTERPI had 4,151 pending land regularization requests from small-scale farmers and the regularization of the territories of *Quilombola* communities was stalling due to capacity constraints in INCRA and INTERPI, with many requests filed more than 10 years ago.³² In December 2015, the Project was approved by the World Bank's Board. The aim of the land management component of the Project is to support the state's efforts to regularize and title the lands of small-scale farmers in state agrarian reform settlements and *Quilombola* communities occupying state land, and to strengthen the capacity of INTERPI and other relevant agencies. In its first three years of implementation, only 258 land titles of small-scale farmers were registered. None were registered for *Quilombola* communities.³³

35. In December 2017, the Federal Public Prosecutor's Office issued a recommendation to INTERPI regarding the land concerns of eight traditional communities that were not initially targeted by the Project. Consequently, INTERPI and the Bank's team met with members of these

²⁷ PAD, pp. 96 and 97.

²⁸ <https://chainreactionresearch.files.wordpress.com/2017/09/farmland-investments-in-brazilian-cerrado-20170920.pdf>

²⁹ The Government of Piauí had established the legal basis for land tenure regularization through State Law 6,127/2011 and State Decree 14,625/2011. The latter provides for the land tenure regularization of *Quilombola* communities while the former focuses on the regularization land tenure of small, medium and large claimants who have been producing on the land for at least five years. In 2013 and 2015, further state laws were passed to facilitate and expedite land tenure regularization processes. PAD, p. 36.

³⁰ PAD, pp. 9 and 10.

³¹ Management Response, p. 5.

³² Management Response, pp. 4 and 5.

³³ Implementation Status and Results Report, Sequence Number 8, December 5, 2019, p. 3.

traditional communities and their representatives to understand their concerns.³⁴ Following explicit requests by these communities to receive support under the Project, the Bank in 2018 agreed that INTERPI could use Project resources to help address the land concerns of traditional communities identified through the CPT.³⁵ Since then, traditional communities, including *Melancias*, *Salto I* and *Salto II*, have benefited from the Project's support.³⁶

36. In 2018, the Project also supported the operationalization of the LTRC to accelerate and improve the land titling process. Its mandate includes: (a) preparing a proposal for revising Piauí's land law; (b) land conflict conciliation; and (c) preparing with INTERPI a State Plan for Land Regularization.³⁷

37. With regard to the overall implementation progress of the land regularization activities during this period, only 258 titles were registered by 2018 against the Project goal of 3,500. At the same time, 1,244 requests for land regularization were filed, totaling 9,264 and surpassing the 2019 target of 9,000.³⁸

38. In the first half of 2019, 220 land regularization processes were opened, reaching a total of 9,484. INTERPI's goal was to reach the final target of 11,000 by the end of 2019.³⁹ In December 2019, 600 land titles for small-scale farmers in the state agrarian reform resettlement of Santa Clara were registered, increasing the number of issued and registered individual land titles to a total of 896.⁴⁰ Also in December 2019, the state land tenure regularization law 7.229/2019, which recognizes traditional communities and includes provisions to formalize their land rights, was adopted. This law was proposed by the LTRC and involved extensive participation of members and representatives of *Quilombola*, traditional and indigenous communities through a participatory process that included 13 public hearings.⁴¹

39. As discussed above, the Bank and the Borrower are currently discussing a restructuring of the Project, which will likely reduce the overall goal for registered land titles to small-scale farmers from 5,000 to 3,000 and may also include an extension of the closing date beyond December 2020.

Areas of Alleged Harm

40. ***Slow Pace of Land Titling Activities.*** The community members who met with the Panel argued that the overall progress of land titling for small-scale farmers has been limited. They explained that while a large number of titles were issued in recent months, approximately 600 of them were registered to the state agrarian reform settlements of Santa Clara, where lands were

³⁴ Management Response, p. 7

³⁵ Per Brazilian law, communities can self-declare as traditional and must demonstrate that they are culturally differentiated groups, have their own forms of social organization, and have specific territorial relations. The CPT provided INTERPI with a list of traditional communities in need of assistance, but the overall total number of traditional communities in the *Cerrado* region of Piauí overall remains unknown. Management Response, p. 4.

³⁶ Management Response, p. 4.

³⁷ Management Response, p.20.

³⁸ Aide Memoire, December 2018, p. 1.

³⁹ Aide Memoire, June 2019, p. 7.

⁴⁰ Management Response, p. 17.

⁴¹ Management Response, p. 19.

previously demarcated and where residents possessed land use rights that could easily be converted into ownership rights. For traditional communities in particular, they stated that while Management and INTERPI have taken some steps since their inclusion in the Project, the overall pace remained slow. Members of these communities feel uncertain as to whether they will receive titles for their lands before the Project's end date. Many are concerned that, as the Bank's support ends, INTERPI will no longer have the necessary human and financial resources to pursue its objectives, causing the land regularization processes to slow down even further.

41. They also fear that once the Project ends, small-scale farmers and traditional groups will have to pay for documentation and procedures required in the land regularization process that are currently covered by the Project. The Panel was told that even today farmers need to travel to Teresina, which is around 700 kilometers away, to submit and validate documents required for the regularization process. The Panel understands that many small-scale farmers cannot afford the cost of the trip or cannot afford to be away from their families for a week, which is the time required for the trip. According to some people the Panel spoke to, these costs increase substantially when there is a conflict affecting the land in question.

42. Community members were also concerned that the capacity-building support the Project provides to INTERPI, which they generally view as a positive measure, could inadvertently benefit large-scale farmers and agribusinesses. They argue that although the Bank's support currently enables INTERPI to conduct land titling activities without a cost for small scale-farmers, there may not be enough resources in the future to support all steps of the process. Large-scale farmers can afford to pay for critical steps of their land titling process, such as mapping and georeferencing of their lands, and may, therefore, be able to obtain titles when small-scale farmers will not. The Requesters thus argue that the slow pace of titling activities further increases their vulnerability, as they may not benefit from the strengthened capacity of INTERPI before the Project's support ends.

43. The Panel notes that during Project preparation, some representatives of family farmers, landless workers, *Quilombola* associations and environmental NGOs expressed concern about the state agency's institutional capacity to implement activities and achieve the expected results within the Project's timeframe. The PAD explains that these concerns were considered in the design of the broad set of activities supported by the technical assistance component of the Project; indicators and related targets have also been carefully selected to ensure that progress could be measured, and incremental results achieved during Project implementation.⁴²

44. Management explained that it understands the Requesters' concerns regarding the slow pace of the land regularization process but argues that it is rooted in complex legal and procedural requirements and uncertainties regarding the ownership of the land claimed and are therefore beyond the Project's control.⁴³ Management is of the view that the pace would be even slower without the Project's support. Management also emphasized that the Project is strengthening INTERPI's capacity, speeding up the land regularization process.⁴⁴

⁴² PAD, p. 17.

⁴³ Management Response, pp. 9 and 10.

⁴⁴ Management Response, p. 8.

45. During its meeting with INTERPI, the Panel learned that before the Project's support, the majority of INTERPI's employees were underqualified to do the work, and many of them were close to retirement. The Panel understands from its meeting with the Bank team that, in addition to the capacity-building measures and resources provided to INTERPI from the outset, it was recently agreed that INTERPI could use Project funds that were left as savings under Component 2.2 to hire 64 additional consultants and procure vehicles and equipment to accelerate the regularization process. The Management Response, however, acknowledges that even with the Project's support, INTERPI's capacity remains constrained and unable to deliver the land regularization titles to small-scale farmers and *Quilombola* communities in a timely manner. SEPLAN mentioned to the Panel that one factor that contributed to the delays was that during the 2018 state elections no titles were registered in compliance with electoral legislation that banned the donation of state lands during the campaign period. According to Management, since the Mid-Term Review, however, there was reassuring progress in the process and the number of registered titles to small-scale farmers increased substantially. In addition, Management argues that INTERPI's transition from paper-to-digital in the land regularization process has further reduced its processing time.⁴⁵

46. INTERPI told the Panel about two main bottlenecks in the regularization process. One of them is the georeferencing requirement, which is very costly and demands high-end equipment. Prior to the Project's implementation and the modernization of CGEO⁴⁶, the state agency responsible for the georeferencing process, it did not have enough resources for staff or equipment. In its meeting with CGEO, the Panel learned that since the Project started it was able to hire 11 consultants and procure vehicles. CGEO explained that before the institutional support provided through the Project it was impossible for it to conduct the required work.

47. The second bottleneck INTERPI identified were the notaries. According to the PAD, only a few notaries had a computerized registration system, and those who had such a system administered it independently, without any supervision by the CGJ.⁴⁷ The Panel notes that during the Project's preparation, Management identified the risk that notaries could refuse to modernize their work practice or enforce the new federal and state regulations, hindering land tenure regularization. The PAD explained that to mitigate this risk, the Project would provide technical assistance to increase the capacity of the CGJ, which is responsible for overseeing the notaries' performance. It further stated that the Integrated Real Estate Registration System for notaries, also supported through technical assistance, is expected to reduce possible bottlenecks and opportunities for corruption.⁴⁸ The Panel understands that the integrated system allows CGJ to monitor notarial activities and offers online services to the public, professionals, and public agencies.

⁴⁵ Management Response, pp. 8 and 9.

⁴⁶ GGEO provides state agencies high-quality cartographic information to design and implement the programs under Project component 1. CGEO is receiving support through training activities and the purchase of equipment, software and satellite images. CGEO supports the integration of processes and protocols for applications received by INTERPI for land tenure regularization and allocation of natural resources, which facilitate applicants' compliance with environmental regulations required for formalizing real property rights. PAD, pp. 44 and 45.

⁴⁷ PAD, pp. 45 and 55.

⁴⁸ PAD, pp. 13 and 14.

48. INTERPI and the Bank team also explained that the land regularization of traditional communities is much more complicated than that of small-scale farmers in agrarian reform settlements, where land is already registered in the name of the state. For traditional communities, the first steps are to characterize the community and demarcate their land claims, followed by a lengthy procedure to identify all existing land rights and detect unregistered state land. Once unregistered state land has been identified, it needs to be registered as state land before it can be regularized in the name of the community. The Management Response refers to the case of Santa Fé, which shows that even when unregistered state land is identified, it can take years to register it under the name of the state.⁴⁹ If the claimed land is federal or municipal, different institutions are in charge.⁵⁰

49. The Panel understands that the land regularization process concerning the traditional communities of *Salto 1* and *Salto 2* appears to be less challenging than that of the *Melancias* community, since there are no private parties claiming ownership of their lands. From its meetings with community members, the Panel understands that the situation in *Melancias* is complicated due to four overlapping claims attributed to parts of the land areas that need to be resolved. The Panel notes that the Project's anthropologist identified a long-standing land conflict that predates the Project and is pending decision from the Bom Jesus Agrarian Court. According to Management, during the team's mission in November 2019, they were informed of another conflict that predates the Project concerning a farmer claiming to own property with a registered title. INTERPI has also identified over 10 parcels recorded in INCRA's cadaster that are overlapping with the areas claimed by the community.⁵¹ The Panel heard that a portion of the contested lands in *Melancias*, located on the left side of the river, appears to be undisputed state lands and that it should be possible to issue the titles for these lands in the near future. However, the dispute concerning the other areas on the right side of the river may need to be resolved through the state judicial system, which could delay the process even further.

50. The Panel understands that the Project agreed to support preliminary activities leading to land regularization of traditional communities – including the preparation of anthropological studies and land demarcation activities – and to start the process through which INTERPI identifies and registers state land. The Panel notes that some of these activities have been completed while others are underway. The Panel also notes the slow pace of titling activities and that under the current restructuring process it is being considered to reduce the initial goal of 5,000 land titles to 3,000.

51. The Panel recognizes the importance of the Project's capacity support to INTERPI and other institutions and the demand for continued support going forward, particularly by traditional communities and other vulnerable groups. The Panel also notes the difficulties members of remote communities face in engaging in the land regularization process, particularly as it requires the submission and validation of documents in Teresina, which is hundreds of kilometers away. The same is true for the accessibility of the Project's grievance redress mechanism. Community members often do not have access to phones, the Internet or other means to request information or file grievances. The Panel recognizes that INTERPI may be establishing a small office in Bom

⁴⁹ Management Response, p. 9.

⁵⁰ Management Response, p. 9.

⁵¹ Management Response, p. 9.

Jesus and believes that a greater presence of staff in the rural areas of the *Cerrado* may contribute to making the regularization process more accessible to vulnerable and poor communities the Project is aiming to support. With regard to disputed land areas that make the regularization process more complex and may need resolution through a judicial process, as well as those lands falling under the mandate of other agencies, the Panel understands that these situations are beyond the Project's control.

52. ***Exclusion of Local Traditional Communities from the Project.*** During its visit to Brazil, the Panel met with members of local traditional communities in the *Cerrado* region who believed that the Project was overall positive and would benefit them. However, they expressed concern about the Project only targeting well-established communities and not traditional and more vulnerable ones. Some questioned how the Project beneficiaries were chosen and why organizations, such as the Pastoral Land Commission, which represents their interests, did not participate in the selection process. The Requesters explained to the Panel that, in their view, the Bank should have given priority to conflict-prone areas.

53. Community members explained to the Panel that due to the expansion of agribusiness in areas surrounding them, they feel increasingly vulnerable and fear being pushed off their lands. They particularly worry about a situation where large-scale farmers and agribusiness companies have land titles and are thus in a more powerful situation to also claim neighboring lands, which traditional communities have lived on and used for many years but for which they cannot prove ownership. The Panel was also told that land values in this region have increased 10- or even 20-fold since 2017, further increasing pressure on land and conflicts. According to the affected people with whom the Panel met, it is therefore critical for traditional communities to be considered a priority in the land regularization process to avoid a situation where others around them obtain land titles first and consequently try to take over traditional lands that have not been titled yet and may wrongly be considered vacant.

54. The Panel learned from representatives of traditional communities that after the World Bank was made aware of their concerns in 2018, Bank staff visited them to understand their situation. The Panel was told that an anthropological study was then conducted confirming that these communities indeed qualified as traditional. INTERPI then initiated the land regularization process in the traditional communities of *Salto 1* and *Salto 2* and *Melancias*. Members of these communities explained to the Panel that they appreciated the Bank team's prompt response and direct engagement with them as well as their consequent decision to include them in the Project. They told the Panel that they were very hopeful that they would receive titles by the second half of this year, based on assurances they received from INTERPI and the World Bank.

55. Community representatives of other traditional communities in the area were also hopeful that they would receive land titles but expressed concern that their lands had not been georeferenced yet. They worry about the duration of the process and whether INTERPI would have the capacity and resources to support them after the Project ends. The Panel understands that INTERPI intends to support other traditional communities identified by the CPT in 2020, beyond *Salto 1* and *Salto 2* and *Melancias*. INTERPI also plans to use Project funds to finance a study to

characterize further traditional communities in the *Cerrado* region of Piauí, which is the first step of the land regularization process.⁵²

56. Management told the Panel that there is a high demand for land titles in rural areas of Piauí, and many segments of the rural population qualify as poor and vulnerable and are in need of support. The Bank team explained that the Project was designed to focus on small-scale farmers in state agrarian reform settlements and selective *Quilombola* communities. The Project's design did not prioritize any specific group among the original beneficiaries, neither did it anticipate any conflicts that would require different Project approaches. Management explained that since the Federal Public Prosecutor's recommendation to INTERPI in December 2017 regarding the land concerns of eight traditional communities, INTERPI and the Bank engaged on a regular basis with these communities to understand their concerns and identify support measures the Project could provide to them, even though they had not been targeted by the Project. Visits to these communities took place in May and December 2018 and in June and November 2019, and Bank staff met with ActionAid and the Pastoral Land Commission in Washington, D.C., in March and October 2019. In 2018, an agreement was reached that INTERPI could use Project resources to start addressing some of the land concerns of traditional communities.⁵³

57. Management also argues that other activities under the Project benefit traditional communities, such as the operationalization of the LTRC and the participatory preparation and dissemination of Piauí's December 2019 land law, which recognizes traditional communities and includes provisions to formalize their land rights. The Project also supported the first regional seminar of the northeast on Traditional Peoples and Communities, where participants identified possible areas of intervention around land regularization and productive inclusion of traditional communities.⁵⁴

58. The Panel understands the Project's initial design and its limitations and acknowledges the team's flexibility and readiness to engage with traditional communities from 2018 onwards. The Panel also recognizes that there is a wide-reaching and critical demand for land titles and regularization from many vulnerable groups, going beyond the beneficiaries targeted under the Project. The Panel also notes that INTERPI intends to support additional traditional communities in 2020 and to use Project funds to identify further traditional communities in the region.

59. ***Project benefiting large-scale farmers and agribusiness companies.*** The Requesters argue that while the land titling process for small-scale farmers, *Quilombola*, and traditional communities has progressed at a slow pace, several agribusinesses and large landowners have been successful in obtaining land titles and regularizing their lands. They shared their opinion that large-scale farmers with titles have an advantage over small-scale farmers and may be able to successfully claim neighboring community lands that are untitled. The Requesters worry that the capacity-building support the Project is providing to INTERPI will ultimately benefit large-scale farmers, who have the financial resources and connections to speed up their land titling process. Thus, traditional communities fear that large landowners may obtain titles at times when INTERPI does not have enough resources to follow through with more complex cases. While the community

⁵² Management Response, p. 8.

⁵³ Management Response, p. 7.

⁵⁴ Management Response, p. 8.

members the Panel met with generally trust INTERPI, they argued that there should be a binding agreement guaranteeing that INTERPI can only use its improved resources and equipment for titling of small-scale farmers and not large-scale farmers after the Project ends. The Panel met representatives of traditional communities who spoke about pressure on their lands from agribusinesses in areas surrounding them; some claimed that they have been repeatedly threatened by them.

60. The Panel also visited lands of one community in the *Cerrado region* where its members have put up a fence to demarcate a part of their land used for agriculture and to keep their animals from roaming too far away and encroaching on lands claimed by large-scale farmers. They told the Panel that their fence had been knocked down repeatedly over the past month by intermediaries, known as *grileiros*, who have replaced the original fence of the community with a fence demarcating the territory they claim to own. According to community members who have lived in this land for three generations, the federal prosecutor and other authorities were notified of this situation and visited the land. An anthropological study was conducted, but the community was never informed about its findings. The Panel learned that this conflict was also taken to the court, which confirmed that the land documents presented by the *grileiros* had been falsified. Despite this ruling, the *grileiros* continue to destroy the community's fences and erect their own, blocking the community's cattle's access to water. Community members also claim they have received several death threats and fear repercussions.

61. The Requesters further explain that agribusinesses and large landowners are expanding their monoculture crops by using chemical products that destroy biodiversity, soil and water. They argue that this agricultural model is one of the primary causes of climate change, which has disastrous consequences for local communities that are losing their lands, crops and subsistence. They argue that the *Cerrado*, with its enormous biodiversity and water sources, is being destroyed.

62. Management in its response explains that it shares some of the concerns raised by the Requesters regarding the historical escalation of land grabbing in Piauí. According to the response, this situation has existed in the state over the past decades but could not be adequately addressed due to INTERPI's limited capacity and difficulties in coordinating with the judiciary.⁵⁵ The Panel understands that it is due to this context and its complexities, that a decision was made to include the land regularization component under the Project. In conversations with the Panel, both INTERPI and the LTRC explained that Piauí was affected by land grabbing in the 1980s and 1990s, but that the situation has much improved. They explained that INTERPI and other agencies involved in the land regularization process are confronted with the consequences of land grabbing, including many cases that are pending in different courts.

63. The Management Response emphasizes that the Project only supports the procedural costs for titling and registering individual and collective titles of small-scale farmers in state agrarian reform settlements and *Quilombola* communities, respectively, and is not supporting INTERPI's activities to issue titles to medium- and large-scale farmers.⁵⁶ The Panel notes that, while regularization for small-scale farmers is paid for by the state, currently using Project resources, large-scale farmers are required to pay for their land titling process. From its meeting with

⁵⁵ Management Response, pp. 12 and 13.

⁵⁶ Management Response, p. 12.

INTERPI, the Panel understands that the amounts paid by the large-scale farmers enter the state budget as revenue; approximately 15 percent is by law later re-invested in INTERPI. Management explains that the Project directly supports the judiciary in order to further strengthen Piauí's overall fight against land corruption and limited transparency through INTERPI's partnerships with the LTRC and GERCOG, through the provision of equipment and consulting services. INTERPI's transition from paper-to-digital also allows for the GERCOG, LTRC and other institutions to access all land regularization processes, including those related to small- and large-scale farms.⁵⁷

64. In relation to the wider claims of the Requesters that the large-scale farms are causing damage to the biodiversity of the land and that their model of agriculture is one of the primary causes of climate change, the Management Response reiterated that the Project neither promotes nor supports the agribusiness model of large farms.⁵⁸

65. According to Management, one of the main sources of irregularities regarding land transactions has been the lack of control over notarial activities.⁵⁹ As explained above, one of the Project's objectives was the adoption of an integrated real estate registration system for notaries, allowing better monitoring of notarial activities. The Panel understands that this system was introduced in 2017 and is being progressively adopted by notaries in the state.⁶⁰

66. According to the Management Response, since the beginning of the Project, INTERPI has registered 7,020 new land regularization requests by small-scale farmers and issued 896 registered land titles for small-scale farmers living in 18 state agrarian reform settlements. The Panel recognizes that, while the Project is not supporting regularization for medium- or large-scale farmers, the Bank asked INTERPI to review these activities considering the concerns expressed in the Request. According to the Management Response, INTERPI has issued 227 titles for medium-scale and large-scale farms between 2016 and 2019, of which 195 (86 percent) are related to land regularization requests that were filed before the Project was approved. The Management Response states that INTERPI is reviewing these 227 transactions to ensure that there are no irregularities or pending disputes.⁶¹

67. The Panel understands that once the Project has reached its closing date, INTERPI will continue the land regularization process according to the new state land law approved in December 2019, which states that the donation of public lands must be in line with the following priorities: (i) regularization of traditional territories; (ii) settlement of rural workers; (iii) land regularization; and (iv) protection of natural eco-systems and preservation of sights of historical, scenic, artistic, archeological and other value.⁶² The law further states that in case of conflict regarding regularization of occupations on vacant or state public lands, the state will prioritize regularization for the benefit of local communities.⁶³

⁵⁷ Management Response, p. 12.

⁵⁸ Management Response, p. 22.

⁵⁹ Management Response, p. 12.

⁶⁰ Management Response, p. 12.

⁶¹ Management Response, p. 12.

⁶² Law 7292/2019, Article 5.

⁶³ Law 7292/2019 Article 15.

68. During its meeting with the LTRC, the Panel learned that efforts are underway to identify conflict areas and to map them out. Piauí, as well as the other states of the MATOPIBA region⁶⁴, will present their findings regarding each of their conflict mapping efforts at an April 2020 forum aimed at preventing land conflicts.

69. ***Concerns about Land Titling Activities for Quilombola and Indigenous Communities.*** The Requesters shared with the Panel their concerns that none of the *Quilombola* communities targeted for land regularization under the Project have received titles thus far. They are concerned about delays in the process, especially in light of the advanced stage of the Project. The Panel also met with some representatives of communities who identify as indigenous and talked to the Panel about the importance of land titling for their communities. The Panel understands that these communities are requesting collective land titles in the name of their communities, instead of individual land titles for each family. The representatives of the communities that identify as indigenous explained that they have not been recognized as indigenous yet but were currently pursuing recognition with the Federal indigenous foundation (*Fundação Nacional do Índio - FUNAI*) and the State of Piauí.

70. The Panel understands that Piauí has 82 *Quilombola* communities certified by the Palmares Foundation, but that the demarcation of their territories has been progressing slowly with only five territories regularized before the start of the Project.⁶⁵ The Management Response explains that regularizing lands of *Quilombola* communities is complex due to state and federal procedural requirements, uncertainties regarding the status and ownership of the lands claimed, as well as the need for inter-institutional collaboration between federal and state agencies. The Panel understands that INTERPI intervenes in INCRA's federal regularization process when INCRA determines that the land claimed by a *Quilombola* community is owned or thought to be owned by the state.⁶⁶ The Management Response lays out in detail the different procedural steps required of regularizing the lands of *Quilombola* communities and issuing collective title to them.⁶⁷ According to Management, the delays in regularizing *Quilombola* lands under the Project are rooted in legal, procedural and inter-institutional requirements and are beyond the Project's control.⁶⁸

71. During its meetings with INTERPI and the Bank team, the Panel learned that the Project is progressing with the regularization of three *Quilombola* communities and that they are

⁶⁴ According to Fian International "An area of around 73 million hectares that expands across the Brazilian states of Maranhão, Tocantins, Piauí, and Bahia", <https://www.fian.org/en/struggle/the-business-of-land-in-matopiba-brazil>

⁶⁵ PAD, pp. 37 and 38.

⁶⁶ Management Response, p. 10.

⁶⁷ The procedural steps required of regularizing the lands of Quilombola communities include: (i) the *Quilombola* community needs to present a "Self-Identification Certificate" issued by the FCP, (ii) INCRA has to prepare an Identification and Demarcation Technical Report to identify and demarcate the requested *Quilombola* territory, (iii) the Report is disclosed at least twice and its disclosure opens a period of 90 days for the presentation of disputes to INCRA, (iv) the Recognition Ordinance of INCRA gets published, which ends the identification stage and recognizes the boundaries of the respective territory, (v) determination if land is federal or state land (and whether it is registered state land) and according mandate of INCRA or INTERPI to proceed, (vi) issuance and registration of collective title. Management Response, pp. 10 and 11.

⁶⁸ Management Response, p. 11.

committed and confident that they will meet the Project's target of issuing titles to these communities by the closing date of the Project.

72. The Panel understands that the Bank Policy on Involuntary Resettlement (OP/BP 4.12) was triggered on a precautionary basis as the regularization of land tenure of *Quilombola* territories could lead to the involuntary resettlement of residents who do not identify as *Quilombolas*, and that a Resettlement Policy Framework was prepared during the Project's preparation.⁶⁹ According to Management, no such displacement has occurred in the context of the Project to date.⁷⁰

73. Regarding indigenous peoples, the Panel learned in its meeting with SEPLAN that there are around 3,000 indigenous peoples in Piauí, but none are yet recognized by FUNAI. The Management Response explains that the Bank's Policy on Indigenous Peoples (OP/BP 4.10) was not triggered during Project preparation since the Bank's screening assessment concluded that no groups in the Project area met the policy criteria. The Panel understands that, during Project design, three groups in Piauí – the Cariri, the Itacoatiara and the Codo-Cabeludo – claimed to be indigenous, but based on research, field visits and consultations with those groups and other stakeholders, Management concluded that they did not meet the policy criteria to be considered indigenous. At the time, it was believed that although these three groups faced high degrees of vulnerability, they did not differ from other poor rural communities in the state in accessing public programs and did not require distinct treatment for the purpose of social inclusion.⁷¹ Management explains, however, that the Project's Environmental and Social Management Framework mentioned the need to assess their socioeconomic conditions and undertake further analysis.⁷²

74. The Panel learned that the State of Piauí is currently in the process of recognizing certain groups as indigenous. During the eligibility visit, the Panel met with three groups who identify as indigenous but are different from the groups mentioned above. The Panel understands that a proposed law⁷³ was submitted to the state-level legislature in December 2019, which would acknowledge self-identification as the determinant for being considered indigenous in the State of Piauí. The Management Response explains that the federal institution in charge of indigenous matters, FUNAI, has not yet recognized any groups in Piauí as indigenous. Because of this evolving situation at the state-level, the Bank has been considering whether to trigger the Bank's policy on a precautionary and proactive basis since 2018. The Panel understands that this issue is currently being discussed with the Borrower as part of the ongoing Project restructuring process. According to Management, since it is not yet known whether any of these groups would be affected by Project activities, an Indigenous People Planning Framework (IPPF) has been prepared, which was consulted upon with representatives of indigenous groups and is currently being reviewed by the Bank.⁷⁴

⁶⁹ PAD, p. 16.

⁷⁰ Management Response, p. 14.

⁷¹ PAD, p. 16.

⁷² Management Response, pp. 14 and 15.

⁷³ Projeto de lei No 54 of December 16, 2019. b

⁷⁴ Management Response, p. 15.

E.3. The Panel's Review

75. The Panel acknowledges the serious concerns of the Requesters. The Panel appreciates their submissions and the productive discussions with them during the Panel's visit. The Panel also acknowledges Management's detailed response to the issues raised and readiness to provide further information.

76. The Panel observes that many individual small-scale farmers and traditional communities in the Piauí state have been engaged in a complex process of gaining a formal title for the land that they have been occupying for many years. The Panel notes that the small-scale farmers were supportive of the land tilting and regularization process under the Project when it started in 2015. The Panel also notes that the Bank responded to a request from the communities in 2018 to include several traditional communities in the Project – including *Melancias*, *Salto I* and *Salto II* – and that the Requesters continue to remain largely positive about the land regularization component of the Project.

77. The Panel also heard that there have been cases where intermediaries, known as *grileiros*, have obtained forged land title documentation that they have subsequently attempted to use to sell the land to other interested buyers of the land, such as large agricultural businesses. The Panel was informed that the main concern of the communities in relation to the Project is the slowness of the land regularization process. Since the beginning of the Project, only 896 titles have been registered against an original target of 5,000 for small-scale farmers by the end of 2020, with a block of approximately 600 titles all being registered in December 2019 in Santa Clara, an already well-established community. In addition, none of the three additional *Quilombola* communities that were originally targeted by the Project, nor any of the more recently added traditional communities, has completed the land regularization process. The Panel understands that part of the reason for the lengthy delay is that a land title can have several overlapping claims that may have been registered with different authorities. The Panel also accepts that delays to land titling occur due to legal requirements or judicial processes that are largely out of the control of the Project and INTERPI. In accordance with the 1999 Clarifications to the Inspection Panel Resolution, the Panel notes that non-accomplishments and unfulfilled expectations do not constitute harm for the purposes of the Panel process.⁷⁵

78. The Panel observed evidence on a small-scale farm in the *Cerrado region* that the delay in receiving a land title is providing the opportunity for an intermediary to destroy an existing traditional community fence and erect their own three-kilometer fence in an apparent attempt to illegally sell a parcel of land. The small-scale farmer indicated that the fence erected by the intermediary is adversely affecting their use of this land for agricultural purposes.

79. The Panel is aware that the environmental concerns associated with large-scale farmers, which were raised by the Requesters, are also being mentioned more generally in the wider region by several NGOs and other interested parties. With regard to the concerns in the Request about a lack of social assistance and the closing of schools, the Panel observes Management's explanation that these concerns do not relate to the Project, and notes that these concerns were not raised during the Panel's visit.

⁷⁵ 1999 Clarification of the Board's Second Review of the Inspection Panel, para. 14.

80. The Panel also notes that the initial risk assessment of the Project highlighted the need to ensure there was sufficient capacity in the government organizations that were tasked to implement the Project. The key organization for implementation of the land regularization component of the Project is INTERPI. Despite the Bank's support for INTERPI, which has included a recent increase in resources, the state land institute has had difficulty in maintaining its teams in the field and only has a base in Teresina, the capital of Piauí, which is over 600 kilometers from Bom Jesus which is the town closest to the Requesters.

81. Another important concern of the Requesters stems from the possible contribution of the Project to land grabbing by benefitting the large-scale farmers and agribusinesses. Considering that the Project only supports the procedural costs for titling and registering individual and collective titles of small-scale farmers in state agrarian reform settlements and *Quilombola* communities, respectively, and is not supporting INTERPI's activities to issue titles to medium- and large-scale farmers, the Panel did not establish a plausible causal link between the Requesters' concern and the Project. Neither was a link to the Project established by the Panel in relation to the environmental concerns that the Requesters raised about the large-scale farmers and agribusinesses.

82. The Panel understands that the federal institution in charge of indigenous peoples matters in Brazil has not to date recognized any indigenous groups in the State of Piauí. As a precautionary measure, the Panel understands that Management has prepared an IPPF, which was consulted upon with representatives of indigenous groups and is currently being reviewed by the Bank.

83. In summary, the Panel concurs that the Bank may have underestimated the complexity of the land regularization process and the associated capacity requirements of INTERPI at the start of the Project. However, while frustrated by the delay, the Requesters have largely remained supportive of the land regularization process and the alleged harm has not occurred as a result of the Bank supporting the land titling component of the Project. In addition, the Panel recognizes the Bank has added some additional traditional communities into the Project and prepared an IPPF as a precautionary measure in case some of the Project-Affected Persons are confirmed as indigenous.

F. Recommendation

84. The Panel notes that the Requesters and the Request meet the technical eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications. However, considering: (i) the inclusion of traditional communities among the Project's land regularization coverage in 2018; (ii) the slow pace of land titling in traditional communities are due to factors outside the Project's control; and (iii) the absence of a plausible link between the alleged land grabbing and the Project activities, the Panel does not recommend an investigation.

85. The Panel notes that this recommendation does not preclude the possibility of a future Request for Inspection based on new evidence or circumstances not known at the time of the current Request.

86. If the Board of Executive Directors concurs with this recommendation, the Panel will advise the Requesters accordingly.

ANNEX I

REQUEST FOR INSPECTION

Request for Inspection

(Unofficial English Translation)

This document is a translation from the Portuguese original. In case of discrepancies between the translated version and the original version, the original version shall prevail.

CLAIM FORM
(REQUEST FOR INVESTIGATION)

To: Executive Secretariat, Inspection Panel, World Bank, MSN:MC 10-1007
1818 H Street NW, Washington DC 20433, USA. Fax: (202) 522-0916
E-mail: ipanel@worldbank.org

Section 1: Complaint

1. What damage do you believe that a project financed by the World Bank has caused, or may yet cause to you or your community? Please describe the damage in as much detail as possible.

The rural communities who have lived for many generations in the *Cerrado* (savannahs) region of Piauí have suffered expulsion from their lands, destruction of their means of support, pollution of the soil and sources of water, and threats from land grabbers and agribusiness firms as a consequence of the land speculation encouraged by international financial companies and major (UNDER) development projects. Because of this scenario, the World Bank created the project “Piauí: Pillars of Growth and Social Inclusion,” to finance actions by the Piauí state government in the fields of education, social assistance, health, and land tenure regularization. With respect to land tenure regularization, the Piauí: Pillars of Growth and Social Inclusion project was to have as one of its objectives a guarantee of the land rights of rural communities. However, the project is now well underway, has reached an advanced stage, and no community has had its land regularized. Only communities that were already well-established have had their areas regularized. And the local traditional communities have been left out of the project. Hundreds of communities have been affected by the expansion of agribusiness in the region, and even those best able to organize, who have already sent letters to the World Bank and petitions to INTERPI, are dealing with the sluggishness and near stagnation of the land tenure regularization process as it applies to their areas. This uncertainty leaves communities vulnerable, since the project promotes regularization only for agribusiness and the large landowners who are expanding their crops, (monoculture), by using chemical products that destroy biodiversity, soils, and water. We know that this agricultural model is one of the primary causes of climate change, which has disastrous

consequences for local communities that are losing their lands, their crops, and their subsistence, while it also has catastrophic effects on society as a whole.

2. What is the name of the World Bank project?

“Piauí: Pillars of Growth and Social Inclusion”

3. Where is the World Bank project located?

In the state of Piauí, Brazil.

4. Do you reside in the project zone?

Yes.

5. Have you previously conveyed your concerns to World Bank management? If so, please provide details about these communications and explain why you are not satisfied with the response from management.

Yes, meetings were held with representatives of the World Bank and from INTERPI. Letters have been sent (copies attached), and partner organizations have already met with representatives of the World Bank in Washington, but so far the work of surveying the territory and conducting the anthropological study has been done in only two communities. All the communications gave promises that progress would be made, but at every new meeting or even reply from the World Bank countless allegations are made by INTERPI, but progress in the work has not been observed, since there is sluggishness in the process of regularization of our areas. Even knowing that we are daily suffering threats and violations against our lives and the biodiversity of our very environment. It is absolutely essential that someone take a close look at this situation since we are vulnerable in the presence of agribusiness and other land and agricultural development projects. Furthermore, we are dealing with a lack of public safety and social assistance. Our schools are closing. We are afraid of what might happen in our communities and to the physical safety of each man or woman who lives in the communities of our *Cerrado*.

6. If you can, please list the Bank policies and operating procedures that you believe are being violated.

The World Bank says that its policies are intended to promote social welfare, but this project sparks insecurity in rural communities that are losing their means of support because of the advances made by agribusiness, which is now legalized with World Bank funds. This region has a history of land grabbing, which is now made legitimate by the actions of the state, using World Bank resources, while communities are losing their lands and the Cerrado, with its enormous biodiversity and water sources, is being destroyed. Furthermore, the project calls for regularization of the communities, but none of them have seen the work be completed.

7. Do you expect any kind of retaliation or threats because you sent this complaint to the Inspection Panel?

Yes, because dialogue between the state and the communities is practically nonexistent. We are afraid that after this letter that direct relationship between the state and the communities will be even more limited.

8. Are you a petitioner or a representative of a petitioner?

Petitioner: () Representative of a petitioner or of a community (X)

9. Would you like your name and contact information to be kept confidential?

(The Inspection Panel will not disclose your identity without first obtaining your consent.)

Yes () No (x)

10. Names of Petitioners: [handwritten, transcribed as best as possible]

Petitioner 1

[Redacted]

Petitioner 2



Petitioner 3



We, the undersigned, request the Inspection Panel to investigate the damages described above. Signatures (additional signatures may be sent on an attached document)

REMARKS:

- Please attach supporting documents if available.
- If you have problems filling out the form, please contact the Inspection Panel by Email (ipanel@worldbank.org) or by telephone (202-458-2000)

INTERPI OFFICIAL COMMUNICATION No. 375/2018

Teresina, July 27, 2018

Mr. Martin Raiser
World Bank Country Director – Brazil

Dear Sir,

We respectfully inform you that we have learned of the letter that certain Brazilian and international entities sent you on June 4, 2018 referring to the status of some communities, said to be traditional, in the *cerrados* (savannahs) region of the state of Piauí, specifically in the so-called MATOPIBA region, newest site of agricultural expansion in Brazil.

Knowing that your distinguished institution is interested in the issue in view of the financing contract now in effect that encompasses land tenure regularization activities in the mentioned region being carried out by the government of Piauí through the Piauí State Land Institute (INTERPI) (Loan No. 8575-BR, dated April 27, 2016), we wish to explain the actions taken by INTERPI in response to demands from the communities of the *cerrados* region of Piauí that were not addressed initially by the land tenure regularization program undertaken with World Bank support.

First, it should be pointed out that the signatories to the new letter persist with the **“requirement” that the World Bank immediately suspend financing of the Project entitled Piauí: Pillars of Growth and Social Inclusion**, as being a determination by the Brazilian Public Prosecutor’s Office (MPF) made in Recommendation No. 03/2017 by the MPF office in Corrente/PI and forwarded to INTERPI on December 19, 2017 [REDACTED]

Actually the aforementioned document **recommended suspension of the regularization process ONLY when it involves areas where evidence indicates that they were occupied by traditional peoples and communities**. That interpretation was ratified by the MPF in a document sent to INTERPI on March 15, 2018 [REDACTED]

The first measure, adopted after receipt of MPF Recommendation No. 03, was to suspend the fee-based regularization of areas situated in the so-called *baixões* (lowlands) of the Piauí *cerrados* where, as a rule, the communities composed of family farmers of the region are located, communities that could potentially be characterized as traditional. This suspension was formalized by the Director General of INTERPI on May 21, 2018, by Ordinance No. 062/2018 [REDACTED]

On April 17, 2018, the governor of Piauí and the Office of the Inspector General of the State Secretariat of Justice signed a **Joint Ordinance, establishing the Commission for Review of Land Tenure Legislation in the state of Piauí**. That committee was composed of three representatives from INTERPI and three from the Disciplinary Board of the Courts. Several meetings have been held since then. One set of minutes was kept and is being reviewed, to be completed in the second half of July 2018 so it can be posted for public information beginning in August 2018.

On the same day, the Land Tenure Regularization Center was inaugurated as an agency of the Office of the Inspector General of the State Secretariat of Justice. It is intended to create a Conciliation Chamber that will work to mediate land tenure disputes in the state of Piauí, produce information about the land ownership structure and conduct a mapping of the land conflicts in Piauí, as well as in the production,

working jointly with INTERPI, of a State Land Tenure Regularization Plan and a proposal for revision of Land Tenure Legislation of the state of Piauí.

On May 21-24, INTERPI Operations Director Jailton Ferreira Chaves took part in visits to the communities that were identified in the MPF recommendation, situated in the [REDACTED]. These visits were led by an anthropologist from the MPF for the purpose of verifying whether the mentioned communities could be considered as traditional. The trip report has not yet been completed and sent to this office.

On June 7, 2018, an anthropologist was retained by this state lands institute to conduct summary studies during a one-week field visit to the *quilombolas* (communities of descendants of runaway slaves) that are the object of the program and to the eight communities mentioned in MPF Recommendation No. 03, of December 17, 2017. Work “on site” in those communities will begin on August 6, 2018.

INTERPI attended various meetings at which representatives of the *Comissão Pastoral da Terra* (CPT) were present. That is the principal organization supporting those traditional communities. Also attending were representatives of the community itself and representatives of the World Bank from the Bank’s missions to Piauí made in March and June 2018. At those meetings, as has certainly already been reported to you by the Bank representatives who attended them, it always seemed clear to us that there is a demand that those communities be included in the objectives of the State Land Tenure Regularization Program.

Based on what was stated at those meetings, we presented the World Bank team, during its most recent mission, which ended on June 14, 2018, a proposal for inclusion in the Project entitled “Piauí: Pillars of Growth and Social Inclusion” of the communities mentioned in MPF Recommendation No. 03, namely

[REDACTED]

At a meeting held on June 13, 2018, attended by representatives of the CPT and World Bank specialist [REDACTED], based on information they presented, INTERPI chose as its priority tasks in the region of the Piauí *cerrados*, the technical and records surveys to be done in the communities of [REDACTED], given the work already done by INTERPI in the [REDACTED] area of that community.

As for the [REDACTED], which includes all of the [REDACTED] community and part of [REDACTED], INTERPI has already completed its administrative discriminatory action and requested that the Real Estate Registry of [REDACTED] record the area in the name of the state of Piauí, which will permit regularization of those communities. Planning by INTERPI calls for trips to be made by technical teams to perform georeferencing of the areas of the two communities, as well as registering the families. The final task of issuing collective or individual titles will not occur until after an understanding is reached with the Brazilian Public Prosecutor’s Office.

Regarding the communities of [REDACTED] teams from INTERPI will visit those areas in August 2018, gathering evidence to identify the ownership of same, performing georeferencing tasks when necessary, in order to permit launching an administrative discriminatory action, if dealing with *terras devolutas* (public lands) and analyzing the ownership chain if ownership titles happen to be found in those *glebas*. They will also register the families. The final task of issuing collective or individual titles will not occur until after an understanding is reached with the Federal Prosecution Office.

It must be pointed out that regularization of the ownership in communities said to be traditional does not depend only on INTERPI. The cases of communities situated on private lands and/or lands where the disputes as to ownership have been taken to court are examples on which INTERPI cannot act or where its action is prejudiced, depending on the actions taken by other entities.

It is important here to emphasize that existing legislation about traditional communities governs action by federal agencies in indigenous communities and *quilomboas*. In the former case, the National Indian Foundation (FUNAI) is responsible and in the latter case it is the Brazilian National Institute for Settlement and Agrarian Reform (INCRA). This means that the work INTERPI is doing is always supplementary, limited to the identification, georeferencing and donation of state lands that might be identified within the territory of the quilombolas and indigenous communities. **In other words, INTERPI has no jurisdiction over the regularization of land titles in those communities. Its efforts made so far are always subordinate to the actions by FUNAI and INCRA.**

As regards the communities known as *ribeirinhas* (riparian) that, in the opinion of the MPF, should be treated as traditional communities, legislation does not state who has the responsibility for identification, georeferencing, purchase or donation of the lands in those communities. Similarly, we believe that the authority to identify the cultural identity and other elements that cause those communities to be defined as traditional does not lie with the Government of Piauí but with the Federal Government.

Given the risky situation in which the aforementioned communities find themselves, we propose that INTERPI arrange visits by the anthropologist, retained by this office, in order to identify potential traces of evidence that may suggest they are traditional, so as to offer that information to the Federal Government (INCRA or FUNAI, as the case may be). At the same time, state-owned public lands can be identified on which people are living or pursuing activities related to their mode of living, so that they can be georeferenced, described in detail, registered and donated to the families, collectively or individually, according to their wishes.

On June 18, 2018, two pickup trucks were donated and delivered to the Special Group for Land Tenure Regularization and Combating Land Fraud (GERCOG) that is in charge of the battle against land grabbing in this state. The vehicles were purchased with Technical Assistance funds under the project, financed by the World Bank. The trucks will assist the work done by the GERCOG developers in the *cerrados* region, inasmuch as those authorities must go to the sites to see the actual status of each case of land grabbing, especially those that threaten the integrity of the territory of the traditional communities.

On June 27, 2018, we held a meeting with representatives of the Landless Workers Movement (MST) – Office of the Coordinator for Piauí, and of the Federation of Agricultural Workers of Piauí (FETAG/PI) who, along with the CPT, are the principal supporters of the social movement in favor of workers and small farmers in Piauí. At that meeting we presented our proposal for inclusion of the Piauí *cerrados* communities, mentioned in the preceding paragraph, as part of the project target. There were no rebuttals or challenges in response.

We discussed the risk that the project might be suspended because of letters sent to the World Bank, an action headed by the CPT, which would jeopardize all 5,000 (five thousand) of the families that are the subject of the land titling program, inasmuch as the actions taken by INTERPI today are based on funds from the bank loan and the absence of indications that the program is contributing to land grabbing in Piauí, as the March 2018 World Bank Mission confirmed.

Representatives made it explicit at the meeting that FETAG and the MST support the Land Tenure Regularization Program now in progress. The representative of the MST made it clear that he did not sign the second letter sent to the World Bank and does not agree with petition for suspension of financing. That

those entities support the program was understood, and they are also acting as overseers of the INTERPI activities. Both groups promised to continue monitoring program actions and to attend meetings in the communities where land is to be regularized, coordinated by those entities, among their other activities.

We also held a meeting with the Collegiate Coordination unit of the Pastoral Land Commission (CPT) on July 26, 2018 at which it became clear to us that the desire of the communities and social movements is not suspension of the land tenure regularization program administered by the Government of Piauí but rather the inclusion of those communities in that program so as to be able to more effectively protect the land on which they live and produce. At that meeting we also presented to the CPT coordinators the list of communities that will be included in the program and said that the next technical trip to perform the work to regularize titles in the communities in the Piauí *cerrados* would be made on August 6, 2018 and include [REDACTED]

[REDACTED] The latter was the subject of a new claim by the CPT, because of conflicts occurring in that area [REDACTED]

These three entities are the most representative of the social movement for land in Piauí. The CPT is the most active in the *cerrados* region. With this, we close the first cycle of discussions about INTERPI's work with entities that represent the social movements in the countryside. The next step will be a meeting with entities that represent the producers who farm the land in the Piauí *cerrados* region.

Also on July 26, 2018, the Director General of INTERPI went to the Episcopal Palace in Teresina for a meeting with the Catholic bishops from all the dioceses in the state of Piauí, together with other State Secretaries of the state of Piauí. There the representatives of the Church presented complaints and proposals on the topics of agrarian reform, environmental sustainability, the effects of climate change, and other subjects, supported by a document produced at the 14th Pilgrimage of the Land sponsored by the Catholic Church in Piauí. We had the opportunity to make a report on the work done by INTERPI under the Land Tenure Regularization Program, which was well received as it responds to the demands made at the meeting.

In an attempt to more effectively resolve disputes involving public lands in the Piauí *cerrados* region, we are working on the following activities, with support from the project, in addition to those already mentioned above.

(1) **Study to identify the traditional communities in the Piauí *cerrados*** – Terms of Reference being drafted and expected to be ready in August 2018 so we can open the bidding process in September 2018.

(2) **Contracting for a study to identify the public lands (*terras devolutas*) in the state of Piauí in order to bring attention to the collection of taxes on lands by the Government of Piauí through INTERPI**- Terms of Reference being drafted and expected to be ready in September 2018 so we can open the study for bids in October 2018;

(3) **Preparation of a manual of Land Tenure Regularization procedures** – being done under a partnership with the Land Tenure Regularization Center;

(4) **Structuring of the Land Tenure Regularization Center** INTERPI is finishing the Terms of Reference for the contracting of two agronomists, two surveyors, an expert in georeferencing and an attorney. These will comprise the center's technical team so as to enable the center to prepare expert reports and handle other field work in order to answer questions raised by the judges in court cases pertaining to land ownership disputes.

(5) **Strengthening of GERCOG** – the purchase of software and equipment will make the work of combating land fraud in the Piauí *cerrados* region more effective.

(6) **Pilot Project on Sweep Georeferencing** INTERPI proposes to perform, with Project support, a georeferencing procedure using a sweeper as a pilot effort in the municipality of [REDACTED], in Piauí. This would be a means of expanding the land tenure regularization process in the southern part of the state, modifying the model now being used by this agency. Using the sweeper mode would regularize titles on all the real estate in the municipality that does not yet have an ownership title, departing from the ad hoc method now used by INTERPI sporadically in response to a demand from a family farmer or a medium-sized or large farmer who occupies public lands. This would be a model for ACTIVE action, different from the current mode, which we would classify as PASSIVE.

All the foregoing comments were made with the intent of properly informing you about the actions taken by the government of Piauí/INTERPI regarding the land tenure issue in the Piauí *cerrados*.

We emphasize that INTERPI is always open to dialogue with those communities, with the social movements, with the farmers and all the entities associated with the land tenure issue, so as to do the best job possible in the context of the State Land Tenure Regularization Program.

Very truly yours,

[REDACTED]
Secretary of Land Tenure Regularization
Director General of INTERPI

signed digitally by

[REDACTED] 2018.07/27 at 2:29:38 p.m.

The World Bank's land program in the State of Piauí, Brazil, is a license for land grabbing

International Statement

21 March 2018

The World Bank is financing a land titling, or “regularization” program in the Brazilian State of Piauí, where large areas of land have been grabbed from local communities and illegally occupied by agribusiness. Local communities, including communities of descendants of runaway slaves (*quilombolas*) as well as indigenous peoples, are being violently displaced from their traditional lands and face contamination of water and soils, increasing violence against community leaders, deforestation and loss of biodiversity.

The escalation of land grabbing in Piauí and the northeastern part of the Brazilian *Cerrado* is directly related to the inflow of hundreds of millions of dollars from foreign pension funds, university endowments and other financial companies that are acquiring farmlands by way of Brazilian intermediaries. Internal documents show that the World Bank is aware of the extent of land grabbing in the area.

Through a 120 million USD loan, the World Bank thus supports a land titling program that risks sanctifying these land grabs and paving the way for a new rush of 'legalized' land grabbing, with more catastrophic social and environmental consequences.

As the World Bank hosts its annual Land and Poverty Conference in Washington D.C., from 19-23 March 2018, Brazilian social organizations and their international partners and supporters are calling for the Bank to suspend its support for the land titling program in Piauí and to respond to the demands of affected communities.

The World Bank project contains no concrete safeguards to ensure that it actually secures people's tenure rights against dispossession by local agribusiness and speculators, and to guarantee that it does not formalize the dispossession of communities in the context described above. As such, the project does not close the gaps of the state of Piauí's law on land regularization and is not in line with the *UN Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (Tenure Guidelines).

The Brazilian Public Prosecutor's Office intervened on December 18, 2017 by issuing a formal recommendation to the World Bank to suspend the land program and to adopt measures to remedy the violations of the land rights of traditional peoples and communities that have already occurred.¹ The World Bank has yet to respond.

We call upon the World Bank to

- ❖ Comply with the recommendations contained in the Brazilian Public Prosecutor's Office's letter by immediately suspending the project “Piauí: Pillars of Growth and Social Inclusion” and the land regularization/titling process in Piauí.

¹ www.fian.org/fileadmin/media/publications_2017/Letters_and_statements/Recomendacao_MPF.pdf.

- ❖ Respond to the demand of affected communities – which is supported by the Public Prosecutor’s Office – to establish a dialogue round table with the objective of assessing the effects of the World Bank-financed land regularization program in Piauí, in order to prevent and remedy violations and to put in place mechanisms, which guarantee local communities control over their territories as well as effective remedies, including the restitution of community lands. The round table should involve representatives of the affected communities, the agrarian court of the state judiciary (Vara Agrária da Justiça Estadual), the Land Institute of Piauí (Instituto de Terras do Piauí, INTERPI), the state and federal offices of the Public Prosecutor, the State Parliament of Piauí, FAO and support groups from civil society. This dialogue round table should be convened by FAO as the leading UN agency for the implementation of the *Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests*.
- ❖ To publicly disclose how the land titling/regularization project in Piauí and any other loans, projects and operations the World Bank is involved with, are in compliance with the *Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests*.

This statement is endorsed by the following organizations and networks:

Ação Acadêmica para o Desenvolvimento das Comunidades Rurais, Moçambique
 ActionAid Brazil
 ActionAid USA
 Amazon Watch
 Articulação Nacional das Pescadoras, Brazil
 Articulação Piauiense dos Povos Impactados pelo MATOPIBA, Brazil
 Associação dos Advogados dos Trabalhadores Rurais, Brazil
 Associação dos Povos Indígenas do Brasil
 Campanha Nacional em Defesa do Cerrado, Brazil
 Caritas Piauí, Brazil
 Centro de agricultura alternativa do Norte de Minas Gerais, Brazil
 Centro Internazionale Crocevia, Italy
 Coletivo das Comunidades de Fundo e Fecho de Pasto, Brazil
 Comissão de Povos Originários Populações e Comunidades Tradicionais do Fama 2018, Brazil
 Comissão Nacional de Fortalecimento de Reservas Extrativistas e dos Povos Extrativistas Costeiros e Marinheiros, Brazil
 Comissão Pastoral da Terra (CPT), Brazil
 Community Alliance for Global Justice, USA
 Conselho Indigenista Missionário (Cimi), Brazil
 Conselho Pastoral dos Pescadores, Brazil
 Coordenação Nacional da Articulação das Comunidades Negras Rurais Quilombolas, Brazil

Development and Peace - Caritas Canada
Eco Ruralis, Romania
Environmental Rights Action/Friends of the Earth Nigeria
Family Farm Defenders, USA
Federação de Órgãos para Assistência Social e Educacional (FASE), Brazil
FIAN Belgium
FIAN Brasil
FIAN Germany
FIAN International
FIAN Sweden
Focus on the Global South
Friends of the Earth US
Global Exchange, USA
GRAIN
Grassroots Global Justice Alliance, USA
Grassroots International, USA
HEKS/EPER, Switzerland
Housing and Land Rights Network – Habitat International Coalition
Inclusive Development International, USA
Institute for Agriculture and Trade Policy, USA
Instituto Mais Democracia, Brazil
Instituto Sociedade Proteção e Natureza, Brazil
International Indian Treaty Council (IITC)
Just Foreign Policy, USA
La Via Campesina
Maryknoll Office for Global Concerns, USA
Masifundise, South Africa
Movimento dos Trabalhadores Rurais Sem Terra (MST), Brazil
Movimento Interegional das Quebradeiras de Coco Babaçu, Brazil
Movimento Trabalhadores Camponeses, Brazil
Movimentos dos Pescadores e Pescadoras Artesanais, Brazil
National Family Farm Coalition, USA
Observatório das Nacionalidades, Brazil
Presbyterian Ministry at the United Nations, Presbyterian Church, USA
Rede Pantaneira, Brazil
Rede Social de Justiça e Direitos Humanos, Brazil
Sierra Leone Network on the Right to Food
Solidarity Sweden - Latin America (SAL)

Terra Nuova, Italy
Universidade Estadual do Ceará (UECE), Brazil
US Food Sovereignty Alliance (USFSA)
WhyHunger, USA
World Forum of Fisher Peoples (WFFP)

CC:

Mr. Jorge Familiar, Vice President for Latin America, World Bank: asears@worldbank.org

Mr. Otaviano Canuto, Executive Director for Brazil, World Bank: eds15@worldbank.org

Mr. Martin Raiser, Country Director for Brazil, World Bank: informacao@worldbank.org

Ms. Marcela Villarreal, Director of the FAO Partnerships and South-South Cooperation Division (DPS): marcela.villarreal@fao.org

Mr. Julio Berdegué, Regional Representative of the FAO for Latin America and the Caribbean: julio.berdegue@fao.org, FAO-RLC@fao.org

Mr. Alan Jorge Bojanic, FAO Representative in Brazil: alanjorge.bojanic@fao.org, FAO-BR@fao.org

Ministério Público do Estado do Piauí: pgj@mppi.mp.br

Corregedoria Geral de Justiça do Estado do Piauí: corregedoria@tjpi.jus.br

Procuradoria Geral da República (PGR): raqueldodge@mpf.mp.br; deborah@mpf.mp.br; lucianomaia@mpf.mp.br

Mr. Marcelo Becerra and Mr. Andre Loureiro, Team Leaders of the Project “Piauí: Pillars of Growth and Social Inclusion”: mbecerra@worldbank.org and aloureiro@worldbank.org

Ms. Hilal Elver, UN Special Rapporteur on the Right to Food: srfood@ohchr.org

Note: The World Bank's support for land titling or "regularization" in the state of Piauí

On 21 December 2015, the World Bank approved a 120 million USD loan to the government of Piauí. The loan agreement for the project "Piauí: Pillars of Growth and Social Inclusion"² (project no. P129342) was signed on 27 April 2016 and the project will run until 31 December 2020 with the stated objective of benefitting "the state's rural poor by increasing and improving services in education, health, agriculture and water resources."³

One of the components of the project is the regularization of land in Piauí.⁴ Subcomponent 1.4 of the loan aims at the "strengthening real property rights," through the support to the implementation of Piauí's Land Tenure Regulation Program. This program is set forth in the Piauí State law 6.709 from 28 September 2015 on regularization of ownership and colonization of lands belonging to the state of Piauí, which have been characterized as vacant. The law is accompanied by Decree 1.634/2015, which sets as objectives until 31 December 2019 the issuing of 11.000 titles for family farmers, the regulation of six *quilombola* communities and the privatization (through selling and leasing) of 4 million hectares of land.⁵ The World Bank project has set the target of 5000 land titles to be delivered by the end of 2019. In addition, the project aims at issuing land titles to eight *quilombola* communities.

The World Bank justifies its support to the regularization program by arguing that the lack of formal land titles is a major obstacle to increase income of rural communities in a context of widespread rural poverty in Piauí. According to project documents, the "land regularization through the provision of full land tenure titles to small farmers contributes to social and productive inclusion because land: (i) is their primary means for growing crops that can improve food security and quality, reducing vulnerability to hunger and generating livelihoods; (ii) constitutes the main vehicle for investing, accumulating wealth, and transferring resources between generations; and, (iii) provides farmers with a basic social safety net. Furthermore, formal land ownership facilitates access to credit and subsidized financing lines, such as the National Program for Strengthening Family Agriculture (PRONAF) and National Rural Housing Program (PNHR)."⁶

As a matter of fact, the World Bank has been supporting land regularization and formalization in Piauí for many years. The current project was approved together with another loan of 200 million USD ("Piauí: Productive and Social Inclusion", project no. P146981) with similar components and which ended on 31 August 2017.⁷ Both loans/projects are the continuation of a previous project of 350 million USD ("Piauí: Green Growth and Inclusion", project no. P126449, approved on 6 March 2012 and closed on 30 March 2013⁸), which also included the issuing of tenure titles as one of its pillars.

² <http://projects.worldbank.org/P129342/?lang=en&tab=overview>,

³ See the World Bank's press release: <http://www.worldbank.org/en/news/press-release/2015/12/21/brazil-more-social-inclusion-productivity-benefit-piaui-rural-poor>.

⁴ Other components concern secondary education, access to health services, registration of ground water users, participation of farmers in value chains and technical assistance to support Piauí's public management

⁵ Law: <https://www.legisweb.com.br/legislacao/?id=303923>, decree: <https://www.legisweb.com.br/legislacao/?id=313412>.

⁶ Project Information Document (PID), <http://documents.worldbank.org/curated/en/423181468213891806/pdf/PID-Print-P129342-12-01-2015-1448983947229.pdf>.

⁷ <http://projects.worldbank.org/P146981?lang=en>.

⁸ <http://projects.worldbank.org/P126449/piaui-green-growth-inclusion-dpl?lang=en>, <http://www.worldbank.org/en/news/press-release/2012/03/06/world-bankbrazil-more-200000-poor-families-benefit-green-growth-social-inclusion-policies-piaui>.

According to the World Bank's most recent Implementation Status & Results Report (dated 17 January 2018), so far 258 beneficiaries have received registered land titles under the current loan, while another 336 beneficiaries were in the final stages of receiving their title before the end of 2017, bringing the total so far to 694 beneficiaries with a received a registered land title. This means that the project target of 2000 land titles issued in 2016 and 2017 (cumulative) was not achieved. According to the same report, there are currently 7,937 requests filed by small-scale farmers for land titles through the state program and eight teams in place to "execute land tenure regularization activities." Five *quilombola* communities have further received land titles under the project.⁹

Land grabbing and environmental destruction in Piauí

The World Bank project is intervening in a region, which is currently facing high degrees of land grabbing and land-conflicts, which are linked to the expansion of monocultures into the region known as MATOPIBA, and the Brazilian *Cerrado* more generally. Extensive research by CSOs and an international fact-finding mission, which took place in September 2017, has documented severe impacts on local communities and the ecosystem. Loss of land, food insecurity, disputes over water use and pollution of water, violence against community leaders, deforestation and loss of biodiversity through the destruction of the *Cerrado* biome are among the most critical impacts. The research has also documented the links to the ongoing land grab and transnational financial actors, in particular pension funds in the USA and Europe.

The expansion of soy monocultures into the *Cerrado* has led to an explosion of land prices and speculation. Companies and individual investors are making a business with land, by enclosing areas that are without property title and creating farms/*fazendas*, which are then sold. Fraud and falsification of land titles is common (*grilagem*) as land grabbers seek to legalize the appropriation of lands, including those that have been occupied and used by local communities over generations.

Protecting and securing people's land rights or legalizing grabs?

In this situation, the World Bank project has a high risk of further deteriorating the situation, by legalizing illegal and/or illegitimate appropriation of community lands and triggering further dispossession and environmental destruction. Project documents recognize that "high global commodity prices have driven the exploitation of the *Cerrado* biome for commercial agriculture, generating an unorganized occupation of large areas of land, frequently with little or no regulation. [...] Vulnerable communities on public lands, including both Quilombola settlements and smallholders engaged in family agriculture, are at risk of losing some or all of their land rights if their occupation is not regularized. In addition, the disorderly and illegal occupation of rural land (*grilagem*) is common, especially in the *Cerrado*, generating tax losses and other adverse social, environmental and economic effects."¹⁰ According to the World Bank, the regularization of local communities' occupation through the state's Land Tenure Regulation Program should protect them against losing their land.

⁹ Implementation Status & Results Report. Piauí: Pillars of Growth and Social Inclusion Project (P129342), 17 January 2018. <http://documents.worldbank.org/curated/en/255531516201161985/pdf/Disclosable-Version-of-the-ISR-Piaui-Pillars-of-Growth-and-Social-Inclusion-Project-P129342-Sequence-No-05.pdf>.

¹⁰ Project Information Document (PID), <http://documents.worldbank.org/curated/en/423181468213891806/pdf/PID-Print-P129342-12-01-2015-1448983947229.pdf>.

However, the project contains no concrete safeguards to ensure that it actually secures people's tenure rights against dispossession by local agribusiness and speculators, and to guarantee that it does not formalize the dispossession of communities in the context described above. It also has no clear focus on small-scale peasant communities, by including also explicitly "medium and large farmers" into the regularization process.¹¹ The project further (implicitly) focuses on the issuing of individual titles, without giving due consideration of other – collective – forms of tenure that are common in many communities in the *Cerrado*. Finally, the project contributes to the privatization of public land in a very sensitive ecosystem/biome, which is at great risk due to continued deforestation.

As such, the project does not close the gaps of the state of Piauí's law on land regularization and is not in line with the UN Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (Tenure Guidelines).¹² Indeed, while the state law mentions the observance of the social function of property (art. 14 §1, 2) and the preservation of the environment as criteria for regularizing property, and further stipulates the need to reconcile the regularization of state public lands with the national agrarian reform plan (art.28) while prioritizing the attribution of public lands with the objectives of settling rural workers and protect natural ecosystems (art. 32), it does not establish a clear regulatory framework for governance of land, fisheries and forests, which prioritizes the realization of the human right to food and other human rights of marginalized groups (paragraph 1.1 of the Tenure Guidelines). The law also lacks a gender equity approach, which is one of the main principles of responsible governance (Tenure Guidelines, paras. 3B4, 4.6, 5.3, 5.4, 5.5). It further lacks a participatory approach of the most affected groups in the process of identifying the legitimate tenure rights of traditional communities living on public lands¹³ (see Tenure Guidelines paras. 7.3 and 8.2), which takes into account existing power relations (see Tenure Guidelines paras. 3B6 and 9.9). In addition, the law (implicitly) prefers tenure rights in the form of individual/family property rights when it comes to regularizing the ownership of traditional communities and does not explicitly state the need to recognize collective and customary forms of tenure of land, fisheries and forests. The Tenure Guidelines emphasize the need to provide appropriate recognition and protection of all legitimate tenure rights, including the legitimate tenure rights of indigenous peoples and other communities with customary tenure systems (para. 9.4). They also specifically underline the need for states to recognize and protect collectively managed lands and their related systems of collective use and management, including in processes of allocation (para. 8.3).

Stop the land regularization process in Piauí

Taking into account the critical situation in the *Cerrado* and the risk of formalizing land dispossession through the land regularization process, the Brazilian Public Prosecutor's Office formally recommended on 18 December 2017 to immediately suspend the application of the state law no. 6.709/2015 until measures have been taken to ensure the possibility of collective titling for communities and ensure their free, prior and informed consent regarding land attributions. The Prosecutor's Office further recommends to identify and document the local traditional communities' forms of tenure and use of natural resources through an anthropologic study as well as consultations with affected communities. The

¹¹ Ibid.

¹² Food and Agriculture Organization of the United Nations (FAO) (2012), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

¹³ for example, Article 8, which establishes the Special Commissions for regularization does not include a mechanism of participation of traditional communities in this process.

recommendation underlines the importance of consulting the affected communities about how their traditional forms of tenure and resource use should be protected.

The recommendation of the Public Prosecutor's Office is addressed to INTERPI (Instituto de Terras do Piauí, Land Institute of Piauí)¹⁴, as well as the World Bank, calling upon the latter "to adopt measures to assess and correct the negative effects of the World Bank-financed land regularization program in the State of Piauí, in order to prevent and remedy violations of the land rights of traditional peoples and communities."¹⁵

The recommendation of the Public Prosecutor's Office supports the demands of eight affected communities from the municipalities of Gilbués, Santa Filomena and Bom Jesus who – in a letter sent to the Food and Agriculture Organization of the United Nations (FAO) on 11 December 2017 – have asked for the establishment of a round table for dialogue in order to assess the land regularization process and discuss its objectives, including the importance of collective registration of community lands. The communities propose that this round table be composed of the agrarian court of the state judiciary (Vara Agrária da Justiça Estadual), INTERPI and representatives of the communities and with the participation of the state and federal Public Prosecutor's Offices, the World Bank, the State Parliament of Piauí, FAO and support groups from civil society.

The World Bank has not responded to the letter of the Public Prosecutor's Office. According to media reports, the governor of Piauí has recently announced that the implementation of the land regularization program will move on.¹⁶

¹⁴ INTERPI is the public body responsible for the implementation of the state law on land regularization.

¹⁵ The letter is available at

http://www.fian.org/fileadmin/media/publications_2017/Letters_and_statements/Recomendac_a_o_MPF.pdf.

¹⁶ <http://www.pi.gov.br/materia/ccom/governo-traca-plano-estadual-de-regularizacao-fundiaria-4609.html>.

The Human and Environmental Cost of Land Business

The case of MATOPIBA, Brazil



IMPRINT

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The research for and elaboration of this report has been a collective work of social movements, national and international human rights organizations, development organizations and academics.

In addition to the publishers, the following organizations were involved:

ActionAid Brasil, ActionAid USA, Aidenvironment, Brasil de Fato, Campanha Nacional em Defesa do Cerrado, Cáritas Regional do Piauí, CLOC – La Via Campesina, Comissão Pastoral da Terra (CPT), Comissão Pastoral da Terra (CPT/PI), Development and Peace, Escola de Formação Paulo de Tarso (EFPT-PI), Family Farm Defenders, FASE, Federação dos Agricultores Familiares (FAF), Federação dos Trabalhadores Rurais na Agricultura (FETAG-PI), FIAN Brasil, FIAN Germany, FIAN Netherlands, FIAN Sweden, Friends of the Earth International, GRAIN, Grassroots International, HEKS/EPER, Instituto Comradio do Brasil, InterPares, Maryknoll Office for Global Concerns, National Family Farm Coalition, Obra Kolping do Brasil, Paróquia de Santa Filomena, Presbyterian Hunger Program, PROGEIA (Santa Filomena), Sindicato dos Trabalhadores Rurais de Santa Filomena, Solidarity Sweden – Latin America, Student/Farmworker Alliance, SumOfUs, Via Campesina Brasil, WhyHunger.

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FIAN contacted all companies mentioned in this report in order to share and verify with them the information collected during the research, in particular the findings of a fact-finding mission to Brazil, which took place in September 2017. Based on their replies, factual corrections were made in the text.

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Table of Contents

4	List of Acronyms	
5	Executive Summary	
8	1. Introduction	
12	2. Conceptual and analytical framework of this report	
	2.1. Land grabbing and the financialization of nature	
	2.2. Human Rights	
	2.2.1. The Human Right to Food and Nutrition	
	2.2.2. The Right to Land	
	2.2.3. Extraterritorial Human Rights Obligations	
22	3. Land as a Financial Asset: New Driving Factors and Actors in Land Grabbing in the MATOPIBA Region	
	3.1. Characteristics of the MATOPIBA Region	
	3.2. Agribusiness Expansion	
	3.3. Land Grabbing and Land Speculation in MATOPIBA Today	
	3.4. The Involvement of International Pension Funds in Land Grabbing in MATOPIBA	
	3.4.1. The US-American Pension Fund, TIAA	
	3.4.2. The German Pension Fund, Ärzteversorgung Westfalen-Lippe (ÄVWL)	
	3.4.3. The Dutch Pension Fund, ABP	
	3.4.4. AP2, the Second Swedish National Pension Fund	
41	4. Social and Environmental Impacts of Land Grabbing in the MATOPIBA Region	
	4.1. Locations and Communities Visited	
	4.2. Findings: Impacts on Communities and Local People	
	4.2.1. Land Grabbing and Dispossession of Communities: Old Problem, New Forms	
	4.2.2. Disputes Over Water and its Uses	
	4.2.3. Pesticides and the Contamination of Water, Fields, Fish, and Game	
	4.2.4. Destruction of Cerrado forest	
	4.2.5. Food and Nutrition Insecurity	
	4.2.6. Widespread Violence and Conflict	
	4.2.7. Migration and the Disruption of the Social Fabric of Communities	
	4.2.8. The situation of women in the visited communities	
	4.3. Responses by State Authorities and Involved Pension Funds	
	4.3.1. Responses by State Authorities	
	4.3.1.1. Brazil	
	4.3.1.2. Home States of the Involved Pension Funds	
	4.3.2. Responses by Involved Pension Funds	
	4.3.2.1. TIAA	
	4.3.2.2. ÄVWL	
	4.3.2.3. ABP	
	4.3.2.4. AP2	
74	5. Human rights analysis	
86	6. Recommendations	
94	7. ANNEX	

List of Acronyms

ÄVWL	Ärzteversorgung Westfalen-Lippe
CAR	Rural Environmental Registry/ <i>Cadastro Ambiental Rural</i>
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESCR	UN Committee on Economic, Social and Cultural Rights
CFS	United Nations Committee on World Food Security
CPT	Pastoral Land Commission/ <i>Comissão Pastoral da Terra</i>
CRC	Convention on the Rights of the Child
CSO	Civil society organization
ETO	Extraterritorial human rights obligation
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
IAHRS	Inter-American Human Rights System
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labor Organisation
INCRA	National Institute for Colonization and Agrarian Reform/ <i>Instituto Nacional de Colonização e Reforma Agrária</i>
INTERPI	Land Institute of Piauí/ <i>Instituto de Terras do Piauí</i>
NAP	National Action Plan on Business and Human Rights
NGO	Non-governmental organization
NRW	North Rhine-Westphalia
OECD	Organization for Economic Cooperation and Development
PRI	Principles for Responsible Investment
RTFN	Human Right to Food and Nutrition
TCGA	TIAA-CREF Global Agriculture LLC
TIAA	Teachers Insurance and Annuity Association
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGP	Guiding Principles on Business and Human Rights

Executive Summary

This report describes and analyzes the human rights and environmental impacts of agribusiness expansion and land speculation in the Brazilian region of MATOPIBA (Northeast/North of Brazil).¹ It is based on two fact-finding missions, which took place in September 2017 and January 2018. The first mission documented the consequences of land grabbing for communities in the Brazilian state of Piauí and held meetings with Brazilian state authorities. The second mission took place in Europe and focused on the involvement of pension funds from the Netherlands, Germany, and Sweden, in the expansion of agribusiness and land grabbing in the MATOPIBA region.

Human Rights and the Financialization of Land

The MATOPIBA region is witnessing the transformation of land into a dematerialized financial asset as a result of the growing power and influence of global finance, and its ways of operating – a process called ‘financialization’. One expression of this process is the fact that financial actors (such as banks, brokerage companies, insurances, pension funds, hedge funds, investment firms, and venture capital funds), increasingly consider land as an attractive investment option. These financial actors channel capital into land purchases and land-based activities in order to diversify their investments, increase returns, and lower the risks for their portfolios. Pension schemes and pension funds are among the leading actors in the context of financialization of land and land grabbing.

Human rights provide the framework in this report for analyzing the land grab that is happening in the MATOPIBA region, as well as for putting forward a series of recommendations on how to address its social and environmental impacts. Human rights

establish a relationship between the rights holders (the people) and the duty bearers (states), placing concrete obligations on the latter. All human rights are interdependent and land grabbing violates a series of them, including the right to food and nutrition and women’s rights. Advances in the standard-setting regarding land over the last years allow to consider land as a human right. Human rights are universal and states are obligated, under international human rights law, to respect, protect, and fulfil human rights outside their borders. States’ extraterritorial human rights obligations (ETOs) require them, among others, to establish regulations that ensure that non-state actors, such as transnationally operating corporations or investors, do not impair human rights in other countries.

Land Grabbing and Speculation in the MATOPIBA Region

The MATOPIBA region is part of the Cerrado biome, which is extremely rich in biodiversity of flora and fauna. In addition, three of the region’s most important aquifers can be found there. The Cerrado has drawn less attention from the media than the Amazon, but it is just as vital for the country’s, and planet’s ecology. It is one of the most endangered ecosystems in Brazil with high deforestation rates. Around 25 million people live in the Cerrado, including 80 indigenous peoples and so-called traditional peoples and communities. Their livelihoods are based on a close relationship with the ecosystem through hunting, gathering of fruit, fishing, and diversified peasant agriculture. Communities do not usually hold any land titles and large parts of the lands they live on are formally owned by the state.

Agribusiness expansion into the Cerrado has been promoted by the Brazilian state through significant subsidies. Soy monocultures started to penetrate into the region of MATOPIBA in the early 2000s and have since expanded continuously. This has been fueled by a commodity boom, which was caused by the

¹ MATOPIBA is the acronym for a land area of 73,173,485 hectares expanding across the Brazilian States of Maranhão, Tocantins, Piauí, and Bahia, located in the northeastern and northern region of the country.

quest for new areas of investment by global finance. Land speculation in the region has continued after the drop of commodity prices on the world market in the aftermath of the world financial crisis of 2007/08, and land has become a more profitable business than agricultural production. This has led to the creation of so-called land companies that are no longer directly linked to production and fully concentrate on acquiring, selling, leasing and/or managing land. The creation of new farms/*fazendas* usually takes place in lands that are formally owned by the state, by enclosing an area, violently driving out local people and clearing/deforesting it. These farms are then sold to agribusiness corporations or to land companies, which lease or further sell the land. The falsification or forgery of land titles is an intrinsic part of this business, as a way of formalizing (or at least simulating) land ownership, which has been appropriated illegally. The actors that are operating on the ground are backed by international financial actors that channel huge amounts of capital into the land business, and thus fuel the ongoing speculation.

In the case of MATOPIBA, pension funds from the USA and Europe are crucial players. The US-American pension fund TIAA owns almost 300,000 hectares of land in Brazil, almost a third of which is located in the MATOPIBA states. Most of these are managed through two agricultural land funds called TIAA-CREF Global Agriculture LLC I and II (TCGA I and II), which are together worth US \$ 5 billion. The majority of investors in TCGA I and II are institutional investors, in particular pension funds. Among these are the German *Ärzteversorgung Westfalen-Lippe (ÄVWL)*, which has invested US \$ 100 million in TCGA I, ABP from the Netherlands, which has invested US \$ 200 million in TCGA II, and the Second Swedish National Pension Fund (AP2), which has invested a total US \$ 1.2 billion in TCGA I and II. TIAA and all these funds present themselves as “responsible” investors and are part of a number of corporate social responsibility (CSR) schemes. This stands at odds with the reality of their land investments in the MATOPIBA region however. Lands have – at least partly – been acquired from a business man, who is allegedly one of the biggest land grabbers in the region, and some were

legally disputed at the time of the acquisition. The funds further operate through a complex investment webs in order to circumvent provisions in Brazilian law, which limit land ownership by foreign companies.

Human rights violations and eco-destruction

The international fact-finding mission of September 2017 documented the social and environmental impacts of the agribusiness expansion and land speculation in the MATOPIBA region in 7 communities in the south of the state of Piauí. The results show that local people face severe consequences of deforestation, widespread contamination of soil, water, and livestock by agrochemicals, and loss of biodiversity. Additionally, violence against community leaders is on the rise, as are disputes over water, exacerbated by changing rainfall patterns due to eco-destruction. Lastly, local people in the region are losing their land, leading to the destruction of their livelihood, community disruption, and food and nutrition insecurity. In many cases, they are forced to migrate to the favelas (shantytowns) of Brazilian cities. Women are particularly affected by the ongoing land grab and eco-destruction, as they can no longer collect and process wild fruits from the Cerrado forests, while the presence of armed guards, intimidation, and physical violence, makes it impossible for them to plan a family life.

The human rights violations affecting local communities and people are systemic and affect a broad range of human rights. The Brazilian state – at federal, state and local levels – has violated its human rights obligations by promoting the advancement of agribusiness in the region, by not protecting local people from the acts of local land grabbers, agribusiness companies, and investors, and by not ensuring accountability. In particular, it has not respected and protected local people’s collective land rights and the particular ways that they use and manage their territories.

The impairments of human rights are made possible through the investment of international financial actors, in particular the mentioned pension funds. Even though these may not be directly involved in land grabbing and eco-destruction, they are an essential part of the destructive business model applied in the MATOPIBA region. They are fueling land speculation and directly profit from climbing land prices, as this increases the value of their portfolios. The mentioned pension funds are under the jurisdiction of the USA, Germany, the Netherlands, and Sweden, who have the power and the obligation to regulate them, in order to prevent their investments/financial operations from causing human rights harm. The results of the fact-finding mission in Europe in January 2018 show that Germany, the Netherlands, and Sweden have breached their ETOs by not putting in place effective regulation that prevents human rights harm through the pension funds' activities and by failing to ensure rigorous monitoring. They have further failed to ensure accountability of these actors, nor have they provided remedy for affected people.

A series of measures need to be taken by the involved states as well as international institutions in order to guarantee the human rights of the affected people and ensure accountability of the involved business actors.



1. Introduction

This report contains the findings of two international fact-finding missions, which took place in September 2017 and January 2018.

The first mission was carried out from September 3 to 15, 2017 in the Brazilian region of MATOPIBA. “MATOPIBA” is an acronym for the region covered by savannahs, scrubland and forest, the Cerrado, in the four Brazilian States of Maranhão, Tocantins, Piauí, and Bahia. This region has seen an aggressive expansion of agribusiness, in particular soy bean plantations, which has been accompanied by the dispossession of rural communities and environmental destruction. The agribusiness expansion and increasing land speculation have been fueled by money coming from international financial actors, in particular pension funds from the USA, Canada, South Korea, the United Kingdom, Germany, Luxembourg, Sweden, and the Netherlands.

The fact-finding mission focused on the involvement of US, German, Swedish, and Dutch funds. It was composed of 30 human rights, development, and social movement experts, focused on the southwest of the Brazilian State of Piauí, at the border with the State of Maranhão. This area was chosen to highlight a process, which affects the entire region.

The team carried out interviews with rural communities in the municipalities of Santa Filomena and Gilbués, namely Melancias, Baixão Fechado, Sete Lagoas, Brejo das Meninas, and Santa Fé. Representatives of more than 20 other communities from the region also took part in the meetings. The field visits were followed by a number of public hearings and meetings with government officials, public prosecutors, members of the National Human Rights Council, members of congress and judges in Bom Jesus (Piauí), Teresina (Piauí), and Brasília.

The fact-finding mission has been a collective work of 30 representatives of social movements, as well as national and international human rights and

development organizations and has been coordinated by FIAN International. Rede Social de Justiça e Direitos Humanos, Pastoral Land Commission/Comissão Pastoral da Terra (CPT/PI), and FIAN Brasil were actively involved in the organization of the mission. Representatives of the following organizations also participated: Comissão Pastoral da Terra (CPT), CLOC – La Via Campesina, Via Campesina Brasil, GRAIN, ActionAid USA, Aidenvironment, Friends of the Earth International, WhyHunger, InterPares, Development and Peace, FIAN Sweden, FIAN Germany, FIAN Netherlands, Latinamerikagrupperna/Solidarity Sweden – Latin America (SAL), Grassroots International, National Family Farm Coalition, Family Farm Defenders, Student/Farmworker Alliance, Maryknoll Office for Global Concerns, Presbyterian Hunger Program, SumOfUs, Campanha Nacional em Defesa do Cerrado, FASE, HEKS/EPER, ActionAid Brasil, Caritas Regional do Piauí, Federação dos Agricultores Familiares (FAF), Federação dos Trabalhadores Rurais na Agricultura (FETAG-PI), Escola de Formação Paulo de Tarso (EFPT-PI), PROGEIA (Santa Filomena), Sindicato dos Trabalhadores Rurais de Santa Filomena, Paróquia de Santa Filomena, and Instituto Comradio do Brasil.

The overall objective of the fact-finding mission was to document, verify, and give visibility to the social, economic, environmental, and human rights impacts of land business and agribusiness expansion in this part of the Brazilian Cerrado. The team considers this case as one paradigmatic example shedding light on the financialization of land and nature.

The second fact-finding mission took place between January 22 and 31, 2018, in the Netherlands, Germany, and Sweden. These countries are the home states of three of the pension funds, which, according to our research, have been involved in acquiring lands for the expansion of agribusiness in the MATOPIBA region. Meetings were held in the three countries with government representatives, members of parliament, representatives of the concerned pension funds, as well as with journalists and the general public, during public events. The fact-finding mission team also had meetings with representatives of the EU and

Members of the European Parliament. This mission deepened the investigation into the involvement of pension funds from the Netherlands, Germany, and Sweden, in the expansion of agribusiness and land grabbing in the MATOPIBA region, as well as the in the identification of the responsibilities of the funds and state authorities in related human rights abuses and violations.

The fact-finding mission team was composed of representatives from the CPT and the Centre for Advanced Amazonian Studies (NAEA) at the Federal University of Para – in coordination with the Brazilian Campaign in Defense of the Cerrado (Campanha Nacional em Defesa do Cerrado) –, FIAN International, FIAN Germany, FIAN Netherlands, FIAN Sweden, and Latinamerikagrupperna/Solidaridad Suecia – América Latina.

The entire process specifically aimed to:

- give visibility to the social, economic, and environmental impact of the ongoing land grabbing and ecosystem destruction in the MATOPIBA region;
- support local communities affected by land grabbing and support their struggles to defend and assert their rights;
- draw national and international attention to the process of land grabbing in the Brazilian Cerrado and the involvement of transnationally operating pension funds in particular;
- analyze the process of financialization of land in the MATOPIBA region and its role in fueling land grabbing and land speculation and violations of human rights of local people;
- engage with local, state, and federal state authorities in Brazil, as well as in the home states of the involved pension funds, to clarify specific aspects of the process;
- obtain information about existing regulations as well as about possibilities to monitor human rights-related risks of business activities, including investments, and to address abuses under the current regulations;

- identify the regulatory gaps in Brazilian law as well as in the legal frameworks of the home states of the involved pension funds, which make land grabbing and related human rights abuses and violations in the MATOPIBA region possible;
- elaborate a set of recommendations in coordination with the affected communities, to be submitted to the involved states and to the international community, that seek to guarantee the human rights of the affected people; and
- develop a strategy, in coordination with the affected communities, that seeks to protect and guarantee their human and land rights, including by identifying the existing political, social, and legal instruments to be used at national and international levels.

The fact-finding missions and this report are the result of a collective work, involving organizations from many countries. They are particularly based on the long-standing work of FIAN International in investigating and documenting land conflicts and cases of land grabbing in support of affected communities, including the analysis of such cases from a human rights perspective.

The information presented in this report also builds strongly on the research carried out by Rede Social de Justiça e Direitos Humanos, which has been publishing reports and articles on the expansion of agribusiness in Brazil and its impacts on rural communities, including in the MATOPIBA region. It has further strongly benefitted from the local work of the Comissão Pastoral da Terra, in particular its Piauí chapter (CPT/PI), which works with, and in support of, rural communities. The other organizations and researchers involved have contributed to the process in many other ways. It is particularly important to mention the involvement of several organizations and networks who have been investigating and carrying out advocacy work in relation to the activities of pension funds in Germany, the Netherlands, Sweden, and the USA. As land and other natural resources are increasingly treated as internationally tradeable financial assets, through a complex web of different

actors, which are based in different countries, coordinated efforts at different levels become ever more important for defending, asserting, and advancing human rights beyond borders.

This report starts with a section providing the conceptual and analytical framework applied throughout the report. The second section provides some information on the background, describing the new driving factors and actors in land grabbing in MATOPIBA, linked to the financialization of land and other natural resources. The third section contains a detailed description of the findings from the field, based in particular on the testimonies from communities in the MATOPIBA region, information obtained during meetings with involved actors, as well as on additional research. The fourth section presents a human rights analysis of these findings and the report closes with a set of recommendations to address the human rights abuses and violations in the MATOPIBA region.

The members of the fact-finding mission teams hope that this report can support and encourage the struggle of traditional communities of the MATOPIBA region for their rights, and that it can contribute to identifying those responsible for human rights abuses and violations and to holding them accountable, in order to remediate the harm done and prevent further abuses and violations.



2. Conceptual and Analytical Framework of this Report

2.1. Land Grabbing and the Financialization of Nature

The recent convergence of multiple crises – food, fuel, energy, climate, environmental, and financial – has brought the issue of land back to the center stage of development policy discourse. At the same time, an interplay of several factors has increased interest in land as an economic and financial asset by corporations, funds, local elites, and governments, thus triggering a wave of land and resource grabbing, whose scale, depth, and pace pose major threats to the current and future enjoyment of human rights worldwide.

FIAN has investigated and documented land conflicts and supported rural communities in the defense of and struggle for their lands and other natural resources since its inception in 1986. FIAN was one of the first organizations that began systematically applying a human rights-based approach to land issues. In particular, FIAN contributed to the understanding that the secure and equitable access to land is a key component of the right to food, which has since been adopted by human rights and other international standards. Using a human rights framework to analyze land conflicts and land grabbing means taking the impacts that adversely affect communities and people as a starting point. It also means to place human dignity at the center when claiming states' accountability and confronting injustice, even in cases where it is caused by acts that are "legal". This moves away from an understanding of land grabbing, which focuses on size, features, and procedures of

large-scale land deals, thus neglecting the economic and political drivers of land dispossession.

In this report, we understand land grabbing as 'control grabbing': contemporary land grabbing is the capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms that involve large-scale capital that often shifts resource use orientation into extractive character, whether for international or domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital.² While this definition does not preclude that any land deal or acquisition is a land grab, it is considered a land grab whenever such deals are carried out in settings where the process, immediate outcomes, and broader, long-term implications are such that they effectively deny land/natural resource-dependent people from exercising or gaining access to land, water, and forest, to use for livelihoods or spaces to live in.³ In such settings, human rights issues arise.

It is important to understand that the target lands of the current wave of resource grabbing are often those in the grey area of property systems, which are thus easily claimed by the state. The property systems in the communities that occupy and use these lands are usually customary tenure. Many of the people affected by such types of land grabs are indigenous peoples or come from ethnic or minority groups, or other marginalized groups who depend on their land. The actors involved in land grabbing (corporations, state authorities at different levels, local elites, international institutions, etc.) create a narrative according to which these lands are "vacant", "fallow", "idle" – or "under-used", or not used "efficiently". This narrative purposely leaves out the fact that such lands are the home of rural communities, who have developed sophisticated

² This definition follows Borras Jr, S.M., Franco, J.C., Gómez, S., Kay, C. and Spoor, M. (2012), 'Land grabbing in Latin America and the Caribbean'. *The Journal of Peasant Studies*, 39 (3-4), pp. 845-872.

³ Borras, S., Seufert, P. et al. (2016), *Land Grabbing and Human Rights: the involvement of European corporate actors and financial entities in land grabbing outside the European Union*. Study commissioned by the Subcommittee on Human Rights of the European Parliament (DROI). Available at: [www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2016\)578007](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2016)578007)

systems to co-exist with nature. According to such a discourse, transferring such lands to “more efficient” and/or “more productive” uses and users – i.e. to corporations and their commercial production model – becomes not only desirable and beneficial, but necessary.

Land and related natural resources are thus increasingly treated primarily as a globalized economic and financial asset. Technical tools such as statistics, calculations on land use, and productivity based on satellite images etc. are used to underpin this discourse and to make land available to all kinds of “investors.” This process fundamentally redefines what land is. Instead of a natural good with a strong local component and whose control and use is primarily a social relation, land is considered a globalized, “investible” resource.⁴

Importantly, behind most large-scale agricultural projects is a web of global actors that make the project possible. These actors include banks and companies that are funding the project, and the companies that are buying the produce being grown or processed by it. When looking at the increasingly complex investment webs of land deals, there are different types of actors: local real estate agents; business managers of the agricultural project; parent companies who (fully or partially) own the business managing the project (subsidiary or local branch); investors/shareholders who invest money in a company in return for shares; lenders who make loans to a project or a company (commercial banks, investment banks, multilateral development banks/IFI, investment funds, hedge funds, pension funds, and private equity funds); governments who offer land to the business managing the project and allow a company to be registered and operate in their country or region; brokers who play a role in helping to secure business deals and communicate between or support different actors involved;

contractors who carry out certain jobs on the ground on behalf of the project; and buyers who buy the produce grown or processed by the project (trading companies, processor/manufacturer, retailer).⁵

Some investors and companies are thus directly or indirectly linked to land deals via financing schemes and shareholder agreements, which often involve complex cascading relationships. This is very relevant for understanding the dynamics of land grabbing and to determine needed regulations to prevent nullification or impairment of the enjoyment of human rights, as well as to define the needed mechanisms for the allocation of responsibilities when harm is caused.

The current dynamics around land and related natural resources need to be seen in the context of the financialization of natural goods, as well as of agricultural and food systems. Broadly understood as the growing power and influence of the finance industry, the financialization of land and territories is a key driver and element of the fierce contemporary rush for natural resources. There is a very close link because land is a key defining element of capital’s spatial access to nature and natural resources like soil, water, genetic resources, timber or else.

Financialization can be defined as the “increasing importance of financial markets, financial motives, financial institutions, and financial elites in the operation of the economy and its governing institutions, both at national and international level”.⁶ Importantly, this includes the domination of financial interests not only materially, but also with regards to the way in which land is understood and discussed.

In the context of land and other natural resources, financialization sheds light on the multiple and interconnected actors, relations, and processes

⁴ See Li, T. (2014), What is land? Assembling a resource for global investment, Plenary Lecture for the Transactions of the Institute of British Geographers, 39/2014, pp. 589–602.

⁵ See Fairbairn, M. (2014), ‘Like gold with yield’: Evolving intersections between farmland and finance. *Journal of Peasant Studies*, 41(5), pp. 777-795; Clapp, J. (2014), ‘Financialization, distance and global food politics’, *Journal of Peasant Studies*, 41(5), pp. 797-814; Isakson, S.R. (2014), ‘Food and finance: The financial transformation of agro-food supply chains’, *Journal of Peasant Studies*, 41(5), pp. 749-775.

⁶ Epstein (2005) Introduction: financialization and the world economy

that are involved in the design, financing, and implementation of agribusiness and other land-related investments (including speculative ‘investments’). This indicates that land grabbing is not only about the direct control over land and other natural resources, but also about the finance mobilized for control, acquisition, and exploitation.

Although the process of financialization is not something completely new (for instance, crop markets were financialized years ago and several climate change mitigation mechanisms are based on attributing a monetary value to forests, oceans etc.), what has changed in the last years is the pace with which the process is unfolding and with which communities are being dispossessed.⁷

One expression of the financialization of nature is the fact that financial actors (such as banks, brokerage companies, insurances, pension funds, hedge funds, investment firms, and venture capital funds), increasingly consider land as an attractive investment option, in addition to the more obvious actors from agribusiness and energy companies, who are involved in direct production. These financial actors channel capital into land purchases and land-based activities in order to diversify their investments, increase returns, and lower the risks for their portfolios. Such ‘investments’ are not necessarily geared towards production, but rather towards speculation, the (seemingly secure) parking of money, or towards gaining control over land in order to exert structural power, to mention but a few examples. This points to a blurring of the line between investments and speculation, which is inherent to the financialization of natural resources and land grabbing.

Pension schemes and pension funds are among the leading actors in the context of financialization of land and land grabbing in the role of major financial capital company players. Global assets of pension

schemes amount to more than 41 trillion USD, which makes them the heaviest players of the financial industry.⁸ Two thirds of this amount is invested from the USA. In continental Europe, private pension systems have been pushed and are growing too, in the context of deregulation and privatization over the last 20 years. Search for diversification of portfolios and renting in low interest rate environments has led to more and more land investments by pension funds.⁹

Financialization presents substantive challenges for the defense of land and territories, because of the inherent difficulty in determining which of each of the involved actors is responsible for human rights abuses and violations. As a result, the challenge of remedying the situation is just as stark. This is not a coincidence, but a deliberate strategy that can be described as ‘distancing of accountability’,¹⁰ and is used by many actors involved in land grabbing.

2.2. Human Rights

In this report, we use human rights both as a framework for the analysis of the land grabbing and land speculation that are happening in the MATOPIBA region, as well as for recommendations on how to address the social and environmental impacts. Human dignity is at the core of human rights and the human rights framework aims at ensuring a life in dignity for all human beings. As such, human rights historically and conceptually legitimize, instruct, and limit the powers of states, based on people’s sovereignty. States draw their legitimacy from the people who confer them the mandate to serve in the public interest, based on the principle of human dignity.

States have explicitly recognized these rights in the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights

⁷ Greenberg (2017) Corporate power in the agro-food system and the consumer food environment in South Africa.

⁸ Think Ahead Institute/Willis Towers Watson (2018), Global Pension Asset Study 2018, available at: <https://www.thinkingaheadinstitute.org/en/Library/Research-and-Ideas/Global-Pension-Asset-Survey-2018>.

⁹ See FIAN (forthcoming), The Financialization of Territories.

¹⁰ Clapp, J. (2014), ‘Financialization, distance and global food politics’, *Journal of Peasant Studies*, 41(5), pp. 797-814.

(ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC), as well as in various conventions of the International Labour Organisation (ILO) and other instruments. The institutions and bodies of the United Nations (UN) that are responsible for monitoring states' compliance with their human rights obligations have further issued normative guidance (among others in the form of General Comments/Recommendations issued by the UN Human Rights Treaty Bodies among others) to specify the content of the rights enshrined in the mentioned covenants and conventions.

Human rights have also been recognized and defined at the regional level, such as in the American Convention on Human Rights and in the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights. The regional human rights systems, such as the Inter-American Human Rights System (IAHRS), complement the UN system and have their own institutions and procedures to ensure compliance and monitoring. In some countries, the human rights obligations described in the international treaties have been included in the national constitution and apply directly as domestic law, conforming the so-called "constitutional block". In other cases, states are required to develop legal frameworks that are based on their existing obligations and aim at the realization of human rights.

Human rights establish a relationship between the rights holders (the people) and the duty bearers (states). The existing human rights framework both describes the rights of all human beings and establishes clear obligations for states to respect, protect and fulfil these human rights. It also

creates a framework for accountability, where states are accountable to the people. The human rights framework also refers to third parties (such as companies and other business enterprises, among others), defining their responsibilities and clarifying the obligations of states to protect rights holders from the impairment of their human rights by these actors.

Human rights are generally defined as inalienable rights, or as the rights without which humans would lose their character as humans. Because of this and the role of human rights to ensure human dignity, international human rights law has instituted the principle of the primacy of human rights over other international norms, such as trade and investment agreements.¹¹

Apart from their universality, another key feature of human rights is their interdependency.¹² This means that the different human rights that have been recognized in the afore-mentioned covenants and instruments are interlinked. Together, these rights ensure human dignity and a violation of one right entails, in most cases, also the violation of other rights.

International human rights law imposes two types of obligations on states: general obligations and specific obligations. To act in accordance with their general obligations, states must adopt measures favoring the progressive realization of those aspects of human rights, which are not immediately applicable. This includes refraining from any measures that would set back the realization of a human right. In addition, states must guarantee that no individual or group is discriminated against, in the enjoyment of his or her human rights, on the grounds of race, color, sex, age, language, religion, opinions (political or otherwise), national or social origins, economic status, birth, physical or mental handicap, health, sexual orientation, or civil, political, or social status.

¹¹ The principle of Primacy of human rights over trade and investment agreements derives from the UN Charter Art. 103, in conjunction with its Preamble, articles 1.3 and 55c, and has recently been reiterated by the CESCR in its General Comment 24, par. 13. Furthermore most of the constitutions in the world have recognized the prevalence of fundamental rights over other kind of constitutional rules.

¹² The human rights principles of interdependence and indivisibility have been recognized, among others, in the Preamble of the ICESCR.

As to the specific obligations of states, all human rights carry three types of associated obligations, namely, the obligations to respect, protect, and fulfil. The obligation to respect means that states must not take measures undermining human rights or preventing individuals or groups from their enjoyment of this right. The obligation to protect this right implies that states must take measures to prevent third parties (individuals, groups, companies, etc.) from interfering with the enjoyment of human rights. Finally, the obligation to fulfil means that states must take measures to ensure that everyone can enjoy human rights and live a decent life.

In the context of land and in the particular case addressed by this report, some of the most important rights are: the right to food and nutrition (see following section); the right to water and sanitation;¹³ the right to health;¹⁴ the right to housing;¹⁵ the right to work;¹⁶ the right not to be deprived of one's means of subsistence;¹⁷ the right to take part in cultural life;¹⁸ the right to education;¹⁹ the right to take part in the conduct of public affairs;²⁰ the right to liberty and security of person;²¹ the right to freedom of opinion and expression;²² the right to access to information;²³ the right to freedom of association;²⁴ the right to freedom of movement;²⁵ and the right to a healthy environment.²⁶

Specific conventions and other human rights instruments have been developed to describe the

rights of particularly marginalized groups, such as indigenous peoples²⁷ and women²⁸ as well.

It should be noted that the UN Human Rights Council is in the final stages of a process to develop and adopt a UN Declaration on the Rights of Peasants and Other People Living in Rural Areas. This declaration will make a crucial contribution to addressing the structural discrimination and marginalization of peasants and other people working in rural areas by specifying and concretizing the existing human rights framework with regards to its application to rural people.²⁹ A second ongoing process at the Human Rights Council concerns a Binding Instrument on Transnational Companies and other Business Enterprises with Respect to Human Rights.³⁰ One of its aims is to clarify states' obligations in regulating transnational activities of economic actors, as well as to define preventive and remedy mechanisms for human rights abuses emerged from transnational activities.

2.2.1. The Human Right to Food and Nutrition

The human right to food and nutrition (RTFN) is recognized in the UDHR, as part of the right to an adequate standard of living (Art. 25 (1)), and it is enshrined in Article 11 of the ICESCR. The right to food is reaffirmed in Article 12 of the CEDAW and

¹³ ICESCR, Art. 11; UN General Assembly Resolution 64/292; CESCR General Comment 15; CEDAW, Art. 14(2); CRC, Arts. 20, 26, 29, 46

¹⁴ UDHR, Art. 25; ICESCR, Art. 12

¹⁵ UDHR, Art. 25; ICESCR, Art. 11; CESCR General Comments 4 and 7

¹⁶ ICESCR, Art. 6

¹⁷ ICESCR, Arts. 1.1 and 1.2

¹⁸ ICESCR, Art. 15.1

¹⁹ ICESCR, Arts. 13 and 14

²⁰ ICCPR, Art. 25

²¹ ICCPR, Art. 9

²² ICCPR, Art. 19

²³ ICCPR, Art. 19

²⁴ ICCPR, Art. 22

²⁵ UDHR, Art. 13

²⁶ UN General Assembly Resolution 45/94 and San Salvador Protocol to the American Convention on Human Rights, Art. 11.

²⁷ In particular the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Convention No. 169 of the International Labour Organization concerning Indigenous and Tribal Peoples in Independent Countries.

²⁸ In particular the Convention on the Elimination of Discrimination against Women and CEDAW General Recommendation No. 34 on the Rights of Rural Women.

²⁹ Please see: www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/WG RuralAreasIndex.aspx. For a detailed discussion, please see: Monsalve Suárez, S., "The right to land and other natural resources in the United Nations Declaration on the rights of peasants and other people working in rural areas", FIAN International Briefing, December 2015. Available at: www.fian.org/library/publication/publication_of_a_series_of_briefings_on_peasants_rights.

³⁰ See all related documents in the web page of the OEIGWG under www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx.

in Article 24 of the CRC. Article 11 of the ICESCR contains two separate yet related norms: the right to adequate food (Art. 11 (1)) and the right to be free from hunger (Art. 11 (2)). The right to be free from hunger is the only right in said Covenant that is termed “fundamental”, thus highlighting the essential status of this right.

According to General Comment 12 (Art. 6) of the ICESCR, the authoritative interpretation of the RTFN, this right “is realized when every man, woman, and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement”. The legal core contents of the RTFN are availability, accessibility, adequacy, and sustainability. Not only does food need to be available from natural resources (through the production of food, fishing, hunting, or gathering) or sale in markets or shops, but it furthermore needs to be accessible to all, both economically and physically. Economic accessibility requires food to be affordable without compromising any other basic needs (e.g. school fees, medicine, or rent); thus, the governing body must ensure a sufficient minimum wage or social security benefit to allow for the procurement of nutritious food and other basic needs. Physical accessibility requires food to be accessible to all, including those who are physically vulnerable such as children, the sick, persons with disabilities, the elderly, people residing in remote areas, and victims of armed conflicts and natural disasters. In addition food must be adequate, taking into account, for example, dietary needs (related to age, living conditions, occupation, sex etc.), safety factors, purity (i.e. free from harmful substances such as contaminants coming from industrial or agricultural activities), and cultural acceptability. Finally, food must be sustainable for both present and future generations.

As all human rights, the RTFN imposes three levels of obligations on states: the obligations to respect, protect, and fulfil (facilitate, promote and provide).

While the understanding of what constitutes the RTFN has advanced with the issuance of CESCR General Comment 12 as well as with the adoption of the FAO Right to Food Guidelines in 2004,³¹ the mainstream interpretation still do not incorporate all the dimensions of the RTFN in an exhaustive and adequate manner. In this report, we use a holistic understanding of this right, which departs from the understanding that the RTFN is more than the right to foodstuff. It is also more than the mere access to food that may be nutritionally and culturally adequate and safe. Rather, the RTFN can only be realized when there is a social process in which people, women and men equally, have choices at hand and can decide on how to engage with Mother Nature, transforming resources into food. This food is mostly locally produced, in line with agro-ecological principles and consists of a diversified diet that is adequate, safe and nutritious. This is necessary for everyone to attain nutritional well-being, sustain one’s own cultural identity, and be capable of leading a healthy, active, and social life within the community to which one belongs.

One key dimension of the RTFN is nutrition, which must be considered in every phase of the food system—from how and which foods to produce, to individual consumption and utilization. For instance, nutritional well-being is linked to regular access to a diversified, balanced, colorful, safe, fresh, culturally adequate diet. This points to the need for states to promote biodiversity, promote agro-ecological methods, reduce distance between producers and consumers, reduce chemical inputs, guarantee adequate returns to the producers, inform consumers, and promote adequate wages, among other initiatives.

In addition, the full realization of the RTFN for all can only be achieved when women’s human rights are fully realized. Guaranteeing women’s rights, on the one hand, and understanding the core linkages between women’s rights and children’s rights, on the other, are fundamental to the eradication of hunger and malnutrition, and central to this holistic approach.

³¹ Food and Agriculture Organization of the United Nations (FAO) (2005), Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. Available at: <http://www.fao.org/3/a-y7937e.pdf>.

Systematically reducing women's role to merely that of a mother and food provider for the family not only contributes to structural discrimination and violence (e.g. maternal mortality, infant mortality, feticide, discriminatory feeding practices, child marriage, adolescent pregnancy, etc.), but it also ignores the diverse roles women play throughout their lifespans and neglects the importance of self-determination for women and control over their own body and life.

Finally, the RTFN can only be fully realized within the framework of food sovereignty, which focuses on people, especially women, as the active participants and main decision-makers in all political processes and discussions that relate to food and food production. At the same time, this focus is meant to ensure sustainable livelihoods, as well as food and nutrition systems based on agro-ecological principles. Conceptualizing the RTFN within the food sovereignty framework, instead of the food security framework, allows the root causes of hunger and malnutrition to be tackled, as it brings to the forefront the issue of power. Without the food sovereignty framework, the RTFN risks being seen in the light of only outcomes, and therefore ignoring the questions related to who should control the natural and productive resources, who should define relevant food and nutrition policies, and who should regulate the powerful.

2.2.2. The Right to Land

The inextricable connection between land and several human rights has been increasingly recognized by human rights and other institutions over the last twenty years. In particular for rural people, access to, control over and use of land and other natural resources is indispensable for the realisation of various human rights, such as the right to food, the right to housing, the right to water, the right to an adequate standard of living, the right to take part in cultural life, the right to work, the right to self-determination and the rights of women, among others.

Land as a substantive human right has been developed and, until now, explicitly been codified with regards

to the rights of indigenous peoples.³² In addition, an ever-increasing body of soft law instruments and recommendations/observations of UN Treaty Bodies, in particular the CESCR, have contributed to clarify the relationships between land and other natural resources, on the one hand, and human rights entitlements and state obligations, on the other.³³ The Special Procedures of the UN Human Rights Council³⁴ have also contributed to the development of the human right to land.

One of the most important developments regarding the recognition of land as a human right, has been the approval of the Guidelines for Responsible Governance of Tenure of Land, Fisheries and Forests, in the Context of Food Security³⁵ (henceforth Tenure Guidelines), by the United Nations Committee on World Food Security (CFS), in May 2012. These Guidelines build on existing human rights obligations of states and provide guidance to states on how to apply their human rights obligations to the governance of natural resources. The Tenure Guidelines underline the need for states to i) recognize and respect all legitimate tenure right holders and their rights, whether formally recorded or not; ii) safeguard legitimate tenure rights against threats and infringement and protect tenure right holders against the loss of their tenure rights; iii) promote and facilitate the enjoyment of legitimate tenure rights; iv) provide access to justice to deal with infringements of legitimate tenure rights; and v) prevent tenure disputes, conflicts and

³² See United Nations (2008), United Nations Declaration on the Rights of Indigenous Peoples (http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf) and International Labour Organization (1989), Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:P12100_ILO_CODE:C169.

³³ Among the CESCR's interpretive instruments are the General Comments (GC) No. 4 on the right to adequate housing, No. 7 on forced evictions, No. 12 on the right to adequate food, No. 14 on the right to the highest attainable standard of health, No. 15 on the right to water, No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights and No. 21 on the right to take part in cultural life. Moreover, CESCR has issued concluding observations with relation to land to approximately 50 countries since 2001 (according to an analysis by FIAN based on the Human Rights Index of the Office of the High Commissioner for Human Rights. Available at: uhri.ohchr.org/en).

³⁴ These are independent human rights experts with the mandate to report and advise on human rights from a thematic or country-specific perspective.

³⁵ Food and Agriculture Organization of the United Nations (FAO) (2012), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

corruption (paras. 3A1-5). They also emphasize that land, fisheries, and forests are not just an economic good, but primarily a source of food and shelter and the basis for social, cultural, and religious practices (preface). The Tenure Guidelines further clearly define that states need to put an emphasis on vulnerable and marginalized people (para. 1.1).

In March 2016, the Committee on the Elimination of Discrimination against Women, which monitors the implementation of the CEDAW, approved its General Recommendation on the Rights of Rural Women (General Recommendation n° 34).³⁶ This document is particularly significant because it is the first international instrument that specifically addresses the rights of rural women and furthermore, it is the first that explicitly recognises the human right to adequate food and nutrition of rural women within the framework of food sovereignty. It explicitly recognises “rural women’s rights to land, natural resources, including water, seeds, forestry, as well as fisheries, as fundamental human rights” (para. 56). It further underlines the right to participate in decision-making at all levels of rural women whose lives and livelihood depend on their effective access to natural resources (para. 53) and calls for state parties to protect rural women’s rights to natural resources under customary institutions and more explicitly, to ensure indigenous women’s equal access (para. 59). It also calls for the explicit recognition of the natural commons, and thus implicitly for the recognition of collective rights over land and natural resources as the use, access and management of the commons are socially defined and organised in a collective way (para. 62).

The process at the United Nations Human Rights Council towards the adoption of a UN Declaration on the Rights of Peasants and Other People Working in Rural Areas constitutes yet another significant step towards the recognition of land as a human right in as much as the advanced draft of the declaration includes an article on peasants’ right to land and other natural resources.

The advances over the last years in the standard-setting regarding land allow to consider land as a human right. The legal principle of *Pro persona* calls for the application of the norm or standard most favourable for protecting vulnerable social groups and enables state and non-state actors alike to interpret the existing framework in line with the highest standards developed by the UN and regional human rights systems, as well as with case law. This means that the three levels of specific human rights obligations also apply to land and that states have an obligation to respect, protect, and ensure access to, control over and use of land, including by peasant communities and others who live in rural areas.

The framing of land as a human right clarifies that land is, first and foremost, a common good which communities and people access, control, manage and use in many different forms, in order to live a dignified life, according to their social and cultural context. As such, it recognizes and seeks to protect and guarantee a variety of tenure systems and tenure rights, seeking to democratise them wherever they are discriminatory. Such an approach also challenges the dominant understanding of land as a globalised economic and financial asset as well as the promotion of private property rights and land markets to facilitate land deals and acquisitions. It further takes into account that human rights are also, and fundamentally, about controlling resources, and that such control is essential for conducting a self-determined life in dignity and in community with others.

It is important to stress that social movements, indigenous peoples and grassroots organisations around the world have been claiming the human right to land for a long time, as part of their struggles to have their rights to land and natural resources recognised and protected. The already mentioned concept and vision of food sovereignty has been crucial in this regard, just as the concept of ‘territory’, which is used by many ethnic nationalities – especially indigenous peoples – as well as communities and social

³⁶ For more information, please see: FIAN (2016), “The Recently Adopted CEDAW General Recommendation on the Rights of Rural Women. Analytical Note”, April 2016. Available at: www.fian.org/fileadmin/media/publications_2016/CEDAW_GR_Rural_Women_Analysis_FINAL.pdf.

movements to express their relationship to land and nature.³⁷ 'Territory' refers to a holistic understanding of land, which recognizes that all natural resources and their uses are interconnected in the realities of the lives and livelihoods of many people, making it impossible to separate land, fisheries and forests from one another, or from other natural resources. It also underlines that for indigenous peoples and small-scale food producers around the world, land, oceans, rivers, forests, and all of nature are much more than a means of production. They are the very basis of life, culture and identity, and fulfil crucial social, cultural, spiritual and environmental functions.³⁸

2.2.3. Extraterritorial Human Rights Obligations

Human rights are universal. This means that under international human rights law, states are also obligated to respect, protect, and fulfil human rights outside their borders. States' extraterritorial human rights obligations (ETOs) entail that they must refrain from any acts and omissions that have foreseeable effects on the enjoyment of human rights in third countries (obligation to respect), to ensure that non-state actors based on their territory, which they are capable of controlling, do not commit human rights abuses or crimes (obligation to protect), and to contribute to the creation of an international environment that is conducive to the universal realization of human rights (obligation to fulfil).

States' extraterritorial obligations originally derive from articles 55 and 56 of the United Nations Charter, which obligate states to promote the universal respect of human rights and to take joint and separate action to this end, which clearly implies that their obligations do not stop at their borders.³⁹ Subsequently, the jurisprudence of UN Treaty Bodies,

but also the Inter-American Commission on Human Rights, have reaffirmed the extraterritorial nature of states' human rights obligations.⁴⁰

In light of international law and this jurisprudence, in 2011, a group of experts drafted the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, summarizing and clarifying the extraterritorial obligations of states.⁴¹ The Maastricht Principles are based on underlying principles of international law and constitute an international expert opinion adopted by international law experts from all regions of the world, including current and former members of international human rights treaty bodies, regional human rights bodies, former and current special rapporteurs of the Human Rights Council, and recognized scholars. These principles are a source of international law, in line with Articles 38 c) and d) of the Statute of the International Court of Justice. Rather than establishing new elements of international law, the principles clarify extraterritorial obligations of states on the basis of standing international law, as explained in the Commentary to the Maastricht Principles.⁴² The Maastricht Principles are therefore an important tool when analyzing the obligations of states and holding them accountable, including in the context of land grabbing. In the context of this report, this is very relevant, since several US-American and European pension funds are financing the expansion of agribusiness in the MATOPIBA region, thus contributing to land speculation, the dispossession of local people and environmental destruction. The report will therefore also analyze the existing human rights obligations of the USA, Germany, the Netherlands, and Sweden,

³⁷ The concept of territory is complex and subject to multiple interpretations, but is understood here as expressing holistic relationships between people and their living environment. In this context it is not used to define the geographical and economic ambits of states, and over which states assert sovereignty through the use of political, legal and military force.

³⁸ Please see FIAN (2017), The Human Right to Land. Position Paper. Available at: www.fian.org/en/news/article/land_is_a_human_right.

³⁹ United Nations Charter (1945), ss. 55–6.

⁴⁰ See, inter alia, General Comments no. 12 (1999), no. 15 (2002), and no. 24 (2017) of the Committee on Economic, Social and Cultural Rights, General Comment no. 16 (2013) of the Committee on the Rights of the Child, General Recommendations no. 34 (2015) and no. 35 (2017) of the Committee on the Elimination of Discrimination against Women, and General Comment no. 3 (2015) of the African Commission on Human and Peoples' Rights.

⁴¹ ETO Consortium (2012), Maastricht Principles on States' Extraterritorial Obligations in the Area of Economic, Social and Cultural Rights, available at: www.etoconsortium.org/en/main-navigation/library/maastricht-principles.

⁴² De Schutter, O., Eide, A., Khalfan, A., Orellana, M., Salomon, M., Seiderman, I. (2012), 'Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights,' In: Human Rights Quarterly. Available at: www.etoconsortium.org/en/main-navigation/library/maastricht-principles.



and identify possible breaches of their extraterritorial human rights obligations.

In the context of land grabbing, the following extraterritorial obligations are particularly relevant:⁴³ firstly, states must prevent their domestic and international policies and actions from contributing to land grabbing and interfering with people's human rights (ETO Principle 13). This refers both to activities that directly impair the human rights of people abroad and which indirectly interfere, e.g. by decreasing another state's ability to comply with its human rights obligations (ETO Principles 20 and 21). Conducting human rights impact assessments (HRIAs) and monitoring the extraterritorial human rights impacts of policies, laws, and practices are important steps for avoiding harm (ETO Principle 14). Secondly, states are required to establish regulations that ensure that non-state actors, such as transnationally operating corporations or investors, do not impair human rights in other countries (ETO Principle 24). In this context, measures to protect human rights must be adopted

and enforced in all states that are in a position to regulate these actors.

This applies wherever a corporation or financial actor has its center of activity, is registered or domiciled, or has its main place of business or substantial business activities, in the state concerned (ETO Principles 25 and 26). Effective regulation of the extraterritorial activities of companies is a crucial issue for addressing land grabbing, and states are required to use their influence to protect human rights abroad through diplomacy and cooperation (ETO Principle 27). Thirdly, states must hold corporations legally accountable for human rights abuses and crimes and establish accountability mechanisms so affected communities can access effective remedies (ETO Principles 37 and 38). State-based judicial remedies are crucial and the human rights obligations of states require them to open up their judicial systems in order to guarantee all victims of corporate human rights abuses have full access to civil, administrative, and criminal justice systems, among others.

⁴³ For a detailed description of states' ETOs in the context of land grabbing and land deals, including a compilation of the legal sources for ETOs, please see: Borras Jr., S.; Seufert, P. et al. (2016), Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union (in particular chapter 4.2 and Annex 4). Available at: [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2016\)578007](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2016)578007).

3. Land as a Financial Asset: New Driving Factors and Actors in Land Grabbing in the MATOPIBA Region

3.1. Characteristics of the MATOPIBA Region

The region known as MATOPIBA encompasses adjacent areas from three states in northeastern Brazil (Maranhão, Bahia, and Piauí) and one state from the country's northern region (Tocantins), covering 337 municipalities and a total land area of 73,173,485 hectares (see Map 1). MATOPIBA is a territorial delimitation, created through a technical cooperation agreement signed in 2014 between different ministries and federal agencies⁴⁴ to indicate the potential area of agricultural expansion in an area that has often been described by Brazilian governments as the “world's last agricultural frontier.” In May 2015, the Brazilian government created, by a decree,⁴⁵ the special region of MATOPIBA and launched the MATOPIBA Plan for Agricultural Development (PDA), designating the area for development of agricultural and mining activities.

The MATOPIBA region is part of the Cerrado biome,⁴⁶ which consists of savannahs, scrubland and forests and is the second largest Brazilian biome after the Amazon. The Cerrado covers an area of approximately 2,036 million km² (24 % of the Brazilian territory) and is home to 5 % of the biodiversity on Earth. The Cerrado therefore has an extraordinary socio-environmental importance for Brazil, the region and planet earth. Indeed, even though less known and

less reported on by media, the Cerrado is as important as the Amazon is, notably because three of the region's most important aquifers are situated there (Guarani, BambuÍ, and Urucuia), which form two-thirds of Brazilian hydrographic regions. The Cerrado further is a very rich and diverse environment, consisting of several subsystems. As such, it has an enormous importance in terms of biodiversity of flora and fauna.⁴⁷

The Cerrado is, however, one of the most endangered biomes in Brazil today, in particular with regards to loss of its vegetation cover and the extinction of species. According to the Brazilian government, by 2009 already half of the Cerrado's original vegetation had been lost, in particular due to the expansion of agribusiness.⁴⁸ While efforts have focused on reducing deforestation in the Amazon, clearing in the Cerrado has continued at high levels, also because this region is (implicitly or explicitly) considered as a buffer zone to the Amazon. Within the Cerrado, the MATOPIBA region accounts for 62 % of the region's total deforestation, reflecting the combination result of poor environmental regulation and intense development of the agribusiness sector.⁴⁹

Although the discourse of governmental and corporate actors presents the Cerrado as a vast “empty” area, human occupation of these lands can in fact be traced back at least 13,000 years. Nowadays, the Cerrado is home to an estimated 25 million people – or 15 % of the Brazilian population – in approximately 1,500 municipalities. It is inhabited by more than 80 indigenous groups such as Karajá, Avá-canoeiro, Krahô, Xavante, Xerente, Xacriabá, and Tapuia, as well as several peoples and communities, who are known and legally recognized as “traditional peoples” for their specific cultures. These include *quilombolas* (descendants of runaway slaves), *geraizeiros*

⁴⁴ Namely the Ministry of Agrarian Development, the National Institute for Colonization and Agrarian Reform (INCRA) and the Brazilian Agricultural Research Corporation, through the Strategic Territorial Intelligence Group (GITE).

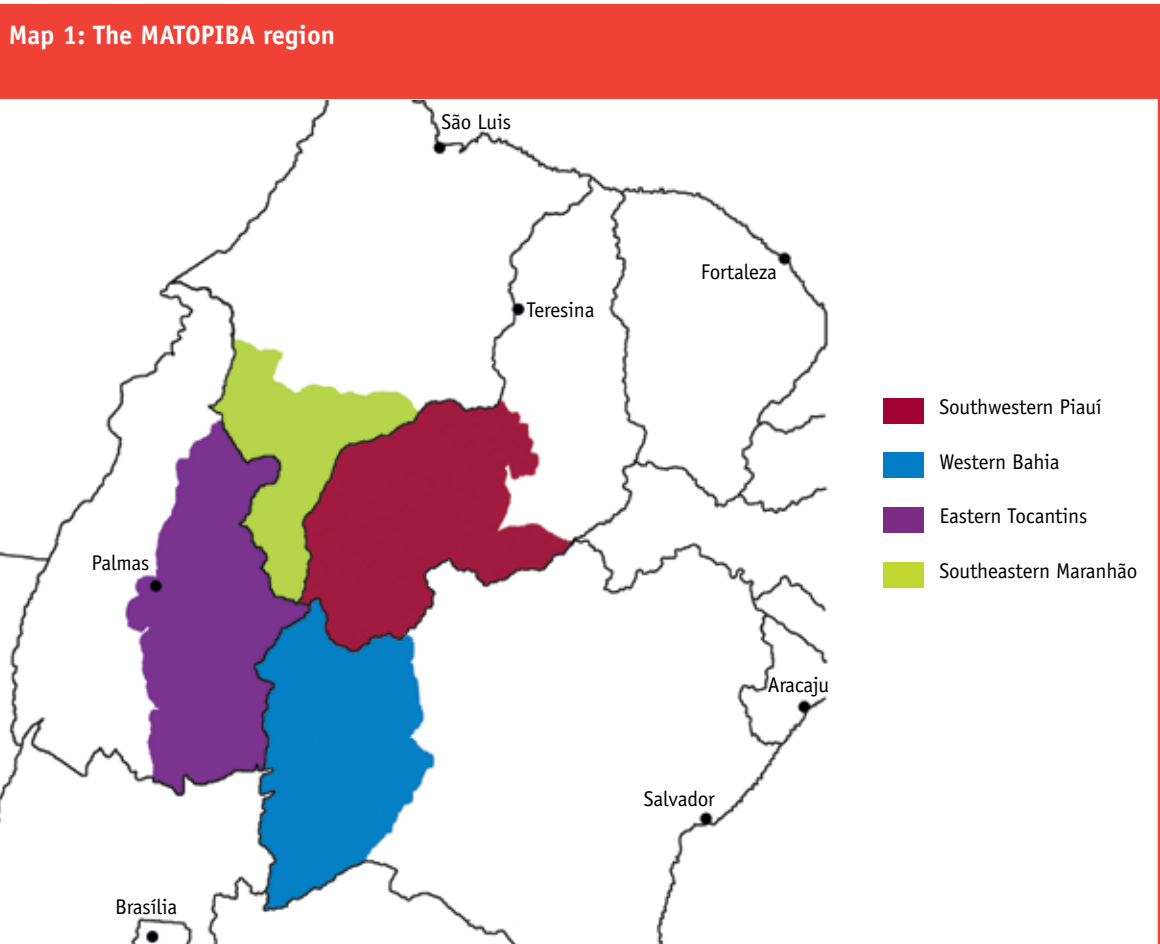
⁴⁵ Decree No 8.447 of 6 May 2015.

⁴⁶ A biome is a major ecological community of plants and animals, such as tropical rain forest, grassland, or desert.

⁴⁷ Action Aid and Rede Social de Justiça e Direitos Humanos (2017), “Impacts of agribusiness expansion In the MATOPIBA region: Communities and the Environment”, p. 9-17. Available at: http://actionaid.org.br/wp-content/files_mf/1506360021ACTIONAID_MATOPIBA_ENG_WEB_25SET.pdf.

⁴⁸ Ministério do Meio Ambiente, MMA (2009), Plano de Ação para Prevenção e Controle do Desmatamento e das Queimadas no Cerrado, p. 7.

⁴⁹ Pereira, L. I. and Pauli, L. (2016), ‘O processo de estrangeirização da terra e expansão do agronegócio na região do Matopiba.’ Revista Campo-Território, Vol. 11, nº 23, Special edition, July, pp. 196-224.



(peasants from northern Minas Gerais), *vazanteiros* (river bank peasants in the Cerrado), *quebradeiras de coco babaçú* (babassu nut processors), *povos de fundo e fecho de pasto* (communities where there is shared ownership of the land as well as collective use of resources), *barranqueiros* (a people who live along São Francisco River banks), and *sertanejos* (cattle herders). There are also communities conducting small scale extraction of minerals, family farmers,

settlements of landless peasants demanding agrarian reform, as well as people who were settled in plots assigned according to agrarian reform guidelines. All these peoples live and interact with the Cerrado, preserving it and making sustainable use of resources in the area. The practices, knowledge, and customs of these peoples are indispensable not only for their own survival but also for the survival of the Cerrado.⁵⁰

⁵⁰ Action Aid and Rede Social de Justiça e Direitos Humanos (2017), *Impacts of agribusiness expansion in the MATOPIBA region: Communities and the Environment*, p. 17.

Over the centuries, these peoples and communities have developed strategies of survival and coexistence with the Cerrado and maintain a close relationship with the ecosystem through hunting, gathering of fruit and fishing, diversified agriculture, such as hillside and valley bottom agriculture, and loose cattle raising. The indigenous and traditional peoples have further developed a big social and cultural diversity. However, the culture of the Cerrado communities is unknown to many sectors of society. This creates a mistaken notion that the Cerrado is a biome with “poor” soils that explain a “demographic void”. Such discourse has been promoted and used to justify the expansion of industrial agriculture monocultures in the region, causing enormous environmental destruction, as will be described later on.

The peoples and communities living in the Cerrado have faced violence and exclusion throughout history. In fact, indigenous and native peoples of the Cerrado already faced violence under colonial occupation, which intensified by the incursions by settlers in search of stones and precious metals. In the seventeenth century, the first villages were established in the Brazilian Midwest, which later gave way to the formation of the first cities.⁵¹ Communities of runaway slaves of African descent started to settle in the 19th century and organized in so-called *quilombos*. The traditional communities in the region go back to the middle of the 19th century. At the same time, the Brazilian Land law (1850) stipulated that all lands that were not formally owned by somebody now belonged to the state (so-called vacant lands, *terras devolutas*). After the end of slavery, a number of freed slaves left the big landholdings and settled on these state lands, creating communities that lived off farming, fishing, hunting, gathering and other activities. These communities did not formally own the land, but lived there as “occupants” (*posseiros*). Until today, the communities living in the MATOPIBA region do not usually hold any land titles and large

parts of the lands they live on continue to be *terras devolutas*. Given that these public lands have been used by communities and rural people for many years and that they have therefore - according to Brazilian law - acquired the right to own and use it by occupation (usucaption), “public land of common use” is a better term than the official term “vacant land”.⁵²

As everywhere in the Cerrado, the communities in the MATOPIBA region have adapted to the natural landscape and live in the so-called *baixões*, or lowlands, where rivers flow from the high plateaus. These lowlands provide water and fish and places where communities could build their houses, grow food (manioc, rice, corn, beans), and raise some cattle, pigs, chickens and other poultry. The higher plains or plateaus (*chapadas*), with intermittent rainfall and water, were not good places to live, but were used as grazing areas for the cattle as well as for hunting and the gathering of fruit, wood and medicinal plants.⁵³ The use of both the lowlands and the highlands have thus been the basis of the livelihoods of peoples and communities living in the areas for a long time. Communities have managed and used the land and other natural resources based on customary practices. The plateaus in particular have been considered a common good, which communities have used collectively.

Today, the MATOPIBA region is marred by poverty and social inequality. Regarding agriculture, there is a significant disparity in the distribution of lands and income, which has its roots in Brazilian history and is reproduced until today. Of the total number of settlements, 80 % are rated as very poor (accounting for 5.22 % of the region’s gross income), 14 % are poor (accounting for 8.35 % of the region’s gross income), 5.79 % are middle class (accounting for 26.74 % of the region’s gross income) and 0.42% are rich (accounting for 59.78 % of the region’s gross

⁵¹ Action Aid and Rede Social de Justiça e Direitos Humanos.

⁵² See https://1bps6437gg8c169i0y1drtgz-wpengine.netdna-ssl.com/wp-content/uploads/2018/04/LandSpeculation_Brazil_42518.pdf.

⁵³ Action Aid and Rede Social de Justiça e Direitos Humanos (2017). “Impacts of agribusiness expansion In the MATOPIBA region: Communities and the Environment”, p. 21. Available at: http://actionaid.org.br/wp-content/files_mf/1506360021ACTIONAID_MATOPIBA_ENG_WEB_25SET.pdf.

income).⁵⁴ Poverty and inequality have considerably increased as a result of the displacement of rural people due to agribusiness expansion.

Regarding land distribution, the 2006 agricultural census (the last one made available) has shown that from a total of 324,000 agricultural settlements in an area of 34 million hectares, 36 % had an area smaller than 10 hectares (with an average area of 2 hectares) and occupied only 0.7% of the region's land (246,000 hectares). 36 % of the settlements had between 10 and 100 hectares and occupied 13 % of the land. 10 % of those settlements had areas that ranged between 100 and 500 hectares, holding 21 % of the land. The remaining 4 % with holdings over 500 hectares, occupied 63 % of the land. The same census also shows that small and medium farmers produce over 70 % of the food for internal markets.⁵⁵

3.2. Agribusiness Expansion

The expansion of the agricultural frontier into the Brazilian Cerrado started in the 1950s, in the context of a process of industrialization of agriculture, which has had catastrophic consequences for rural populations.⁵⁶ During this time, the Brazilian State guaranteed subsidized credit, tax exemptions, management of prices, and supply of land for agribusiness. This generated a major transformation in rural areas, which combined technical change with a worsening of historically asymmetrical relations of ownership and power. An important contributing factor to this was the availability of international finance capital that, at the cost of and increasing debt of the Brazilian State, financed the acquisition of machinery and chemical inputs from multinational companies. The "modernization" of agriculture became a political priority during the military dictatorship,

which lasted from 1964 to 1985.⁵⁷ This led to the creation of big agribusiness companies, which produce commodities for export (currently the main ones are soy, corn, sugar, cotton, and concentrated orange juice), following the model of the so-called Green Revolution, which is based on extensive use of chemical inputs, the mechanization of agriculture, and requires significant amounts of capital.

Conflicts over land are not new to the MATOPIBA region (in the 19th and early 20th century large-scale cattle breeding put pressure on traditional and indigenous communities) and already began to increase the early 1980s, when gauchos (rich farmers coming from the southern region of Brazil and some neighboring countries) started to arrive in search of lands for the cultivation of soybeans. Starting in the 1990s, important state subsidies, especially in the form of subsidized credits and subsidies for crop insurances, led to the expansion of soy monocultures, which, in the early 2000s, started to reach deeply into the northern part of the Cerrado, especially the states of Piauí and Tocantins. Around the same time, the quest for new areas of investment by the finance industry led to a commodity boom, which resulted in the speculative increase of the prices of commodities (such as soy, sugar, corn, cotton, eucalyptus, and meat) and further fueled the territorial expansion of monocultures and agribusiness. Between 2000 and 2014, the area planted with soy and sugarcane in the MATOPIBA region increased by 253 % and 379 % respectively and the area planted with soybeans increased from 1 million to 3.4 million hectares.⁵⁸

The rise in commodity prices in the futures markets raised the demand for arable lands, which in turn raised the price of land in Brazil. Consequently, land itself increasingly became a target for financial actors and a business in its own right, beyond the financing of

⁵⁴ Mingoti, R., Brasco, M.A., Holler, W.A., Lovisi Filho, E., Spadotto, C.A. (2014), Matopiba: caracterização das áreas com grande produção de culturas anuais. EMBRAPA, Land Management. Campinas SP.

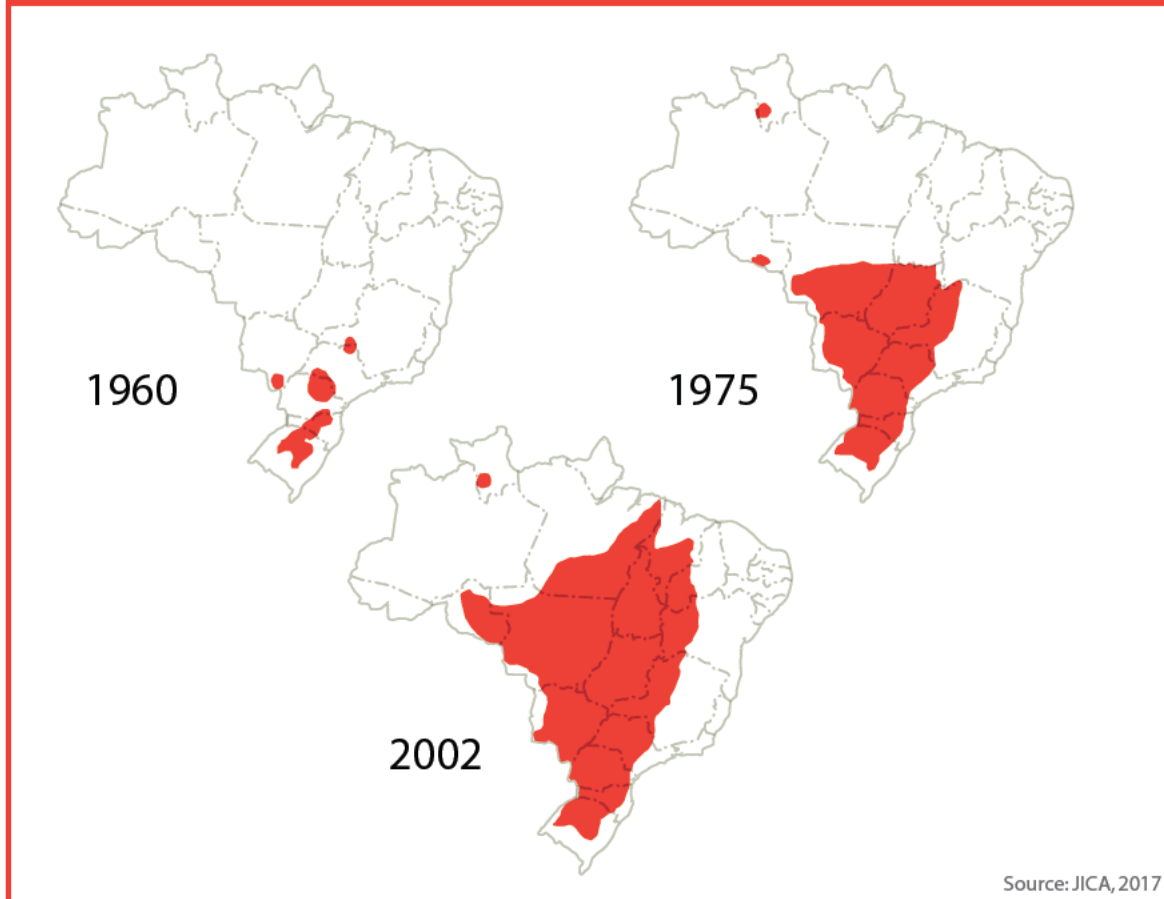
⁵⁵ Instituto Brasileiro de Geografia e Estatística, IBGE (2006), Censo Agropecuário 2006. Available at: <https://ww2.ibge.gov.br/home/estatistica/economia/agropecuaria/censoagro/default.shtm>.

⁵⁶ This chapter is based on Rede Social de Justiça e Direitos humanos (2018), Imobiliárias agrícolas transnacionais e a especulação com terras na região do MATOPIBA. Available at: www.social.org.br/images/MATOPIBA.pdf.

⁵⁷ Idem.

⁵⁸ Idem, p. 26.

Map 2: Soybean Expansion in Brazil, 1960–2002



agro-industrial production. In the MATOPIBA region, this led to the appropriation of land, which had been used and occupied over generations by peasant communities and was still largely covered by native Cerrado vegetation. These lands have since become the focus of land speculation. Indeed, the demand for land as a financial asset drives the rise in prices as a speculative business. A case in point is the soybean industry, which started to incorporate the value of the land on which it produced into companies' portfolios, raising their value. The rise in the stock of a company can offset new debts, thus acting as an investment and promise of future production, which leads to the expansion of monocultures and the incorporation of new lands.⁵⁹

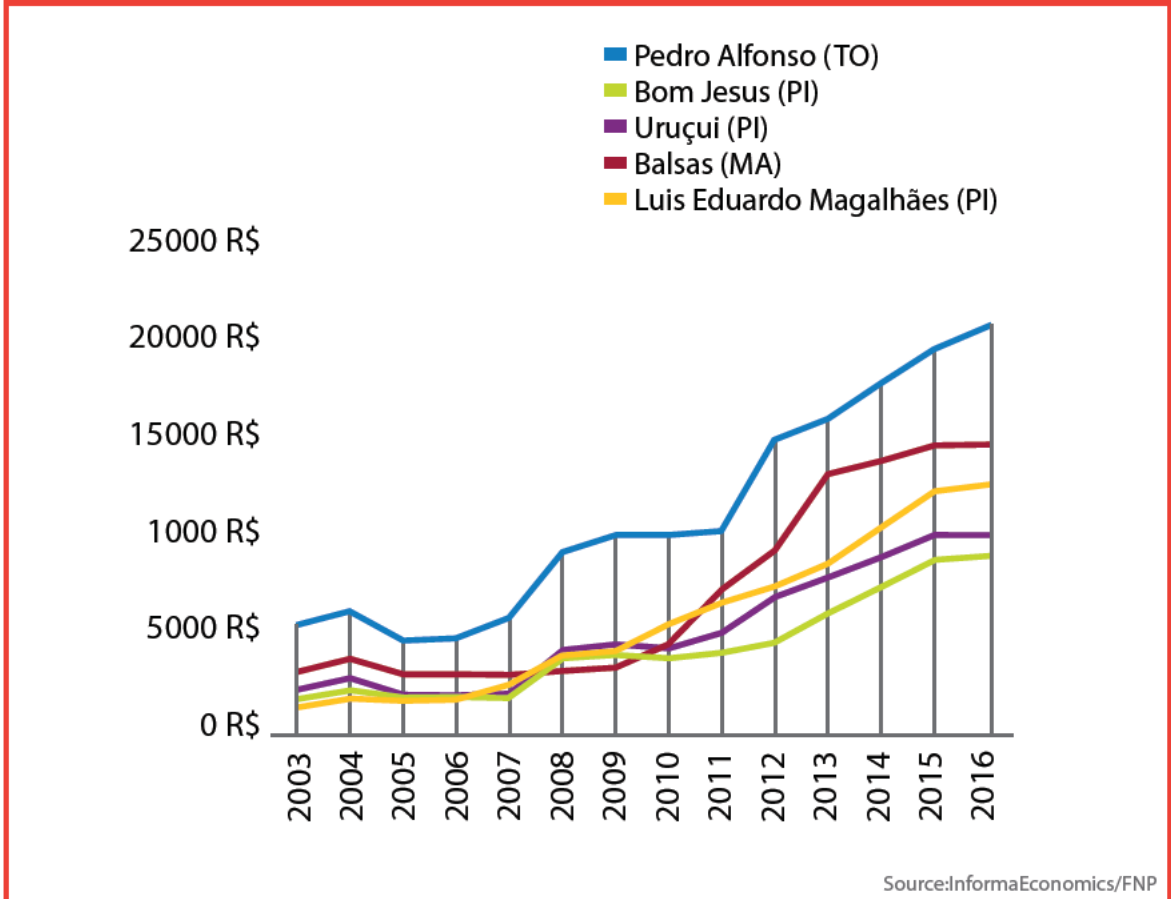
3.3. Land Grabbing and Land Speculation in MATOPIBA Today

Land speculation has continued after the end of the commodity boom and the drop of commodity prices on the world market in the aftermath of the world financial crisis of 2007/08. According to research by Rede Social de Justiça e Direitos humanos, even with falling international commodity prices in recent years, land prices have continued to rise in the MATOPIBA region, which has further stimulated land grabbing, the expropriation of peasants, and the destruction of the Cerrado.⁶⁰ Several companies and financial actors have begun to regard the price of a piece of land as

⁵⁹ Idem.

⁶⁰ Idem.

Figure 1: Price of the land in the MATOPIBA region (2003–2013)



an asset separated from the product and draw profits from speculation. According to research, 19,000 km² have been transferred in the MATOPIBA region between 2013 and 2015.⁶¹

With the increasing disconnect between commodity prices and land prices, land has, in many cases, become a more profitable business than agricultural production. Research shows that transnational agribusiness companies started operating in the land market around 2008/09. Some of these companies have created branches that specifically deal with land business. One example is the company SLC (Schneider Logemann Company), whose branch SLC Agrícola is one of the biggest Brazilian soy producers, while

the branch SLC Land Co. has become a big player in the land business. SLC controls almost half a million hectares of land in Brazil, with some 300,000 hectares planted with soy. In 2015, SLC generated more income through its farmland purchases and sales than via its historic core business with soy for the first time.⁶² Other newly created land companies are no longer directly involved in industrial agricultural production and fully concentrate on acquiring, selling, leasing, and/or managing land.

The first step of land business is the creation of new farms/*fazendas*. This usually takes place in lands that are formally owned by the state (*terras devolutas*), by enclosing an area that had previously been without

⁶¹ Kane, D. (2017), Brazil: Human and Environmental Costs of Land Investments, Maryknoll Office for Global Concerns, p. 7.

⁶² Rede Social de Justiça e Direitos humanos (2018), Imobiliárias agrícolas transnacionais e a especulação com terras na região do MATOPIBA, p. 38.

land title. Once an area has been appropriated – often through an illegal act of forging ownership and enclosing/fencing off, driving out local people (often through the use of force) – new farms/*fazendas* are created, i.e. prepared for agroindustrial production, including through deforestation. These farms are then sold to agribusiness companies or to land companies, which lease or further sell the land.⁶³ According to information received through interviews with representatives of companies that are involved in land business in the MATOPIBA region, it costs around 5,000 Brazilian reais per hectare (around € 1,200) to create a farm in this way, which is then sold for at least 15,000 Brazilian reais per hectare (around € 3,600).⁶⁴

The falsification or forgery of land titles is an intrinsic part of this business, as a way of formalizing (or at least simulating) land ownership, which has been appropriated illegally. In Brazil, this form of land appropriation is referred to as *grilagem*. This term refers to an old practice of keeping falsified documents with crickets, so that the insects would make the false documents look old and thus seemingly more real.⁶⁵ *Grilagem* is considered a crime under Brazilian law and normally involves corrupt state representatives, such as notary officials and judges, who are responsible for registering and legalizing ownership of a given plot of land respectively. The plot of land is then sold several times. Through these transactions, the title obtained in the described way becomes “clean” and “legal” and becomes attractive for international investors.

In many cases, plots of land that have been acquired in this way are then used as a basis to illegally expand the property through grooming, violence, and forgery of documents – a method called *abraço*, which means embrace.⁶⁶

Importantly, those that are operating on the ground are backed by international financial actors and transnational companies that channel huge amounts

of capital into the land business, and thus fuel the ongoing speculation. Several of the companies that are involved in land transactions and speculation in the MATOPIBA region are linked to foreign companies, making them transnational land companies. Some prominent examples include: Radar, a joint venture of COSAN (Brazil’s biggest sugar producer) and TIAA (a US-based pension fund); SLC Agrícola S.A. (soy producer), which owns a real estate branch called SLC Land Co., which in partnership with Valiant Assets Manager (a UK-based investment fund) owns farms in the region; BrasilAgro S.A., listed in the stock exchange, which has Argentinian and Brazilian urban real estate and agribusiness partners; Sollus Capital, which receives indirect investments from Japanese and Argentinian companies; InSolo, which receives investments from the Harvard University Endowment Fund.⁶⁷

All of the listed companies are present in the area visited by the fact-finding mission and very likely own land/farms there.⁶⁸ The region has also been a target for Japanese investments by Agrícola Xingú S.A., a Brazilian subsidiary of Mitsui & Co. S.A., and Agrex/Mitsubishi.⁶⁹

Even though they may not be directly linked through a business relationship in all cases, the various players are all necessary parts of a specific model of wealth extraction, which has enormous social and environmental costs. Included among these are the local land grabbers/*grileiros*, the land companies

⁶⁷ See Rede Social de Justiça e Direitos Humanos (2018), *Imobiliárias agrícolas transnacionais e a especulação com terras na região do MATOPIBA*.

⁶⁸ FIAN contacted all companies mentioned in this report in order to share and verify with them the information collected during the realization of the fact-finding mission, which took place in September 2017. The excerpts of a draft version of this report directly mentioning the activities of companies in the MATOPIBA region were shared with them via e-mail on December 12 and 13, 2017. Based on their replies, factual corrections were made in the text. Despite many efforts to contact Tiba Agro S.A. via telephone and fax, we did not succeed to contact this company. Mitsui & Co. S.A. stated, in a response dated December 22, 2017, “that Agrícola Xingú’s objective is agricultural production in Brazil and Mitsui does not hold business for the purpose of land investment. Mitsui has a policy to respect the human rights.” The company refers to its activity reports, which are available at www.mitsui.com/jp/en/sustainability/activity_report/human/index.html. SLC Agrícola S.A. and SLC Land Co. expressed in a letter dated December 27, 2017, their disagreement with regard to the information that the creation of new farms cost very little to investors and provides enormous returns.

⁶⁹ Rede Social de Justiça e Direitos Humanos (2018), *Imobiliárias agrícolas transnacionais e a especulação com terras na região do MATOPIBA*.

⁶³ Idem.

⁶⁴ Idem, p. 30.

⁶⁵ Idem.

⁶⁶ Ariovaldo Umbelino Oliveira (2016), “A mundialização da agricultura brasileira”. São Paulo: Iandê Editorial.

that acquire the lands in order to speculate or lease them out to production, the agribusiness companies that exploit the land (and the local people who end up working on the plantations after losing their livelihoods), and the international financial actors who may be linked to any of these actors and ensure the capital inflow that is necessary to keep this business going.

As will be explained in more detail in the following chapter, pension funds from the USA, Germany, the Netherlands, and Sweden have invested substantial funds in land business in the MATOPIBA region.

3.4. The Involvement of International Pension Funds in Land Grabbing in MATOPIBA

3.4.1. The US-American Pension Fund, TIAA

TIAA (Teachers Insurance and Annuity Association) is a private, non-profit pension fund that manages the retirement accounts of around five million teachers and social service workers from 16,000 organizations.⁷⁰ It has offices all over the United States and around the world, but it is based in New York. TIAA is the largest international investor in agricultural lands, as well as the third largest commercial real estate manager in the world.⁷¹

Through its global asset management division, called Nuveen, TIAA possesses and manages 1,697,219 acres of land (686,840 hectares), divided between five countries on four continents,⁷² worth in excess of US \$ 8 billion.⁷³ TIAA has been purchasing agricultural

lands since 2007⁷⁴ and, in 2012, launched its first international agricultural lands fund, called TIAA-CREF Global Agriculture LLC (TCGA I), totaling US \$ 2 billion.⁷⁵ A second agricultural lands fund (TIAA-CREF Global Agriculture II LLC, TCGA II), worth US \$ 3 billion was launched in 2015.⁷⁶ The majority of investors in TCGA I and II are institutional investors, in particular pension funds (see Table 2).

According to TIAA, around 43% of its lands, about 728,730 acres (294,901 hectares), are located in Brazil. 40% of its agricultural lands, or 684,735 acres (277,097 hectares), are located in Australia and TIAA has smaller ventures in Chile and Poland. Almost 15% of its agricultural lands are located in the USA, totaling 251,166 acres (101,641 hectares), and even though this represents less than a sixth of its cultivated lands, the returns from agricultural lands in the USA equals nearly half of its total assets. According to the information provided by the fund, over 71% of the area owned by TIAA is dedicated to grains and oilseeds (mainly the industrial crops, soy beans and maize), while another 25% of its lands are planted with sugar cane. Around 4% of this land is dedicated to growing food or specialized crops. The vast majority of TIAA's crops are thus destined for the commodities market in order to make processed food, biofuel, or feed livestock in industrial farms.

The lands owned by TIAA in Brazil are located in different states. 261,694 acres (105,902 hectares), i.e. almost 36%, are located in the MATOPIBA states. Other states where TIAA owns farmland are Mato Grosso, São Paulo, Minas Gerais, Goiás, and Mato Grosso do Sul. The state of São Paulo is where TIAA owns most of its lands in Brazil, namely 330,981 acres (133,941 hectares), or around 45 %.

⁷⁰ www.tiaa.org/public/about-tiaa/news-press/press-releases/pressrelease531.html

⁷¹ Norton, Leslie P., "TIAA/Nuveen: A Trillion Dollar Startup Is Making Its Move. Roger Ferguson is rebuilding the pension-plan giant from the ground up and aims to expand its reach", *Barron's* (4.8.2017), www.barrons.com/articles/tiaa-nuveen-a-trillion-dollar-startup-is-making-its-move-1491623875.

⁷² TIAA/Nuveen (2017), "Responsible Investment in Farmland: 2017 report on ethical conduct and responsible stewardship of the environment". Available at: www.tiaa.org/public/pdf/06-2017_GBR-CFARMRPT_Farmland_Report.pdf.

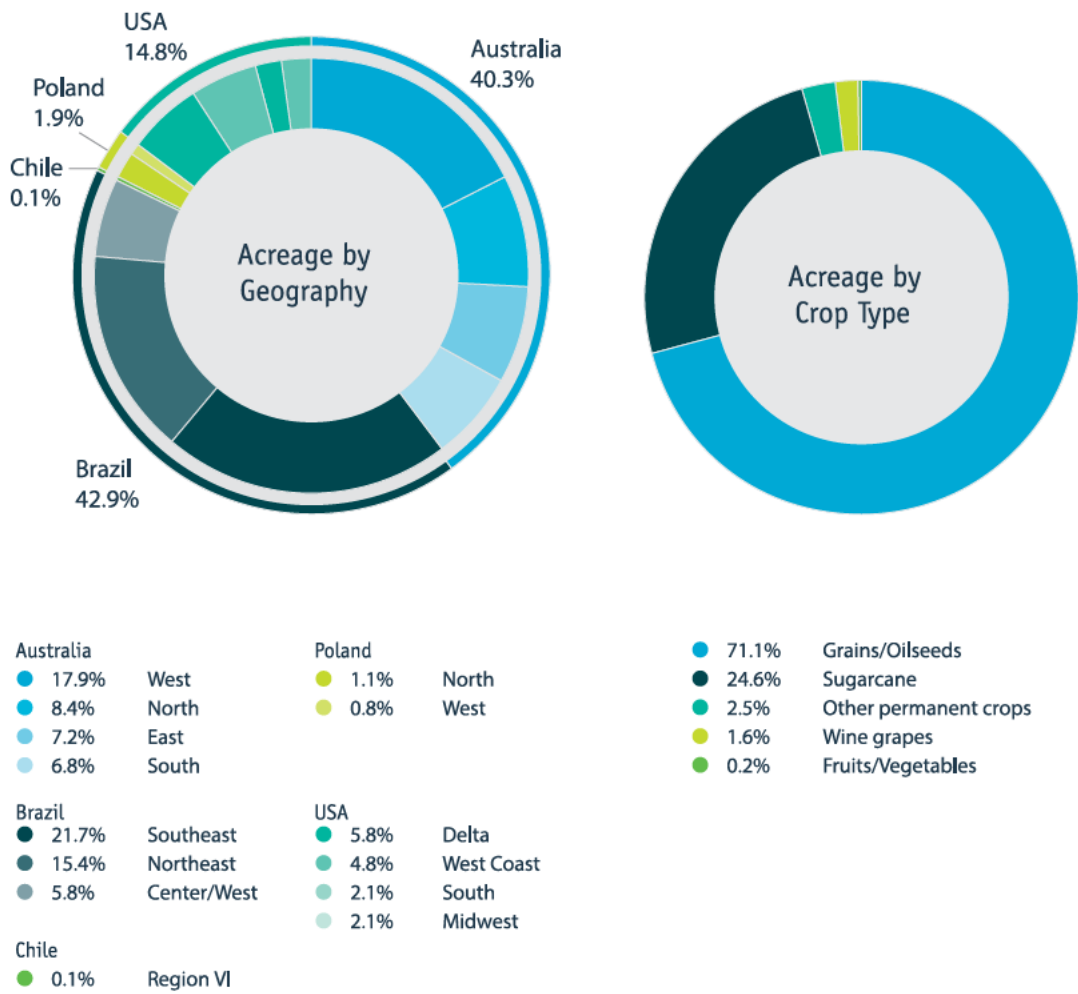
⁷³ Claire Pennington, "TIAA Global Asset Management: 'We are finding more opportunity internationally'", *Agri Investor* (9.28.16), www.agriinvestor.com/tiaa-global-asset-management-we-are-finding-more-opportunity-internationally. According to TIAA/Nuveen, its farmland holdings were valued at US \$6 billion at the end of 2016. See TIAA (2017), *Responsible Farmland Report*, p. 16.

⁷⁴ See www.tiaa.org/public/about-tiaa/news-press/press-releases/pressrelease602.html and Marcia Zarley Taylor, "Farmland REITs Gain Ground", *The Progressive Farmer* (6.14.16), www.dtnpf.com/agriculture/web/ag/news/businessinputs/article/2016/06/14/wall-st-funds-flirt-farmland.

⁷⁵ "Pension funds investing more often in agriculture", *Maxwell, Locke & Ritter* (10.23.16) www.mlrc.com/articles/pension-funds-investing-more-often-in-agriculture.

⁷⁶ See www.tiaa.org/public/about-tiaa/news-press/press-releases/pressrelease602.html.

Figure 2: TIAA's Farmland Holdings ⁷⁷



⁷⁷ Source: TIAA/Nuveen (2017), Responsible Investment in Farmland, p.18. Based on gross acreage of 1,697,219 as of 12/31/16

Table 1: TIAA Farmland Holdings in Brazil over Time ⁷⁸

State	2012		2013		2014		2015		2016	
	Acres	Hectares	Acres	Hectares	Acres	Hectares	Acres	Hectares	Acres	Hectares
Bahia	17.680	7.155	34.676	14.033	43.299	17.522	78.957	31.952	78.959	31.953
Maranhão	83.160	33.653	167.653	67.845	159.218	64.432	168.143	68.044	167.569	67.812
Piauí	-	-	7.848	3.176	7.851	3.177	7.851	3.177	7.851	3.177
Tocantins	-	-	7.364	2.980	7.363	2.980	7.315	2.960	7.315	2.960
Mato Grosso	35.179	14.236	92.730	37.526	93.153	37.697	102.050	41.297	86.353	34.945
São Paulo	121.858	49.313	228.290	92.384	270.800	109.587	296.383	119.940	330.981	133.941
Minas Gerais	-	-	29.264	11.842	37.974	15.367	38.144	15.436	37.990	15.374
Goiás	-	-	12.408	5.021	13.733	5.557	11.712	4.740	11.712	4.740
Mato Grosso do Sul	-	-	1.029	416	-	-	-	-	-	-
Total	257.877	104.357	581.262	235.224	633.391	256.319	710.555	287.546	728.730	294.901
Total in MATOPIBA states	100.840	40.808	217.541	88.034	217.731	88.111	262.266	106.133	261.694	105.902

⁷⁸ Own elaboration, based on TIAA's annual reports.

As already stated, most of the farmland in Brazil is owned and managed through the two funds, TCGA I and II. According to TIAA's Farmland Holdings Report from October 2016, the total farmland holdings in Brazil under TCGA I amount to 328,414 acres (132,904 hectares), of which 7,851 acres (3,177 hectares) are situated in the state of Piauí,⁷⁹ 116,995 acres (47,346 hectares) in Maranhão 7,315 acres (2,960 hectares) in Tocantins (and 25,618 acres (10,367 hectares) in Bahia⁸⁰ Under TCGA II, farmland holdings in Brazil amount to 159,959 acres (64,733 hectares), of which 6,080 acres (2,460 hectares) are located in Maranhão and 35,660 acres (14,431 hectares) in Bahia.⁸¹

As already mentioned, TIAA's farmland investments are overseen by its global asset management arm, Nuveen. The investments are managed by Westchester Group Investment Management, an asset management firm affiliated to TIAA/Nuveen, which "identifies, acquires, and monitors our farmland investments and is also responsible for the negotiation of the lease and crop management contracts."⁸² A third management layer is made up of farm operators, who "manage the properties on a day-to-day basis."⁸³ In many cases, this happens through lease contracts.

⁷⁹ This is the area made up of two farms owned by TIAA: Ludmila and Laranjeiras.

⁸⁰ TIAA (2016), "TIAA-CREF Global Agriculture I LLC. Farmland Holdings Report", October 31, 2016. Available at: www.tiaa.org/public/pdf/tcga_i_farmland_holdings_report_2016.pdf.

⁸¹ TIAA (2016), "TIAA-CREF Global Agriculture II LLC. Farmland Holdings Report", October 31, 2016. Available at: www.tiaa.org/public/pdf/tcga_ii_farmland_holdings_report_2016.pdf.

⁸² TIAA/Nuveen (2017), Responsible Investment in Farmland, pp. 10-11. See also www.tiaa.org/public/about-tiaa/news-press/press-releases/pressrelease602.html.

⁸³ Idem.

Table 2: Investors in TCGA I and II ⁸⁴

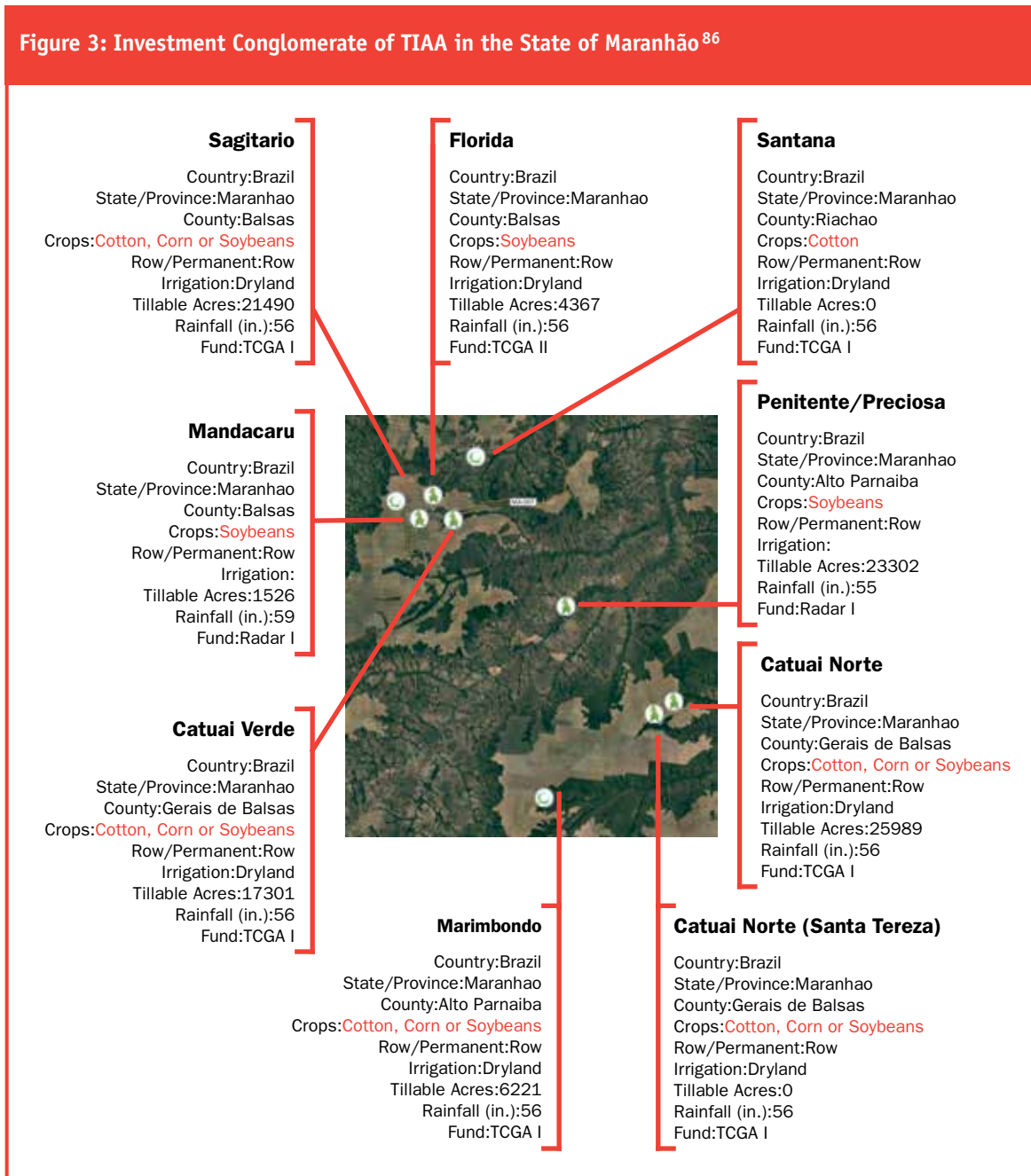
Fund	Investor	Country	Percentage	Amount (US \$ millions)
TIAA-CREF Global AgriTIAA-CREF Global Agriculture LLC	Caisse de dépôt et placement du Québec	Canada	12.5	250
	bcIMCO	Canada	12.5	250
	National Pension Service of Korea	Korea	4.5	100
	AP2	Sweden	23.0	450
	ÄVWL	Germany	5.0	100
	TIAA Global AG Holdco LLC	USA	41.7	834
	TIAA-CREF Global Agriculture Investor Fund, LP	USA	0.8	16
Total			100.0	2.000
TIAA-CREF Global Agriculture II LLC	Feeder Fund and High Net Worth Investors		0.6	18
	NMR Pension Fund (N M Rothschild & Sons employee pension fund)	UK	0.7	21
	Cummins UK Pension Plan Trustee Ltd.	UK	0.8	25
	Environmental Agency Active Pension Fund	UK	1.0	30
	NCPP Investment Holding Company (NAV Canada Pension Plan)	Canada	1.4	41
	Thales Pension Trustee Limited as Trustee of the Thales UK Pension Scheme	UK	1.5	44
	Labourers Pension Fund of Central and Eastern Canada	Canada	1.7	50
	Ontario Power Generation Inc. Pension Fund	Canada	1.7	50
	Ontario Power Generation Inc. On behalf of the Decommissioning Segregated Fund	Canada	2.3	68
	Greater Manchester Pension Fund	UK	2.3	70
	Ontario Power Generation Inc. On behalf of the Used Fuel Segregated Fund	Canada	2.8	83
	Islazul General Partner S.à.r.l.	Luxembourg	3.3	100
	SA Real Assets 2 Limited	UK (Guernsey)	3.3	100
	CDP Infrastructures Fund G.P.	Canada	6.7	200
	State of New Mexico State Investment Council	USA	6.7	200
	Stichting Pensioenfondas ABP	Netherlands	6.7	200
	bcIMC Renewable Resource Investment Trust	Canada	10.0	300
	Comptroller of the State of New York, as Trustee of the Common Retirement Fund ("CRF")	USA	10.0	300
	TIAA Global AG Holdco LLC	USA	11.7	350
AP2 Ag-land Investments KB	Sweden	25.0	750	
Total			100.0	2.999

⁸⁴ Source: www.sec.gov/Archives/edgar/data/1364783/000119312516781853/d279596d485bpos.htm.

According to TIAA, “Nuveen has established several investment entities, including TIAA-CREF Global Agriculture LLC and TIAA-CREF Global Agriculture II LLC (the “TCGA entities”) to make farmland investments.”⁸⁵ This points to the fact that TIAA also

owns and manages farmland through other vehicles. Indeed, based on information about its farmland holdings made available by TIAA/Nuveen, there are also two other funds, called Radar I and II, which own farms in the MATOPIBA region.

Figure 3: Investment Conglomerate of TIAA in the State of Maranhão⁸⁶



⁸⁵ TIAA/Nuveen (2017), Responsible Investment in Farmland, pp. 10-11.

⁸⁶ Based on TIAA’s farmland map. Available at: www.tiaa.org/public/assetmanagement/strategies/alternatives/agriculture/farmlandmap. Accessed on 30 January

TIAA presents itself as a company leading the way when it comes to opening up attractive investment options to financial investors, in particular institutional investors. In a letter to FIAN, sent in response to a draft version of the present report, TIAA/Nuveen states: “We believe our long-term financial commitment, stringent due diligence process and well-documented sustainable approaches set the standard for institutional farmland investors.”⁸⁷ The fund further states to have “taken several steps to be on the forefront of responsible investment.”⁸⁸ The fund emphasizes particularly that it is one of the original signatories to the Principles for Responsible Investment (PRI) and was involved in developing the Principles for Responsible Investment in Farmland (Farmland Principles). Both are initiatives led by investors with the stated objective of improving the sustainability, transparency, and accountability of their investments, including in farmland.⁸⁹ TIAA underlines that it reports on its activities in relation to these principles annually.

TIAA justifies its farmland investments on the basis of needing to diversify its portfolio in order to support retirement security, provide a steady income, and hedge against inflation. In one of its reports, the fund states: “We believe farmland is an excellent long-term asset class that adds value and diversification to many institutional investment portfolios.”⁹⁰ TIAA underlines that it is a long-term investor that acquires its “farmland assets generally with up to a 20-year time horizon.”⁹¹

It also claims that the investments “are a vital source of capital that helps local operators to farm sustainably, improve crop yields, and increase global food supplies.”⁹² The fund acknowledges that farmland investments are a “complex subject [...] with many environmental and social considerations,” but claims to be addressing these through its due diligence procedures (see chapter V.3 for more details).

TIAA’s self-description as a global leader on responsible and sustainable investment stands at odds with research on its land investments in Brazil however.⁹³ This research shows how the fund has set up a complex structure in order to acquire farmland in the MATOPIBA region. Many of its farms were purchased by a company called Radar Imobiliária Agrícola S/A, which was created through a joint venture between TIAA and Brazil’s largest sugar producing company, Cosan. TIAA initially owned 81% of Radar through its Brazilian subsidiary, Mansilla Participacoes Ltda., while Cosan owned 19% and managed the investments.⁹⁴ One of Radar’s objectives is to obtain capitalized income from land – that is, acquire cheap lands, establish farms on that land, and then sell it, in several cases in speculative transactions.⁹⁵ In September 2016, Cosan announced the sale of the majority of its stakes (the equivalent of hundreds of thousands of hectares of land) in Radar to Mansilla Participações, TIAA’s subsidiary in Brazil.⁹⁶ The complex architecture around TIAA’s farmland investments allows the fund, among others, to circumvent provisions set out under Brazilian law,

⁸⁷ Letter by TIAA/Nuveen to FIAN, dated December 22, 2017.

⁸⁸ Ibid.

⁸⁹ For more details, see chapter IV.

⁹⁰ Responsible Farmland Investments report 2017, p. 4.

⁹¹ Responsible Farmland Investments report 2017, p. 4.

⁹² www.tiaa.org/public/land/responsible-investment-farmland.

⁹³ Reports questioning TIAA’s self-depiction as a “responsible investor” have also been published regarding other of the fund’s activities. See, for instance: Morgenson, Gretchen, “The Finger-Pointing at the Finance Firm TIAA”. In: The New York Times (10.21.2017), <https://www.nytimes.com/2017/10/21/business/the-finger-pointing-at-the-finance-firm-tiaa.html>; New York’s attorney general has subpoenaed TIAA, the giant insurance company and investment firm, seeking documents and information relating to its sales practices, according to people briefed on the inquiry, <https://www.nytimes.com/2017/11/09/business/tiaa-subpoena.html>. Also TIAA’s fossil fuel investments have been tracked by CSOs: <https://fossilfreefunds.org/funds>.

⁹⁴ For details, please see Rede Social de Justiça e Direitos Humanos, GRAIN, Inter Pares, and Solidarity Sweden-Latin America (2015).

⁹⁵ Rede Social, p. 40.

⁹⁶ Ibid., p. 41.

which limit land ownership by foreign entities.⁹⁷ Even though TIAA now holds 97% of Radar with its acquisition of Cosan's shares, Cosan formally continues to manage Radar, while TIAA appears only as an investor and claims that the land is not owned by foreigners.⁹⁸ Brazilian law establishes responsibilities for owners but not explicitly for investors, which is used by the latter in order to reject any responsibility on abuses and crimes.

According to information released by the company itself,⁹⁹ a part of Radar's lands in the south of Maranhão and Piauí were obtained from the owner of the company CODECA, Mr. Euclides de Carli, who is allegedly one of the biggest land grabbers in the region. When Judge Heliomar Rios Ferreira from the rural court in Bom Jesus, Piauí, published his decision to cancel land titles held by Mr. de Carli, in a process that resulted in the defrauding of 124.000 hectares of land in the State of Piauí, he referred to Mr. de Carli as, "the lord of the lands of Piauí",¹⁰⁰ and stated: "what we have seen up until now is a true example of a huge land ownership fraud, perhaps the largest one in the State of Piauí."¹⁰¹ Mr. de Carli's activities have also been investigated by the Legislative Assembly of Maranhão.¹⁰²

Research on the land business in MATOPIBA has also found that Radar bought lands in Piauí, which were

legally disputed, cleared them and leased them to SLC Agrícola/LandCo for soy production.¹⁰³ According to recent research, it is also possible that Radar acquired one of its farms in Maranhão (Catuaí Norte), from SLC Agrícola. This points to the fact that different companies, which are active in the land business in MATOPIBA, have business relations among each other. Land transactions between them help to keep the market buoyant.¹⁰⁴

Ludmila farm, which covers 2.300 hectares¹⁰⁵ in the municipality of Santa Filomena, is one of the farms owned by TIAA through TCGA I in the state of Piauí (which is adjacent to the Parnaguá farm belonging to SLC Agrícola), which has led to land conflicts with local communities (see chapter IV). Recent research by Rede Social de Justiça e Direitos Humanos could not prove that these lands were acquired illegally. However, proceedings to cancel the deeds concerning a good part of the lands around the farm have been initiated by the rural court in Bom Jesus.¹⁰⁶ Two farms that are situated on the same plateau as Ludmila farm also involve international investors, namely the Parnaguá farm (owned by SLC Agrícola/Land Co. with financial backing from the UK investment fund Valiance Capital) and a farm owned by the agribusiness company InSolo Agroindustrial (in which the Endowment Fund of Harvard University has invested¹⁰⁷). All these farms have been established

⁹⁷ According to Brazilian law (law n° 5.709/1971), a maximum of 25% of the total territory of a given municipality can be owned by foreigners. Within this 25%, just 10% can be held by the same person. This law goes back to Brazil's dictatorship-era and was revised by the Lula administration (2003-2010).

⁹⁸ Rede Social, p. 41.

⁹⁹ See Rede Social de Justiça e Direitos Humanos (2017), "Imobiliárias agrícolas transnacionais e a especulação com terras na região do MATOPIBA", pp. 20, 40-41.

¹⁰⁰ Case no. 0000759-98.2016.8.18.0042 TJ/PI of July 5, 2016.

¹⁰¹ Case from 5th of July, 2016 (Public Prosecutor of the State of Piauí). See, for instance: <https://www.gp1.com.br/noticias/ministerio-publico-investiga-empresario-euclides-de-carli-399021.html>

¹⁰² "Euclides de Carli is one of the main land-grabbers in the Brazilian agricultural frontier", said Lindonjonson Gonçalves de Sousa, the public prosecutor who investigated Carli's land transactions. "It should be no surprise to anyone that he has a notorious role in the conflicts over land in that region". In: "Compra de terras agrícolas no Brasil por gigante americana gera polêmica", which can be found in: <https://oglobo.globo.com/economia/compra-de-terras-agricolas-no-brasil-por-gigante-americana-gera-polemica-18070436> (accessed on 17 November 2017).

¹⁰³ Hershaw, E. and Sauer, S. (2017), "The evolving face of agribusiness investment along Brazil's new frontier: institutional investors, recent political moves, and the financialization of the Matopiba." Paper presented at the 5th International Conference of the BRICS Initiative for Critical Agrarian Studies, 13-16 October 2017, Moscow, Russia. Available at: www.iss.nl/sites/corporate/files/2017-11/BICAS%20CP%205-7%20Hershaw%20and%20Sauer.pdf.

¹⁰⁴ Rede Social.

¹⁰⁵ Different information is available regarding the size of Ludmila farm. According to information provided by TIAA/Nuveen, its two farms in Piauí – Ludmila and Laranjeiras – have 7.851 gross acres (3.177 hectares) and 4.501 tillable acres (1821 hectares). The NGO Global Forest Watch speaks about 2.291 hectares. A request for a title deed registered by INCRA quantifies the area of the farm with 2.300 hectares. See: https://www.tiaa.org/public/pdf/tcga_i_farmland_holdings_report_2016.pdf; http://www.globalforestwatch.org/map/12/-8.90/-45.70/ALL/hybrid/loss?tab=analysis-tab&geostore=0229018c9a9c10d72dc8fd03e36f2ef8&begin=2012-01-01&end=2013-01-01&threshold=30&dont_analyze=true; and Rede Social (2018), p. 43.

¹⁰⁶ GP1, 3 August 2016/, see Rede Social, pp. 41-42.

¹⁰⁷ According to research, 95% of InSolo Agroindustrial's capital belongs to the Harvard Endowment Fund. See Rede Social, p. 48.

on what are formally state-owned lands (*terras devolutas*) and it is unclear how they could have been acquired by legal means. The Brazilian Institute for Colonization and Agrarian Reform (INCRA) has also registered a request for a title deed on Ludmila farm by Euclide De Carli's daughter, which is an indication that Radar might well have bought this farm from De Carli.¹⁰⁸

3.4.2. The German Pension Fund, Ärzteversorgung Westfalen-Lippe (ÄVWL)

In 2011, the German pension fund for medical doctors, Ärzteversorgung Westfalen-Lippe (ÄVWL), which provides retirement plans for over 56,000 doctors and manages over € 10 billion, invested US \$ 100 million in TIAA's farmland fund TCGA I. According to information received during a meeting with ÄVWL, the investment is bound to stay within TCGA I for 10 years (until 2021), but could still be sold to other investors that are part of the fund.

In the structure of Germany's system of retirement provisions, the pension schemes of professions ("berufsständische Versorgungswerke") like the ÄVWL are part of the so-called 'first pillar', which refers to the statutory retirement schemes. ÄVWL is an institution of the regional chamber of medical doctors' profession ("Ärztammer Westfalen-Lippe") and governed by the supervisory and management committees ("Aufsichtsausschuss" and "Verwaltungsausschuss"). As such, the ÄVWL is a public law entity entrusted with public functions.¹⁰⁹

In Germany's federal political system, the exclusive jurisdiction over those schemes is in the hands of regional states (Bundesländer). The ÄVWL is therefore subject to the legal supervision of the Ministry of Finance of the state of North Rhine-Westphalia (NRW). According to regional law, the supervisory role includes ensuring that pension schemes fulfill their

tasks in "accordance with the applicable law,"¹¹⁰ which includes international treaties ratified by Germany.¹¹¹ The pension schemes are required to report regularly about their investments and related financial risks.¹¹²

ÄVWL also has a Corporate Governance Codex that mentions ethical aspects of their investments.¹¹³ It does not mention human rights and refers to internal checks by the management committee based on the Principles for Responsible Investment (PRI) as a reference (see discussion on PRI in chapter V). A recent guideline for pension funds for public employees in North Rhine-Westphalia contains some additional provisions for regulation of pension money.¹¹⁴ According to this guideline, relevant sustainability aspects, i.e. ecological and social aspects, must be taken into account when assessing the security and profitability of an investment (para. 3). Bonds are excluded from acquisition if there are clear indications that there are violations of the principles of good corporate governance in the areas of human rights, labor, environment, and anti-corruption laid down in the principles of the UN Global Compact (para. 4). However, the guideline does not foresee independent monitoring and the qualification of sustainability is typically made on the basis of statements made by the fund provider or fund-management company.

3.4.3. The Dutch Pension Fund, ABP

Stichting Pensioenfonds ABP is the pension fund for government and education employees in the Netherlands. Managing € 403 billion in assets as of October 2017,¹¹⁵ ABP is the largest pension fund in

¹⁰⁸ See Rede Social, p. 43.

¹⁰⁹ The Ärztekammer Westfalen Lippe (KWL) has maintained the Ärzteversorgung Westfalen-Lippe as its pension scheme of profession since 1960. The regional labor and health ministry of North Rhine-Westphalia (NRW) has the general regulative duty ("Rechtsaufsicht") to supervise the ÄVWL.

¹¹⁰ § 3 Landesversicherungsaufsichtsgesetz NRW in conjunction with § 20 Landesorganisationgesetz NRW

¹¹¹ See articles 4 and 28 of the ICESCR, which has been ratified by Germany.

¹¹² In North Rhine-Westphalia, the reporting duty is based on the law "Versicherungsaufsichtsgesetzes des Landes NRW" and related ordinances like VersAufsVO NRW, in particular § 7. The reporting period is typically four times a year. See www.vanr.de/DE/843/aufsicht.php.

¹¹³ www.aevwl.de/fileadmin/Dokumente/Kodex/Kodex_der_%C3%84VWL_Ausgabe_2015.pdf.

¹¹⁴ Allgemeine Anlagerichtlinien für die Verwaltung von Anlagen des Sondervermögens "Pensionsfonds des Landes Nordrhein-Westfalen" durch das Finanzministerium

¹¹⁵ See www.abp.nl/over-abp/financiele-situatie/actuele-financiele-situatie.

the Netherlands and among the five largest pension funds in the world. Like other European pension funds, ABP, through its asset management firm APG, increased its focus on investments in farmland in the wake of the global financial and food price crisis of 2007/2008 and has been expanding its agricultural portfolio to hundreds of millions of euros since then. “Basically, the world is our farm,” said Mr. Jos Lemmens, then senior manager of commodities at APG, in 2010. Choosing a country or region for investments “just depends on the specific project and whether the risk/return profile is right.”¹¹⁶

According to TIAA’s records, ABP has US \$ 200 million of assets invested in TCGA II.¹¹⁷ As of the end of year 2017, ABP also had stocks worth around € 15 million in Cosan (a company that partially owns Radar).¹¹⁸

Interestingly, the Dutch government has seats on the Employers’ Council and the Accountability Board of ABP, where it can table concerns and ask for clarifications. The Pensions Act in the Netherlands contains a number of legal requirements that pension funds have to fulfil.¹¹⁹ Most of these are related to risk management and good governance in the interest of pension beneficiaries. Since 2014, pension funds are also obliged to report on how they deal with environment and climate, human rights, and social relations in their investment policies. It is, however, up to the pension funds to decide how they report on these issues. ABP publishes an annual corporate social responsibility report in which it, amongst other things, describes its intentions and guidelines, as well as providing a list of companies it contacted on CSR issues. It also contains an updated list of

sectors and companies that are excluded from ABP’s investments.¹²⁰

In 2013, the pension fund sector established a code of conduct with a short section on sustainable investment, which largely reflects the reporting responsibility contained in the Pensions Act.¹²¹ In 2017, the sector started negotiations with the government and other actors on an agreement on international CSR standards, based on the existing code of conduct, the Pensions Act, the OECD guidelines for multinational enterprises, the Principles for Responsible Investment (PRI), and the Guiding Principles on Business and Human Rights (UNGP). As will be shown with more details below (see chapter V), these principles and guidelines do not establish binding rules on corporate legal accountability for the investments of pension funds and rely on voluntary commitments by involved companies and investors.

3.4.4. AP2, the Second Swedish National Pension Fund

The second AP Fund is one of five buffer funds within the Swedish public pension system. The role of these funds is to manage fluctuations in the pension system. AP2 manages a total of 345.9 billion SEK (around € 30 billion) for all Swedish citizens. AP2 invests 2.4% of its capital in farmland through companies which are jointly owned by AP2 and other investors. More than 85% of the fund’s farmland investments are made (or are committed to be made) through TCGA I (US \$ 450 million) and TCGA II (US \$ 750 million), and 27% (2018) of the fund’s farmland is located in Brazil.¹²²

¹¹⁶ See www.pionline.com/article/20100419/PRINT/304199989/fertile-ground-for-investment.

¹¹⁷ See www.sec.gov/Archives/edgar/data/1364783/000119312516781853/d279596d485bpos.htm. In a response letter to a draft version of the present report, sent to FIAN on 30 January, 2018, APG stresses the fact that it is “invested in TCGA 2 and not in TCGA 1. This is an important distinction in the context of the report as much of the attention in the report is focused on the Ludmila farm, which is a farm that is not owned by TCGA 2 and therefore not part of our investments.”

¹¹⁸ See www.abp.nl/images/listed-investments.pdf. As of April 2017, ABP had stocks worth around € 32 million in Cosan. In an email sent to FIAN on 15 June 2018, ABP’s asset manager, APG, states that ABP has further reduced its „exposure“ to Cosan since December 2017, without specifying the reasons for ABP’s decision.

¹¹⁹ See Pensioenwet, Article 135-4. Available at <http://wetten.overheid.nl/BWBR0020809/2017-04-01>.

¹²⁰ See, for instance, www.abp.nl/images/responsible-investment-report-2016.pdf.

¹²¹ Please see www.pensioenfederatie.nl/stream/codeofthedutchpensionfundsenenglish2017-1-30.pdf.

¹²² Andra AP-fonden (2018), Årsredovisning och Hållbarhetsrapport 2017. Available at: www.ap2.se/globalassets/nyheter-och-rapporter/arsredovisningar/arsredovisning-2017.pdf.



According to AP2, its strategy “is to invest in large scale agricultural properties in countries with clear legal structures”,¹²³ although representatives of the fund have admitted that this could be an issue of concern in Brazil.¹²⁴ The stated preference is to place investments in countries with a minimum of subsidies and one criterion is that the respective country is a net exporter of agricultural products. Furthermore, the fund’s stated strategy is to buy and then lease the lands to farming companies mostly focusing on row crops (such as corn, soy, wheat and sugarcane). Farmland is seen by AP2 as its most long-term investment asset, with an expected timeframe of at least 20 years. AP2 demands that the managers have

long-documented experience of similar investments, share their view on long-term perspective and sustainability, as well as having local presence and understanding. AP2 prefers so called ‘club deals’, which entails collaborating with other investors to have better alignment with investor preferences and be in a better position to influence investments.¹²⁵

The legal framework guiding the investment rules of the public pension funds is decided by the Swedish parliament. The current system was adopted after an agreement between five parties in 1999. Representatives from these parties (the Social Democrats, the Moderate Party, the Centre Party,

¹²³ Idem, p. 43.

¹²⁴ Andra AP-fonden (2017), Årsredovisning och Hållbarhetsrapport 2016. Available at: www.ap2.se/globalassets/nyheter-och-rapporter/hallbarhetsrapporter/hallbarhets-och-agarstymningsrapport-2016_170210.pdf.

¹²⁵ Andra AP-fonden (2018), Årsredovisning och Hållbarhetsrapport 2017.

the Liberals and the Christian Democrats) together with one additional party (the Green Party) form a group in the Swedish parliament, which is responsible for negotiations on changes in the public pension system – including the overall rules of the public pension funds.

The public pension funds differ from other state agencies in that they are ruled directly by law, rather than regulations. The mission of the AP funds, as formulated by the Swedish parliament, is to manage assets in the pension system in order to obtain high yields at a low risk. According to the current framework, “the funds should take into account ethical and environmental issues without compromising the overall objective of high revenue.”¹²⁶

The government’s role is limited to the appointment of the funds’ boards and to appointing external auditors who evaluate the funds’ activities. These evaluations are the basis of reports to the Swedish parliament where the government (through the Ministry of Finance) presents the results and its view on the activities of the fund.¹²⁷ Every year, the fund’s board adopts an asset owner policy, and the board receives a report at each meeting regarding the sustainability work of the fund. The government has so far made no mention of the AP funds in its Action Plan for Business and Human Rights.¹²⁸

There is currently an ongoing process to update the legal framework that applies to the public pension funds. An initial proposal was presented in June 2017, which included stronger reference to sustainability issues, which are defined by the government proposal as social, environmental, and economic sustainability. Human rights are mentioned as a key component of

the social dimension. However the main emphasis of the proposal continues to be on the achievement of high revenue. The process has been delayed, but the government is expected to present a proposal to parliament during 2018.

In addition to the existing legal framework, AP2 has its own internal framework in order to guide the fund regarding sustainability. In this framework, AP2 refers to the Swedish Instrument of Government – which is part of the Swedish Constitution and is based on values such as democracy and fundamental rights, the UN Conventions signed by Sweden, international guidelines that are supported by Sweden (such as UN Global Compact, ILO and OECD guidelines for multinational companies), and Sweden’s position regarding international law. AP2 also states that it “expects companies to act in accordance to laws, covenants and international guidelines, regardless of the country in which the company operates. That responsibility applies even if the country has not signed a convention or has weaker legislation.”¹²⁹

¹²⁶ Government of Sweden (2000), Legislative proposal 1999/2000:46, p. 76. Available at: www.regeringen.se/contentassets/95e4a79049704b26b95372d2109b20e3/ap-fonden-i-det-reformerade-pensionsystemet.

¹²⁷ Government of Sweden (2017), Report to Parliament on AP funds 2016. Available at: www.regeringen.se/49c6b3/contentassets/6adfa54a8f1f4d16b94869a58b194087/redovisning-av-ap-fondernas-verksamhet-t.o.m.-2016-skr.-201617130-.pdf.

¹²⁸ Government of Sweden (2015), Action plan for business and human rights. Available at: www.government.se/contentassets/822dc47952124734b60daf1865e39343/action-plan-for-business-and-human-rights.pdf.

¹²⁹ See www.ap2.se/sv/hallbarhet-agarstyrning/organisation-och-ansvarsfordelning/vardegrund-for-hallbarhet-och-agarstyrning.

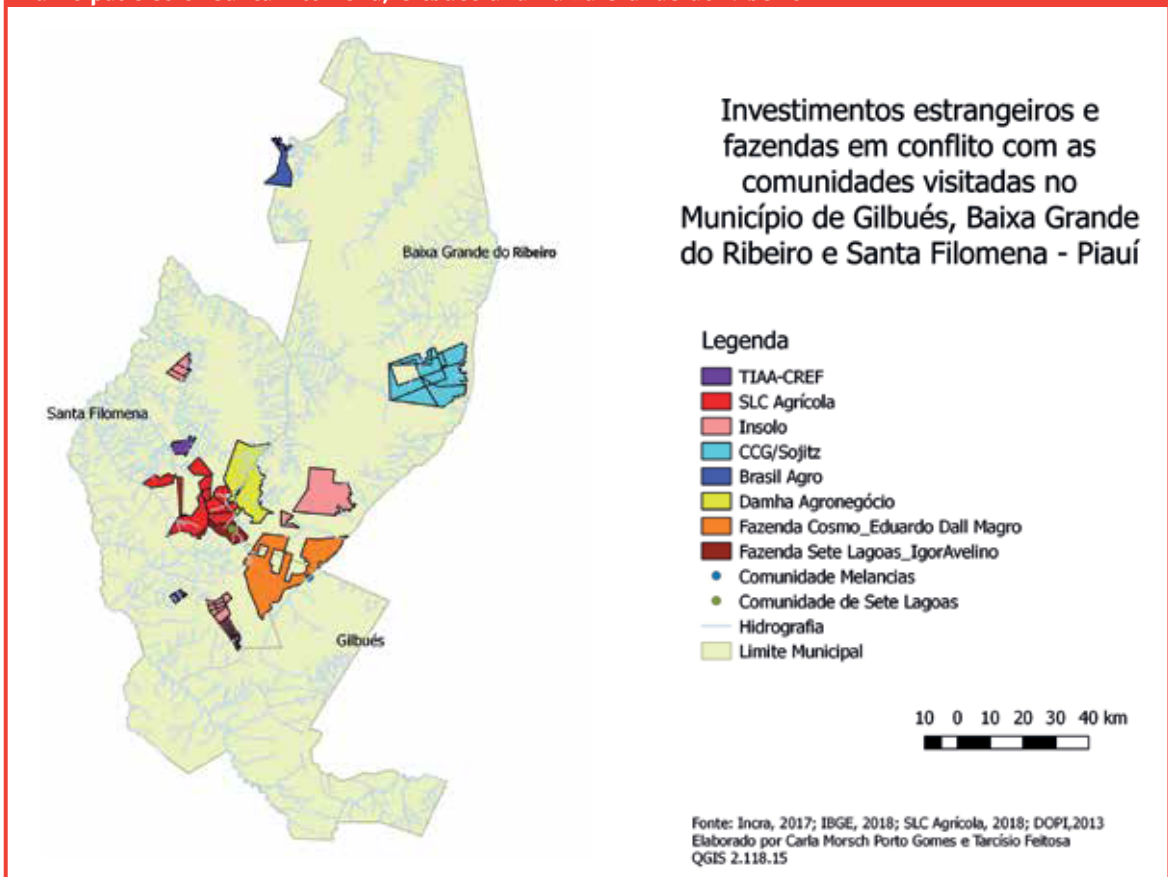
4. Social and Environmental Impacts of Land Grabbing in the MATOPIBA Region

4.1. Locations and Communities Visited

The international fact-finding mission to MATOPIBA, which served to collect first-hand information for this report, took place in the southwestern region of the State of Piauí, at the border with the State of Maranhão, and focused on two municipalities: Gilbués and Santa Filomena. It is one of the regions in which TIAA/Nuveen has been acquiring lands through

their local affiliates, in particular Radar Imobiliária Agrícola S/A. The Ludmila farm, in particular, is situated in the municipality of Santa Filomena. The size of the farms in the MATOPIBA region, the distance between them and the bad infrastructure required the mission to focus on one specific area. In addition, the exact localization of the farms owned by TCGA is difficult to identify. Ludmila farm was one of the first for which such localization was possible. Given that land grabbing in the MATOPIBA region follows a pattern, which has been described previously and which involves many different actors who are, in many cases, linked through business relations, the particular case of these two municipalities can be considered as emblematic of a process, which affects the entire region and has severe and far-reaching impacts on local people.

Map 3: Localization of the communities of Melancias and Sete Lagoas and agribusiness farms in the municipalities of Santa Filomena, Gilbués and Baixa Grande do Ribeiro¹³⁰



¹³⁰ Map elaborated by Carla Morsch Porto Gomes, Doctoral Student in CPDA/UFRRJ, and Tarcísio Feitosa, Researcher and advisor to the State of Pará's Public Ministry, seconded to CPDA/UFRRJ. All data is taken from official records or the information made available by the companies concerned.

The international fact-finding mission team visited the following communities between September 6 and 11, 2017:

Melancias: this community is located in the municipality of Gilbués. It consists of 53 families, who identify themselves as *Ribeirinhos-Brejeiros*¹³¹ and live on the banks of the River Uruçuí Preto. As a community, they claim to have been living there for 104 years. They depend on the collection of fruit such as *buriti* (*Mauritia flexuosa*), *mangaba* (*Hancornia speciosa*), *pequi* (*Caryocar brasiliense*, also known as *souari* nut), as well as on fishing and farming for their livelihoods.

This community has been severely affected by the drying up of water springs during the last few years, because of the declining level of the aquifer. Community members state that water started to become scarce five years ago and that the marshlands where the *buriti* trees are located began to dry up. As a consequence, the trees stopped giving fruit. Other plants that are used to make medicines are disappearing along with them. According to the collected testimonies, the river is also drying up and fish and bees are disappearing.



¹³¹ *Ribeirinhos* are the people who live close to a river and whose main livelihood is artisanal fishing as well as floodplain agriculture and foraging. *Brejeiros* are the people who live on marshlands. The Brazilian state recognized *Ribeirinhos* as one of the traditional communities in the country entitled to special protective measures (Presidential Decree n° 6.040 of 2007).

Many residents have reported on excessive use of pesticides in plantations close to the community. The pesticides are sprayed by airplanes on the plateaus, from where they flow to the lowlands, devastating the crops and fields of the families. Pesticides are also present in the river, marshlands and streams, with extreme consequences for fisheries. The rivers' waters turn orange during the rainy season, as they flow downwards, bringing with them sediment and the poison from the plantations.

The community is currently trying to formalize their land rights, especially because land grabbers have presented falsified documents to get hold of the community's lands. As a matter of fact, several claims of ownership for the same land have been presented. In order to defend its rights, the community has filed a complaint with the rural agrarian court. As part of their efforts, the community even paid for a technician to perform geo-referencing work, but the registration of the regularization/formalization claim could not be finalized due to the litigation in progress at the rural court. The conversations with the community have made clear that a growing number of threats by land grabbers causes much fear in the community.

Baixão Fechado: this community is located in the municipality of Santa Filomena and lives on the banks of the Sucruiu marshland. The ancestors of its members settled at this place approximately 170 years ago. The community reported that it is very much affected by constant harassment by land grabbers, gunfights and high degrees of violence linked to land disputes in the region. Land grabbers have occupied not only the plateaus that were collectively used by the community and transformed them into soy plantations, but are also pushing into the community's lowlands. According to the traditional use of their territories by communities, the plateaus (*chapadas*) were previously used by the community to raise livestock, hunt, and forage. Community members have pointed out as particular worrisome the conflict with Ludmila Farm, with which the community has a legal dispute over land ownership, which has been ongoing for eight years. Overall, three farms have taken lands from the communities in the area:

Japura, Fortaleza, and Ludmila. Local people claim that public authority is non-existent and that the government has not taken the necessary measures to secure their rights, leading to a gradual dwindling of the number of community members who leave the area as a result of the loss of their livelihoods and the constant threats.

Water, which used to be plentiful and of good quality, has been dwindling for years due to deforestation and abusive extraction by the soy farms, leading to a situation, in which the community needed to rely on supply from water trucks. The community has no access to public electric services and electricity is provided exclusively by generators. Without electricity it is extremely difficult to process local fruits into pulp, which could ensure some income to the families. There is also a lack of roads that would make the transportation of local produce to local markets easier.

Sete Lagoas: this community is also located in the municipality of Santa Filomena. The community self-identify as member of the Gamela indigenous peoples group. Evidence of ancient occupation can be found in an old cemetery and in the memories of those descending from indigenous peoples living on the area. They are considered as squatters, since they do not have formal possession of their traditional lands.

With the arrival of a company called Damha in the region in 2010, the conflict on the community's land has escalated. A part of the Sete Lagoas community is constantly under surveillance by a private security company, a situation, which made many families leave the region, as they were no longer able to plant their crops and have become the target of constant threats. Community members report that families are being prevented by armed persons from working and tending to their crops and that the houses of several families have been bulldozed or burned. Damha claims that the lowlands where the communities live are a legally protected reserve area owned by the company and has filed a possessory action against the community (Process 0000335-90.2015.8.18.0042 TJ/PI). This points to the fact that the Brazilian

legislation, which requires that landowners keep a part of their land with native vegetation as a legal reserve, is leading to 'green grabbing,' which is increasingly practiced in the visited region (see more details below).

Brejo das Meninas: this community lives on the banks of the Riozinho river and belongs to the municipality of Santa Filomena. The community members identify themselves as *ribeirinhos*. Women in the community rely on extraction of *buriti* and other fruits of the Cerrado for their livelihoods and make a variety of crafted goods, including crochet nets and rugs, oil and candy made of *buriti* and *pequi* oil, as well as milk and cashew jam, among other goods made with regional fruits like the bacaba. These activities are the ones most affected by the expansion of agribusiness in the region. After the *buriti* palms in the plateaus have been cut down to give space to monocultures, the women have to walk a lot further each day, facing all kinds of danger, harassments and threats along the way by land grabbers, plantation owners, and their employees.

During the visit, several community members highlighted the problems caused by deforestation, such as the decrease in the number of some animals that has made hunting more difficult. Some areas that had been used for farming have been burned and can no longer yield anything, which is seen by locals a deliberate action to drive them off their lands. They also state that municipal governments are closing countryside schools as another way to make them leave their communities.

Santa Fé: this community is located in the municipality of Santa Filomena and, together with the communities of Brejinho, Angical, Brejo Feio, and Brejo Seco, makes up the Riozinho territory. It is composed of about 100 families, who identify themselves as *ribeirinhos* and have been living on the lands for more than 200 years. It is a sizable community that managed to build a significant infrastructure through hard work, accompanied by Father João, a missionary living in the community, and supported by some international non-governmental organizations. The community

still has many resources, mainly thanks to its still very voluminous river. This brings some measure of safety to the community and adds to its potential. The community has organized itself to oppose the agribusiness expansion and to resist land grabbing, defending their lands. As part of their struggle, they have initiated the procedure to formalize their land rights with the Land Institute of the State of Piauí (INTERPI), the public institute responsible for regularizing land owned or under the jurisdiction of the State of Piauí). However, the community is concerned that this process has not advanced, while INTERPI has made possible the regularization of large private properties owned by companies and individuals in that same region.

4.2. Findings: Impacts on Communities and Local People

4.2.1. Land Grabbing and Dispossession of Communities: Old Problem, New Forms

For local people, the dispossession of communities of their land is the most immediate impact of the expansion of agribusiness in the region. All communities have reported on the loss of land that was grabbed, and on which agribusiness plantations have been established.

The land, and its manifold uses, sustains the life of families and has been the basis for the livelihoods of local people for generations. Most members of the communities visited in Gilbués and Santa Filomena have declared that they were 'born and bred' on that land, emphasize their strong ties to the region, and express their desire to remain there and have their livelihoods and traditional ways of life respected. Several communities can trace back their ancestry in the region at least to the early 20th century. Communities' traditional ways of life commonly involve life in the *baixões* (lowlands), where the villages are situated. Here they plant their crops, fish and hunt, raise livestock that could graze in the *baixões* and the *chapadas* (plateaus), and collect and

process fruits like the *buriti* (*Mauritia flexuosa*), also known as the moriche palm) into candies and oils, an activity performed mainly by the women. The plateaus used to be used as a common space for the grazing of livestock, hunting, and collecting of firewood and wild plants. Together, the *baixões* and the *chapada* formed the communities' territory, which sustained their lives over generations.

Despite being the traditional inhabitants of these lands, the communities' land rights have never been officially recorded and recognized (either individually or collectively) and most of the lands are formally owned by the state (*terras devolutas*, see chapter II). Many of these local people are *posseiros*, meaning that they have legitimate tenure rights through their long-term, multi-generational possession and use of the land. In many cases, communities use and manage their lands through communal forms of tenure. However, the fact that communities' tenure rights have not been secured by the state, means they are made vulnerable to dispossession by land grabbers and agribusiness companies. According to the reports of community members, ever since the 1990s they have been suffering from direct pressures (by means of threats, legal actions, the destruction of houses and fields, and personal aggressions), and indirect pressures (through the destruction of fauna and flora, the contamination of soils and water by pesticides, and diminishing of water resources among others), resulting from the expansion of agribusiness in the region and increasing land speculation, especially since international finance has started to target lands in the region. As a result, farming, hunting, fishing, and breeding of livestock have been made increasingly difficult, if not virtually impossible, by the establishment of plantations and the ecological destruction caused by deforestation and the industrial model of agriculture.

With the expulsion/eviction of communities from the highlands, where soy and sugar cane plantations have been established after cutting down the native Cerrado forest, the lowlands alone are not sufficient for maintaining and providing a living for many families. Many have been forced to leave their areas

permanently and migrate to the cities, where they live in slums in the outskirts of mid-sized and large cities, working in precarious jobs. The communities that managed to stay are only able to do so by toiling under extremely precarious conditions. Many times they end up working on the plantations in situations akin to slavery, and many times finding themselves forced to work for the same agricultural business owners who now occupy their former lands.

The land conflicts in southern Piauí take place against a backdrop of much confusion regarding land possession. According to official reports, the state is second in Brazil in terms of land overlapping land claims and tenure insecurity.¹³² During the process of land grabbing for the establishment of agribusiness plantations or for purposes of speculation, the involved actors seek to obtain legal recognition of their possession, which further adds to the overlapping claims. According to statements made by local authorities to the mission, there are cases of properties that have up to 20 deeds. Local registry offices are used as one of the main mechanisms to defraud the ownership of lands and perform manipulations in order to legalize the land grabs. A recent investigation by the Public Prosecutor's Office led to the closing of ten registry offices, including the ones in Bom Jesus and Santa Filomena. According to official sources, many of the suspended registry offices were later reopened under the responsibility of the very same people who were in charge before, because of a "lack of alternatives" in the region.

According to several testimonies by community members, there is collusion between both local and state public authorities and large agribusiness companies, which facilitates land grabbing and the dispossession of traditional communities. The public authorities' neglect of this reality is blatant. Large and grave conflicts over land (for example the one that happened in 2007 in Bom Jesus, Piauí – Rio Preto settlement today – and that has never been investigated), take place without leading to any investigation by the state's competent authorities (such as the police, INCRA, and INTERPI, among others). Many other conflicts with dreadful

¹³² See www.ap2.se/sv/hallbarhet-agarstyrning/organisation-och-ansvars-fordelning/vardegrund-for-hallbarhet-och-agarstyrning.



consequences for the communities are not even registered in the statistics and the official records. According to statements given to the mission, institutions like the INCRA in Piauí, are under the influence of congressmen and senators of the state, who are involved in agribusiness or act like its representatives. Something else to factor in, is that few lawyers manage to remain unconstrained by the influence of agribusiness in the region.

Communities are trying to regularize their lands and formalize – and thus secure – their tenure rights. However, they have been facing a series of difficulties. These include the fact that the government does not offer accessible legal or technical guidance for traditional communities in the area that wish to regularize their lands. It has been left to the Land Pastoral Commission (CPT) and the rural workers' unions to perform this role, by offering some orientations and counseling. Some communities such as Sete Lagoas have been trying to regularize their lands, by paying for technicians to do the necessary

geo-referencing work out of their own pockets, and registering them with the Rural Environmental Registry (CAR). However, in many cases communities find out during the process that their lands have already been registered by others, in particular by agribusiness companies.

Green Grabbing

New types of resource grabbing relate to so-called 'green grabbing': since the lowlands still have a green cover of native Cerrado vegetation, industrial farmers and agribusiness companies are also reaching for those lands, in order to comply with the Brazilian environmental legislation. Indeed, the Brazilian Forest Code from 2012 (Law 12651/2012) requires land owners to keep a certain percentage of their property preserved in the form of so-called legal reserves. According to the Forest Code, individual rural properties have to ensure that 20 % of their total area are covered by native vegetation in the Cerrado biome. If properties are situated in transition

areas to the Amazon biome, the legal reserve must be 35 % of the total area of the property. The state of Piauí, and particularly the southern part of its territory, are, however, not considered as such a transition zone, meaning that the 20 % norm applies to the farms situated here. Because the lands of the plateaus have for the most part been completely deforested for the establishment of soy plantations, agribusiness companies expand their farms to the lowland areas, where the villages of local people are situated. The communities, including those of Melancias, Baixão Fechado, Sete Lagoas, and Brejo das Meninas, who have previously already been confined to the lowlands are now facing further dispossession. Reports by community members have highlighted how the families are prohibited by agents linked to the agribusiness companies, from planting crops or raising animals on their lands.

Closely related to this, land grabbers are also using the Rural Environmental Registry (Cadastro Ambiental Rural, CAR) as an instrument to formalize their land claims. The National Rural Environmental Cadaster System (SICAR) was introduced by the Brazilian Forest Code from 2012 (Law 12651/2012) and instituted by Decree n° 7.830/2012, in order to govern the management of native vegetation and water resources on privately owned lands. Registration of land in the CAR is needed in order to obtain environmental licensing, which is a prerequisite for obtaining credit and for exporting production. The CAR is an online system, in which anybody can register environmental and land use information. In order to do so, no proof of property is required. It is sufficient to enter the GPS data, according to the categories defined by the Environmental Code, such as legal reserves or permanent protection areas (APP). Although the CAR does not have any value as a property title – Article 29 of the Forest Act explicitly states that the CAR cannot be used as a land title or as proof of land ownership – land grabbers and agribusiness companies are using the CAR as a proof of their occupation and land use. This has been practiced particularly in the case of the legal reserves by registering areas which are used by traditional peoples – most of them intact as native vegetation areas – as part of their property. As

such, the CAR is being used as a way of legitimizing big land owners' claims over these lands as well as corroborating agribusiness' compliance with the Environmental Code.

The information in the CAR is not comprehensively linked to the cadaster system, thus contributing to a situation where different information is registered in different registration systems for the same area by different actors with different interests. As has been described for the community of Sete Lagoas, communities who try to register their lands in the CAR often find out that their lands have already been registered by plantation owners, usually as legal reserves.

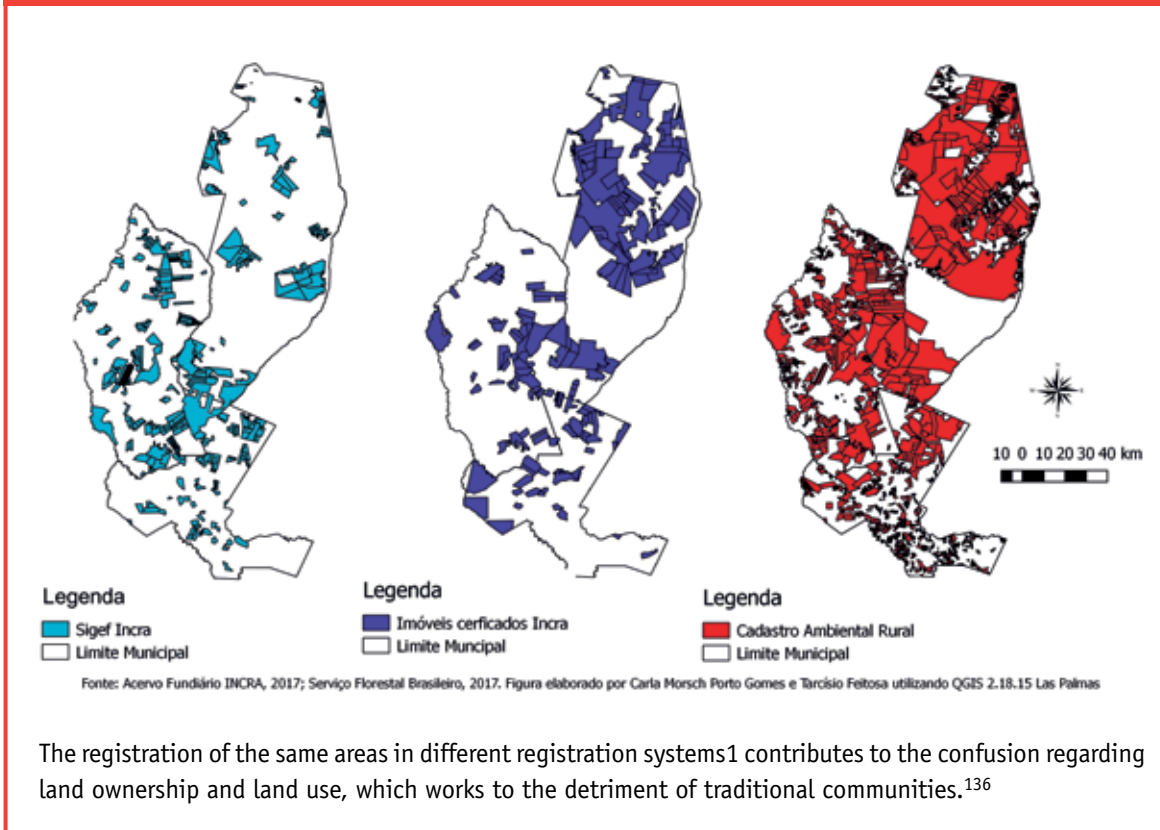
Despite the flaws of the CAR, several initiatives and projects have been promoting this system and its use. Some examples are the project MATOPIBA 2020, which is funded by the Global Environment Facility (GEF) and is executed by the Brazilian Rural Society (SRB)¹³³, and a project, which is coordinated by UNDP and Conservation International, with the objective of making the expansion of soy production in the Cerrado “sustainable”.¹³⁴ One pillar of this project is to support the implementation of the 2012 Forest Code and the CAR, as its main tool. One of the project indicators is the increase of the number of properties/farms that are registered in the CAR. Also, the German development bank KfW is funding a project to promote the implementation of the CAR for traditional communities, but without taking into account the described problems and how it is used to the detriment of communities' rights. The project is operated by the Brazilian Forest Service and the Brazilian Ministry of the Environment, with the technical support of GIZ.¹³⁵

¹³³ <http://cerradoeditora.com.br/cerrado/matopiba-2020-projeto-que-injeta-r-50-mi-na-regiao-comeca-a-ser-executado-em-2018/>

¹³⁴ Please see <https://info.undp.org/docs/pdc/Documents/BRA/1.%20BRA17G31%20-%202017.06.30%20-%20Initial%20signed.pdf>

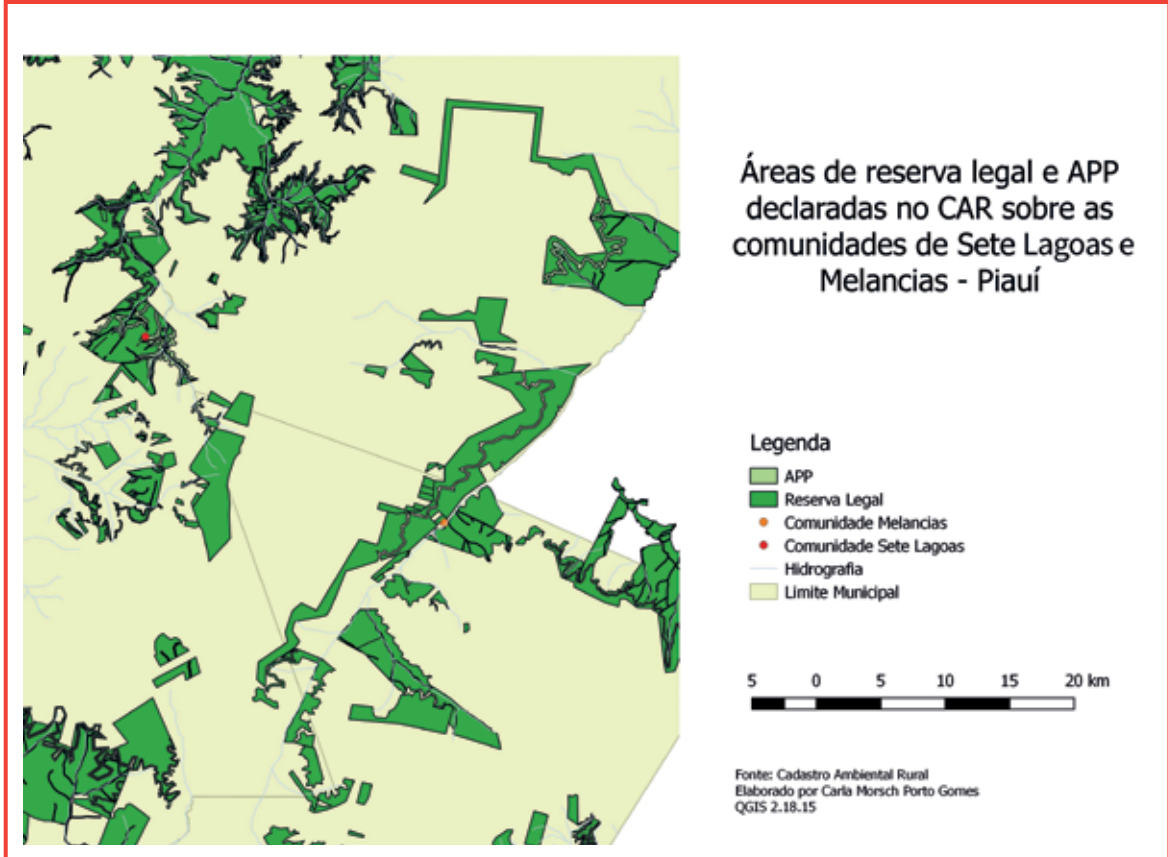
¹³⁵ Project “Land and Environmental Management for the CAR at traditional communities”. This project focuses on supporting traditional communities to register their lands in the CAR. However, given the existing asymmetries of power and access to the system, as well as the structural problems of the CAR, it is questionable whether this system actually contributes to secure local people's lands.

Map 4: Lands in the municipalities of Santa Filomena, Gilbués and Baixa Grande do Ribeiro that are registered in different registries.



¹³⁶ SIGEF (*Sistema de Gestão Fundiária*), is a tenure management system of INCRA. Inscription in SIGEF means making a claim for a given plot of land, which will then be assessed and, possibly, certified. Inscription in the SIGEF does therefore not mean proof of ownership. However, as with CAR, inscription in the SIGEF is used by individuals and companies to legitimize land ownership and land use.

Map 5: Community Lands in Sete Lagoas and Melancias that have been Registered in the CAR as Legal Reserves and Permanent Protection Areas (APP)¹³⁷



4.2.2. Disputes Over Water and its Uses

Disputes over water and its uses are a constant issue in the accounts given by the visited communities. Land dispossession and land grabbing occurs mainly in areas where there is availability of water, in particular through water springs and wells. As a result, the communities' access to water and fishing resources, which are crucial in order to sustain their livelihoods, their ways of life and farming practices is highly compromised.

In the community of Melancias, the mission heard reports that the *buriti* palm fields are drying up along with the main water streams that supply the

community. Community members have also noted that perennial or more voluminous rivers no longer exist, or do not hold the same volume they held ten years ago. Mr. Juarez, a community leader, reported that in one of the *buriti* palm fields in the vicinity of Melancias – a field which held a significant variety of other fruits besides the *buriti* – the floods that happened seasonally every year after the rainy season no longer happen as before. During the visit by the international mission, the *buriti* palm fields were indeed dry. According to him, the fields should be at least moist during the period from January to May, in which it usually rains a lot in the southern region of the state. As a consequence, many fruits no longer yield the same amount they did before. The bananas

¹³⁷ It is not possible to state who registered the lands in question. However, the areas around the communities, correspond to the areas of the Sete Lagoas Farm and the Cosmo Farm.

are dry and the clusters of *buriti* fruits are no longer completely filled. Women have noted that fruits, such as oranges and key limes, which used to be juicy and tasty, are now dry or “spongy”. Mr. Juarez and other community members blame the drying up of the *buriti* palm fields on the expansion of agribusiness plantations in the region. According to him, the establishment and advancement of these plantations has gone along with the deforestation of everything

that was there before, without any concern for areas that should have been protected, such as water springs and river beds. The deforestation causes the water to no longer be held by the soil. By the same token, the deforestation of spring areas results in an effective loss of the water table’s capacity to accumulate water, damaging the replenishment capacity of the water springs and threatening their very existence.



In the community of Melancias the mission was also told that the headwaters of the Uruçuí Preto river (which springs in the community), is under an aggradation process. According to the reports of community members, one of the reasons is the deforestation caused by the plantations. Indeed, the accelerated process of destruction of Cerrado forest in the highlands leads to the erosion of the soil and causes large quantities of sediment to flow downriver towards the community's area during the rainy season, resulting in aggradation. The mission was told that the same thing happens in other areas of the Uruçuí Preto, and that this seriously compromises the access to water of communities and people who live in or close to its banks.

Reports about the drying up of springs, marshes and rivers as a result of deforestation were also given in the Baixão Fechado community. According to the reports, residents see themselves forced to drill artesian wells in an area that was supposed to be protected in order to access to water. At the same time, agribusiness companies in the area drill wells over 400m deep and drain the aquifers.

In the community of Sete Lagoas, residents emphasized the connection between land grabbing, deforestation and restrictions of the use of water. The community is located in the highlands area and has a lagoon nearby, named Lagoa Feia, which used to be 30 km long. As plantations (Damha) and agribusiness properties (SLC Agrícola)¹³⁸ advanced to the lagoon's area (which is also occupied and used by the community and has become a cause of conflicts), it began to suffer aggradation and stopped flooding the surrounding lands during the rainy season, as it used to do. According to community members, the agribusiness companies cut many more trees than they are allowed to and do not keep 20% of their lands as protected areas as they are legally obliged to. According to one resident who is also the secretary of agricultural policies of a rural workers union (STTR) of Santa Filomena, local people used to fish in the flooded areas during the rainy season. On

top of that, according to the reports of community members, in particular agents linked to the DAMHA farm, which took 4,000 hectares of the community's lands, prevent community members to access the lake area. This direct impediment to the access to the water and fisheries of the lagoon by local people is a tactics used to force them to leave.

Residents of Sete Lagoas also reported that it is facing a worsening water shortage, which is profoundly affecting their livelihoods, including their access to safe drinking water. Currently, drinking water is being distributed by a tank truck, which is – ironically or cynically – owned by SLC, one of the agribusiness companies active in the region. Some community members have reported that they were told by workers from the companies that the hose used to drain water from the river into the tank truck is the very same used to fill other tank trucks with pesticides. The severe water shortage in the region is illustrated by the fact that, two weeks after the international fact-finding mission visited the region, the mayor of Santa Filomena, Carlos Augusto Braga, declared a state of emergency due to city wells running dry.¹³⁹

“Water: it finished. There is very little left. We are afraid of dying of thirst. If just these projects stopped. Then water would come back. But they don't stop. No, they will probably only stop when the river will be dry.”

Palmerina Ferreira Lima, 77 years old, Melancias.

4.2.3. Pesticides and the Contamination of Water, Fields, Fish, and Game

The use of pesticides is identified by the affected communities, as one of the main problems caused by agribusiness activities in the region. Its impacts are manifold. As already mentioned, communities have reported on the contamination of water bodies – river, marshlands, and streams – and groundwater due to the use of pesticides in the plantations. As

¹³⁸ In a response letter to a draft version of this report, dated 27 December 2017, SLC states that the lagoon is located around 4 km from their property and deny any link between the company's activities and the aggradation as well as the stopped flooding.

¹³⁹ See, for example: www.portalr10.com/noticia/817/prefeito-de-santa-filomena-decreta-situao-de-emergncia-no-municpio.

a result, the communities' access to clean water, which is crucial in order to sustain their livelihoods, their ways of life, and farming practices, is highly compromised. In many cases, agrochemicals are sprayed by airplanes. Rivers are also contaminated by eroding soils of the plantations. The contamination of water resources destroys fisheries and the crops of local people, and compromises their access to safe drinking water. Reports about the contamination by several plantations and agricultural projects of rivers with pesticides have been made, among others in Melancias, Sete Lagoas, and Chácara Xicara in Alto Parnaíba (MA). For instance, one resident in Melancias reported during the visit that she had become seriously ill, feeling nauseous and weak, and showing other symptoms, which are compatible with pesticide intoxication. She spent two months under clinical observation in Teresina. Many other people have reported similar symptoms that get worse when the use of pesticides is at its most intense in the nearby plantations. In Baixão Fechado, residents also reported that symptoms like coughing, dizziness, stomach aches, and low pressure have been increasing over the past few years, along with an increase of cancer cases. They attribute it all to the poisoned water.

Community leaders in Melancias told the mission that during the winter the pesticides used by agribusiness on the plantations end up flowing straight into the Uruçuí Preto River along with eroding soil and sand. Women reported that they can no longer use the river's waters during that season to wash their clothes, bathe, or cook. They noted that when they do, they end up with nausea, skin rashes, and dizziness. There are many cases of diseases that are very likely related to the ingestion of pesticides and an increase of diseases like cancer.¹⁴⁰ Many residents in Melancias also reported how pesticides have polluted their river, marshlands, and streams, causing the fish to die. Reports about the decimation of fisheries due to polluted waters, were also heard in Brejo das Meninas and Baixão Fechado.

Already in 2015, the community of Melancias filed an official complaint to denounce the pollution of the Uruçuí Preto River by large soybean farms on the highlands.¹⁴¹ However, given the continued reports on water pollution by community members during the mission, it is obvious that this complaint has not led authorities to take measures that effectively protect and guarantee local people's access to, and use of, water resources. The community of Santa Filomena has also filed a complaint to denounce the impacts caused by the use of agrochemicals for soybean production.¹⁴² In Brejo das Meninas, some community members state that they have seen persons linked to the land grabbers and agribusiness companies dump poison in the lakes and rivers. According to some residents, this is part of a deliberate strategy to drive away the families by killing all the fish and make it impossible for them to live there.

Water pollution has also led to a lack of safe drinking water. "The only good water we have now is the one that comes from SLC", Gemina from the Sete Lagoas community told the mission. SLC Agrícola is one of the agribusiness corporations whose activities are at the root of the communities' problems. According to her, the company began to make these deliveries because members of the community, in particular young people who work on the SLC farms, had mentioned to their superiors that the community was having serious difficulties in finding water and that the water they had was polluted and caused itching, dizziness, nausea, and other symptoms similar to those caused by intoxication. She believes that the tank trucks are a way for the companies to prevent the communities from denouncing the fact that they no longer have access to clean and safe water.

Inhabitants have also claimed that birds that eat the mangoes from the trees in the region die soon after, which could well be an indication of chemical contamination. Local people further report that the Red-and-green Macaw and the Amazon Parrot can no longer be seen in the region, which indicates a

¹⁴⁰ Although Piauí is one of the states with the lowest rates of pesticides use per planted area, the appearance of reported cases of intoxication by pesticides has increased from 32 in 2007 to 105 in 2013, an increase of over 200%. See Ministério da Saúde (2016), Relatório Nacional de Vigilância em Saúde de Populações Expostas a Agrotóxicos, p. 26, table 4.

¹⁴¹ Rede Social de Justiça e Direitos Humanos, GRAIN, Inter Pares, and Solidarity Sweden – Latin America (2015), Foreign pension funds and land grabbing in Brazil, p. 11. Available at: www.grain.org/article/entries/5336-foreign-pension-funds-and-land-grabbing-in-brazil.

¹⁴² Idem, p. 13.

disappearing of animal species and a consequent loss of biodiversity. The agrochemicals pollution and contamination is very likely one of the factors for this development. The deforestation, establishment of monoculture plantations, and the use of pesticides have also led to a reduction of the bee population.

The pesticides stop insects from attacking the crops in the plantations on the highlands, which means the pests descend to the lowlands and attack the crops of the traditional family farmers. The spraying of agrochemicals also extinguishes natural enemies of existing pests, which makes it extremely difficult for local people to protect their crops from pests. The mission heard reports in various communities about how whiteflies descended from the highlands and destroyed the crops on their fields in the lowlands. The same thing happened in past years with different insects. Residents of the Sete Lagoas community have reported that they are no longer able to plant many types of crops they traditionally grew, such as broad beans, maize, rice, and beans, because of the increase of pests such as whiteflies and weevils. Likewise, the community of Baixão Fechado has reported that it has lost its pumpkin crops.

“They use pesticides such as Roundup.¹⁴³ It destroys all of our crops, including our broad beans. We used to be among the top producers of broad bean in the region. Now we are losing all of our broad beans... They spray that poison from their airplanes and it contaminates everything. We see pests appear in a way we didn't know before, like the whitefly. We don't know how to combat this pest, and the flies destroy everything. We cannot even afford to buy poison ourselves, because it is too expensive. If we could we would buy it because these pests are ruining all of our crops.”

Jose Branco, Baixão Fechado.

4.2.4. Destruction of Cerrado forest

Reports from the communities and observations during the mission show that “draftsmen” and large companies have deforested absolutely everything in their path in order to create plantations, in many areas not leaving a single tree standing. In order to cut down the forest and scrublands of the Cerrado, they use highly destructive methods such as big chains (correntão).¹⁴⁴ This method involves two powerful tractors moving in parallel with a thick chain between them that pushes over even the biggest trees in its path. In addition to pulling up all of the flora, animals of all sorts get trapped under fallen trees and are then cut up by the chains. As such, the correntão exterminates, in just a few hours, the extraordinary environmental and social diversity of the Cerrado, which took thousands of years to form and develop.

¹⁴³ Cases were reported regarding the concomitant use of Thiodi 45 and Roundup 40, sprayed from an airplane. This is a serious matter and those charges need to be investigated.

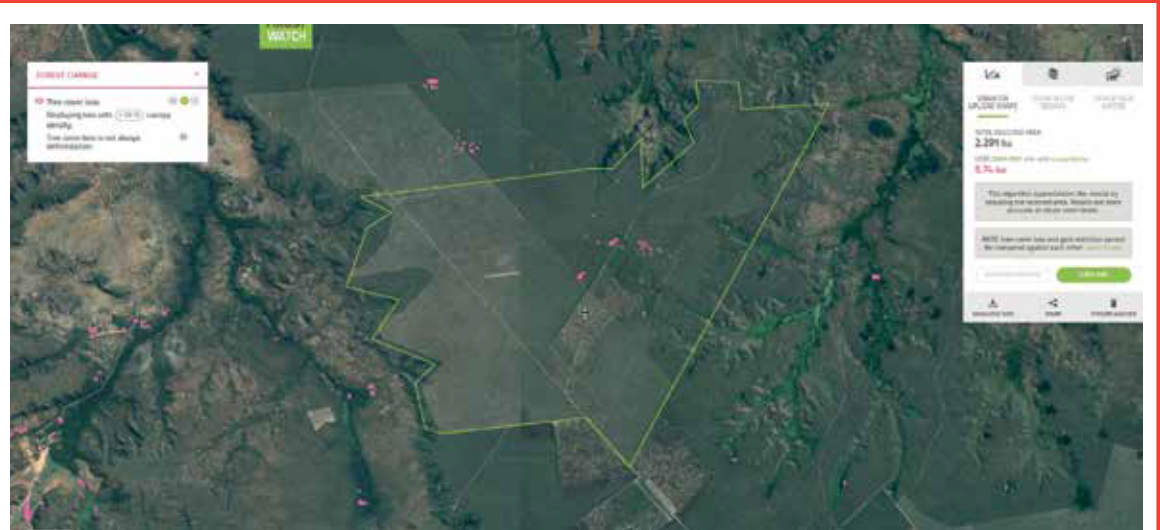
¹⁴⁴ Despite being extremely destructive, the use of the correntão as such is not illegal. There is law proposal to make it illegal (law proposal 4959/2016), which is under the evaluation of the Commission on Agriculture and Animal Breeding. However, the method is often used to open new areas for agriculture, i.e. in areas where deforestation is not allowed, making it illegal in these cases.



In addition to the numerous testimonies gathered in all visited communities about the high degrees of deforestation, it is possible to confirm these claims – at least partly – by analyzing satellite photos. Regarding the Ludmila Farm, which is located in

the municipality of Santa Filomena and is owned by TIAA/Radar, satellite photos show the significant deforestation that has been taking place in the area ever since it was acquired between 2012 and 2013, according to the sources consulted.

Loss of Forest in the Ludmila Farm, Santa Filomena, Piauí, from 2001 until today¹⁴⁵



Picture 1 shows that between 2001 and 2012 the area affected by loss of forest (marked in pink) was 5.74 hectares.¹⁴⁶



Picture 2 shows that until the end of 2013, the area increases to 127 hectares, pointing to deforestation.

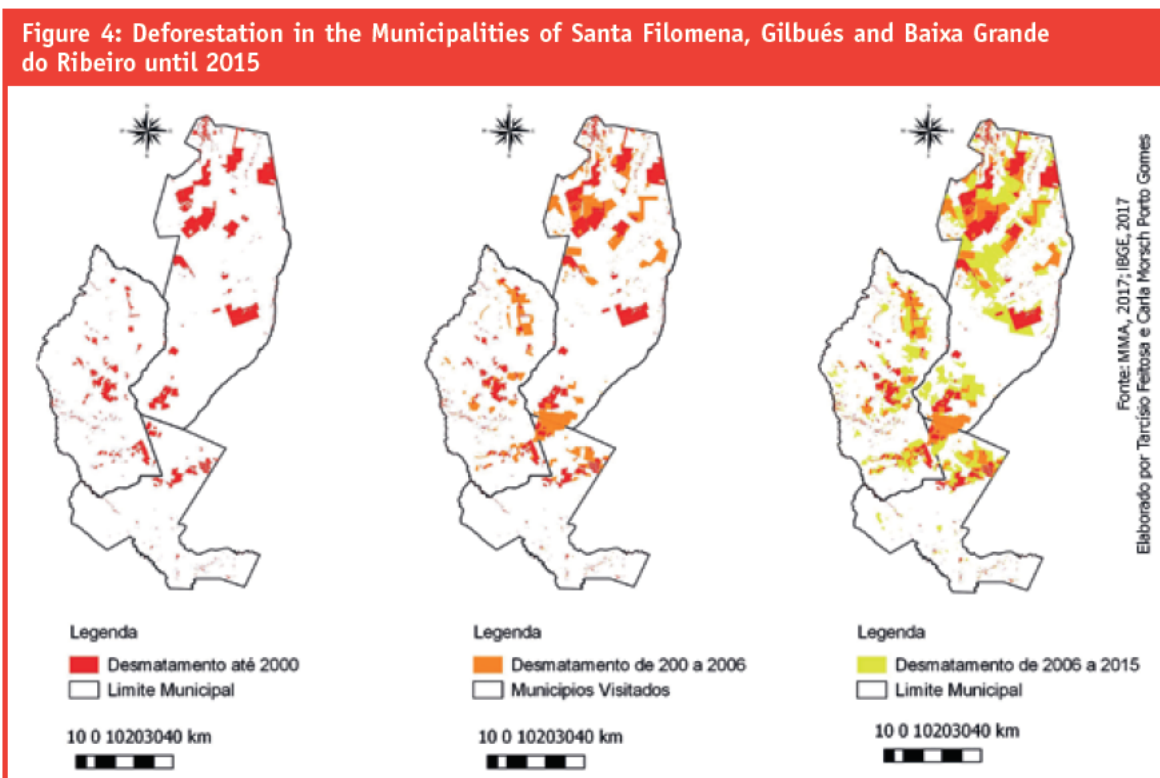
¹⁴⁵ Based on data by Global Forest Watch. In order to track the complete evolution of forest loss/deforestation in the Ludmila Farm from 2001 to 2017, please access the following site: www.globalforestwatch.org/map/12/-8.90/-45.70/ALL/hybrid/loss?tab=analysis-tab&geostore=0229018c9a9c10d72dc8fd03e36f2ef8&begin=2012-01-01&end=2013-01-01&threshold=30&dont_analyze=true.

¹⁴⁶ Global Forest Watch specifies that tree cover loss is not necessarily due to deforestation, but can also occur for reasons such as fire and logging within the course of sustainable forestry operations.



Picture 3: By the end of 2016, the deforested area of the farm amounts to 457 hectares. It can be seen clearly that the loss of trees affects specific areas within the farms, which are not the same as the small losses before the acquisition of Ludmila Farm by TIAA/Radar

Figure 4 depicts the overall deforestation in the three municipalities visited by the international mission between 2001 and 2015. The acceleration of the deforestation after 2006 is clearly noticeable.



The reports from the visited communities clearly indicate that the destruction of the Cerrado for the expansion of agribusiness has altered the rainfall patterns in the region, which now suffers from drought. This strongly affects local people's livelihoods, in particular because peasant agriculture becomes increasingly difficult.

"An attack against the environment is also an attack against us peasants, against the people of the countryside. The men and women who were born on the fields and live on the fields, live from the fields and with nature. What we are observing – and I have observed this in the course of the 46 years of my life – is deforestation at a large scale."

Cassimiro Lopes Neto, Baixão Fechado.

4.2.5. Food and Nutrition Insecurity

The interlinked processes of loss of land, deforestation, water and soil pollution, and the changes of hydrological cycles, wind patterns, and temperatures in the Cerrado – which are linked to the ecodestruction – are having serious impacts on the quantity as well as the quality and diversity of foods available for the communities visited. Traditional food habits have gradually changed since the arrival of agribusiness in the region. On the one hand, inland fisheries have seriously diminished as well as the number of wild animals for hunting. Herbs and medicinal plants have disappeared. Water scarcity has led to *buriti* palms and other fruit trees producing less fruits, thereby impacting, in particular, women's livelihoods related to the collection and processing of fruit. The processing of the *buriti* fruits into oils and candies has, for example, drastically reduced. Water scarcity also affects the growing of other food crops. The massive use of pesticides is further affecting farming by communities and has led to the disappearance of broad beans and other food crops, as well as to pests moving from the highlands to the lowlands and

destroying rice, pumpkins, and other crops of the communities. Members of different communities have also stated that security companies associated with agribusiness companies prevent local people from planting food crops and raising animals in the now disputed lowlands. In other cases, the presence of armed guards who carry out raids into the peasants' fields has forced residents to move their farm fields further and further away from their communities. In some cases, the farming areas of communities are kilometers away from their homes, in order to protect them from being destroyed.

The combination of all these factors has created a situation of big food and nutrition insecurity. In the community of Sete Lagoas, for instance, children younger than 5 years show clear signs of undernutrition such as low stature. Adults are equally affected.

"I pity children born today because there is a lack of water in the rivers and fertile lands that we can work to provide enough quality food for our children".

Jaime, a young adult volunteer with the environmental group Progea

4.2.6. Widespread Violence and Conflict

In addition to the violence inflicted on the communities by the destruction of the nature that surrounds and sustains them, all of the communities visited by the mission live under unsettling circumstances. This involves different forms of intimidation, harassment, and physical violence. According to the Pastoral Land Commission (CPT), there were 636 recorded conflicts over land and 109 over water in the region of MATOPIBA in 2016 alone.¹⁴⁷ Both of these figures are the highest in the last 20 years.

In Sete Lagoas, for instance, residents' houses and fields have been vandalized and partly destroyed, a fact that was verified by members of the mission

¹⁴⁷ See www2.fct.unesp.br/nera/boletimdataluta/boletim_dataluta_10_2017.pdf.

team. Residents also reported different forms of regular harassment by guards and other agents linked to the plantations, such as death threats, intimidation of community leaders, violence against children, threats against animals, and armed groups wandering around. The community has difficulty in formally denouncing these incidents due to the fact that the next police post is 240 km away. Nevertheless, since

January 2016, ten formal complaints were presented by residents of Sete Lagoas. However, none of those complaints have been investigated by the police, who, according to the reports of community members, never even showed up to investigate and ascertain what had happened. Some residents stated that local policemen work with militias that are controlled by the plantation owners.



In the Brejo das Meninas community, the mission documented reports from residents about a recent incident of gunshots, which hit houses as well as a bus with people inside. There is a continuous fear of armed outsiders roaming their lands. Some of the women are showing signs of depression, mainly related to the intimidation they have to endure, like the tension caused by frequent late night gunshots near the community, which result from guards and security company employees of the plantations doing firearms training sessions on or close to the plantations. To compound matters, reports point to conflicts between different land grabbers in the region, which worsens the tension felt by the community. This subject is particularly worrying for local people, to the extent that they are too afraid to even talk about it.

Several reports of community members have pointed to the complicity of state authorities in the violence and threats against traditional populations. Several testimonies reported, for instance, that police agents were part of the armed escorts, which have threatened the communities on different occasions. Furthermore, the communities have no access to justice and can therefore not count on protection by juridical authorities because the courts, the prosecution offices, and police stations are usually hundreds of kilometers away from their lands.

In a protest against the destruction of people's livelihoods and the Cerrado by agribusiness on September 30, 2017 in Balsas, Maranhão, during which protestors occupied the Transamazonian highway for several hours, a banner carried by the protesters illustrated how local people perceive police attitudes in the region: "The police are paid and use the whole state apparatus to defend agribusiness and the poor have no way to defend themselves".¹⁴⁸ Indeed, statements by several community members point out that the state is present when it comes to address claims and needs

of the large plantations, while being absent and ignoring the complaints made by communities.

One case of targeted violence against a community leader worsened shortly after the fact-finding mission visited the region. Adaildo José da Silva, who lives in the Morro D'Água community, reported how a lawyer has been trying to evict him from his land for years using threats, false documents, and violence. On September 19, 2017, Valdimar Delfino dos Santos, who works for the lawyer trying to remove da Silva from his land, again physically attacked him and threatened him with death. Da Silva has registered complaints with the police various times to no avail.¹⁴⁹ In February 2018, armed men entered once more into the community looking for Adaildo José da Silva, who, luckily, was not at home. Threats against him and his family have continued since.

4.2.7. Migration and the Disruption of the Social Fabric of Communities

Destruction of communities' livelihoods related to dispossession, deforestation, water scarcity, and pollution with pesticides, alongside violence and harassment, has led to a decline of the communities' population, as many families see themselves forced to leave their villages permanently and migrate to the cities, where they live in slums in the outskirts of mid-sized and large cities.¹⁵⁰

The invasion into the communities' lands has been sudden, brutal and violent, leaving them with no means to survive and drives them to the brink of hunger and spoliation. The communities and families that have so far managed to stay are only able to do so by toiling under extremely precarious conditions, many times in situations of extreme vulnerability and analogous to slavery, and many times finding themselves forced to work for the same agricultural business owners who occupy their former lands. Cases

¹⁴⁸ See www.brasildefato.com.br/2017/09/30/em-denuncia-contra-agro-negocio-2-mil-pessoas-ocupam-a-transamazonica-no-maranhao.

¹⁴⁹ See www.semcerrado.org.br/campanha/nota-publica-ameacas-e-violencia-em-comunidades-do-cerrado-piauiense.

¹⁵⁰ According to the Landless Workers Movement, 377 countryside schools have been closed in the State of Piauí only in 2014. See www.mst.org.br/2015/06/24/mais-de-4-mil-escolas-do-campo-fecham-suas-portas-em-2014.html.

of violence against children, burning of houses and fields, blocking of wells, night-time firearms drills in order to intimidate the population, physical abuse, and aggression, are getting more common.

Besides the destruction of their livelihoods, there are also other ways of coercing the communities to leave. The absence of secondary schools in the area forces young people to abandon school or move to the cities when they reach the age of 12, in order to complete their studies. This severely affects the dynamics of the communities as it disrupts families. The situation which has been made worse by the accelerated rate with which the elementary schools in rural areas are being closed in the State of Piauí. In order to care for their children who want to study, also women are compelled to leave the villages and migrate to the cities. An illustrative example is that of the Tabocas settlement, where the school was closed and mothers were charged by the Prosecutor's Office and pressed to migrate to the cities.

The lives of community members are made even more complicated by the absence of basic services. The Baixão Fechado and Santa Fé communities, for example, do not have access to public electricity until today, which severely limits their possibilities to generate a decent income for their families.

As a result of outmigration from rural areas, urban areas have been growing at a fast pace. Cities like Teresina, Brasília and Palmas have become the destination for many young people who can no longer find a perspective to live and work in dignity in their communities of origin. The swelling of the cities is, however, not accompanied by a correlated improvement and increase of public services or the creation of jobs. Many people end up working in precarious jobs. Women in several communities have also reported that child labor is common in the cities, especially in domestic work.

An example of the dramatic situation regarding migration to the cities is can be found on the outskirts of Bom Jesus, a small city located in the Grotas region in Piauí. 80 % of the population are peasants

who have been expelled from their lands over the last years and more than five new neighborhoods have been created in this city during this time.

4.2.8. The situation of women in the visited communities

Women are particularly affected by the detrimental impacts of the expansion of agribusiness. Traditionally, women are in charge of collecting, transporting, processing, and selling the *buriti* fruit, which is a traditional part of the regions' diet and an important source of income for families and communities. They used to be able to gather *buritis* in the surrounding Cerrado, but since it was destroyed women have to walk several kilometers – in one case women told the mission team that they walk over 8 km – in order to collect and bring back the fruits. Many times they carry the fruits on their heads, further increasing the difficulty of their task. In addition, the *buriti* palms yield less fruits each year, which puts the livelihoods of women related to the preparation of oils and candies under increasing pressure. In Brejo das Meninas, a young woman reported on how the processing of fruit has become ever more difficult and how it leads women to become isolated from their communities. As more and more time is needed to harvest the fruit and produce enough to make a living and buy the basic means of production, some women are no longer able to participate in social life. Women further struggle to sell their produce as there is no infrastructure regarding the transport of candy and oil, or conditions for selling them.

“My mother has to isolate herself from social life in order to make the same amount of candy she did 10 years ago. In addition, she has to acquire the basic means of production by herself, in order to ply her craft. It takes a lot of time and a lot of toil to produce the 400 kg of buriti candy and 66 liters of oil she produces every year. It is extremely hard to get clean water and there is also the work needed to clean the shack”.

A young woman from Brejo das Meninas

Another woman remarked that she had just turned 52 years old and only four months ago learned what a salary was. Besides being a candy maker, she also works for the town hall as a street cleaner.

When talking about land issues in focus group discussions with women, their fear was palpable. Many claimed that they were afraid and hesitant to invest in their lands, as they do not know if they will get to stay there or keep ownership. The insecurity regarding their land rights creates a lot of insecurity within communities more generally and conflicts have erupted between families over the remaining community lands, which are also being disputed by farms and plantations nearby.

Women are also worried by the increase of health problems and the increase of cancer cases in several communities, which they relate to the contamination of, soils, food and water.

Another issue emphasized by women of the visited communities is the constant intimidation, physical violence, and permanent presence of armed guards, which makes it impossible for them to plan a life for themselves and their families in the region. A woman from the community of Santa Fé told the mission that her father wants to leave because of the constant threats. With misty eyes, she recounts how she became acquainted with the forest in her childhood and was able to learn, play, and grow in it. Today, her son is not only missing that opportunity, but might have to grow up in another place altogether. A life in the cities does not, however, present any prospect for the families, as poverty as well as lack of basic services and jobs leads to yet more insecurity and violence.

Finally, women highlight the authorities' abandonment of the communities, a recurring theme in the communities that the mission has visited. People feel disregarded by politicians, the mayors, and the local authorities. In most of the communities, there is no

school, no jobs, and no electricity. In one community, people have created improvised class rooms inside a health center in order to ensure schooling for their children. Even though the building is in a bad condition, it is in better shape than the old school building. This points to the fact that despite the dire circumstances they face, communities resist and do whatever they can to live a life in dignity. It became clear during the fact-finding mission that women play a crucial role in this regard and that in several villages strong, determined and courageous women ensure that the families and communities continue functioning, despite being beset by violence.

4.3. Responses by State Authorities and Involved Pension Funds

4.3.1. Responses by State Authorities

4.3.1.1 Brazil

So far, the main response to increased land conflicts in the area covered by the international fact-finding mission of September 2017, has been the passing, by the State of Piauí, of the state law N° 6.709 on September 28, 2015, on the regularization of ownership and colonization of lands.¹⁵¹ This law, together with Decree N° 16.324 of December 7, 2015,¹⁵² sets forth a land regularization program for lands that formally belong to the State of Piauí and which are considered as vacant (*terras devolutas*). As already explained, in reality these lands are not vacant, but are in many cases used by communities on the basis of customary tenure and use, which are very often of communal/collective nature. The law distinguishes between those lands that are considered as inalienable (*terras devolutas necessárias* and *terras devolutas reservadas*) and those that are subject to the land regularization program (*terras devolutas não*

¹⁵¹ The Law is available at www.legisweb.com.br/legislacao/?id=303923.

¹⁵² The decree is available at www.legisweb.com.br/legislacao/?id=313412.

consideradas indisponíveis). The regularization of the latter can happen through different forms defined by the law, namely: the legitimization/formalization of existing tenure/use rights; the regularization of occupation; donations (including through agrarian reform programs); the selling of lands; the exchange of public lands for private lands; concessions; and the leasing of lands for a defined period of time.¹⁵³

The law does not exclude any groups or actors (including big land owners and agribusiness companies) from being beneficiaries of the law, but it defines the following priorities of land regularization:

- 1) the settlement of landless rural workers;
- 2) the regularization of existing tenure rights; and
- 3) the protection of natural ecosystems and of sites that are of particular importance, including because of their ecological, historical, and cultural value.¹⁵⁴ In addition, the law establishes criteria for the decision regarding land regularization, which are:
 - 1) the “rational and appropriate use” of the land;
 - 2) the adequate use of available natural resources and the preservation of the environment;¹⁵⁵
 - 3) the compliance of owners with the provisions governing labor relations; and
 - 4) exploitation of the land that favors the well-being of owners and workers.¹⁵⁶

The Decree N° 16.324 defines the general objective of Piauí’s land regularization program to be “to promote legal security to tenure rights holders and to guarantee the socio-economic and environmental development in rural areas.”¹⁵⁷ The program’s

specific objectives mention the regularization of the occupation by family farmers and the provision of security of tenure of *quilombola* communities, but the decree also explicitly refers to the regularization of lands used by agribusiness in Cerrado areas as an objective.¹⁵⁸

The institution responsible for the implementation of the land regularization program is the Land Institute of Piauí (Instituto de Terras do Piauí, INTERPI). The regularization process is coordinated by so-called Special Commissions (*Comissões Especiais*), which are composed of two administrators of INTERPI and one agronomist or surveyor. These commissions are responsible for identifying lands to be regularized as well as rights that may exist over them, and for taking a decision on the regularization and the beneficiary of a given parcel. The law establishes a process intended to allow for all those who may have a claim over the land in question to present their claim and any documents that support it.¹⁵⁹

Decree 16.324 sets clear objectives to be achieved until December 31, 2019, namely the issuing of 11,000 titles for family farmers, the regularization of six *quilombola* communities and the privatization (through selling and leasing) of four million hectares of land.¹⁶⁰ According to information of the World Bank, by January 2018, 258 beneficiaries had received registered land titles, while another 336 beneficiaries were in the final stages of receiving their title, bringing the total so far to 694 beneficiaries with a received a registered land title. There were an additional 7,937

¹⁵³ Law N° 6709 of 28/09/2015, chapter VII, arts. 37-49.

¹⁵⁴ *Idem.*, art. 32.

¹⁵⁵ The Law specifies that “adequate use” is understood as use that respects “the natural vocation of the land, in order to maintain the productive potential of the property;” it also specifies that “preservation of the environment” is understood as maintenance of “the natural environment’s characteristics and of the quality of environmental resources [...] to maintain the ecological balance of the property as well as the health and quality of life of neighboring communities”

¹⁵⁶ Law N° 6709 of 28/09/2015, art. 14. Such exploitation is defined by the law as exploitation that “aims to meet the basic needs of those who work the land, observes the norms of work safety and does not provoke conflicts and social tensions on the property.”

¹⁵⁷ Decree N° 16324, para. 2.1.

¹⁵⁸ *Idem.*, art. 2.2.

¹⁵⁹ Law N° 6709 of 28/09/2015, arts. 2-27.

¹⁶⁰ Decree N° 16324, para. 2.1.

requests filed by small-scale farmers for land titles through the land regularization program and eight teams in place to execute land tenure regularization activities. Five *quilombola* communities have received further land titles under the project.¹⁶¹

The land regularization program in Piauí is supported by the World Bank, through a US \$120 million loan to the government of Piauí, which was signed on April 27, 2016. This project will run until December 31, 2020 and has the stated objective of benefitting “the state’s rural poor by increasing and improving services in education, health, agriculture and water resources.”¹⁶² Subcomponent 1.4 of the loan aims at “strengthening real property rights,” through supporting the implementation of Piauí’s land regularization program.¹⁶³ The World Bank justifies its support by arguing that the lack of formal land titles is a major obstacle to increasing income of rural communities in a context of widespread rural poverty in Piauí. According to project documents, the “land regularization through the provision of full land tenure titles to small farmers” is intended to contribute “to social and productive inclusion,” referring to the importance of land for peasants as the “primary means for growing crops that can improve

food security and quality, reducing vulnerability to hunger and generating livelihoods.”¹⁶⁴

According to information gathered during the fact-finding mission, the land regularization process in Piauí has been used by large plantation owners and agribusiness to legalize their claims over lands in the Cerrado and to formalize their property rights over these areas. Given the current dynamics in the MATOPIBA region, in particular the high degree of violent dispossession, falsification of land titles, and corruption, the land regularization process is thus in many cases worsening the situation, by legalizing illegal and/or illegitimate appropriation of community lands and triggering further dispossession and environmental destruction. At the same time, communities have faced several difficulties in their attempts to have their traditional land rights recognized and protected through the program. In a meeting with representatives of CPT, Rede Social, and FIAN in May 2018, representatives of the judiciary of the state of Piauí stated that there is a lack of political will to effectively prioritize the regularization of community lands, which could be due to the fact that this will not lead to increased tax revenue for the state government. In addition, the land regularization law and its implementing program privileges individual titling, while neglecting approaches to secure collective tenure rights. In this context, it is important to underline that neither the law nor the program recognize the collective territorial rights of the traditional communities in the State of Piauí.

Taking into account the critical situation of communities in the Cerrado and the risk of formalizing land dispossession through the land regularization process, the Brazilian Public Prosecutor’s Office formally recommended to immediately suspend the application of State Law n° 6.709/2015 on December 18, 2017, until measures have been taken to ensure

¹⁶¹ World Bank (2018), Implementation Status & Results Report. Piauí: Pillars of Growth and Social Inclusion Project (P129342), 17 January 2018. Available at: <http://documents.worldbank.org/curated/en/255531516201161985/pdf/Disclosable-Version-of-the-ISR-Piaui-Pillars-of-Growth-and-Social-Inclusion-Project-P129342-Sequence-No-05.pdf>.

¹⁶² Project “Piauí: Pillars of Growth and Social Inclusion” (project no. P129342). See the World Bank’s press release: www.worldbank.org/en/news/press-release/2015/12/21/brazil-more-social-inclusion-productivity-benefit-piaui-rural-poor. The World Bank has been supporting land regularization and formalization in Piauí for many years. The current project was approved together with another loan of US \$ 200 million (“Piauí: Productive and Social Inclusion”, project no. P146981) with similar components and which ended on 31 August 2017. (<http://projects.worldbank.org/P146981?lang=en>) Both loans/projects are the continuation of a previous project of US \$350 million (“Piauí: Green Growth and Inclusion”, project no. P126449, approved on 6 March 2012 and closed on 30 March 2013, <http://projects.worldbank.org/P126449/piaui-green-growth-inclusion-dpl?lang=en>, www.worldbank.org/en/news/press-release/2012/03/06/world-bank-brazil-more-200000-poor-families-benefit-green-growth-social-inclusion-policies-piaui), which also included the issuing of property titles as one of its pillars.

¹⁶³ Other components concern secondary education, access to health services, registration of ground water users, participation of farmers in value chains, and technical assistance to support Piauí’s public management

¹⁶⁴ Project Information Document (PID), available at <http://documents.worldbank.org/curated/en/423181468213891806/pdf/PID-Print-P129342-12-01-2015-1448983947229.pdf>.

the possibility of collective titling for communities and ensure their free, prior, and informed consent regarding land attributions.¹⁶⁵ The Prosecutor's Office further recommends to identify and document the local traditional communities' forms of tenure and use of natural resources through an anthropologic study as well as through consultations with affected communities prior to any regularization. The recommendation particularly underlines the importance of consulting the affected communities about how their traditional forms of tenure and land use should be effectively protected, without transforming them into private property through land titles.

The recommendation of the Public Prosecutor's Office is addressed to INTERPI as well as the World Bank, calling upon the latter "to adopt measures to assess and correct the negative effects of the World Bank-financed land regularization program in the State of Piauí, in order to prevent and remedy violations of the land rights of traditional peoples and communities."¹⁶⁶

The recommendation of the Public Prosecutor's Office supports the demands of eight affected communities from the municipalities of Gilbués, Santa Filomena, and Bom Jesus who – in a letter sent to the Food and Agriculture Organization of the United Nations (FAO) on December 11, 2017 – asked for the establishment of a round table for dialogue in order to assess the land regularization process and discuss its objectives, including the importance of collective registration of community lands. In their letter, the communities propose that this round table be composed of the Agrarian Court of the State Judiciary (Vara Agrária da Justiça Estadual), INTERPI, and representatives of the communities and with the participation of the state and federal Public Prosecutor's Offices, the World Bank, the State Parliament of Piauí, FAO, and support groups from civil society.

On January 17, 2018, INTERPI responded to the recommendation of the Public Prosecutor's Office. In its letter, INTERPI states that the regularization process includes public lands that are occupied and used by peasant communities and that it has, on some occasions, issued collective titles, in particular in the case of *quilombola* communities. INTERPI's response also contains information regarding the communities in the municipalities of Santa Filomena and Gilbués, also visited during the international fact-finding mission. According to the letter, all these communities, with the exception of Santa Fé, are situated on lands that are already registered in the name of owners and can therefore not be regularized by INTERPI.¹⁶⁷ At the same time, the letter claims that INTERPI's procedures contain safeguards to ensure that lands that are occupied by other groups, in particular local communities, cannot be registered by big landlords.¹⁶⁸

This response thus confirms that private actors, in particular plantation owners, have registered land that is occupied and used by local people, using the regularization process as a means of formalizing the dispossession of communities. In a subsequent meeting with representatives of CPT, Rede Social de Justiça e Direitos Humanos, and FIAN in May 2018, representatives of INTERPI acknowledged that the land titles held by these actors over community lands may be forged, but did not want to commit to initiating a procedure to assess, and eventually cancel, them. INTERPI also makes clear in its response letter to the Federal Prosecutor's Office that it will not suspend the regularization process, despite the evident problems.

On March 20, 2018, at the occasion of the annual World Bank Conference on Land and Poverty, a broad alliance of social movements of small-scale food producers, organizations of indigenous peoples, and other CSOs launched an international statement calling

¹⁶⁵ The letter is available at www.fian.org/fileadmin/media/publications/_2017/Letters_and_statements/Recomendac__a__o_MPF.pdf.

¹⁶⁶ *Idem*

¹⁶⁷ This applies to the communities of Sete Lagoas, Brejo das Meninas, Baixão Fechado, and Melancias.

¹⁶⁸ Letter of INTERPI to the Public Prosecutor in the municipality of Corrente (Piauí), dated January 17, 2018.

upon the World Bank to 1) adhere to the Brazilian Public Prosecutor's Office's letter by immediately suspending its support to the land regularization/titling process in Piauí; 2) respond to the demand of affected communities to establish a dialogue round table in order to assess the effects of the land regularization program in Piauí, so as to prevent and remedy violations and to put in place mechanisms, which guarantee local communities control over their territories as well as effective remedies, including the restitution of community lands; and 3) publicly disclose how the land regularization project in Piauí is in compliance with the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.¹⁶⁹

In response to this statement, representatives from the World Bank traveled to Piauí in order to hold meetings in which some community members and support groups participated, in particular the CPT. After the visit, the World Bank sent a formal response signed by its country director for Brazil, Martin Raiser, to the signatories of the abovementioned statement. In the letter, the World Bank states that its mission's conclusions were "that the communities in the project areas are not affected by displacement and that the process of land regularization through INTERPI is regarded by all the communities, with whom the World Bank team consulted, as one important element of protection against illegal land grabs."¹⁷⁰ Representatives of the affected communities as well as local CSOs who participated in the meetings with the World Bank insist, however, that community members provided detailed information about existing conflicts. During its visit to Piauí, the World Bank agreed to organize a second mission, in order to conduct meetings with the affected communities, in order to identify ways of addressing issues that may exist. These meetings are scheduled for June 2018.

According to information received by the fact-finding mission team, a process has been started to carry

out an assessment and revision of State Law N° 6.709. According to statements by representatives of the state judiciary, a proposal for a revised law will be presented soon. No details have been made available so far regarding the process of consultation for the revised law, in particular with regards to the involvement of affected communities.

In addition to the land regularization process, a rural court (*Vara Agrária da Justiça Estadual*) was established in Bom Jesus in Piauí, as a response to the claims made by social movements and other organizations in the region. This court has been carrying out an important role in slowing down the advances of agribusiness on communities' lands. As already mentioned, the court has cancelled several land titles, which had been acquired illegally and opened investigations on several farms. However according to statements received during the international mission, this court has been operating practically without resources and is under constant attacks by politicians and large plantation owners in the region. Also, the judge nominated for the court and his family have been repeatedly targeted with death threats, which has forced them to move to another city.

In March 2018, the judicial branch of the State of Piauí established an institutional Task Team on Land Regularization (*Núcleo de Regularização Fundiária*). This Task Team will support the land regularization process in urban and rural areas, in order to support administrative and judicial processes (in particular the rural courts). It is to focus on conflict areas and will also have a monitoring function. According to information made available by the judiciary, it will focus on lands used for family farming and develop a comprehensive State plan for land regularization.¹⁷¹ The Task Team will also contribute to the process assessing and revising State Law n° 6.709/2015.

¹⁶⁹ Available at: www.fian.org/en/news/article/world_bank_program_forcing_local_communities_off_their_land.

¹⁷⁰ The letter, dated April 3, 2018, was sent to FIAN International.

¹⁷¹ Please see www.pi.gov.br/materia/interpi/nucleo-de-regularizacao-fundiaria-sera-criado-pela-corregedoria-geral-da-justica-4863.html and <https://cidadeverde.com/noticias/266967/piaui-tera-nucleo-pioneiro-no-pais-para-tratar-de-regularizacao-fundiaria>.

4.3.1.2. Home States of the Involved Pension Funds

Germany

During the fact-finding mission to Europe, which took place in January 2018, the international delegation held a meeting with representatives of the German Federal Foreign Office (including the “Business and Human Rights” and “Brazil” divisions), the Federal Ministry of Finance (“Investment Funds” division) and the Federal Ministry for Economic Cooperation and Development (“South America, Brazil” division). During this meeting, it was confirmed that no specific institutional mechanisms are in place in the parliament and its committee on finance to review such investments in case of substantive human rights concerns (apart from the possibility to table parliamentary questions). The government pointed to two existing human rights-related remedy mechanisms in Germany: (a) a remedy mechanism implemented under the National Action Plan for Human Rights; and (b) the OECD Guidelines on Multinational Companies, which allow complaints to the National Contact Point (NCP) in the concerned country. Neither of these mechanisms is, however, integrated in the national legal system. Furthermore, the remedy mechanism of the National Action Plan for Human Rights is of strictly voluntary nature, while the mechanism under the OECD Guidelines does not lead to any sanctions, but to a mediation between the parties. Both mechanisms lack clear obligatory prevention or remedy mechanisms for affected people in case of abuses.

A member of parliament who is a member of the parliament’s finance committee clarified that there are currently no binding regulations obliging pensions funds to respect human rights and that no established mechanisms are in place to ensure cooperation between the parliament’s committee and national or international human rights institutions. The MP further stated that there is in general very little discussion about human rights in the financial committee and in cases where this issue comes up, discussions focus on transparency regarding human

rights risk management towards shareholders.

Overall, the interviewed authorities expressed reluctance to establish any obligatory mechanism ensuring legal accountability for human rights abuses deriving from the transnational activities of pension funds or any other business enterprises. During the meetings it became clear, that there is an absence of awareness on human rights issues. The dominant position is to remain in voluntary structures when it comes to business and human rights. An EU Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision (IORPs Directive 2016/2341), which was adopted in 2016, was mentioned as a pioneering legislation, which could possibly lead to stronger regulation, given that it requires pension funds to include environmental and social risks in their risk assessments. Germany and all other EU Member States are required to translate this Directive into national law by January 2019.¹⁷²

According to the German political system several matters are devolved to the regions/states (Bundesländer), including the regulation and oversight of ÄVWL, which is a responsibility of the State of North Rhine-Westphalia. However, despite repeated requests, the state government of North Rhine-Westphalia refused to meet the delegation with the argument of not wanting to interfere in

¹⁷² In Germany, supplementary occupational pension schemes, which are not dedicated to a certain profession, are part of the pension system’s ‘second pillar’ and are regulated by the state. They are subject to the supervision of the Bundesfinanzinstitut (BaFin), which, in turn, is supervised by the national ministry of finance. Like the pension schemes of professions, they are also predominantly structured around investments of premiums and therefore both are referred to as pension funds in this document. Under German law, pension funds are required to invest their capital as safely and profitably as possible, to secure future retirement benefits (e.g. § 7 VersAufsVO NRW, § 215 VAG). Furthermore, there is a cascade of regulations (from national to regional) on pension money. According to the Insurance Supervision Act (Versicherungsaufsichtsgesetz – VAG), occupational pension schemes may only invest in assets and instruments whose risks can be sufficiently identified, assessed, monitored, controlled, and included in their reporting (para. 234 II in conjunction with para. 124 VAG). In reality, existing regulation and monitoring relates (almost) exclusively on financial risks and protection of the pensioners, excluding social, human rights, and environmental risks. Decision makers so far have been hesitant to integrate those aspects (e.g. via a regulative act that clarifies the role of the existing state of human rights obligations in the context of pension schemes).

parliamentary issues¹⁷³ and that any allegations should be first brought to ÄVWL directly.¹⁷⁴

The Netherlands

During a meeting with government officials at the Dutch Ministry of Foreign Affairs that took place as part of the international fact-finding mission in January 2018, the Dutch government referred to its initiatives in recent years to establish and facilitate a recurring dialogue with civil society, academia, and the private sector on land issues, which also deals with issues related to investments in land. Even though the Dutch government has seats on the Employers' Council and the Accountability Board of ABP, it states that ABP is a private company, which operates at a distance from authorities and that government does not exercise direct control over ABP's management.

Overall, the government's approach towards companies and financial actors is mainly inspired by corporate self-regulation and the facilitation of "multi-stakeholder" dialogues, rather than by regulation of corporate and financial actors via appropriate legal frameworks. In this context, the government refers to voluntary mechanisms such as the OECD Guidelines for multinational enterprises, the Principles for Responsible Investment (PRI) and the Guiding Principles on Business and Human Rights (UNGPs). The Dutch government has publicly stated several times that it specifically expects pension funds to comply with the voluntary principles and standards of the OECD Guidelines.¹⁷⁵ In general, the authorities expressed reluctance to the establishment

of any obligatory mechanism of legal accountability for human rights abuses caused by the transnational activities of pension funds. They mentioned, however, the possibility for affected people to address complaints to the Dutch embassy.

Sweden

The international delegation of the fact-finding mission met with four representatives of the Ministry of Finance, namely a state secretary and three advisors. These government representatives stated that the Swedish government has limited control over the AP funds and that its influence is limited to appointing board members of the funds and to reviewing the funds' work, based on which annual reports are presented to parliament. From the discussion with the ministry, it emerged that there is no body responsible for overseeing the fund's compliance with law.

The ministry representatives referred to the new legal framework on the regulation of pension funds that is currently being developed and expressed the view that this reform will mean some steps in the right direction, given that it will contain clearer and more concrete instructions on sustainability, including human rights. According to the ministry, the development of the revised framework is a complex process as it is a compromise between six different parties in parliament. The government is reluctant to include a list of conventions in this framework, arguing that the law is expected to stand for a long time and should be formulated in a way to allow it to take up developments.

The exchange with the ministry provided no clarity on the issue of access to remedy. According to the ministry's representatives no complaint mechanism is suggested in the new legislative proposal. However, they expressed a willingness to take this aspect into consideration and referred to AP2 and the pension group in the parliament on this matter.

¹⁷³ The argument is related to the fact that the pensions of the federal state parliamentarians are also managed by ÄVWL. Despite explaining that the objective of the requested meeting was to discuss broader issues related to regulatory gaps and options for the state government to address human rights abuses, and not the details of the parliamentary pensions, the State Chancellery did not accept to meet the delegation.

¹⁷⁴ The state Ministry of Finance also argued that they consider this case a single case and do not, as such, see the need to discuss regulation options and possible changes in regulation. In addition, the same ministry expressed the view that a discussion on existing options to act would clearly be a 'political discussion' and could, as such, only happen at high ministerial level.

¹⁷⁵ For example in these Q&A's with Dutch MPs: www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2011Z25788&did=2012D03965 and www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2012Z16815&did=2012D45199.

4.3.2. Responses by Involved Pension Funds

4.3.2.1 TIAA

After preliminary reports showed strong evidence that TIAA's funds were purchasing lands that had previously been taken from traditional communities in Brazil, and there are concerns that the fund's financial support of palm oil companies has contributed to land grabbing and deforestation in other countries, several US-based CSOs have been campaigning and urging TIAA to: 1) immediately disclose all information regarding agricultural properties owned by the fund (directly or by means of their subsidiaries) and information regarding their partnership with palm oil companies; 2) commit to an investment policy that does not lead to land grabbing and/or deforestation; 3) publish their answers to those demands to their shareholders.

TIAA denies that it took part in any irregularity. In a letter sent in response to a draft version of the present report, TIAA states that it follows the requirements of all laws of the country in which it operates. The fund claims that "none of our land acquisitions are linked to 'land appropriation'," and that it conducts "a thorough title chain analysis and environmental review" prior to any land acquisition. It further claims to "screen sellers based on their involvement in litigation (including jurisdictions far from the property being considered for purchase) and also based on a reputational background check."

Regarding its land acquisitions in Brazil in particular, TIAA states that its farmland portfolio "consists only of land that has been approved for agricultural use – the vast majority of which has been used as farmland long before our investment." The fund further rejects allegations that it is involved in land speculation, stating "we acquire farmland assets generally with up to a 20-year time horizon. We do not purchase land with the intention of short-term monetization."

Also, according to TIAA, its investments in the Cerrado region concern only "established farming areas where our croplands are located in the high

plateaus." Regarding the fund's farm in Piauí, the Ludmila farm, which is located in the municipality of Santa Filomena, TIAA states that it is continuing the conversion process into farmland, which had been initiated by the previous owner. The fund claims that this process has been conducted in accordance with Brazilian law "and with all necessary environmental licenses." According to TIAA, the process of preparing the land for crop production has been ongoing for several years and no crop has been produced so far, and consequently the fund also denies the use of agrochemicals on the farm.¹⁷⁶

As previously stated, TIAA underlines its participation in a number of self-regulation initiatives of the private sector, in particular the PRI and the Farmland Principles. The fund publishes annual reports on its compliance with these standards. In its last report, which dates from 2017, TIAA states that it has taken actions in order to address "concerns" regarding its activities regarding "transparency, engagement with external stakeholders and our investments in Brazil". The latter is particularly in response to allegations according to which TIAA's investments have led to land conflicts, displacement of local people, deforestation, and excessive pesticide usage.¹⁷⁷ The concrete actions taken in 2016 according to TIAA/Nuveen are "(1) increased transparency around our farm locations through updated maps; (2) refreshed our approach to stakeholder engagement by hiring a dedicated person to manage these efforts; and (3) enhanced due diligence processes in Brazil."¹⁷⁸

The company now has an online map¹⁷⁹ showing the rough locations of their farms, along with some information about each of them (such as what they produce and the area under production). However it is impossible to see the precise location of farms on this map, because users are not able to zoom into the image closely enough.

¹⁷⁶ Letter by TIAA/Nuveen to FIAN, dated December 22, 2017.

¹⁷⁷ TIAA/Nuveen (2017), *Responsible Investment in Farmland*, p. 2.

¹⁷⁸ *Idem*.

¹⁷⁹ Please see: www.tiaa.org/public/assetmanagement/strategies/alter-natives/agriculture/farmlandmap.

With regards to its farmland investments in Brazil, the report claims that TIAA “continue[s] to avoid investing in areas in Brazil with potential indigenous community claims, and in biologically significant forested areas such as those found in northern Brazil in the Amazon Biome.”¹⁸⁰ It further claims that “most of the agricultural lands in our portfolio have been used as agricultural lands for many years, if not decades.”¹⁸¹ In addition, TIAA points to its “rigorous due diligence process,” which includes “fundamental analysis of each property prior to acquisition” and a “reputation risk net”, to guarantee that the fund won’t purchase lands from individuals or companies with serious allegations against them.¹⁸² The performance of each of its farms is further monitored individually over time. According to the report, the due diligence procedures have been updated since 2015 and it has adopted a code of conduct specifically for its Brazilian investments.¹⁸³

TIAA recognizes that there are “challenges” regarding farmland investments, including the risk to contribute to water scarcity, nutrient runoff, climate change impacts through deforestation, land rights protection, transparency, as well as worker health and safety. The fund claims to address these through its “responsible and sustainable land management practices.” Based on its own guidelines, TIAA/Nuveen has developed a set of key performance indicators (KPIs) against which it reports. Not surprisingly, TIAA/Nuveen’s assessment of its own performance is extremely positive. Regarding its respect for existing land and resource rights (Guideline 3), for instance, the fund gives itself a 100 % performance rating on both of its indicators. According to the report, this means “that for any new property acquired in 2016, we conducted a formal title search and review as part of our due diligence process (KPI 3.1) and thus help to ensure that all properties were compliant with applicable land rights laws in the United States, Brazil or Australia (KPI 3.2). Land rights regulations vary across the geographies where we invest, but

in each case we adhere to existing laws.”¹⁸⁴ In the Brazilian context, the report also specifically refers to the Brazilian Forest Code of 2012, stating that all of TIAA’s properties are in adherence with the registration requirements, including the CAR.¹⁸⁵

TIAA’s ratings regarding the promotion of environmental sustainability (Guideline 1) and the respect of labor and human rights (Guideline 2) are also very high. Taking a closer look at the indicators, it becomes clear that these refer to procedural issues, rather than assessing the actual outcomes of the activities and management of the farms. Regarding land rights for instance, there is no indicator that would cover any existing claims by local people over the land owned by TIAA. In the same line, the guidelines regarding environmental sustainability do not contain, for instance, an indicator on deforestation or on impacts on ecosystems. Also, the existing indicators on “chemical and production inputs” do not consider the kind and quantity of pesticides used.¹⁸⁶

Overall, the report and monitoring serve to deny that TIAA is involved in any issues in the first place. However, there are some inconsistencies, such as for example regarding TIAA/Nuveen’s statement that “land rights may be a source of conflict due to ambiguous laws, lack of clear documentation, or historical disputes. We do our best to avoid investing in areas with ambiguous land rights laws”. Besides the fact that it is not accurate to attribute land conflicts exclusively to “ambiguous laws,” TIAA is well aware that MATOPIBA is a region, where a number of conflicts exist – many of which are linked to investments and agribusiness activities – as well as a region with a lot of uncertainty regarding land ownership and overlapping claims.

The claim that TIAA is not involved in any deforestation and clearing of areas in the context of its farmland acquisitions – according to a report published in

¹⁸⁰ *Idem*, p. 3.

¹⁸¹ *Idem*, pp. 6-7.

¹⁸² *Idem*, pp. 12-13.

¹⁸³ *Idem*.

¹⁸⁴ *Idem*, pp. 27, 40. The report also states that TIAA has conducted an assessment of its properties in Brazil in 2015, which was carried out by a consulting firm, called BSD (see p. 39).

¹⁸⁵ *Idem*, p. 42.

¹⁸⁶ Indicators 1.3 and 1.4 concern the “Percentage of acreage used to grow row/permanent crops that use variable rate or equivalent technologies to efficiently apply fertilizer and/or pesticides” (p. 27).

2017, “it is Nuveen’s general practice to maintain the forests on the land it acquires in Brazil”¹⁸⁷ – is in contradiction with the findings of the international fact-finding mission as well. These indicate that, at least in its farm in Piauí, TIAA is indeed involved in the deforestation of Cerrado forest. Information collected on the ground suggests that significant deforestation took place on the Ludmila farm, through the use of huge chains. Such claims are supported by the sequence of satellite photos presented in this report (see chapter IV.2.4). Although TIAA/Nuveen does not speak of deforestation in the letter sent in response to a draft version of this report, it acknowledges that Ludmila farm is in a process of “conversion into farmland” and preparation for crop production. Even though the fund claims that it is continuing a process, which had been initiated by the previous owner, this stands in contradiction with its claim that it only operates on lands, which have been used for agriculture for a long time.

Satellite images made available by Global Forest Watch also show deforestation on farms owned by TIAA, under TCGA I, in the state of Maranhão (farms Catuaí Verde, Catuaí Norte, Catuaí Norte (Santa Tereza), Sagitario, and Marimbondo, totalling 116,995 acres/47,346 hectares).¹⁸⁸ Even though a closer analysis shows that the main deforestation on these farms happened between 2001 and 2009, and thus before the creation of TCGA I, the satellite images show that significant destruction of Cerrado vegetation has happened on farms owned by the fund. This contradicts TIAA’s claims that it only acquires lands, which have been used for agriculture for many years. In a reaction to a draft version of this report, ABP’s asset manager, APG, stated that TIAA/Nuveen “is not only working toward a zero-deforestation policy in Brazil, but has also committed to not acquire farms in the future that have newly been deforested.”¹⁸⁹ This suggests that no such guidelines existed in the past and that TIAA/Nuveen may well have acquired newly deforested farms.

4.3.2.2. ÄVWL

ÄVWL declined the request of a meeting and a direct exchange with the international delegation of the fact-finding mission in January 2018, which included delegates from Brazil.

The fund has referred in the past to its internal Corporate Governance Codex,¹⁹⁰ which refers to ethical and social aspects but does not mention human rights. In addition, the chapter on ethical and social aspects does not provide details about how decisions about investments are taken. Rather, it only loosely refers to existing guidelines like the Principles for Responsible Investment (PRI), which are only declarations of intent. This way, the ÄVWL has the full discretionary power to decide about what is ethical, ethically relevant, and what is not, thus having the role of judge and party when judging a given situation. According to the mission’s research, ÄVWL also has a handbook on risk management, which is, however, not publicly available. It could not therefore be clarified whether the assessed risk refers also to human and environmental harm, or only to investments risks in terms of and financial gain.

It is worth noting that the national German governing body of doctors (“Deutscher Ärztetag”) formally demanded in 2010 that all German pension schemes of doctors only invest in line with ethical aspects.¹⁹¹

4.3.2.3. ABP

During a meeting with ABP’s asset management firm APG, the fund’s representatives referred the international delegation to Nuveen as the fund manager of TCGA II, for more information on due diligence and monitoring procedures. The responsible fund manager of APG was very positive about the due diligence and reporting by Nuveen. At the same time, APG expressed its interest in receiving more information regarding the intricate ways in which

¹⁸⁷ TIAA/Nuveen (2017), Responsible Investment in Farmland, p. 42.

¹⁸⁸ Available at www.globalforestwatch.org.

¹⁸⁹ Email sent to FIAN on June 15, 2018..

¹⁹⁰ www.aevwl.de/fileadmin/Dokumente/Kodex/Kodex_der_%C3%84VWL_Ausgabe_2015.pdf.

¹⁹¹ Deutscher Ärztetag (2010) Beschlussprotokoll, p.125

land is grabbed in the MATOPIBA region, including the role of Brazilian environmental legislation and the CAR. This, coupled with APG's reliance on Nuveen, indicates that the Dutch fund managers might not have a comprehensive understanding of the consequences of the massive influx of foreign capital in the region. During the meeting, APG justified its land investments as a contribution to the fight against hunger, which stands in contradiction to the fact that most of the crops produced on the farms in the MATOPIBA region (mainly soy) are not food crops and are geared towards exportation.

During the meeting and in a subsequent letter, APG emphasized its "commitment to respect and promote human rights and environmental sustainability in its investments through its support for the UN Global Compact Principles and the Farmland Principles endorsed by the UN Principles for Responsible Investment". It further welcomed "research from a wide range of stakeholders including local experts as it enriches our understanding and diligence of our (potential) investments," stating APG's commitment to fact-check such information with the fund managers and "if needed follow-up in an appropriate way to ensure adherence to our responsible investment policies."¹⁹²

Overall, ABP presents itself as a "responsible investor" and claims to have high standards and targets concerning the sustainability of its investments. ABP is part of the group of institutional investors, which launched the Principles for Responsible Investment in Farmland in 2011, which were later incorporated into the PRI. In 2015, the fund committed to review all the companies it has shares or bonds in, within five years. Amongst its goals before 2020 are a 25% decrease of CO2 emissions, a five-fold increase of its investments in renewable energy and a doubling of "High Sustainability Investments."¹⁹³

4.3.2.4. AP2

In a meeting that took place during the international fact-finding mission in January 2018, AP2 stated that Nuveen is the main interlocutor for discussing the problems around investment, due to their closer involvement as managers of TCGA. At the same time, AP2 stated that it actively influences TCGA's sustainability work through the board position, which is held by AP2. The person holding this position is also member of TCGA's economic, social, and (corporate) governance (ESG) committee and the representatives of AP2 claimed that the fund had played a key role in pushing through policies on increased transparency. AP2 also has a continuous dialogue with Nuveen, which produces quarterly reports and, according to its own reports, AP2 visits farmland properties several times every year". However, AP2 emphasizes that the main work in ensuring ESG is during the due diligence process and that they expect fund managers to follow the Principles on Responsible Investment in Farmland.

In response to the findings of a 2015 report on TCGA's farmland acquisitions in Brazil,¹⁹⁴ AP2 stated that TCGA follows strict procedures to verify the title of the lands it acquires and that all of its farm properties in Brazil were acquired in compliance with federal and local laws protecting aboriginal heritage and indigenous community rights. In its 2017 annual report, AP2 further mentions that third party evaluations were made by the company BSD Consulting on their Brazilian farmland properties in 2015. According to this, the evaluation focused on compliance with Brazilian law on working conditions, health and safety, as well as compliance with PRI. According to AP2, the result showed that the leasing companies had a good governance system, but that non-compliance or flaws were found in all cases. AP2 states that this has led to a change in the fund's policy around site visits, which are now more in depth and include a visit to the main office of the involved companies. In addition, AP2 has introduced a new

¹⁹² Letter from APG to FIAN International, dated January 30, 2018.

¹⁹³ Please see www.abp.nl/over-abp/beleggen/verantwoord-beleggen.aspx.

¹⁹⁴ Rede Social de Justiça e Direitos Humanos, GRAIN, Inter Pares, and Solidarity Sweden-Latin America (2015), Land grabbing and pension funds in Brazil. Available at: www.latinamerikagrupperna.se/wp-content/uploads/2015/11/grain-5336-foreign-pension-funds-and-land-grabbing-in-brazil.pdf.

code of conduct for the leasing companies and a monitoring policy is being developed. According to information provided by AP2, a new evaluation of most of TCGA farms will be commissioned by Nuveen during 2018.¹⁹⁵

In its 2017 sustainability report AP2 strongly presents itself as a “responsible investor” with high ambitions, citing the awards the fund has earned for its sustainability work. AP2 has also released a statement with other institutional investors (including, among others ABP), about the importance of institutional investors investing in solutions that help to fulfil the Sustainable Development Goals (SDGs).¹⁹⁶ AP2’s communication strategy about their farmland investments has a strong focus on its contribution to the SDGs, in particular SDG 2 (zero hunger), arguing that large-scale farming is a way to achieve economic growth and development.¹⁹⁷ Initiatives are underway at the Global Reporting Initiative (GRI) and PRI to develop indicators to measure investors’ performance on this and AP2 say they hope to use these in future.

AP2 recognizes the importance of international conventions on human rights and says that it adopted a new human rights policy in 2017 to clarify responsibilities. This policy will be implemented from 2018 onwards. Further capacity building on this issue of the fund’s staff will take place in collaboration with the organization Shift. In its reports, AP2 refers in particular to the Guiding Principles on Business and Human Rights and states that the fund aims to implement a policy for a remedy mechanism, as is recommended by the guidelines. However, no concrete time frame is set yet. The representatives did not provide any information regarding any complaint mechanisms for affected people. AP2 is in the last year of a three-year process of risk evaluation which will be focused on its fund holdings in 2018.¹⁹⁸

Climate change is another issue AP2 strongly refers to in its sustainability reports, committing to the objectives of limiting global warming to 2 degrees Celsius and expressing support for clear regulations in this regard.¹⁹⁹ The fund has also published a separate Climate Strategy Report in 2016,²⁰⁰ in which it presents its ambition to contribute to a carbon neutral society. In particular, AP2 states that it has developed criteria to start divesting from fossil fuels. Some divestment decisions have been announced by AP2, but the fund still has major investments in fossil fuel companies.²⁰¹ AP2 also puts forward its participation in a number of initiatives to address climate change, including the Climate Action 100+ (a project in which investors conduct dialogues with the world’s biggest polluting companies on climate commitments) and the International Investor Group on Climate Change (IIGCC), which works for policies towards more climate smart investments. During the meeting with the international delegation, AP2 mentioned that it makes use of satellite monitoring and the collection of soil samples as ways of ensuring the long-term sustainable use of the farmlands the fund has invested in, and to track deforestation.

¹⁹⁵ Andra AP-fonden (2018), Årsredovisning och Hållbarhetsrapport 2017, p. 45.

¹⁹⁶ Idem, p. 29.

¹⁹⁷ Idem, pp. 30-31.

¹⁹⁸ Idem, pp. 29, 48, 49.

¹⁹⁹ Idem, pp. 5, 27.

²⁰⁰ Andra AP-fondens (2016), Förhållningssätt till klimatomställningen. Available at: http://www.ap2.se/globalassets/hallbarhet-agarstyrning/klimat/klimatstrategi-2016_se_161111.pdf.

²⁰¹ See WWF (2015), Du äger! Ap-fondernas ägande av fossila reserver. Available at www.wwf.se/source.php/1591998/Du_ager_AP-fonderna150320.pdf.



5. Human rights analysis

The aggressive expansion of agribusiness, particularly of soy bean, in the municipalities of Gilbués and Santa Filomena, has led to a serious destruction of nature and to severe violations of the human rights of local people. Agribusiness expansion and the accompanying land speculation has reshaped the political economy of southern Piauí and the MATOPIBA region, and has dramatically altered the social relationships with nature and the social fabric itself. Environmental crimes and human rights violations are manifold and closely interlinked.

Brazil has ratified the international human rights Covenants and instruments as well as the American Convention on Human Rights, including its Additional Protocol on Human Rights in the area of Economic, Social and Cultural Rights. By virtue of its obligations under these standards, the Brazilian state is required to take proactive measures to respect, protect and fulfil human rights and to abstain from any acts and omissions that could result in impairing their enjoyment. The Brazilian state is further a party to several international conventions and agreements on the protection of the environment (Rio Declaration, United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification), the preservation of biodiversity (in particular the Convention on Biological Diversity, CBD) and climate change (UN Framework Convention on Climate Change, UNFCCC, and the Paris Agreement).

Treaties and conventions on human rights have constitutional status in the Brazilian legal framework and need to be immediately implemented. Brazilian law further provides a legal framework to ensure the realization of human rights. Of particular importance are Articles 6 and 11 of the Federal Constitution, which are devoted to social rights, which are considered as non-amendable clauses of the constitutional text.

Brazil has also Constitutional and other legal provisions regarding the particular attention that needs to be given to the protection of particularly

marginalized groups. This refers in particular to indigenous peoples and *quilombola* communities, with a special attention to their rights over their territories and natural resources.²⁰² Decree N° 6.040 of 7 February 2007 explicitly recognizes the rights of traditional peoples and communities, establishing as objective of the national policy in this regard the “recognition, strengthening and guarantee of their territorial, social, environmental, economic and cultural rights, with respect and appreciation for their identity, their forms of organization and their institutions.”²⁰³ The decree puts a particular emphasis on guaranteeing their territories as well as the access to the natural resources they traditionally use for their physical, cultural and economic reproduction. It further underlines the importance of ensuring the full exercise of traditional peoples and communities’ individual and collective rights, especially in situations of conflict or threat to their integrity.²⁰⁴

The human rights violations affecting local communities and people are systemic and affect a broad range of human rights. For an overview of the economic, social, and cultural rights affected, see annex. Among the most important aspects, we highlight the following:

- **Destruction of water springs and river beds; destruction of water table’s capacity to accumulate water due to deforestation, damaging**

²⁰² The Federal Constitution recognizes, in Articles 231 and 232, that, “the indigenous peoples have their social organization, customs, beliefs and traditions and the original rights to the lands that they have traditionally occupied”. Law 6.001/1973, known as the Statute of Indigenous Peoples, and Decree 1.775 of 1996, stipulate the procedure for the demarcation of indigenous land, which should be performed by the Brazilian National Foundation for the Indigenous Peoples (FUNAI). Article 129, V, of the Federal Constitution stipulates that the Public Prosecutor’s Office shall be in charge of legally defending the rights and interests of indigenous peoples. In 2006, the Brazilian federal government established the National Commission on Policies for Indigenous Peoples (Decree of 03/22/2006), under the Ministry of Justice, which started operating in April, 2007 and was tasked with drafting a bill for the establishment of a National Council on Policies for Indigenous Peoples. On February 7, 2007, Decree 6.040 established the National Policy for the Sustainable Development of Traditional Peoples and Communities, and defines them in its Article 3 as culturally differentiated groups that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral, and economic reproduction. In 2003, Decree 4.887 regulated the procedure used to identify, recognize, delimit, demarcate and provide title deeds to the lands that are remnants of former slave settlements (often referred to as *Quilombolas*), pursuant to Article 68 of the provisional provisions of the Federal Constitution.

²⁰³ Decree N° 6.040 of 7 February 2007, art. 2.

²⁰⁴ *Ibid.*, art. 3.

the replenishment capacity of the water springs and threatening their very existence; and water pollution due to excessive pesticide use.

The Brazilian State is infringing its obligation to protect existing stable access to water of adequate quality by traditional communities, which is threatened and destroyed by destructive and polluting agribusiness practices. Thus the Brazilian State is violating the human right to water of the five communities visited.

- **Destruction of Cerrado forests, wild plants and animals, including fisheries.**

The Brazilian State is infringing its obligation to protect existing access to forests from destruction by agribusiness activities. Access to Cerrado forests is required by the local population, in order to ensure forest-related livelihoods, such as hunting wild animals and gathering of *buriti*, *pequi*, and other forests fruits as well as medicinal plants. By not impeding the destruction of Cerrado forests, the Brazilian State is violating the human right to food of the five communities visited. Especially the rights of women to food, work, decent income, and health, are particularly affected, since *buriti* gathering and processing is predominantly a woman's livelihood in this region.

The destruction of Cerrado forests, which in turn led to the destruction of water sources, combined with the water pollution, have caused the destruction of fisheries. In this case as well, the Brazilian state is responsible for violating the right to food and the traditional fishing practices of the *ribeirinho* communities.

Deforestation for the establishment of agribusiness plantations also violates local people's right to a healthy environment. Article 225 of the Federal Constitution guarantees the right to an "ecologically balanced environment" and Law n° 9.605 of 1998 establishes sanctions for environmental crimes. While the Brazilian Forest Code (Law n° 12.651/2012) establishes legal

reserves with native vegetation that must be preserved in rural properties, this law has led to increased deforestation because many rural estate owners interpreted it as a green signal to deforest more as long as their legal reserves were kept intact.²⁰⁵ The law has also established an amnesty for areas degraded and deforested above the limits before 2008. Most of these areas are situated in the transition areas between the Cerrado and the Amazon, including parts of the MATOPIBA region, in particular the states of Maranhão and Tocantins. In the state of Piauí, the degradation of the Cerrado region expanded fast after the adoption of the Forest Code, as the amnesty allowed both to legitimate degradation in areas still not fully licensed for large scale agricultural use and also allowed for the acquisition of cheaper still preserved land so that degradation could be pushed to the limits. Coupled with changes in land legislation, the amnesty has also contributed to the legalization of the occupation (and deforestation) of more than 50 million hectares of land in the overall territory of Brazil.

As has been said, the Cerrado is one of the most threatened biomes in Brazil and deforestation had already destroyed half of it by 2009. Deforestation in the context of agribusiness expansion has also led to the disappearance of animal and plant species, and thus to the reduction of biodiversity in this critical ecosystem. Taking into account the effects of the amnesty and the Forest Code, they are not conducive to guaranteeing the right to a healthy environment for local people in the Cerrado.

- **Destruction of human health and a healthy environment due to the use of pesticides.**

The Brazilian state is obliged to protect human health and the environment, including land and water, from exposure to toxic pollution. By failing to do so in the municipalities of Guilbés and Santa Filomena, it is violating the rights to health and to a healthy environment of the affected communities.

²⁰⁵ See Soares-Filho, B. et al. (2014), "Cracking Brazil's Forest Code." In: Science, Vol. 344, 25 April 2014, pp. 363-364.

- **Damaging of food sources and forced changes of food habits**

The decimation of inland fisheries as well as of wild animals for hunting, the disappearance of herbs and medicinal plants, the disappearance of certain food crops as well as the diminishing yields of *buriti* palms and other fruit trees, combined with the deteriorating water availability and soil fertility for cultivation and the dispossession of lowlands to grow crops or tend animals, has led to a situation of insufficient food availability and food quality in the visited communities. The destruction of ecosystems and biodiversity has adverse impacts on the nutritional diversity for the affected communities, which is key for the realization of the right to adequate food and nutrition.

The Brazilian State is not protecting the existing and varied sources of food of these communities, from destruction by agribusiness activities. Thus, the Brazilian State is violating the right to food and nutrition.

The right to food and nutrition is provided for through various provisions and principles of the Federal Constitution and was included in 2010, as part of constitutionally guaranteed social rights, in its Article 6. In addition, the Brazilian State's obligation to protect and promote the right to food and nutrition is also provided for through several laws in force in the country, including the law that reinstated the National Council for Food and Nutrition Security (CONSEA) in 2003, the Child and Adolescent Statute (ECA), and the Organic Law on Food and Nutrition Security (Law 11.346/2006). The latter in particular is an important legal instrument for the implementation of the right to food in the country, since it considers the promotion and guaranteeing of the human right to adequate food as the objective of the National Policy on Food and Nutrition Security. This law also establishes the National System of Food and Nutrition Security (SISAN), whose objective is to formulate and implement food and nutrition security policies and plans, to stimulate the integration of efforts

between government and civil society, as well as to promote the monitoring and assessment of food and nutritional security in the country.

- **Dispossession of traditional communities from their territories**

The communities of Melancias, Baixão Fechado, Sete Lagoas, Brejo das Meninas, and Santa Fé, identified themselves as traditional communities who have inhabited these areas in several cases for more than 100 years. They have developed culturally distinct forms of occupying these lands as well as relating to nature and the Cerrado ecosystem, for their subsistence as communities. The Brazilian State has violated the right to land and territory of these communities through its acts and omissions.

Firstly, it has not recognized the communities' collective traditional lands on the plateaus as well as in the lowlands; and the particular ways that they use and manage both. The Brazilian state has further not protected the communities from dispossession of their lands, fisheries, and forests, by local land grabbers and agribusiness companies. In addition, the Federal Government has been promoting the advancement of agribusiness in the MATOPIBA region over the past years, by means of subsidies and giving priority to infrastructure and technology-related policies. The incentives given by the government to large companies strongly contradict its obligations to respect, protect, promote, and uphold the human rights of the traditional people, including in the Cerrado and in the State of Piauí.

In addition, The Brazilian State has been encouraging the unorganized occupation of the Cerrado in Piauí by agricultural and land companies, without following proper regulations regarding the land rights of traditional populations who inhabit the region.

While the State of Piauí has introduced legislation and a program to promote land regularization, there is evidence that this program has benefitted

primarily big land owners and discriminated against traditional communities and peoples. The land regularization law and policy were further elaborated and approved without adequately informing and consulting the local traditional communities, in order to ensure that the land regularization process responds to their needs and aspirations. In particular, the land regularization does not adequately provide for the recognition and protection of collective forms of occupation and use, as guaranteed under article 231 of the Brazilian Constitution and article 68 of the Transitory Constitutional Disposition Act (ADCT).

The norms benefiting agribusiness and neglecting the traditional populations as well as the regularization program not recognizing the collective use of lands fosters significant existing power asymmetries and increases material inequality, representing a violation of the state of Brazil's obligation of non-discrimination.

Regarding its law on land regularization as well as the program to implement it, the State of Piauí is not observing core provisions set out in the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests. In the context of the legal recognition and allocation of tenure rights, these Guidelines underline the need to establish safeguards to avoid infringing on, or extinguishing, tenure rights of traditional communities, when states recognize or allocate tenure rights to land, fisheries, and forests. This includes, in particular, legitimate tenure rights that are not currently protected by law (Tenure Guidelines, para. 7.1). They further specifically require states to provide appropriate recognition and protection of the legitimate tenure rights of indigenous peoples and other communities with customary tenure systems (para. 9.4), such as the traditional communities in the Cerrado. The Tenure Guidelines further require states to identify all existing tenure rights and right holders, whether recorded or not, whenever states intend to recognize or allocate tenure rights. Communities, including those with customary tenure rights, need to be adequately included in

the process of identifying existing tenure rights (para. 7.3), following the standard on consultation and participation of the Guidelines (Tenure Guidelines para. 3B6; para. 9.9 of the Guidelines recognizes the free prior and informed consent of indigenous peoples). This standard particularly requires to address power imbalances between different actors.

Given that many of the lands are under the formal ownership and control of the state (*terras devolutas*), authorities – in particular INTERPI – are required to recognize, respect, and protect the legitimate tenure rights of individuals and communities of said land, along with protecting related resources, including those with customary tenure systems (Tenure Guidelines, para. 8.2). As has been explained, a significant portion of the areas which are being regularized in Piauí, are lands and forests that are collectively used and managed. The Tenure Guidelines require states to recognize and protect these lands and their related systems of collective use and management, including in processes of allocation (para. 8.3).

The land regularization process in Piauí is taking place in a context where the lands and livelihoods of traditional communities in the region are under increasing pressure, due to the massive expansion of soy and sugar cane monocultures by companies, backed with international finance capital. The Tenure Guidelines underline the need for states to put in place safeguards to protect legitimate tenure rights, human rights, livelihoods, food security, and the environment, from risks that could arise from large-scale transactions in tenure rights (para. 12.6). They also require states to prioritize and promote production and investment models that do not result in the large-scale transfer of tenure rights to investors (para. 12.6).

As has been described, the CAR, which has been introduced by the Brazilian Forest Code, has played a detrimental role in the context of agribusiness expansion and land grabbing in Piauí. On the one hand, the Code's requirement to maintain a certain

amount of rural properties with native vegetation (legal reserves) has led to the appropriation of community lands in the lowlands, as big farm owners have deforested the plateaus and established plantations, so that they need to expand into areas with intact vegetation in order to comply with the requirements of the Code. On the other hand, the CAR has played an important role in formalizing the appropriation of lands by agribusiness and land companies. As the information collected during the international fact-finding mission as well as research shows, land grabbers (*grileiros*) and agribusiness companies are using the registry a) as way to prove their occupation; b) to be admitted to Environmental Regularization Programmes (PRA); and c) to have access to rural credit, what is also a way of proving their social and economic land use along time (characteristics of possession).²⁰⁶ Even though the Forest Code stipulates that registration in the CAR does not correspond to a property title, available information shows that it is being used in this way by big land owners and agribusiness companies.

In addition, the way the registration in the CAR works favors these actors over communities. Concretely, existing asymmetries are reproduced regarding the access to the system. The example of the community of Sete Lagoas is a case in point: after having paid a technician to establish the GPS points required to inscribe lands into the CAR, community members realized that their lands had already been registered. The absence of safeguards in the procedures is a discrimination of rural people. Finally, the CAR adds an additional layer to the existing registration systems, such as different systems of INCRA, which are disconnected and contribute to creating overlapping claims over land (see map 4). This increases the confusion regarding land rights, which favors big land owners and makes communities lose out. As such, the CAR is not in line with the provisions of the Tenure Guidelines.

In this context, it is important to say that the Brazilian Forest Code has been under Supreme Court Evaluation since 2012. The first hearing took place in December 2017. The judge in charge maintained that the Environmental Amnesty disrespects Article 225 in the Brazilian Constitution and that the statute of the Environmental Regularization Programs must not be accepted as a way of solving grievances and inconsistencies in land use and land use management in perspective to the principle of environmental integrity. Another hearing took place in February 2018. Two decisions taken are likely to adversely interfere with the situation in Piauí. One relates to the possibility of accounting a Permanent Area of Protection (APP) as part of the percentage required for a legal reserve, meaning that if a water spring or a water head is registered as part of a property, its banks can be accounted as a legal reserve. In addition, the Court decided that areas concerned by the amnesty for environmental irregularities committed before 2008 can be the target of regularization processes, such as the Program of Environmental Regularization. This means that public money may be channeled to support the implementation of the CAR and restoration activities in areas that have been illegally grabbed and deforested.

The extraterritorial human rights obligations of home states of international investors

The impairment of the human rights of rural people and communities in the south of Piauí and the MATOPIBA region are the result of agribusiness expansion and land speculation, which is made possible through the investments of international financial actors. This report has particularly focused on the involvement of the pension funds TIAA, AP2, ÄVWL, and ABP in land grabbing and land speculation in MATOPIBA.

²⁰⁶ An example of this is the Terra Legal Program, implemented in the Legal Amazon, beginning in 2009, the Law 13615/2017, which individualized agrarian reform plots and, currently, legislation at the sub-national level to develop land regularization at the individual level as an efficient way of land governance disregarding land conflicts and overlapping already established, as it is the case in the states of Maranhão and Piauí.

TIAA and its affiliates may not be directly involved in land grabbing and ecosystem destruction, nor in the operations on the farms. However, the mentioned pension funds are an essential part of the destructive business model applied in the MATOPIBA region by providing the capital that is needed for the system to work the way it does. As has been described, the process leading to the dispossession of communities and massive deforestation involves several actors and the creation of farms – including the driving out of local people, in many cases with use of violence – is often carried out by local land grabbers who then sell the farms to land companies or agribusiness enterprises – in many cases through multiple selling operations. Fraud and violence are intrinsic parts of the process of how lands are made available for investments.

In the region of MATOPIBA, TIAA (through Radar) bought several of its farms from Mr. Euclides de Carli (or his company CODECA), who is allegedly one of the biggest land grabbers in the region. Mr. De Carli's titles, over more than 124,000 hectares, have been cancelled by the agrarian court because they had been fraudulently acquired. There are several indications that the Ludmila farm was also acquired through him. This farm is situated on a plateau where a big part of the land titles of the surrounding farms are under judicial investigation for illegal appropriation (*grilagem*). There is also information that TIAA's subsidiary, Radar, bought lands in Piauí that were contested in court.

Through their investments, these pension funds are, firstly, financing and fueling land grabbing and environmental destruction and, secondly, aiming to extract substantive wealth from the region. Whereas these pension funds stress that they are not involved in land speculation, given that their mandate requires them to seek long-term investments with manageable risk, they directly profit from the rising land prices, as this increases the value of their farms and their portfolios. In addition these funds are financing a destructive model of agriculture, which has extremely detrimental long-term consequences for the environment, biodiversity, and climate. In addition to

the immediate impacts, the agro-industrial farming carried out by agribusiness companies in the region is destroying soil and water resources.

The argument brought forward by some of the funds, where they argue their concern is to contribute to “global food security” is contradicted by the fact that only some 4% of the produce grown on the TCGA farms is food, while the rest is for industrial processing and export.

TIAA, AP2, ÄVWL, and ABP are thus – directly or indirectly – involved in the impairment of human rights of local people. Crucially, the funds knew – or should have known through an appropriate due diligence process – that they were investing in a region and sector with high risks, given that land conflicts and deforestation have been increasing in MATOPIBA for more than ten years. The funds have also been made aware about the impacts of their investments by reports in media and by CSOs from 2012 onwards, but have not taken adequate measures to ensure that their investments do not lead to the impairment of human rights of local people and environmental destruction.

These pension funds are under the jurisdiction of the USA, Germany, the Netherlands, and Sweden. This means that these states have the power and the obligation to regulate them, in order to prevent their investments/financial operations from causing human rights harm. As such, these states' extraterritorial human rights obligations (ETOs) are at play. International law stipulates that ETOs apply: 1) when states can exercise authority or effective control over the key actors involved; 2) in situations over which states' acts or omissions bring about foreseeable effects on the enjoyment of human rights, whether within or outside their territory; or 3) in situations in which the states, acting separately or jointly, whether through their executive, legislative, or judicial branches, are in a position to exercise decisive influence or to take measures to realize human rights extraterritorially, in accordance with the UN Charter and general international law. This means that states have an obligation to monitor and regulate economic

actors and to hold them accountable for abuses and crimes, including pension funds, in order to protect human rights in situations where a corporation, or its parent or controlling company, has its center of activity, is registered or domiciled, or has its main place of business or substantial business activities, in the state concerned.²⁰⁷

It should be noted that control need not be exercised on the basis of ownership (parent company), but refers to economic and financial control as well.²⁰⁸ As this report has shown, the companies operating in the MATOPIBA region largely depend on international investments, and in particular on international pension fund investments, and these financial actors are making economic gains at the expense of human rights abuses and violations. Foreign states are therefore under an obligation to regulate the controlling companies, to ensure that the Brazilian companies do not abuse human rights. Such regulation must not apply to measures that interfere with the sovereignty of Brazil, but could proceed via “parent-based regulation” or duty of care along the supply or commercial chain,²⁰⁹ i.e. by making the US-pension fund, TIAA, or its agricultural fund, TCGA, in which European pension funds have invested, instruct its affiliates to disconnect its business links to all partners involved in crimes and human rights abuses. In addition, the countries where the controlling companies are based and Brazil

are obliged to cooperate to stop existing abuses and prevent future abuses.²¹⁰

The extraterritorial obligations of the home states of international investors towards the victims in Brazil exist independently of, and in parallel to, the territorial obligations of Brazil. They are incumbent no matter whether Brazil’s territorial obligations were kept or breached in this regard. The existence of these ETOs does not relieve Brazil of its territorial obligations, nor does the failures of Brazilian authorities make the ETOs of foreign states any less incumbent.

For the USA, where TIAA is registered and domiciled, the extraterritorial human rights obligations are immediate.²¹¹ Extraterritorial obligations are, however, also incumbent on those states, where investors in TCGA have substantial business activities. Germany, the Netherlands, and Sweden cannot, of course, intervene against TCGA on US territory, nor can they interfere with the US regulations on TCGA, both for reasons of general international law and the UN Charter. But they can – and, by virtue of their human rights obligations, have to – exercise their obligations to protect against TCGA in their own territories, by ensuring that national investors do not contribute to, and make financial gains from, the impairment of human rights in the MATOPIBA region, including by prohibiting national investors to invest substantially in funds, which are involved in human

²⁰⁷ See General Comment 24 of the Committee on Economic, Social and Cultural Rights and the sources included in the Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural rights: www.etoconsortium.org/nc/en/main-navigation/library/documents/?tx_drblob_pi1%5BdownloadUid%5D=63, Commentary to Article 25, p.37.

²⁰⁸ Maastricht Principle 25 c) on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights. Commentary to the Maastricht Principle 25.

²⁰⁹ On the duty of care along the value chain see: Amnesty International and Business and Human Rights Resource Centre (2017), *Creating a Paradigm Shift: Legal Solutions to Improve Access to Remedy for Corporate Human Rights Abuse*. Available at: www.business-humanrights.org/sites/default/files/documents/AI_BHRRRC_Paradigm_Shift_print_version.pdf. A first example of regulation is the recently adopted French Law No. 2017-399 on the Duty of Vigilance, English translation available under: www.business-humanrights.org/en/french-duty-of-vigilance-bill-english-translation.

²¹⁰ The obligation to cooperate is stipulated also in the UN Charter Art. 56 and ICESCR art. 2.1. See also ETO Maastricht Principle 30 on the coordination and allocation of responsibilities between states, for the fulfilment of ESCR, explained in the Commentary to the ETO Maastricht Principles, p. 45-46

²¹¹ Even if the US has not ratified the ICESCR, it is obliged by the Universal Declaration on Human Rights, which has been recognized by diverse international law experts as customary law. See, for instance, Burgenthal, T., (1995), *International Human Rights in a Nutshell*, p. 21-35; Henkin, L., Pugh R., Schachter, O., Smit, H. (1993), *International Law*, pp. 599-608; Eibe Riedel, E. (1991), *Standards and Sources. Farewell to the exclusivity of the Sources Triad in International Law?* EJIL, p. 69.

rights abuses, such as TCGA, and holding them to account when they do.

The results of the fact-finding mission in Europe in January 2018 and of additional research conducted for this report show that Germany, the Netherlands, and Sweden have breached their ETOs by not putting in place effective regulation that prevents human rights harm through these pension funds' activities and by failing to ensure rigorous monitoring of these activities. They have further failed to ensure accountability of these actors, nor have they provided remedy for affected people in the specific case of MATOPIBA.

Firstly, none of these states has policies and effective legal frameworks, which clearly define the duties of corporations and financial actors, such as these pension funds, including rules on prior human rights impact assessments (HRIA), responsibility of due diligence and criteria for the determination of liability. The existing frameworks also do not contain clear provisions on legal accountability by these actors for human rights abuses and crimes.

Sweden has provisions that require funds to take into account "ethical and environmental issues," but does not establish clear human rights criteria on how this should be done. In addition, the existing framework establishes the achievement of "high revenue" as its main objective of AP2's operations. In the case of the Netherlands, the Pensions Act contains a number of legal requirements that pension funds have to fulfil as part of their risk management and good governance, in order to act "in the interest of the pension beneficiaries." There are no requirements however, to protect individuals or communities that are not beneficiaries and who are – potentially or factually – affected by investments. The Dutch government has also stated that it expects investors to abide by international standards, but has also expressed the view that ABP is a private company whose policies and investments cannot be dictated by the government. Regulation of business enterprises is, however, at the core of states' obligation to protect human rights.

Regarding ÄVWL, the State of North Rhine-Westphalia's framework establishes that pension schemes fulfil their tasks in "accordance with applicable law." The ICESCR details in Article 28 that all its provisions "shall extend to all parts of federal States without any limitations or exceptions."²¹² This means that North Rhine-Westphalia is required to take human rights into consideration when overseeing and regulating pension schemes like ÄVWL. In addition, the existing framework establishes that the supervisory body reviews primarily financial regulations, but must also investigate violations of other laws, on notice. Under German federal law, however, only overall "risks" have to be assessed. The existing framework does therefore not establish criteria for human rights or social and ecological aspects and leaves it to the pension funds to define what they interpret as "risks."

During meetings with government representatives of the three countries during the international fact-finding mission, authorities have repeatedly referred to the UN Guiding Principles on Business and Human Rights and the National Actions Plans (NAP) to implement these. These guiding principles have, however, considerable shortcomings and are non-binding and voluntary. As such, compliance depends solely on the goodwill of corporations and financial actors to abide by the principles and the willingness of individual states to regulate them to respect human rights. The guiding principles also do not clearly refer to states' obligation to protect, but establish in its Article 2 that "states should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations."²¹³ Principle 2 includes ambiguous language which risks undermining the protect obligation as interpreted by the UN Treaty bodies. Furthermore the guiding principles are ambiguous in the application of the ETOs and focuses on remedy measures taken by the involved companies, which, consequently, act as judges and parties in a context of power asymmetries. At the same time, they do not strengthen or clarify how access to legal resource or remedy for communities affected by the transnational activities of business

²¹² ICESCR, Article 28

²¹³ Italics by the authors.

enterprises could be assured. In addition, in the case of Sweden, the government makes no mention of the AP funds in its Action plan for Business and Human Rights.²¹⁴

Secondly, the existing frameworks in Germany, the Netherlands, and Sweden do not ensure adequate monitoring of the human rights impacts of pension fund activities. Sweden and the Netherlands have provisions regarding reporting, including on social and environmental issues but rely – just as Germany – almost exclusively on the information provided by the respective funds, as well as on their decision of how to report on these issues. This is despite the fact that the Dutch and Swedish governments have seats on ABP's board and appoint AP2's board respectively. In both countries, reports on the pension funds' activities are made annually to the parliament, but this has not impeded or stopped human rights abuses in the MATOPIBA region. ÄVWL is a public law entity and the regulatory framework also establishes a reporting duty, which, among other aspects, gives the federal Ministry of Finance the power to define the content of the reporting.²¹⁵

It becomes clear that all three states largely rely on the pension funds to provide information on their investments and to decide whether actions are required or not. The Dutch and Swedish government representatives have referred the fact-finding mission team to ABP and AP2 in order to discuss the abuses identified. In the case of Germany, the government of North Rhine-Westphalia has even refused to meet the delegation, arguing that any issues need to be addressed with ÄVWL first. This means that the involved pension funds report on the basis of their own guidelines and no independent oversight over human rights, social, and ecological issues (for instance by the national institutes on human rights) is required or ensured.²¹⁶ As has been shown regarding TIAA/Nuveen, the reporting of the funds responds, in

the first place, to satisfy their own interests, i.e. to present their investments in a good light and to show due diligence and compliance. In this sense, the indicators used, are designed to focus on procedural issues (e.g. the existence of required licenses etc.), rather than on the actual situation on the ground, in particular the concrete impacts on affected people and the ecosystem.

It is important to underline in this context, that the involved pension funds have referred the fact-finding mission team to TIAA/Nuveen, stating that it is the fund manager who is responsible for monitoring and compliance with existing standards. This leads to the conclusion that the pension funds are not proactively monitoring the impacts of TCGA's operations in the MATOPIBA region, despite existing reports on human rights abuses and ecosystem destruction. This allows us to express serious doubts about the due diligence of these funds, a situation, which remains unaddressed because of the absence of binding provisions in this regard in the existing legal frameworks.

A major obstacle for any independent monitoring of human rights issues linked to TCGA's operations, is the lack of transparency regarding the details of these investments. In Sweden for instance, the research NGO Swedwatch was denied any details regarding AP2's land investments in Brazil when it first took up the issue in 2013. Through persistent CSO collaboration and investigation, it was possible to identify at least one farm acquired by AP2/TCGA (Ludmila farm). Since then, as previously stated, TIAA/Nuveen has provided a map, which does not allow to locate the exact position of its farms. There is also still a lack of transparency when it comes to AP2's risk assessment. In response to a report published in 2015,²¹⁷ AP2 claimed that TCGA, through independent external auditors, reviewed the process leading up to the purchase of the Ludmila farm and maintained their claim that there were no wrongdoings during

²¹⁴ Government of Sweden (2015), Action plan for business and human rights. Available at: www.government.se/contentassets/822dc47952124734b60daf1865e39343/action-plan-for-business-and-human-rights.pdf.

²¹⁵ VersWerkVO NRW, §3(3)

²¹⁶ The Ministry of Finance has an overview of this, but this refers only to financial issues.

²¹⁷ Rede Social et al. (2015).

the process. Nevertheless, AP2 refused to share the auditors' report on that occasion.

TIAA/Nuveen and the pension funds involved in TCGA refer to the Principles for Responsible Investment in Farmland (Farmland Principles) and the Principles for Responsible Investments (PRI). In fact TIAA, ABP, and AP2 were among the initial signatories of these voluntary self-regulation schemes. The Farmland Principles were launched in September 2011 by a group of institutional investors, with – according to its promoters – “the goal of improving the sustainability, transparency and accountability of investments in farmland”.²¹⁸ The principles, which investors that sign up to them commit to implementing in all farmland investments, include, inter alia, the promotion of environmental sustainability (Principle 1); the respect of labor and human rights (Principle 2); and the respect of existing land and resource rights (Principle 3). In August 2014, the Farmland Principles were incorporated into the PRI, which concern the economic, social, and (corporate) governance (ESG) principles, which adhering investors commit to implementing, in order to ensure sustainability of their operations.

Even though these two sets of principles are presented by the involved investors as “UN-supported” initiatives,²¹⁹ they are in fact voluntary self-regulation schemes created by investors. This is well illustrated by the fact that the CEO of AP2 and a board member and former vice president of ABP are among the PRI directors, in other words two investors involved in land grabbing in the MATOPIBA region.²²⁰ The deeper issue with these principles is that it is not at all clear what it means to adhere to these principles beyond the statement of intention investors make when joining them. This refers particularly to the lack of accountability. As already said, reporting by the involved funds is a self-assessment based on self-defined criteria and indicators. As such, they cannot

provide a basis for ensuring and assessing human rights-compliant behavior of pension funds and other business enterprises.²²¹

CSR and voluntary guidelines and schemes such as the PRI have, however, been used by states as an argument to avoid binding regulations on the activities of transnationally operating companies and financial actors. The EU has, for instance, pointed to existing voluntary instruments (including the Guiding Principles on Business and Human Rights) in order to obstruct the process towards an international legally binding instrument on transnational corporations with respect to human rights, which is currently taking place at the UN Human Rights Council.²²²

The severe limitations of such voluntary self-regulatory schemes become most evident when abuses are reported, as they do not establish any accountability mechanism, nor do they ensure adequate remedy for affected people. The complete absence of accountability is well illustrated by statements by TIAA/Nuveen, in which the fund dismisses allegations regarding its activities by referring to “the high standards of responsible investing principles to which we hold ourselves to account.”²²³

In the responses by the involved states to the reports regarding the impairment of human rights in the MATOPIBA region, they have, however, referred to these and other corporate self-regulation frameworks. Regarding accountability and remedy in particular, these states have further referred to the mechanisms established by the National Action Plans (NAP) on Business and Human Rights as well as the OECD Guidelines on Multinational Companies, which allow for complaints to the National Contact Point (NCP) in the concerned country. Neither of these mechanisms is integrated into the national legal systems though. Furthermore, the remedy mechanism of the National Action Plan for Human Rights is of strictly voluntary

²¹⁸ See www.unpri.org/investor-tools/responsible-investment-in-farm-land/716.article.

²¹⁹ In written responses by TIAA/Nuveen and ABP to a draft version of this study, both funds refer to the PRI as “UN Principles on Responsible Investments.” Also, the website of the PRI is www.unpri.org. The attempts of business actors to present corporate-led initiatives as UN-sponsored in order to give them more “official” legitimacy is sometimes referred to as “blue washing.”

²²⁰ See www.unpri.org/pri/pri-governance/board-members.

²²¹ In its 2017 report on Responsible Farmland Investments. TIAA/Nuveen lists a number of conferences on responsible/sustainable investments and research initiatives in this field, which the fund has sponsored, as if this could weigh up against adverse impacts of its investments.

²²² See the EU's statements at www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx.

²²³ Statement by TIAA from February 2016 to ÄVWL communication, after the latter requested a clarification regarding allegations made by an NGO report published in November 2015.

nature, while the mechanism under the OECD Guidelines does not lead to any sanctions, but to a mediation between the parties. Regarding the OECD Guidelines, there are several examples that show that they have not provided remedy to affected people.²²⁴ In one case in Belgium, the National Contact Point deplored the lack of collaboration by the involved company, pointing to the fact that the application of the Guidelines depends entirely on the good-will of companies, thus raising serious concerns about their effectiveness in terms of ensuring accountability.²²⁵

As has been stated, it is part of states' human rights obligation to adequately regulate corporate and financial actors, such as the pension funds involved in the MATOPIBA region. The reliance by Germany, the Netherlands, and Sweden on self-regulation by the funds that are based in their territory, which is used as a justification for binding standards, is therefore a breach of their human rights obligations. In the case of Sweden, the UN Committee on Economic, Social and Cultural Rights found in its 2015 review that

there was a "lack of systematic control by the State party of the investments made abroad by enterprises domiciled under its jurisdiction, including by the Swedish National Pension Funds, which weakens the ability of the State party to prevent negative impacts from such investments on the enjoyment of economic, social and cultural rights by local populations." In its concluding observations, the committee emphasized the state's obligation to fully exercise its regulatory powers and ensure that the national pension funds (a) undertake a systematic and independent human rights impact assessment prior to making investment decisions; (b) establish effective monitoring mechanisms to regularly assess the human rights impact of such projects and to take remedial measures when required; and (c) guarantee that there are accessible complaint mechanisms in case of violations of economic, social and cultural rights arising from investment projects.

In this regard, the ongoing process to revise the regulatory framework on pension funds is an important



²²⁴ See, for instance, the cases in Cameroon and Uganda mentioned in Borras, S., Seufert, P. et al. (2016), *Land Grabbing and Human Rights*, pp. 55-56.

²²⁵ Point de contact national belge pour les Principes directeurs de l'OCDE à l'intention des entreprises multinationales (2015), Communiqué du 5 octobre 2015 du Point de contact national belge pour les Principes directeurs de l'OCDE à l'intention des entreprises multinationales relatif à la circonstance spécifique SOCAPALM / SOCFIN / SOCFINAF. Available at: www.oecdwatch.org/cases/Case_202/1611.

opportunity for ensuring Sweden’s compliance with its human rights obligations. As shown in this report, the Netherlands and Germany are also required to take the necessary steps in this regard. Given that all three countries are member states of the European Union, it is important to mention that an EU Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision (IORPs Directive 2016/2341) was adopted in 2016 by the European Parliament and the Council of the EU.²²⁶ In recognition of the huge role that occupational retirements play in the EU economy,²²⁷ the Directive explicitly respects and recognises fundamental rights. It aims to ensure a higher level of transparency of retirement provisioning and requests that the risk-management system shall adequately cover “environmental, social and governance risks relating to the investment portfolio and the management thereof.”(Art. 25 II (g)). Members of the European Parliament who have been involved in the process leading to the adoption of this Directive, stated during a meeting with the international delegation

in January 2018 that human rights are part of the social risk assessment and management. All EU Member States are required to translate this Directive into national law by January 2019. Although this EU Directive is relevant for occupational retirement only – and does, therefore, not apply to ÄVWL – the national implementation processes present an opportunity to make the legislation on regulation of pension funds human rights-compliant and to ensure accountability.



²²⁶ Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L2341&from=EN>.

²²⁷ The Directive states that occupational retirement pensions hold “assets worth EUR 2,5 trillion on behalf of around 75 million members and beneficiaries.”

6. Recommendations

6.1. To the State of Brazil

To the Municipal Executive Branches:

- The municipalities in Piauí with existing land conflicts driven by agribusiness expansion and land speculation as well as mining activities (in particular Santa Filomena Bom Jesus, Baixa Grande do Ribeiro and Gilbués) must perform their constitutional duties and provide adequate infrastructure to the communities, especially regarding health, education, access to the communities (adequate roads) and environmental protection.
- Put in place effective and accessible complaint mechanisms for the communities in order to allow the authorities to identify abuses and ways to address these. This should be done in partnership with the state government.
- Establish a registry of agribusiness companies and large land owners, listing the exact location of the farms as well as the quantity and type of jobs they have created.
- Ensure the recognition and registry in good faith of collective tenure by traditional and indigenous communities and ensure their protection from displacement or any kind of harm produced by the agribusiness sector.

To the Executive Branch of the State of Piauí:

- Take proactive measures to protect and secure the legitimate land rights of communities and rural people.
- Ensure that the assessment and revision process regarding State Law nº 6709/2015 (Law on Land Regularization of the State of Piauí) prioritizes the rights and needs of local people and ensures adequate participation/involvement of communities and other CSOs, in accordance with international standards such as Convention Nº 169

of the ILO and the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.

- Develop, through an inclusive process ensuring effective participation of communities and CSOs, a policy on land tenure and sustainable land use, which is based on human rights and the preservation of the Cerrado ecosystem through agroecology.
- Review the criteria for issuing water grants in order to make sure that communities have stable access to sufficient water of good quality.
- Continuously monitor the situation of water streams, ground water
- and aquifers, and make this information available.
- Develop policies and programs aiming at the recovery of water springs and the revitalization of rivers, streams, and other water bodies.
- Perform a toxicology analysis on soil and water contamination by pesticides and waste from mining activities in the areas in which agribusiness and mining companies operate and those areas that are affected by these operations.
- Immediately outlaw the aerial application of pesticides.
- Immediately enact a zero deforestation policy, in particular in aquifer recharge areas (the plateaus), water spring areas and areas situated over water tables.
- Take measures to ensure the recovery of aquifer recharge areas (especially on the plateaus), which have already been deforested.
- Ensure that the police forces properly perform their duties regarding law enforcement in rural areas, ensuring due process and the protection of local people. Create additional police stations in the municipalities most affected by land conflicts.
- Open inquiries in the Department of Internal Affairs of the police forces regarding the complaints heard

by the fact-finding mission and mentioned in this report.

- Ensure there are doctors and a basic health care infrastructure in the region's communities.
- Provide priority support to the schools in rural areas, including in the municipalities visited, in collaboration with their local governments, in order to increase their human and material resources. Guarantee the continuity of existing schools, reopen closed schools and open new schools in rural areas in order to guarantee access to primary and secondary education, providing education, which is adapted to the realities of traditional peasant communities.
- Improve the infrastructure for communities in rural areas, among others by: maintaining existing roads and building new ones, in order to ensure an easier access to those communities; expanding the public electric power distribution to the communities that still do not have access to this essential public utility; and creating a basic telecommunication infrastructure in the communities, including provision of public internet access.
- Put in place effective and accessible complaint mechanisms for the communities in order to allow the authorities to identify abuses and ways to address these. This should be done in coordination with the authorities at municipal level.
- Carry out an information campaign for rural communities to inform them about the ombudsman at state level.
- Strengthen the environmental agencies so that they are able to enforce environmental laws, supervise and manage the CAR to ensure that this system does not lead to impairments of the human rights of traditional, indigenous and other peasant communities, and monitor and regulate the use of water by agribusiness companies.
- Carry out analyses of the air and water quality in areas near soybean plantations, in order to monitor the contamination by pesticides and determine needed sanctions and reparations.

To INTERPI

- Adhere to the Brazilian Public Prosecutor's Office's recommendation from 18 December 2017 by immediately suspending the application of state law N° 6.709/2015 and the land regularization program, until concrete safeguards and mechanisms are in place in order to prevent and remedy violations of local people's tenure and human rights, and measures have been taken to respect and protect communities' traditional forms of tenure and land use, e.g. through collective titling, ensuring their free, prior and informed consent.
- Initiate procedures to assess and cancel land titles that have been acquired by private actors over community lands, in accordance with its mandate. In particular, initiate such procedures regarding the lands of the communities of Sete Lagoas, Brejo das Meninas, Baixão Fechado and Melancias.

To the Legislative Assembly of the State of Piauí (ALEPI):

- Promote and participate in the assessment and revision process regarding State Law n° 6709/2015 (Law of Land Regularization of the State of Piauí), ensuring that it prioritizes the rights and needs of local people and ensures adequate participation/involvement of communities and other CSOs, in accordance with international standards such as Convention N° 169 of the ILO and the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
- Propose budget laws that strengthens the Public Prosecutor's Office and the rural court of the State of Piauí (Vara Agrária), and allows to create Rural Public Prosecutor's Offices along with new police stations in the municipalities that lack them.
- Monitor the situation in the areas affected by agribusiness expansion and land grabbing through periodical visits of ALEPI's Human Rights Commission to. These missions should lead to recommendations to the respective administrative authorities regarding required preventive,

corrective and remedy measures to be taken in order to ensure the protection of the human rights of the indigenous, traditional and peasant communities.

- Establish mechanisms to receive complaints from communities affected by land grabbing and agribusiness activities.
- Strengthen the land regulation agencies so that they are able to attend the communities demands, enforce their rights, and create task-forces to regularize the land possession (individually or collectively) of those traditional populations;
- Immediately initiate a legislative process to outlaw the aerial application of pesticides.
- Make available information on the amounts of money the companies save in tax exemption and debt cancellation schemes, and initiate a legislative process to put an end to tax exemptions for agribusiness.
- Ensure implementation of state legislation prohibiting deforestation in aquifer recharge areas.

To the State Judiciary Branch (Piauí):

- Take the necessary steps to protect and secure the legitimate land rights of traditional peoples and communities.
- Investigate all the situations regarding human rights abuses and violations mentioned in this report.
- Provide the necessary human and material resources needed by the Rural Court of the State of Piauí, and guarantee its continuation, in order to ensure access to justice for the individuals and communities affected by the activities of finance corporations and agribusiness companies.
- Ensure that public prosecutors are present in all municipalities. In particular, nominate prosecutors in the municipalities of Gilbúes and Correntes.
- Include Ludmila farm into the ongoing judicial action against Mr. Euclides de Carli.
- Ensure the adequate involvement of communities as well as of organizations of small-scale food producers and CSOs in the Task Force on Land Regularization (Núcleo de Regularização Fundiária), including in its advisory council (conselho consultivo). Ensure an inclusive process ensuring effective participation of communities' representatives and CSOs at all stages of the Task Force's work and prioritize the rights and needs of local communities, in accordance with the human rights framework and the Tenure Guidelines.
- Systematically identify and verify irregularities related to land possession and ownership in the region's registry offices.

To the Federal Legislative Branch:

- Guarantee that the law that deals with land ownership by foreigners (law n° 5.709) also considers as owners the investors in companies, in particular rural real estate and agribusiness companies, in accordance with the legal opinion AGU/LA 2010; and guarantee that this law contains concrete measures to hold these actors accountable for the human rights, social and environmental consequences of their business activities.
- Initiate a revision of the Forest Code in order to ensure its compliance with the Federal Constitution and human rights, ensuring that it effectively stops deforestation, including in the Cerrado.
- Approve Constitutional Amendment Proposal 504/2010, which includes the Cerrado and the Caatinga in the list of biomes that are considered as part of Brazil's national heritage.
- Reject Constitutional Amendment Proposal 215, which transfers from the executive to the legislative branch the jurisdiction to decide on the delimitation of indigenous lands, and reject other proposals that weaken indigenous rights, such as the Bill n° 490/2007.
- Reject Bill n° 3729/2004, which exempts agricultural projects of environmental licenses.
- Revoke Law n° 13.465/17, which weakens the legal framework concerning agrarian reform.

To the Federal Executive Branch:

- Review the criteria for issuing water grants in order to guarantee the human right to water, including stable access to safe drinking water and water for peasant food production.
- Carry out a diagnosis of the current situation of rivers and aquifers, in particular in the Cerrado.
- Initiate a revision of the Forest Code in order to ensure its compliance with the Federal Constitution and human rights, ensuring that it effectively stops deforestation, including in the Cerrado.
- Monitor and make available updated information on deforestation in the Cerrado, and put in place programs to effectively protect this biome.

To the Federal Judiciary Branch:

- Investigate all the situations regarding human rights abuses and violations mentioned in this report.
- Systematically identify and verify irregularities related to land possession and ownership in the region’s registry offices.
- Perform, along with environmental agencies, an audit in the Rural Environmental Registry (CAR), in order to prevent it from being used for the formalizing land grabs. This includes to cross the data from registry offices and other existing registries.
- The public prosecutor should investigate, together with the INCRA of the MATOPIBA region, the georeferencing of agrubusiness and mining companies.

Federal, state and local authorities are required to cooperate with the states in which the involved foreign companies and funds are based, in order to ensure the substantiation of the cases, adequate judicial decisions and the implementation of administrative or judicial decisions.

6.2. To the Home States of the Pension Funds Involved in TCGA and Farmland Investments in the MATOPIBA Region

- Establish the necessary regulatory mechanisms to ensure that the involved pension funds do not impair the enjoyment of human rights of communities and people in the MATOPIBA region. This entails, among others, to:
 - » Develop policies and frameworks for the conduct of pension funds over which they have jurisdiction (adapting existing regulations or introducing new regulations) to effectively regulate these actors, through a process of dialogue with individuals and communities affected by human rights abuses, taking into account their experiences and needs.
 - » Clearly define, in civil, administrative, commercial, environmental and criminal regulation, the duties of corporations and financial actors, including rules on human rights and environmental impact assessments, responsibility of due diligence and victim-centered criteria for the determination of liability, and develop clear provisions on legal accountability by these actors for human rights abuses and crimes. The requirements regarding land-related investments need to be based on the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
 - » Impose a legal duty of care on parent companies to exercise due diligence by controlling their subsidiaries to prevent human right abuses and make it a criminal offence for companies to contribute to human rights abuses abroad.
- Proactively track and monitor the activities of pension funds and other actors, especially in sectors with high human rights risks, such as farmland investments. This includes to

- » Put in place mandatory disclosure rules to require these actors to provide all information relevant to assess human rights risks and impacts in relation to their business activities, and to report on their subsidiaries, wherever incorporated and operating, and their business relationships.
- » Carry out monitoring through the embassies in the target countries of investments.
- » Assess compliance of investments with national law as well as human rights standards, including the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
- Ensure affected people’s access to effective judicial remedies, including by assuming jurisdiction in cases of corporate human rights abuses committed by actors under their jurisdiction, and removing obstacles for people affected abroad to bring a case in the home state of the involved fund.
- Establish a complaint mechanism for individuals and communities whose rights have been negatively affected by actors under their jurisdiction

Specific Recommendations to Sweden:

- Clarify the binding character of Sweden’s international human rights obligations in the law regulating the AP funds.
- Require the AP funds to carry out human rights and environment risk and impact assessments before an investment is made and to apply a precautionary principle in investment decisions. Require them to refrain from investments in cases where they risk countering Sweden’s international human rights obligations.
- Establish provisions requiring the AP funds to carry out ex post human rights and environment impact assessments in order to adopt corrective measures in current investments, which are impairing or nullifying the enjoyment human rights. Such measures should explicitly include the cancelling

of an investment. Corrective measures need also to be taken in the specific case of AP2’s investments in MATOPIBA.

- Establish an independent Sustainability Council with the mandate to analyze and evaluate the AP funds’ achievements in terms of human rights-based investment.
- Put in place mandatory disclosure rules to require the AP funds to provide all information relevant to assess human rights risks and impacts in relation to their investments.

Specific Recommendations to Germany:

To the State of North Rhine-Westphalia (NRW):

- Clarify the binding character of the ICESCR for the state of NRW concerning its human rights obligations and in line with articles 4 and 28 of the ICESCR.
- Undertake immediate measures to monitor the human rights and ecological impact of pension fund investment in TCGA I in Brazil, as part of NRW’s duty to oversee and regulate the pension schemes of professionals.
- Integrate obligatory human rights impact assessments in regulations related to pension schemes of professionals.
- Improve the reporting format for pension schemes for professions (VersWerkVO §3(3)) to the regulatory authorities ensuring that human rights and environmental impacts of investments are addressed.
- Take concrete steps towards a process of remediation for people and communities whose human rights have been impaired by investments that are regulated/overseen by NRW.
- Establish a complaint mechanism for people and communities whose human rights have been impaired by investments that are regulated/overseen by NRW.

To the Parliament of North Rhine-Westphalia:

- Reassess the cooperation with ÄVWL concerning the management of pensions of members of parliament, especially in case of continued involvement of ÄVWL in land grabs in Brazil.

To the German Federal Government:

- Initiate a comprehensive process to identify regulatory gaps concerning the human rights obligations of Germany in relation to investments made abroad by German actors that risk leading to land grabbing and other human rights abuses and environmental crimes.
- Establish adequate access to national courts and effective remedies for people whose human rights have been impaired by investments of pension funds.
- Adopt legislative measures related to investments that include robust human rights and environmental standards. Accordingly, implement the EU Directive on occupational pensions (IORPs Directive 2016/2341) in such a way that human rights and environmental standards must be taken into account ahead of an investment decision as well as for monitoring of investments. Take the opportunity of the implementation of the EU directive on occupational pensions (due in January 2019) into national law to integrate robust human rights standards.
- Adopt all measures needed to ensure that the financial support that GIZ/KfW gives to the CAR does not lead to human rights abuses of traditional, indigenous and peasant communities, especially in the Cerrado.

Specific Recommendations to Germany, the Netherlands and Sweden:

- Include clear human rights criteria when integrating the EU Directive on occupational pensions (IORPs Directive 2016/2341) into national law, including a human rights related duty of care for investments,

monitoring, complaint and remedy mechanisms for individuals and communities affected by the activities of pension funds under their jurisdiction, independently of the location of the victims within or beyond the borders of the respective state

- Cooperate with the authorities of all the involved states in the MATOPIBA case and other similar cases, in order to ensure that the human rights abuses and violations caused with the contribution of the pension funds' investments stop and that caused damages are repaired and the victims adequately remediated.

Specific Recommendation to the European Commission, the European External Action Service and the European Parliament:

- Carry out monitoring of the situation in MATOPIBA through the EU delegation in Brazil, including through field visits.
- Ensure that human rights are adequately included into the new European Strategy on Sustainable Finance.
- Monitor the implementation of the EU Directive on occupational pensions (IORPs Directive 2016/2341) in EU Member States and ensure that human rights criteria are included when this Directive is integrated into national law.
- Create an EU-wide independent complaint mechanism for individuals and communities whose rights have been negatively affected by actors under the jurisdiction of the EU or EU Member States, which complement judicial remedies at member state level.
- Establish a registry at EU level of all EU actors involved in land deals and land-related investments abroad, as a basis for accountability.

6.3. To all states:

- Support and engage in good faith in the on-going process towards the adoption of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights at the UN Human Rights Council, in order to define clear and obligatory international standards on duties of transnational corporations and other business, including rules on impact assessments, due diligence, duty of care and liability, and hold them legally accountable for human rights abuses and crimes. States should also support any regional initiative in this regard.
- Adopt the United Nations Declaration of the Rights of Peasants and other people working in rural areas, which is currently developed in the UN Human Rights Council, in order to increase protection of the human rights of these groups, including in the context of resource grabbing.
- Adopt all needed measures to prevent harm and criminalization of human rights and environmental defenders by transnational companies under their jurisdiction, in close cooperation with the competent authorities of other states involved in the specific cases on which they receive complaints or any additional information, including in the MATOPIBA region

6.4. To the World Bank

- Adhere to the Brazilian Public Prosecutor's Office's recommendation from 18 December 2017 by immediately suspending the project "Piauí: Pillars of Growth and Social Inclusion" and its support to the land regularization/titling process in Piauí, until concrete safeguards and mechanisms are in place in order to prevent and remedy violations of local people's tenure and human rights, and measures have been taken to respect and protect communities' traditional forms of tenure and land

use, e.g. through collective titling, ensuring their free, prior and informed consent.

- To respond to the demand of affected communities – which is supported by the Public Prosecutor's Office – to establish a dialogue round table in order to assess the effects of the World Bank-financed land regularization program in Piauí, in order to prevent and remedy violations and to put in place mechanisms, which guarantee local communities control over their territories as well as effective remedies, including the restitution of community lands. As requested by the affected communities, such a round table should involve representatives of the affected communities, the agrarian court of the state judiciary (Vara Agrária da Justiça Estadual), INTERPI, the state and federal Public Prosecutor's Offices, the State Parliament of Piauí, FAO and support groups from civil society. This dialogue round table should be convened by FAO as the leading UN agency for the implementation of the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
- To publicly disclose how the land regularization project in Piauí is in compliance with the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests. This includes providing detailed information on the measures the World Bank has taken and will take in order to ensure compliance with these Guidelines, in order to ensure the recognition and protection of communities' legitimate tenure rights, in particular their collective rights over lands and forests that are collectively used and managed.

6.5. To FAO

- Provide technical assistance to ensure that the land regularization process in the state of Piauí complies with the Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
- Respond to the demand of affected communities to convene a dialogue round table in order to assess

the effects of the land regularization program in Piauí, in order to prevent and remedy violations and to put in place mechanisms, which guarantee local communities control over their territories as well as effective remedies, including the restitution of community lands.

- Collaborate with state authorities in the context of the land regularization process in the region by providing all information about their farms and how the respective lands have been acquired and by restituting and restoring lands that have been irregularly and/or illegitimately acquired.

6.6. To the Inter-American Commission on Human Rights

- Issue directives for the defense of the threatened communities of Brejo das Meninas, Sete Lagoas, Santa Fé, Melancias, and Baixão Fechado in order to guarantee their safety.

6.7. To the companies and funds involved in agribusiness activities and investments in the MATOPIBA region

- Immediately cease all acts of intimidation, violence and abuse of power – including those committed by private security firms hired by them – against the traditional communities affected by their operations and their leaders, especially in areas of conflicts.
- Immediately stop deforestation, the undue use of pesticides, the excessive extraction of water resources, and other practices that have led to the impairment of the human rights of affected communities.
- Take full responsibility for the social and environmental damages caused by their operations and collaborate to ensure adequate reparation of these damages.
- Withdraw all investments, which have led to the impairment of human rights and eco-destruction or which carry the risk of doing so.



7. ANNEX

Synthesis of the main violations of economic, social, and cultural rights enshrined in the ICESCR.

Article	Normative content	Violation	State obligation infringed	Duty bearer	Third parties involved
Article 1	Self-determination and sovereignty over natural resources	Deprivation of means of subsistence	Respect Protect Fulfil	Piauí State: INTERPI, police	Agribusiness companies, international pension funds, private security companies
Article 2	Progressive realization of ESC rights	Regressive development for communities	Respect Protect Fulfil	State and federal parliaments	
Article 3	Equal rights of women and men	Women bear the brunt of impacts of agribusiness	Respect Protect Fulfil		
Article 5	Prohibition to use the Covenant to destroy any of the rights or freedoms recognized herein	Compulsory schooling of children used for forcing families to leave their lands	Respect	Municipal, state, and federal authorities	
Article 6	Right to work and vocational training	Lack of jobs and vocational training in the region	Protect Fulfil		Agribusiness offers few, precarious jobs
Article 7	Right to just working conditions including living wages, equal pay for equal work, safe and healthy working conditions, etc.	Few, precarious jobs, unable to ensure decent living conditions. High exposure to pesticides	Protect Fulfil	Municipality	Agribusiness
Article 8	Right to form trade unions and strike	Agribusiness interference in the functioning of trade unions	Protect	Inadequate labor inspection and recourse mechanisms	Companies using trade unions also for acquiring land rights

Article	Normative content	Violation	State obligation infringed	Duty bearer	Third parties involved
Article 9	Right to social security	Limited access Regressive measures	Fulfil Non-retrogression	Inadequate inspection and recourse mechanisms	
Article 10	Right to special protection to family, women, and children.	Limited access Regressive measures	Fulfil Non-retrogression	Labour Prosecutor's Office	Agribusiness and private militias
Article 11	Right to an adequate standard of living, including food and housing	Destruction of food sources and food producing resources. Destruction of livelihoods Forced displacement and dispossession of lands, fisheries, and forests	Respect Protect Fulfil Non-retrogression	Piauí State, federal state	Local <i>grileiros</i> , security companies, agricultural real estate companies, agribusiness companies, and international investors
Article 12	Right to the highest attainable standard of physical and mental health, which includes measures to improve environmental hygiene	Environmental pollution due to pesticides. Stress and suffering due to land grabbing and environmental destruction Lack of health services	Respect Protect Fulfil Non-retrogression	Health ministry, IBAMA-Ministry of Environment	Local <i>grileiros</i> , real estate companies, agribusiness companies, and international investors
Article 13 and 14	Right to education	Regressive measures Closing down of schools	Respect Protect Fulfil Non-retrogression		
Article 15	Right to take part in cultural life	Destruction of traditional knowledge related to plants, animals, and the Cerrado ecosystems Destruction of traditional livelihoods	Respect Protect Fulfil		

With the participation of:

act:onaid

aidenvironment



Request for Inspection

(Portuguese)

**FORMULÁRIO DE RECLAMAÇÃO
(SOLICITAÇÃO DE INVESTIGAÇÃO)**

**PARA: Secretária Executiva, Painel de Inspeção, Banco Mundial, MSN: MC 10-1007
1818 H St., NW, Washington, DC 20433, USA. Fax: +1(202)-522-0916.
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Seção 1: Reclamação

1 - Qual dano você acredita que um projeto financiado pelo Banco Mundial tenha causado ou possa vir a causar à você ou à sua comunidade? Por favor, descreva o dano de forma mais detalhada possível

As comunidades rurais que vivem há muitas gerações no Cerrado do Piauí tem sofrido expulsão de suas terras, destruição de seus meios de vida, poluição do solo e das fontes de água e ameaças por grileiros de terras e empresas do agronegócio em consequência da especulação fundiária estimulada por empresas financeiras internacionais e grandes projetos de (DES)envolvimento. Diante deste cenário, o Banco Mundial criou o projeto “Piauí: Pilares do Crescimento e inclusão social ” para financiar ações do Governo do estado do Piauí nas áreas de Educação, Assistência Social, Saúde e Regularização Fundiária. No tocante a Regularização Fundiária , o Projeto Piauí: Pilares do Crescimento e Inclusão Social teria como um dos objetivos garantir o direito à terra das comunidades rurais. Porém, o projeto já está em fase avançada e nenhuma comunidade teve sua terra regularizada, apenas comunidades já assentadas é que tiveram suas áreas regularizadas. E as Comunidades locais Tradicionais ficaram de fora do projeto, são centenas de comunidades afetadas pela expansão do agronegócio na região e mesmo aquelas com maior capacidade de organização, que já enviaram cartas para o Banco Mundial e pedidos para o INTERPI , lidam com a morosidade e quase estagnação do processo de Regularização Fundiária das suas áreas. Esta situação de insegurança deixa as comunidades vulneráveis, pois o projeto promove apenas a regularização de empresas do agronegócio e latifundiários que expandem os monocultivos com a utilização de produtos químicos, que destroem a biodiversidade, os solos e a água. Sabemos que este modelo agrícola é uma das principais causas das mudanças climáticas com consequências desastrosas para as comunidades locais, que perdem suas terras, suas lavouras e sua subsistência, mas também tem efeitos catastróficos para toda a sociedade.

2. Qual é o nome do projeto do Banco Mundial?

“Piauí: Pilares do Crescimento e Inclusão Social”

3. Onde está localizado o projeto do Banco Mundial? (Por favor inclua o nome do país)

No estado do Piauí, Brasil

4. Você reside na zona do projeto?

Sim

5. Você já comunicou previamente suas preocupações à Gerência do Banco Mundial? Em caso positivo, por favor providencie detalhes sobre essas comunicações e explique por que você não está satisfeito com a resposta da Gerência.

Sim, já foram realizadas reuniões com representantes do Banco Mundial e do INTERPI, já foram enviadas cartas (em anexo) e organizações parceiras já se reuniram com representantes do Banco Mundial em Washington, mas até agora apenas em duas comunidades foram feitos os trabalhos de Levantamento do Território e o estudo antropológico. Todas as comunicações realizadas foram feitas promessas de avanços nos trabalhos, mas a cada novo encontro ou mesmo retorno do Banco Mundial, são feitas inúmeras alegações pelo INTERPI, mas não se tem notado um avanço nos trabalhos, pois há uma morosidade no processo de Regularização das nossas áreas. Mesmo sabendo que cotidianamente sofremos ameaças e violações a nossa vida e da biodiversidade em que estamos inseridos. É imprescindível, um olhar atento para esta situação, já que estamos vulneráveis frente ao agronegócio e a outros projetos de desenvolvimento fundiário e agrícolas. Além disso, lidamos com a falta de segurança pública, assistência social e fechamento de nossas escolas. Temos receio do que pode acontecer em nossas comunidades e com integridade de cada um e cada uma que reside nas comunidades do nosso Cerrado.

6. Caso saiba, por favor liste as políticas e procedimentos operacionais do Banco que você acredita terem sido violados.

O Banco Mundial diz que suas políticas pretendem promover o bem estar social, mas este projeto estimula insegurança de comunidades rurais que perdem seus meios de vida com o avanço do agronegócio, que agora é legalizado com recursos do Banco Mundial. Esta região tem histórico de

grilagem de terras, que agora está legitimada pelas ações do estado com recurso do Banco Mundial, enquanto comunidades perdem suas terras e o Cerrado, com sua enorme biodiversidade e nascentes de água são destruídos. Além disso, o projeto prevê a regularização das comunidades, mas então nenhuma foi concluída o trabalho.

7. Você prevê alguma forma de retaliação ou ameaças por ter enviado essa reclamação ao Painel de Inspeção?

Sim, pois o dialogo entre o estado e as comunidades é quase inexistente. Tememos que após esta carta fiquem ainda mais restrito essa relação direta entre estado e as comunidades.

8. Você é um solicitante ou representante de um solicitante?

Solicitante: () Representante de um solicitante ou de uma comunidade: ()

9. Você gostaria que seu nome e sua informação de contato sejam confidenciais?

(O Painel de Inspeção não divulgará sua identidade sem seu consentimento prévio.)

Sim () Não ()

10. Nomes dos Solicitantes:

Solicitante 1

Nome:

[Redacted Name]

Endereço:

[Redacted Address]

Email:

[Redacted Email]

Telefone:

[Redacted Phone]

Solicitante 2

Nome:

[Redacted Name]

Endereço: [REDACTED]

Email: [REDACTED] Telefone: [REDACTED]

Solicitante 3

Nome: [REDACTED]

Endereço: [REDACTED]

Email: [REDACTED] Telefone: [REDACTED]

Nós, abaixo-assinados, solicitamos ao Painel de Inspeção investigar os danos descritos acima. Assinaturas (Assinaturas adicionais podem ser enviadas em um documento anexado):

OBSERVAÇÕES:

- Por favor anexe documentos comprobatórios caso disponível.
- Caso tenha dificuldade em preencher o formulário, por favor contacte o Painel de Inspeção por e-mail (ipanel@worldbank.org) ou por telefone (+1-202-458-2000).

OFICIO INTERPI Nº 375/2018

Teresina, 27 de julho de 2018

Ilmo. Senhor
MARTIN RAISER
DIRETOR DO BANCO MUNDIAL PARA O BRASIL

Senhor Diretor,

Cumprimentando Vossa Senhoria, informo que tomamos conhecimento da carta de algumas entidades nacionais e internacionais enviada a V.Sa. em 04 de junho de 2018, versando sobre a situação de comunidades ditas tradicionais na região dos cerrados piauienses, integrantes do chamado **MATOPIBA**, a mais nova região de expansão da agricultura no Brasil.

Sabedores do interesse dessa destacada instituição sobre a questão, em vista do contrato de financiamento em curso, que abrange ações de regularização fundiária na mencionada região por parte do Governo do Piauí, através do Instituto de Terras do Piauí - INTERPI, (Nº do Empréstimo 8575 – BR, datado de 27 de abril de 2016), vimos esclarecer sobre as ações desenvolvidas pelo INTERPI em resposta à demanda das comunidades da região do cerrado piauiense, que não estavam inicialmente abrangidas pelo programa de regularização fundiária, desenvolvido com o apoio do Banco Mundial.

Inicialmente, cabe destacar que os subscritores da nova carta insistem com a **“exigência” de que o Banco Mundial suspenda imediatamente o financiamento ao Projeto Piauí: Pilares do crescimento e inclusão social**, como sendo uma determinação do Ministério Público Federal - MPF, constante da Recomendação Nº 03/2017, do MPF em Corrente/PI encaminhada, ao INTERPI em 19 de dezembro de 2017. ■

Na verdade o documento acima mencionado, **recomendou APENAS a suspensão das ações de regularização, quando essas compreenderem áreas com elementos indicativos de que foram ocupadas por povos e comunidades tradicionais**. Entendimento este ratificado pelo MPF em documento encaminhado a este INTERPI, em 15 de março de 2018. ■

Uma primeira medida, adotada desde o recebimento da Recomendação Nº 03 do MPF foi a de suspender a regularização onerosa de áreas localizadas nos chamados “Baixões” da região do Cerrado piauiense, onde, em regra, estão

localizadas as comunidades formadas por agricultores familiares da região, e que potencialmente poderiam vir a ser caracterizadas como tradicionais. Esta suspensão veio a ser formalizada pelo Diretor Geral do INTERPI no dia 21/05/2018, pela Portaria nº 062/2018. [REDACTED]

Em 17 de abril de 2018, foi assinada pelo Governador do Estado e pelo Corregedor Geral de Justiça, uma **Portaria conjunta, criando a Comissão de Revisão da Legislação Fundiária do Estado do Piauí**, composta por três representantes do INTERPI e três da Corregedoria Geral de Justiça. Desde então foram realizadas várias reuniões, há uma primeira minuta produzida, em revisão, a ser concluída na segunda quinzena de julho/2018, de forma a levá-la a apreciação pública, a partir de agosto/2018.

No mesmo dia, foi inaugurado o Núcleo de Regularização Fundiária, órgão da Corregedoria Geral de Justiça do Piauí que objetiva criar uma Câmara de Conciliação, que trabalhará na mediação de conflitos fundiários no Estado do Piauí, na produção de informações sobre a estrutura fundiária e no mapeamento dos conflitos de terras no Piauí, bem como, na produção, de forma conjunta com o INTERPI, de um Plano Estadual de Regularização Fundiária e de uma proposta de revisão da Legislação Fundiária do Estado do Piauí.

Nos dias 21 a 24 de Maio, o Diretor de Operações do INTERPI, Jailton Ferreira Chaves, participou de visitas nas comunidades identificadas na recomendação do MPF, localizadas nos [REDACTED]. Essas visitas foram encabeçadas por antropóloga do MPF, com o objetivo de verificar se as mencionadas comunidades poderiam ser consideradas tradicionais, cujo relatório de viagem ainda não foi concluído e encaminhado a esta Autarquia.

No dia 07 de junho de 2018 foi contratado um antropólogo, por este órgão estadual de terras, para proceder a estudos sumários com visita de campo de uma semana, nas comunidades quilombolas, objetos do programa e nas 8 comunidades mencionadas na Recomendação nº 03, do MPF, de 19/12/2017. Os trabalhos "in loco" nessas comunidades serão iniciados no dia 06 de agosto/2018.

O INTERPI participou de várias reuniões realizadas com a presença de representantes da Comissão Pastoral da Terra – CPT, principal organização de apoio à essas comunidades tradicionais, de representantes da própria comunidade e representantes do Banco Mundial nas missões desse Banco em março e junho últimos. Nessas reuniões, certamente já relatadas a V.Sa. pelos representantes do Banco que delas participaram, sempre nos pareceu claro a reivindicação de que essas

comunidades passem a integrar os objetivos do Programa Estadual de Regularização Fundiária.

A partir do constatado nessas reuniões, apresentamos à equipe do Banco Mundial, na última missão, encerrada em 14/06/2018 a proposta de inclusão no Projeto Piauí: Pilares do Crescimento e Inclusão Social, das comunidades mencionadas na Recomendação nº 03, do MPF, quais sejam:

Em reunião, realizada no dia 13/06/2018, com a presença de representantes da [redacted] e do especialista do Banco Mundial, [redacted] a partir de informações por eles apresentadas, o INTERPI elegeu como trabalhos prioritários, na região dos Cerrados Piauienses, os levantamentos técnicos e cadastrais nas comunidades [redacted] e parte da comunidade [redacted], visto o trabalho já realizado pelo INTERPI na região da chamada [redacted], da qual integra parcialmente.

Sobre a [redacted] que abrange integralmente a comunidade [redacted] e parcialmente a comunidade [redacted] o INTERPI já concluiu a ação discriminatória administrativa, tendo solicitado ao Cartório do Registro de Imóveis de [redacted] PI a efetivação da matrícula da área em nome do Estado do Piauí, o que permitirá a regularização dessas comunidades. O planejamento do INTERPI prevê viagens das equipes técnicas, para realização de georreferenciamento das áreas das duas comunidades, além do cadastramento das famílias. O trabalho final de emissão de títulos coletivos ou individuais só será realizado após entendimento com o Ministério Público Federal.

Sobre as comunidades [redacted], equipes do INTERPI estarão no mês agosto/2018 realizando a vistoria nas áreas, levantando elementos para identificar a propriedade das mesmas, realizando o georreferenciamento, quando necessário, de forma a possibilitar a instalação de uma ação discriminatória administrativa, em se tratando de terras devolutas e análise da cadeia dominial se porventura forem encontrados títulos de domínio nessas glebas, além de fazer o cadastramento das famílias. O trabalho final de emissão de títulos coletivos ou individuais só será realizado após entendimento com o Ministério Público Federal.

Cabe destacar que a regularização da propriedade em comunidades ditas tradicionais não depende apenas do INTERPI. Os casos de comunidades que se encontram em terras de particular e/ou cujos conflitos sobre a propriedade da terra

foram levados à justiça, são exemplos nos quais o INTERPI não pode atuar ou a sua atuação fica prejudicada, dependente da ação de outros entes.

Importante aqui frisar que a legislação existente sobre comunidades tradicionais, disciplina a ação dos órgãos federais em comunidades indígenas e quilombolas, sendo no primeiro caso a Fundação Nacional do Índio – FUNAI, o ente responsável pela regularização e no segundo, o Instituto Nacional de Colonização e Reforma Agrária – INCRA. Em vista disso, o trabalho desse INTERPI é sempre suplementar, restrito à identificação, georreferenciamento e doação de áreas estaduais que, porventura, sejam identificadas dentro do território das comunidades quilombolas e indígenas. **Em outras palavras, a regularização das terras dessas comunidades não é da competência do INTERPI, o esforço aqui empreendido fica sempre subordinado à ação da FUNAI e do INCRA.**

Quanto às comunidades chamadas de “ribeirinhas”, que no entendimento do MPF devem ser tratadas como comunidades tradicionais, a legislação não define a quem cabe a responsabilidade pela identificação, georreferenciamento, compra ou doação das terras dessas comunidades. Por similaridade, entendemos que a identificação da identidade cultural e outros elementos que levem essas comunidades a serem definidas como tradicionais não é da competência do Governo do Piauí e sim do Governo Federal.

Dada a situação de risco em que se encontram as comunidades acima mencionadas, propõe-se o INTERPI a realizar vistorias pelo antropólogo, contratado pelo órgão, para identificar possíveis traços que possam caracterizá-las como tradicionais, de forma a oferecer essas informações ao Governo Federal (INCRA ou FUNAI, conforme o caso) e, em paralelo, se identificadas terras públicas estaduais sobre as quais morem ou desenvolvam atividades relacionadas ao seu modo de vida, serão georreferenciadas, discriminadas, matriculadas e doadas para as famílias, de forma coletiva ou individual, conforme a vontade das mesmas.

No dia 18 de junho de 2018, foi realizada a doação e entrega de dois veículos caminhonetes para o Grupo Especial de Regularização Fundiária e Combate à Grilagem de Terras - GERCOG, órgão do Ministério Público do Estado do Piauí, encarregado do combate à grilagem de terras no Estado. Os veículos foram comprados com recursos da Assistência Técnica, no âmbito do projeto, financiado pelo Banco Mundial. Essas caminhonetes fortalecerão o trabalho dos promotores do GERCOG na região dos cerrados, tendo em vista a necessidade que essas autoridades vejam in loco a situação efetiva de cada caso de grilagem, especialmente aquelas que agredem a integridade do território das comunidades tradicionais.

No último dia 27/06/2018, realizamos reunião com representantes do Movimento dos Trabalhadores Sem Terra – Coordenação do Piauí e da Federação dos Trabalhadores da Agricultura do Piauí – FETAG/PI que, juntamente com a CPT, são os principais apoiadores do movimento social em prol dos trabalhadores e pequenos produtores rurais no Piauí. Nessa reunião apresentamos a nossa proposta de inclusão das comunidades do cerrado piauiense, mencionadas no parágrafo anterior, como parte da meta do projeto, ao que não houve refutação ou qualquer questionamento.

Falamos sobre o risco de suspensão do projeto em vista do pedido das cartas encaminhadas ao Banco Mundial, capitaneadas pela CPT, o que prejudicaria todas as 5.000 (cinco mil) famílias objeto do programa de regularização fundiária, tendo em vista que as ações do INTERPI hoje, estão calcadas nos recursos do financiamento do banco e da inexistência de indícios de que o programa esteja contribuindo para a grilagem de terras no Piauí, conforme pode ser constatado pela missão do Banco Mundial de março de 2018.

Foi explicitado na reunião, através dos representantes, o apoio da FETAG e do MST ao Programa de Regularização Fundiária em andamento, sendo que o representante do MST explicitou que não assinou a segunda carta, encaminhada ao Banco Mundial e que não concorda com o pedido de suspensão do financiamento. Ficou entendido o apoio das entidades ao programa, atuando também como fiscalizadores da ação do INTERPI, comprometendo-se ambos, a continuar o acompanhamento das ações do programa, comparecendo às reuniões nas comunidades a serem regularizadas e que estejam sob a coordenação dessas entidades, entre outras atividades.

Realizamos, também, uma reunião com a Coordenação Colegiada da Comissão Pastoral da Terra no Piauí- CPT/PI, em 26 de julho de 2018, em que ficou claro, para nós, que o desejo das comunidades e dos movimentos sociais não é a suspensão do programa de regularização fundiária do Governo do Piauí, mas, a inclusão dessas comunidades nesse programa, de forma a que possam proteger, de maneira mais efetiva, a terra em que vivem e produzem. Nessa reunião também foi apresentada aos coordenadores da CPT, quais as comunidades que serão incluídas no programa e que a próxima viagem técnica para realização de trabalhos visando a regularização de comunidades no cerrado piauiense, ocorrerá em 06 de agosto de 2018 e abrangerá as [REDACTED] sendo este último uma nova reivindicação da CPT, em virtude de conflitos existentes na área. [REDACTED]

Essas três entidades são as mais representativas do movimento social pela terra no Piauí, sendo a CPT a mais atuante na região dos Cerrados. Com isto, fechamos o primeiro ciclo de discussões sobre o trabalho do INTERPI, com entidades representativas dos movimentos sociais no campo. O próximo passo será uma reunião com entidades representativas dos produtores que atuam na região dos cerrados piauienses

Também no dia 26 de julho de 2018, o Diretor Geral do INTERPI participou, no Palácio Episcopal de Teresina, de uma reunião com os Bispos da Igreja Católica, de todas as Dioceses do Estado do Piauí, juntamente com outros Secretários do Estado do Piauí, onde os representantes da Igreja apresentaram denúncias e propostas sobre os temas da reforma agrária, sustentabilidade ambiental, efeitos das mudanças climáticas e outros, amparados em um documento produzido na 14ª Romaria da Terra, promovida pela Igreja Católica no Piauí, e onde tivemos a oportunidade de fazer um relato do trabalho realizado pelo INTERPI no âmbito do Programa de Regularização Fundiária, o qual ficou bem caracterizado, vai ao encontro das reivindicações ali apresentadas.

Buscando resolver de forma mais efetiva os conflitos envolvendo terras públicas na região do cerrado piauiense, temos em desenvolvimento as seguintes ações, com apoio do projeto, além das já mencionadas acima:

- (1) **Estudo de identificação das comunidades tradicionais nos cerrados piauienses** – em fase de elaboração do TDR, com previsão de conclusão do mesmo para agosto/2018, de forma a podermos abrir o processo licitatório em setembro/2018;
- (2) **Contratação de estudo de identificação de terras devolutas do Estado do Piauí, de forma a balizar as ações de arrecadação de terras pelo Governo do Piauí, através do INTERPI** – em fase de elaboração do TDR, com previsão de conclusão para setembro/2018, de maneira a abrir o processo licitatório em outubro/2018;
- (3) **Elaboração de um manual do processo de Regularização Fundiária** – em parceria com o Núcleo de Regularização Fundiária;
- (4) **Estruturação do Núcleo de Regularização Fundiária** – o INTERPI está concluindo os TDR's para a contratação de dois agrônomos, dois agrimensores, um especialista em geoprocessamento e um advogado para comporem a equipe técnica do Núcleo de forma a possibilitar a realização de

perícias e outros trabalhos de campo, visando dirimir dúvidas dos juízes em ações judiciais relativas a conflitos fundiários;

- (5) **Fortalecimento do GERCOG** - com a compra de softwares e equipamentos que tornará mais eficaz o trabalho de combate à grilagem de terras na região do cerrado piauiense;
- (6) **Piloto de georreferenciamento por varredura** – o INTERPI propõe realizar, com apoio do Projeto, um piloto de georreferenciamento por varredura no município de [REDACTED] de forma a ampliar o processo de regularização fundiária na região sul do Estado, modificando o modelo de ação do órgão, visto que nessa modalidade de ação, ocorre a regularização fundiária de todos os imóveis do município que ainda não tenham o título de domínio, saindo da ação pontual, modelo atual de intervenção do INTERPI, que ocorre pontualmente, guiado pela demanda do agricultor familiar ou do médio e grande produtor, ocupantes de terras públicas. Será um modelo de atuação ATIVO, diferente do atual, que podemos classificar como PASSIVO;

Todo o exposto teve a intenção de informá-lo adequadamente sobre as ações do Governo do Piauí/INTERPI sobre a questão fundiária nos cerrados piauienses.

Reiteramos que este INTERPI sempre esteve aberto ao diálogo com essas comunidades, com os movimentos sociais, com os produtores rurais e todas as entidades afetas à questão fundiária, de forma a desenvolver o melhor trabalho possível no âmbito do Programa Estadual de Regularização Fundiária.

Atenciosamente,

[REDACTED]
Secretário de Regularização Fundiária
Diretor Geral do INTERPI

[REDACTED] Assinado de forma digital
por [REDACTED]

O programa de terras do Banco Mundial no Estado do Piauí, Brasil, é uma licença para a grilagem de terras

Declaração Internacional

21 de março de 2018

O Banco Mundial está financiando um programa de titulação de terras ou de "regularização" de terras no estado brasileiro do Piauí, onde grandes áreas de terra foram retiradas (griladas) de comunidades locais e ilegalmente ocupadas pelo agronegócio. As comunidades locais, incluindo comunidades de quilombolas (descendentes de escravos negros) e povos indígenas, estão sendo violentamente deslocadas de suas terras tradicionais e enfrentam contaminação das águas e solos, aumento da violência contra seus líderes comunitários, desmatamento e perda da biodiversidade.

A escalada da grilagem de terras no Piauí e da parte nordeste do Cerrado está diretamente relacionada ao influxo de centenas de milhões de dólares de fundos de pensão estrangeiros, subvenções universitárias e de outras empresas financeiras que estão adquirindo terras agrícolas por meio de intermediários brasileiros. Documentos internos mostram que o Banco Mundial está ciente da extensão da grilagem de terras na área.

Através de um empréstimo de 120 milhões de dólares, o Banco Mundial, portanto, apoia um programa de titulação de terras que corre o risco de legitimar a grilagem de terras e abrir caminho para uma nova corrida por grilagens "legalizadas", com catastróficas consequências sociais e ambientais.

À medida que o Banco Mundial realiza sua Conferência Anual sobre Terra e Pobreza em Washington, de 19 a 23 de março de 2018, as organizações sociais brasileiras e seus parceiros e apoiadores internacionais pedem que o Banco suspenda seu apoio ao programa de titulação de terras no Piauí e responda às demandas das comunidades afetadas.

O projeto do Banco Mundial não contém salvaguardas concretas para garantir que se protejam efetivamente os direitos de posse das pessoas contra a desapropriação que vem sendo realizada por parte do agronegócio e especuladores locais, assegurando que não se formalize a desapropriação de comunidades no contexto descrito acima. Como tal, este projeto não cobre as lacunas da legislação estadual do Piauí sobre regularização da terra e não está alinhado com as Diretrizes das Nações Unidas sobre Governança Responsável da Terra, dos Recursos Pesqueiros e Florestais (Diretrizes da Posse).

A Procuradoria da República no Piauí interveio em 18 de dezembro de 2017 ao emitir uma recomendação formal ao Banco Mundial para suspender o programa de terras e adotar medidas para remediar as violações já ocorridas em relação aos direitos territoriais dos povos e comunidades tradicionais. O Banco Mundial ainda não respondeu.

Requeremos que o Banco Mundial

- ❖ Adira à carta da Procuradoria da República no Piauí e suspenda imediatamente o projeto "Piauí: Pilares de Crescimento e Inclusão Social" e o processo de regularização/titulação de terras no Piauí.

- ❖ Responda à demanda das comunidades afetadas – a qual é apoiada pela Procuradoria da República no Piauí – para estabelecer uma mesa redonda de diálogo para avaliar os efeitos do programa de regularização de terras financiado pelo Banco Mundial no Piauí, a fim de prevenir e remediar violações e implementar mecanismos que garantam às comunidades locais o controle sobre seus territórios, bem como remédios efetivos, incluindo a restituição de suas terras comunitárias. A mesa redonda deve envolver representantes das comunidades afetadas, a Vara Agrária da Justiça Estadual, o Instituto de Terras do Piauí (INTERPI), o Ministério Público Estadual e o Ministério Público Federal, a Assembleia Legislativa do Piauí, a FAO e grupos de apoio da sociedade civil. Esta mesa redonda de diálogo deve ser convocada pela FAO como a principal agência das Nações Unidas para a implementação das *Diretrizes sobre Governança Responsável da Terra, dos Recursos Pesqueiros e Florestais*.
- ❖ Divulgue publicamente como o projeto de titulação/regularização de terras no Piauí e quaisquer outros empréstimos, projetos e operações com os quais o Banco Mundial está envolvido, estão em conformidade com as *Diretrizes sobre Governança Responsável da Terra, dos Recursos Pesqueiros e Florestais*.

Esta declaração é endossada pelas seguintes organizações e redes:

Ação Acadêmica para o Desenvolvimento das Comunidades Rurais, Moçambique

ActionAid Brazil

ActionAid USA

Amazon Watch

Articulação Nacional das Pescadoras, Brazil

Articulação Piauiense dos Povos Impactados pelo MATOPIBA, Brazil

Associação dos Advogados dos Trabalhadores Rurais, Brazil

Associação dos Povos Indígenas do Brasil

Campanha Nacional em Defesa do Cerrado, Brazil

Caritas Piauí, Brazil

Centro de agricultura alternativa do Norte de Minas Gerais, Brazil

Centro Internazionale Crocevia, Italy

Coletivo das Comunidades de Fundo e Fecho de Pasto, Brazil

Comissão de Povos Originários Populações e Comunidades Tradicionais do Fama 2018, Brazil

Comissão Nacional de Fortalecimento de Reservas Extrativistas e dos Povos Extrativistas Costeiros e Marinhos, Brazil

Comissão Pastoral da Terra (CPT), Brazil

Community Alliance for Global Justice, USA

Conselho Indigenista Missionário (Cimi), Brazil

Conselho Pastoral dos Pescadores, Brazil

Coordenação Nacional da Articulação das Comunidades Negras Rurais Quilombolas, Brazil

Development and Peace - Caritas Canada
Eco Ruralis, Romania
Environmental Rights Action/Friends of the Earth Nigeria
Family Farm Defenders, USA
Federação de Órgãos para Assistência Social e Educacional (FASE), Brazil
FIAN Belgium
FIAN Brasil
FIAN Germany
FIAN International
FIAN Sweden
Focus on the Global South
Friends of the Earth US
Global Exchange, USA
GRAIN
Grassroots Global Justice Alliance, USA
Grassroots International, USA
HEKS/EPER, Switzerland
Housing and Land Rights Network – Habitat International Coalition
Inclusive Development International, USA
Institute for Agriculture and Trade Policy, USA
Instituto Mais Democracia, Brazil
Instituto Sociedade Proteção e Natureza, Brazil
International Indian Treaty Council (IITC)
Just Foreign Policy, USA
La Via Campesina
Maryknoll Office for Global Concerns, USA
Masifundise, South Africa
Movimento dos Trabalhadores Rurais Sem Terra (MST), Brazil
Movimento Interegional das Quebradeiras de Coco Babaçu, Brazil
Movimento Trabalhadores Camponeses, Brazil
Movimentos dos Pescadores e Pescadoras Artesanais, Brazil
National Family Farm Coalition, USA
Observatório das Nacionalidades, Brazil
Presbyterian Ministry at the United Nations, Presbyterian Church, USA
Rede Pantaneira, Brazil
Rede Social de Justiça e Direitos Humanos, Brazil
Sierra Leone Network on the Right to Food
Solidarity Sweden - Latin America (SAL)

Terra Nuova, Italy
Universidade Estadual do Ceará (UECE), Brazil
US Food Sovereignty Alliance (USFSA)
WhyHunger, USA
World Forum of Fisher Peoples (WFFP)

CC:

Mr. Jorge Familiar, Vice President for Latin America, World Bank: asears@worldbank.org

Mr. Otaviano Canuto, Executive Director for Brazil, World Bank: eds15@worldbank.org

Mr. Martin Raiser, Country Director for Brazil, World Bank: informacao@worldbank.org

Ms. Marcela Villarreal, Director of the FAO Partnerships and South-South Cooperation Division (DPS): marcela.villarreal@fao.org

Mr. Julio Berdegué, Regional Representative of the FAO for Latin America and the Caribbean: julio.berdegue@fao.org, FAO-RLC@fao.org

Mr. Alan Jorge Bojanic, FAO Representative in Brazil: alanjorge.bojanic@fao.org, FAO-BR@fao.org

Ministério Público do Estado do Piauí: pgj@mppi.mp.br

Corregedoria Geral de Justiça do Estado do Piauí: corregedoria@tjpi.jus.br

Procuradoria Geral da República (PGR): raqueldodge@mpf.mp.br; deborah@mpf.mp.br; lucianomaia@mpf.mp.br

Mr. Marcelo Becerra and Mr. Andre Loureiro, Team Leaders of the Project “Piauí: Pillars of Growth and Social Inclusion”: mbecerra@worldbank.org and aloureiro@worldbank.org

Ms. Hilal Elver, UN Special Rapporteur on the Right to Food: srfood@ohchr.org

Nota: O apoio do Banco Mundial à titulação ou "regularização" de terras no estado do Piauí

Em 21 de dezembro de 2015, o Banco Mundial aprovou um empréstimo de 120 milhões de dólares ao governo do Piauí. O contrato de empréstimo para o projeto "Piauí: Pilares de Crescimento e Inclusão Social"¹ (projeto nº P129342) foi assinado em 27 de abril de 2016 e o projeto será executado até 31 de dezembro de 2020 com o objetivo declarado de beneficiar os "pobres das áreas rurais do estado por meio da ampliação e da melhoria dos serviços nos setores de educação, saúde, agricultura e recursos hídricos."²

Um dos componentes do projeto é a regularização de terras no Piauí.³ O subcomponente 1.4 do empréstimo visa o "fortalecimento dos direitos de propriedade de bens imobiliários", através do apoio à implementação do Programa Estadual de Regulamentação de Terrenos do Piauí. Este programa é estabelecido na Lei estadual n. 6.709, de 28 de setembro de 2015, sobre a regularização da propriedade e colonização de terras pertencentes ao estado do Piauí, que tenham sido caracterizadas como vagas. A lei é acompanhada pelo Decreto 1.634/2015, que estabelece como objetivos, até 31 de dezembro de 2019, a emissão de 11.000 títulos de propriedade para agricultores e agricultoras familiares, a regulamentação de seis comunidades quilombolas e a privatização, através da venda e locação, de 4 milhões de hectares de terra.⁴ O projeto do Banco Mundial fixou o alvo de 5.000 títulos de propriedade de terras a serem entregues até o final de 2019. Além disso, o projeto visa a emissão de títulos de terras para oito comunidades quilombolas.

O Banco Mundial justifica o seu apoio ao programa de regularização com base no argumento de que a falta de títulos formais de terra é um grande obstáculo para aumentar a renda das comunidades rurais em um contexto de pobreza rural generalizada no Piauí. De acordo com os documentos do projeto, a "regularização da terra através da provisão de títulos de posse da terra para pequenos agricultores contribui para a inclusão social e produtiva porque a terra: (i) é o principal meio para o cultivo de culturas que podem melhorar a segurança e a qualidade dos alimentos, reduzindo assim a vulnerabilidade à fome e gerando meios de subsistência; (ii) constitui o principal veículo para investimento, gerando acúmulo de riqueza e transferência de recursos entre gerações; e, (iii) fornece aos agricultores uma rede básica de segurança social. Além disso, a propriedade formal da terra facilita o acesso ao crédito e a linhas de financiamento subsidiado, como o Programa Nacional de Fortalecimento da Agricultura Familiar (PRONAF) e o Programa Nacional de Habitação Rural (PNHR)."⁵

De fato, o Banco Mundial tem apoiado a regularização e formalização de terras no Piauí há muitos anos. O projeto atual foi aprovado junto com outro empréstimo de 200 milhões de dólares ("Piauí: Inclusão Produtiva e Social", projeto nº1414981) com componentes similares e que foi finalizado em 31 de agosto de 2017.⁶ Ambos os empréstimos/projetos são a continuação de um projeto anterior de 350 milhões de dólares ("Piauí: Crescimento e

¹ <http://projects.worldbank.org/P129342/?lang=en&tab=overview>,

² Ver o comunicado de imprensa do Banco Mundial: <http://www.worldbank.org/pt/news/press-release/2015/12/21/brazil-more-social-inclusion-productivity-benefit-piaui-rural-poor>.

³ Outros componentes se referem à educação secundária, acesso a serviços de saúde, registro de usuários de águas subterrâneas, participação de agricultores na cadeia de valores e assistência técnica para apoiar a administração pública do Piauí.

⁴ Lei: <https://www.legisweb.com.br/legislacao/?id=303923>, decreto: <https://www.legisweb.com.br/legislacao/?id=313412>.

⁵ Documento de Informação do Projeto (PID) (em inglês), <http://documents.worldbank.org/curated/en/423181468213891806/pdf/PID-Print-P129342-12-01-2015-1448983947229.pdf>.

⁶ <http://projects.worldbank.org/P146981?lang=pt>.

Inclusão Verdes", projeto n. P126449, aprovado em 6 de março de 2012 e encerrado em 30 de março de 2013⁷), que também incluiu a emissão de títulos de posse como um dos seus pilares.

De acordo com o Relatório de Status e Resultados de Implementação mais recente do Banco Mundial (datado de 17 de janeiro de 2018), até o momento, 258 beneficiários receberam títulos registrados de terras sob o atual empréstimo, enquanto outros 336 beneficiários estavam no estágio final de recebimento de seus títulos antes do final de 2017, chegando, portanto, até agora a um total de 694 beneficiários com um título de terra registrado. Isso significa que o objetivo do projeto de 2.000 títulos de terra emitidos em 2016 e 2017 (cumulativo) não foi alcançado. De acordo com o mesmo relatório, atualmente são 7.937 pedidos apresentados por pequenos agricultores para titulação de terras por meio do programa estadual e oito equipes estão no local para "executar atividades de regularização de posse de terras". Cinco comunidades de quilombolas receberam títulos de terra no projeto.⁸

Grilagem de terras e destruição ambiental no Piauí

O projeto do Banco Mundial intervém em uma região que atualmente enfrenta altos graus de grilagem e conflitos de terras, os quais estão ligados à expansão de monoculturas na região conhecida como MATOPIBA e ao Cerrado brasileiro de forma mais geral. Pesquisa extensa realizada por organizações da sociedade civil e uma missão internacional de pesquisa e verificação de fatos, realizada em setembro de 2017, documentam severos impactos nas comunidades locais e no ecossistema da região. A perda de terra, a insegurança alimentar, as disputas sobre o uso da água, a poluição de fontes aquíferas, a violência contra as lideranças comunitárias, o desmatamento e a perda de biodiversidade através da destruição do bioma Cerrado estão entre os impactos mais críticos. A pesquisa também documentou os laços entre o processo de grilagem em curso e atores do setor financeiro transnacional – em particular de fundos de pensão dos EUA e Europa.

A expansão das monoculturas de soja no Cerrado levou a uma explosão dos preços da terra e de sua especulação. Empresas e investidores realizam negócios com terras, cercando áreas sem título de propriedade e criando aí fazendas que são, então, vendidas. A fraude e a falsificação de títulos de terra são comuns (grilagem), pois os grileiros de terras procuram legalizar sua apropriação de terras, inclusive daquelas que têm sido ocupadas e utilizadas por comunidades locais ao longo de gerações.

Proteção e assecuração do direito à terra das pessoas ou legalização de grilagens?

Nessa situação, o projeto do Banco Mundial apresenta o alto risco de gerar uma maior deterioração da situação, legalizando a apropriação ilegal e/ou ilegítima de terras comunitárias e desencadear mais desapropriações e destruição ambiental. Os documentos do projeto reconhecem que "os altos preços globais das commodities têm impulsionado a exploração do bioma Cerrado para a agricultura comercial, gerando uma ocupação não

⁷ <http://projects.worldbank.org/P126449/piaui-green-growth-inclusion-dpl?lang=pt>, <http://www.worldbank.org/pt/news/press-release/2012/03/06/world-bankbrazil-more-200000-poor-families-benefit-green-growth-social-inclusion-policies-piaui>.

⁸ Relatório de Status e Resultados de Implementação. Piauí: Pilares de Crescimento e Inclusão Social (P129342), 17 de janeiro de 2018 (em inglês). <http://documents.worldbank.org/curated/en/255531516201161985/pdf/Disclosable-Version-of-the-ISR-Piaui-Pillars-of-Growth-and-Social-Inclusion-Project-P129342-Sequence-No-05.pdf>.

organizada de grandes áreas de terra, frequentemente com pouca ou nenhuma regulamentação. [...] Comunidades vulneráveis que habitam terras públicas, incluindo os assentamentos de Quilombola e os pequenos proprietários envolvidos em agricultura familiar, correm o risco de perder alguns ou todos os seus direitos territoriais caso suas ocupações não forem regularizadas. Além disso, a ocupação desordenada e ilegal de terras rurais (grilagem) é comum, especialmente no Cerrado, gerando prejuízos fiscais e outros efeitos sociais, ambientais e econômicos adversos."⁹ Segundo o Banco Mundial, a regularização da ocupação das comunidades locais através do Programa Estadual de Regulamentação da Propriedade da Terra deve protegê-los contra a perda de suas terras.

No entanto, o projeto não contém salvaguardas concretas para assegurar efetivamente os direitos de posse das pessoas contra a expulsão por parte do agronegócio e especuladores locais e que garantam que a desapropriação de comunidades no contexto descrito acima não seja formalizada. Também não possui foco claro nas comunidades de pequenos agricultores, sendo que inclui explicitamente "agricultores de médio e grande porte" no processo de regularização.¹⁰ O projeto ainda (implicitamente) concentra-se na emissão de títulos individuais, sem considerar devidamente outras formas coletivas de posse, as quais são comuns em muitas comunidades do Cerrado. Finalmente, o projeto contribui para a privatização de terras públicas em um ecossistema/bioma muito sensível, o qual esse encontra altamente ameaçado devido ao contínuo desmatamento.

Como tal, o projeto não encerra as lacunas da legislação estadual do Piauí sobre regularização da terra e não está alinhado com as Diretrizes das Nações Unidas sobre Governança Responsável de Terras, Recursos Pesqueiros e Florestais (Diretrizes da Posse).¹¹ De fato, enquanto a lei estadual menciona a observância da função social da propriedade (artigo 14, §§ 1 e 2) e a preservação do meio ambiente como critério de regularização da propriedade e estipula ainda a necessidade de conciliar a regularização das terras públicas estaduais com o plano nacional de reforma agrária (art. 28), ao mesmo tempo em que prioriza a atribuição de terras públicas com os objetivos de assentar trabalhadores rurais e de proteger ecossistemas naturais (artigo 32), não estabelece um quadro regulamentar claro para governança de terras, recursos pesqueiros e florestais, o qual priorize a realização do direito humano à alimentação e outros direitos humanos dos grupos marginalizados (parágrafo 1.1 das Diretrizes da Posse). A lei também carece de uma abordagem de igualdade de gênero, que é um dos principais princípios da governança responsável (Diretrizes da Posse, parágrafos 3B4, 4.6, 5.3, 5.4, 5.5). Além disso, não possui uma abordagem participativa por parte dos grupos mais afetados no processo de identificação dos legítimos direitos de posse das comunidades tradicionais que vivem em terras públicas¹² (ver Diretrizes da Posse, parágrafos 7.3 e 8.2), a qual leva em consideração as relações de poder existentes (ver Diretrizes da Posse, parágrafos 3B6 e 9.9). Além disso, a lei (implicitamente) prefere os direitos de posse sob a forma de direitos de propriedade individuais/familiares quando se trata de regularizar a propriedade das comunidades tradicionais e não declara explicitamente a necessidade de reconhecer as formas coletivas e tradicionais de posse de terras, de recursos pesqueiros e florestais. As

⁹ Documento de Informação de Projeto (PID), <http://documents.worldbank.org/curated/en/423181468213891806/pdf/PID-Print-P129342-12-01-2015-1448983947229.pdf>.

¹⁰ Ibid.

¹¹ Diretrizes Voluntárias sobre a Governança Responsável da Terra, dos Recursos Pesqueiros e Florestais no Contexto da Segurança Alimentar Nacional.

¹² Por exemplo, artigo 8, o qual estabelece as Comissões Especiais para regularização, não inclui um mecanismo de participação de comunidades tradicionais neste processo.

Diretrizes da Posse enfatizam a necessidade de proporcionar o reconhecimento apropriado e a proteção de todos os direitos de posse legítimos, inclusive os legítimos direitos de propriedade dos povos indígenas e de outras comunidades com sistemas tradicionais de posse (parágrafo 9.4). Elas também sublinham especificamente a necessidade de os Estados reconhecerem e protegerem as terras administradas coletivamente e seus sistemas de uso e gestão coletivos, inclusive nos processos de cessão (parágrafo 8.3).

Pare o processo de regularização do solo no Piauí

Tendo em conta a situação crítica no Cerrado e o risco de formalizar a desapropriação de terras através do processo de regularização da terra, a Procuradoria da República no Piauí recomendou formalmente em 18 de dezembro de 2017 que se suspendesse imediatamente a aplicação da lei estadual nº. 6.709 / 2015 até que as medidas tenham sido tomadas para garantir a possibilidade de titulação coletiva para as comunidades e garantir seu consentimento livre, prévio e informado sobre atribuições de terra. A Procuradoria da República no Piauí recomenda ainda identificar e documentar as formas de posse e utilização de recursos naturais das comunidades tradicionais locais através de um estudo antropológico, bem como por meio de consultas com as comunidades afetadas. A recomendação sublinha a importância de consultar as comunidades afetadas sobre como suas formas tradicionais de posse e uso de recursos devem ser protegidas.

A recomendação da Procuradoria da República no Piauí é dirigida ao INTERPI (Instituto de Terras do Piauí),¹³ bem como ao Banco Mundial, convidando o último a "adotar medidas para avaliar e corrigir os efeitos negativos do programa financiado pelo Banco Mundial para regularização de terras no Estado do Piauí, a fim de prevenir e remediar as violações dos direitos à terra dos povos e comunidades tradicionais."¹⁴

A recomendação da Procuradoria da República no Piauí apoia as demandas de oito comunidades afetadas dos municípios de Gilbués, Santa Filomena e Bom Jesus, que – em uma carta enviada à Organização das Nações Unidas para Agricultura e Alimentação (FAO) em 11 de dezembro de 2017 – pediu o estabelecimento de uma mesa redonda de diálogo para avaliar o processo de regularização de terras e discutir seus objetivos, incluindo a importância do registro coletivo de terras comunitárias. As comunidades propõem que esta mesa redonda seja composta pela Vara Agrária da Justiça Estadual, INTERPI e representantes das comunidades e com a participação do Ministério Público Estadual e Federal, do Banco Mundial, da Assembleia Legislativa do Piauí, FAO e grupos de apoio da sociedade civil.

O Banco Mundial não respondeu à carta da Procuradoria da República no Piauí. De acordo com relatos da mídia, o governador do Piauí anunciou recentemente que a implementação do programa de regularização fundiária continuará.¹⁵

¹³ INTERPI é a instituição pública responsável pela implementação da legislação sobre regularização agrária.

¹⁴ A carta do Ministério Público Federal está disponível em:

http://www.fian.org/fileadmin/media/publications_2017/Letters_and_statements/Recomendac_a_o_MPF.pdf.

¹⁵ <http://www.pi.gov.br/materia/ccom/governo-traca-plano-estadual-de-regularizacao-fundiaria-4609.html>.

Ofício 001/2020

[Redacted] [Redacted] 04 de março de 2020

Nós apoiamos a solicitação enviada ao Painel de Inspeção do Banco Mundial no dia 06 de dezembro de 2019 referente ao projeto de pilares do crescimento no Piauí, nós concordamos que [Redacted] representante no processo desta solicitação. Também gostaríamos do anonimato dos nossos nomes.

Atenciosamente:

[Redacted]

Território [Redacted]

[Redacted]

Território [Redacted]

[Redacted]

Território [Redacted]

[Redacted]

Território [Redacted]

[Redacted]

Território Praia de Miguel

[Redacted]

Notice 001/2020

[REDACTED], March 4th, 2020

We support the request sent to the World Bank's Inspection Panel on December 6th, 2019 regarding the Piauí Pillars of Growth and Social Inclusion Project, and we agree that [REDACTED] represent us during this request process. We would also like to keep our names anonymous.

Sincerely,

ANNEX II

Management Response

**MANAGEMENT RESPONSE TO
REQUEST FOR INSPECTION PANEL REVIEW OF THE
BRAZIL: PIAUÍ PILLARS OF GROWTH AND SOCIAL INCLUSION PROJECT
(P129342)**

Social Inclusion Project (P129342), received by the Inspection Panel on December 6, 2019 and registered on January 21, 2020 (RQ19/16). Management has prepared the following response.

February 20, 2020

CONTENTS

Abbreviations and Acronyms.....	iv
I. INTRODUCTION	1
II. THE REQUEST.....	1
III. PROJECT BACKGROUND	1
IV. CONTEXT AND ISSUES.....	3
V. MANAGEMENT’S RESPONSE	6

Map

Map 1. IBRD No. 44857

Annex

Annex 1. Claims and Responses

ABBREVIATIONS AND ACRONYMS

CPT	<i>Comissão Pastoral de Terra</i> (Pastoral Land Commission)
ESMF	Environmental and Social Management Framework
FCP	<i>Fundação Cultural Palmares</i> (Palmares Cultural Foundation)
GERCOG	<i>Grupo Especial de Regularização Fundiária e de Combate à Grilagem</i> (Special Group for Land Tenure Regularization and Combating Land Grabbing)
GRM	Grievance Redress Mechanism
HWMP	Health and Waste Management Plan
IBRD	International Bank for Reconstruction and Development
INCRA	<i>Instituto Nacional de Colonização e Reforma Agrária</i> (National Institute for Colonization and Agrarian Reform)
INTERPI	<i>Instituto de Terras do Piauí</i> (State Land Institute of Piauí)
IP	Indigenous People
IPN	Inspection Panel
IPPF	Indigenous Peoples Planning Framework
ISR	Implementation Status and Results Report
LTRC	Land Tenure Regularization Center
MTR	Mid-Term Review
OP	Operational Policy
PAD	Project Appraisal Document
PDO	Project Development Objective
PMP	Pest Management Plan
RPF	Resettlement Policy Framework
RTID	<i>Relatório Técnico de Identificação e Delimitação</i> (Identification and Demarcation Technical Report)

EXECUTIVE SUMMARY

Project

- i. The *Piauí Pillars of Growth and Social Inclusion Project* (the Project) is a US\$120 million multi-sectoral project approved in 2015. The objective of the Project is to: (a) reduce dropout of students in public secondary education; (b) increase access to diagnosis and treatment for patients with chronic diseases; (c) expand the registration of groundwater users in rural areas and land tenure regularization; and (d) increase the participation of poor family farmers in rural productive value chains.
- ii. The Project's land tenure component supports the formalization of the land tenure of 5,000 small-scale farmers located in State agrarian reform settlements and the formalization of the land tenure of three *Quilombola* communities located on State land. The Project also focuses on strengthening the capacity and modernizing the *Instituto de Terras do Piauí* (INTERPI, State Land Institute of Piauí), which is the competent agency for land administration in Piauí.

Request for Inspection

- iii. On December 6, 2019, the Panel received a Request for Inspection concerning the Project, submitted by three community members in the *Cerrado* region of Piauí.
- iv. The Requesters allege that local traditional communities have been left out of the land tenure regularization process under the Project. They claim that the Project promotes land regularization mainly for agribusiness and large landowners whose farming practices destroy biodiversity, soil and water. They further claim that the region has a history of land grabbing, which is now made legitimate through the Project. As a result, they believe that local traditional communities in the *Cerrado* region of Piauí are losing their lands, crops and subsistence. They also claim lack of social assistance, public safety and access to education.

Management's Response

- v. Management understands the Requesters' concerns with regard to the security of their tenure and illegitimate land acquisitions that could undermine their land rights. However, ***as demonstrated in this Response, the Project neither causes nor contributes to these concerns.*** To the contrary, the Project is strengthening the land tenure of small-scale farmers and *Quilombola* communities, by supporting access to land tiling, registration and legal ownership of the land these communities live on. To date the Project has helped to title and register the land of 896 small-scale farmers living in State agrarian reform communities and the process of titling and registration of three *Quilombola* territories is well underway. Since 2018, the Project is also supporting traditional communities in the *Cerrado* region of Piauí to address some of their land concerns (see paragraph 28).
- vi. ***Management notes that many of the allegations in the Request regarding the Project are inaccurate and do not reflect the Project's objectives and activities.*** The Project's stated objectives are set out in Project documentation, namely the Project Appraisal Document (PAD), the Legal Agreement, and the Project Operational Manual. Contrary to the allegations made in the Request, ***the Project neither supports nor promotes regularization for agribusiness and/or large landowners,*** nor are such groups entitled to receive any support through the Project. The Project is also not supporting the sale of State land to such groups.

- vii. ***Management notes that the Request neither cites any specific harm allegedly caused or likely to be caused by the Project, nor does it allege any violation of Bank Policy with regard to the Project causing such harm.*** The Request articulates broad concerns about land grabs in Brazil, which are not related to the Project. The Request does not cite any specific case where communities' land rights or claims to land have been or are likely to be undermined by the Project's activities. The Request and attached materials refer to the impact of the inflow of capital from foreign investors that are reportedly acquiring farmlands through Brazilian intermediaries. However, the Project has no relation to these investors, nor does the Project have any role in this process.
- viii. ***Management wishes to underline that the Project supports the State's efforts to combat land grabbing.*** This is done through the Project's assistance to the State Secretariat of Justice's Office of the Inspector General to better regulate notarial services, and support to the *Grupo Especial de Regularização Fundiária e de Combate à Grilagem* (GERCOG, Special Group for Land Tenure Regularization and Combating Land Grabbing) to actively investigate illegitimate land claims and fraudulent land titling. The Project also supports INTERPI's paper-to-digital transformation of land regularization processes, which will also enhance transparency.
- ix. ***Those concerns raised in the Request that relate to the Project represent unfulfilled expectations, such as complaints about alleged non-inclusion in the Project of traditional communities from the Cerrado region of Piauí, and the perceived slow pace of land regularization process.*** The selection of target communities (small-scale farmers and *Quilombola* communities) for land regularization support was part of the Project design; the consequent non-inclusion of other communities in the Project cannot be considered harm caused by the Project and is not a matter of policy compliance. Moreover, since 2018, the Bank has agreed to the use of Project resources to provide support to traditional communities in response to their request. Regarding the delays in the land regularization process for these traditional communities, it is important to understand that those delays are rooted in complex legal and procedural requirements for land regularization that are beyond the Project's control. It should also be noted that the progress with land regularization for these traditional communities would be slower in the absence of the support that the Project extends to INTERPI.

Conclusion

- x. ***In Management's view, the Bank has followed the operational policies and procedures applicable to the matters raised by the Request.*** As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

I. INTRODUCTION

1. On January 21, 2020, the Inspection Panel registered a Request for Inspection, IPN Request RQ 19/16 (hereafter referred to as “the Request”), concerning the Brazil: Piauí Pillars of Growth and Social Inclusion Project (P129342), financed by the International Bank for Reconstruction and Development (IBRD, or “the Bank”).
2. **Structure of the Text.** The document contains the following sections: Section II presents the Request; Section III describes the Project; Section IV contains a discussion of the context and pertinent issues; and Section V contains Management’s response. Annex 1 presents the claims made in the Request, together with Management’s detailed responses, in table format.

II. THE REQUEST

3. The Request for Inspection was submitted by three members of traditional communities in the *Cerrado* region of Piauí (“the Requesters”). Attached to the Request were:
 - (i) A letter dated July 27, 2018 from the Secretary General of Land Tenure Regularization/Director General of the *Instituto de Terras do Piauí* (INTERPI, State Land Institute of Piauí) to the World Bank Country Director in Brazil.
 - (ii) An “International Statement: The World Bank’s land program in the State of Piauí, Brazil, is a license for land grabbing,” dated by March 21, 2018, endorsed by 31 nongovernmental and civil society organizations.
 - (iii) A report entitled “The Human and Environmental Cost of Land Business: The case of MATOPIBA, Brazil,” (2018), prepared by FIAN International, *Rede Social de Justiça e Direitos Humanos* (Social Network of Justice and Human Rights) and *Comissão Pastoral de Terra* (CPT, Pastoral Land Commission).
4. No further materials were received by Management in support of the Request.

III. PROJECT BACKGROUND

5. **The Project.** On December 21, 2015, the Board approved an IBRD loan in the amount of US\$120 million to the State of Piauí (the Borrower) in support of the Piauí Pillars of Growth and Social Inclusion Project (the Project) with the guarantee of the Federal Republic of Brazil. The Project has an expected implementation period of five years. It is a multisectoral operation that includes education, health, water, land and agriculture and makes use of an Investment Project Financing lending instrument, and disbursement-linked indicators.
6. **Project Objectives.** The Project Development Objective (PDO) is to: (i) reduce dropout of students in public secondary education; (ii) increase access to diagnosis and treatment for patients with chronic diseases; (iii) expand the registration of groundwater users in rural areas and land tenure regularization; and (iv) increase the participation of rural family farmers in rural productive value chains.

7. The progress towards achievement of the PDO was rated Moderately Satisfactory in the last Implementation Status and Results Report (ISR) dated December 2019. The overall implementation progress was also rated as Moderately Satisfactory in the December 2019 ISR, given progress of components and other implementation dimensions observed at that time. The last Implementation Support Missions were carried out in November 2019 and January 2020. Loan disbursements to date are US\$89 million, or 74 percent of total loan proceeds.

8. As per the request of the Borrower, the Bank team is currently pursuing a Level II restructuring that is a result of a Mid-term Review (MTR) carried out in June and July 2018, and the recent Implementation Support Missions. The Borrower requested the restructuring to adjust some aspects of the Project design, including: (i) changes in the Results Framework and Monitoring; (ii) changes to components and costs by introducing new technical assistance activities and dropping of others; (iii) reallocation between Disbursement Categories; (iv) change in disbursement arrangements and estimates; (v) considering triggering of Operational Policy (OP) 4.10 on Indigenous Peoples (see also Paragraph 58) and updating of safeguard instruments; and (vi) changes to indicators. The PDO would remain unchanged. The restructuring is still under discussion with the Borrower.

9. **Project Components.** The Project comprises two components. The first component, provision of support for the implementation of eligible expenditure programs, consists of the following five subcomponents: (i) improving retention in public secondary education; (ii) expanding access to health care for patients with chronic diseases; (iii) expanding the registration of groundwater users; (iv) strengthening real property rights; and (v) strengthening participation of rural family farmers in rural productive value chains. The second component, provision of technical assistance to strengthen the State of Piauí's public management, consists of the following three subcomponents: (i) modernizing expenditure and investment management in the public sector; (ii) building the Borrower's capacity for water resources management, land management, and rural development; and (iii) generating evidence to support policy-making and practice in education, health, gender, and citizen engagement.

10. Under subcomponent 1.4, the Project supports strengthening real property rights through (i) strengthening and modernizing INTERPI; (ii) carrying out the identification, demarcation and registration of State land; (iii) carrying out the land tenure regularization program, targeting small-scale farmers in State agrarian reform settlements and *Quilombola* communities; and (iv) supporting the operationalization of the Land Tenure Regularization Center of the Office of the Inspector General ("*Corregedoria*") of the State Secretariat of Justice in Piauí.

IV. CONTEXT AND ISSUES

11. The State of Piauí is roughly the size of the United Kingdom, spanning over 251,529 km². It has a population of 3.12 million inhabitants, of which 26 percent live in the State's capital city of Teresina and an additional 31 percent in urban centers that are over 20,000 inhabitants. It has a rural population of 1.07 million people and an average population density of 12 inhabitants per square kilometer.¹

12. ***Piauí's agrarian structure is characterized by pronounced land inequalities, as is the case in most Brazilian States.*** Land tenure data in Piauí has been historically very unreliable, which is one reason the Project aims to formalize land rights of target vulnerable groups and strengthen INTERPI's capacities and transparency in managing land tenure data. Nevertheless, in 2018, Brazil's *Instituto Nacional de Colonização e Reforma Agrária* (INCRA, National Institute for Colonization and Agrarian Reform, a Federal agency) identified 150,188 *small-scale farms* covering 6.8 million hectares; 10,566 *medium-scale farms* covering 4.8 million hectares; and 3,600 *large-scale farms* covering 13 million hectares in the State of Piauí.² Small-scale farms are on average 46 hectares. They account for 91 percent of Piauí's farms and cover 27.2 percent of its territory. By contrast, large-scale farms are on average 3,618 hectares, account for 2.2 percent of Piauí's farms, and cover 40 percent of the State's territory.

13. ***Piauí's small-scale farms include over 45,000 farms located in agrarian reform settlements, of which 475 are Federal, created by INCRA, and 234 are State, created by INTERPI.*** In Federal agrarian reform settlements, land ownership is retained by the Federal government. In State agrarian reform settlements, land is under State jurisdiction. As part of the State land tenure regularization program, INTERPI is transferring land ownership to small-scale farmers located in State agrarian reform settlements, and the Project's initial objective was to issue and register 5,000 land titles. This target is being reduced to 3,000 as part of the ongoing Project restructuring.

¹ Brazilian Institute of Geography and Statistics or IBGE (Portuguese: *Instituto Brasileiro de Geografia e Estatística*), 2010.

² In Brazil, small-, medium- and large-farms are defined based on a unit called a "fiscal module." The size of the fiscal module is defined by each municipality. In Piauí, it ranges from 30 hectares to 90 hectares. Per Brazil's definition, small-scale farms are rural properties smaller than 4 fiscal modules, which in Piauí translates as rural properties that are no larger than 120 to 360 hectares, depending on the municipality. These small-scale farms are on average 46 hectares. Medium-scale farms are between 4 and 15 fiscal modules, while large-scale farms are rural properties of more than 15 fiscal modules, which in Piauí means farms that are more than 450 hectares and 1,350 hectares, respectively, depending on the municipality.

Box 1. Types of Communities

Agrarian Reform Settlements: These are small-scale farmers that were settled through the Brazilian Federal Land Reform program (launched in 1964) to provide unproductive land to landless peasants through the creation of Agrarian Reform Settlements. There are State- and Federal-level Agrarian Reform Settlements. In the State of Piauí there are 234 State-level agrarian reform settlements.

Traditional communities: Traditional communities (such as the “Brejeiros” and “Ribeirinhos” in Piauí) are culturally differentiated groups who have their own forms of social organization and economic production, often based on a specific location, family labor force and focus on subsistence. They typically do not have a separate language. Traditional communities are recognized by law in the State of Piauí.

Quilombola communities: Quilombola communities are remnants of settlements of escaped slaves, or quilombos. They typically do not have a separate language and do not self-identify as indigenous. They self-identify as Quilombolas and enjoy specific protection under Federal and State legislations. Piauí has 87 Quilombola communities certified by Fundação Cultural Palmares (FCP, Palmares Cultural Foundation).

Indigenous communities: These are communities that meet the criteria set out in the Bank’s OP 4.10, for the purpose of this report. In Brazil, they are distinctively identified by their historical continuity with pre-Columbian groups and enjoy specific protection under Federal and certain State legislations (in the State of Piauí no such indigenous communities have been formally recognized by competent Federal and State-level institutions until now, but there is an ongoing process of recognition at the State level as further explained below).

14. **Piauí has 87 Quilombola communities certified by the Fundação Cultural Palmares (FCP, Palmares Cultural Foundation), although the Coordination for Quilombola Communities in the State of Piauí estimates that there are over 200 Quilombola communities in Piauí.** To qualify as *Quilombola*, communities need to self-declare as such and they must demonstrate that they have a distinct historic trajectory, specific territorial relations, and presumption of black ancestry related to resistance to historically suffered oppression (Federal Decree n° 4.887/2003). Since 2003, the FCP has certified 3,271 *Quilombola* communities throughout Brazil.

15. Piauí has a large number of rural communities scattered throughout the State, such as those of the *Cerrado* region mentioned in the Request for Inspection. Some of these communities are traditional communities, which were not originally beneficiaries targeted under the Project. However, since 2018, at their request, traditional communities, including *Melancias*, *Salto I* and *Salto II*, have benefited from the Project’s support. Per Brazilian law, communities can self-declare as *traditional* and must demonstrate that they are culturally differentiated groups, have their own forms of social organization, and have specific territorial relations. The CPT provided INTERPI with a list of traditional communities in need of assistance, but the overall total number of traditional communities in the *Cerrado* region of Piauí overall remains unknown.

16. Although initially the Project targeted only small-scale farmers in State agrarian reform settlements and *Quilombola* communities occupying State land, following explicit requests in 2018 by traditional communities living in the *Cerrado* region, the Bank agreed that INTERPI could use Project resources to help address the land concerns of traditional communities identified through the CPT (see paragraph 28 for more details).

17. **There is limited accurate data on the legal status of rural land tenure in Piauí.** It is known, however, that most of the rural land is occupied informally, and that a large part of the land is owned by the State. At Project Appraisal, INTERPI had 4,151 pending land regularization requests by small-scale farmers and the regularization of the territories of *Quilombola* communities

was stalling due to capacity constraints in INCRA and INTERPI. Baseline data at Appraisal showed that five *Quilombola* communities had received unregistered collective titles³ from INTERPI between 2006 and 2008. Another 55 *Quilombola* communities had pending regularization processes with INCRA, 45 of which had been filed more than ten years ago.

18. ***The Project only supports the issuance and registration of titles for small-scale farmers in State agrarian reform settlements and Quilombola communities.***⁴ INTERPI adjudicates these State lands to these beneficiaries free of charge (donation). However, INTERPI also has a broader mandate, as a State-wide public entity, to administer all State lands. As such, it also receives requests to regularize and title medium- and large-scale farms. When medium- or large-scale farmers want their land regularized, they must pay for all the expenses incurred and must pay INTERPI for the value of the land (sale). ***Project resources are not used to cover any expenses related to regularization of medium- or large-scale farms.***

19. ***Piauí has adopted numerous measures to speed up formalization of land tenure.*** In 2011, Piauí adopted Law n° 6.127/2011 redefining the principles for land regularization of small-scale farmers. The same year, Piauí established a State program for land regularization of *Quilombola* communities to be executed by INTERPI (Decree n° 14.625/2011). In 2015, Piauí adopted Law n° 6.709/2015 and instituted a State land regularization program with the goal of issuing 11,000 titles to small-scale farmers and six collective titles to *Quilombola* communities (Decree n° 16.324/2015). In December 2019, Piauí adopted Law n° 7.292/2019 and Complementary Law n° 244/2019 with provisions regarding land regularization of *traditional communities* and the verification of land registry records, and both laws are already in effect.

Table 1 – Piauí’s Agrarian Structure

Types of farms	Number of farms	Area (hectare)	Average farm size (hectare)
Small farms (1 to 4 fiscal modules)	150,188	6,846,182.8	45.6
Medium farms (4 to 15 fiscal modules)	10,566	4,813,182.7	455.5
Large farms (> than 15 fiscal modules)	3,600	13,025,951.2	3618.3
Total	164,354	24,685,316.8	150.2

Source: INCRA’s National Rural Cadastre System (SNCR), June 2018

³ i.e. Land titles that were issued but not recorded in the land registry.

⁴ The Project is also supporting, since 2018, some preliminary activities towards land regularization (e.g., anthropological studies and demarcation activities and the inception of the “*ação discriminatória*” and “*arrecadação*” process) to help address the land concerns of certain traditional communities.

V. MANAGEMENT'S RESPONSE

20. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1.

21. ***Management understands the Requesters' concerns with regard to security of their tenure and illegitimate land acquisitions that could undermine their land rights. However, as demonstrated below, the Project neither causes nor contributes to these concerns.*** To the contrary, the Project is strengthening the tenure of small-scale farmers and *Quilombola* communities through supporting access to land titling and legal ownership of the land they live on. Since 2018, the Project is also supporting *traditional communities* in the *Cerrado* region of Piauí to address some of their land concerns through some preliminary activities towards land regularization (see paragraph 28).

22. ***Management notes that many of the allegations regarding the Project set forth in the Request are inaccurate and do not reflect the Project's objective and activities.*** The Project's stated objective is set out in Project documentation, namely the Project Appraisal Document (PAD), the Legal Agreement, and the Project Operational Manual. With regard to the land regularization activities being supported under subcomponent 1.4 of the Project, which is the subject of the Request for Inspection, they are targeted at supporting small-scale farmers in State agrarian reform settlements and three *Quilombola* communities to receive registered land titles through the State land tenure regularization program. Contrary to the allegations made in the Request, the Project is not supporting or promoting regularization for agribusiness and large landowners, nor is it supporting the sale of State land to such entities.⁵

23. ***Management notes that the Request neither cites any specific harm allegedly caused or likely being caused by the Project, nor does it allege any violation of Bank Policy with regard to the Project causing such harm.*** The Request articulates broad concerns about land grabs in Brazil, which are not related to the Project. The Request does not cite any specific case where communities' land rights or claims to land have been undermined by the Project's activities. The Request and attached materials refer to the impact of the inflow of capital from foreign investors that are reportedly acquiring farmlands through Brazilian intermediaries. However, the Project has no relation to these investors, nor does the Project have any role in this process.

24. ***Management notes that the Project supports the State's efforts to combat land grabbing.*** This is done through the Project's assistance provided to the State Secretariat of Justice's Office of the Inspector General (*Corregedoria*) to better regulate notarial services, and support to the *Grupo Especial de Regularização Fundiária e de Combate à Grilagem* (GERCOG, Special Group for Land Tenure Regularization and Combating Land Grabbing) to actively investigate illegitimate land claims and fraudulent land titling.

25. ***Where allegations raised in the Request relate to the Project, they represent unfulfilled expectations,*** such as complaints about alleged non-inclusion of specific communities in the Project, and the perceived slow pace of Project implementation. The selection of target communities is part of the Project design, and the consequent non-inclusion of other communities in the Project cannot be considered as harm caused by the Project and is not a matter of policy compliance. Since 2018, the Bank has agreed to the use of Project resources to provide support to traditional communities in response to their request. In this regard, it is worth highlighting that

⁵ "Sale" does not refer to the purchase of vacant State land, but to the regularization of land already occupied and used by such entities.

efforts were made to support these traditional communities in addressing their land concerns, even though there was no Bank policy obligation to include under the Project other communities beyond those initially targeted. With regard to the delays in the land regularization process for some communities, it is important to understand that those are rooted in complex legal and procedural requirements which are beyond the Project's control. It should be noted that the progress with land regularization for these communities would be significantly slower in the absence of the support the Project extends to INTERPI. Below are more detailed responses to selected issues raised in the Request.

Alleged Exclusion of Traditional Communities from the Project

26. ***Management does not agree with the claim that traditional communities have been left out of the Project.*** Initially, the Project only supported issuance and registration of land titles to small-scale farmers in State agrarian reform settlements and *Quilombola* communities located on State land. In addition, at their request, traditional communities from the *Cerrado* region of Piauí started receiving support from the Project in 2018 to address some of their land concerns through some preliminary activities towards land regularization (see paragraph 28 for more details).

27. ***Since the Federal Public Prosecutor's Office issued a recommendation to INTERPI in December 2017 in relation to the land concerns of eight traditional communities, and even though these communities were not initially targeted by the Project, INTERPI and Bank teams have regularly met with members of the traditional communities of the Cerrado region of Piauí and their representatives*** to understand their concerns and identify specific activities which could be supported by the Project. Field visits to some of these traditional communities took place in May and December 2018, and in June and November 2019. Meetings were also held with ActionAid and the CPT in Washington, DC, in March and October 2019.

28. ***In 2018, it was agreed that INTERPI could use Project resources to start addressing some of the land concerns expressed by traditional communities given the limited Project scope and mandate of INTERPI (land regularization over State land) and/or complexity associated with the process of land regularization of these communities (see examples in paragraphs 35 and 36 below).*** Specifically, these activities included the financing of anthropological studies, demarcation of territories, and the inception of the process through which INTERPI identifies and registers State land (called "*ação discriminatória*" and "*arrecadação*"). Additionally, Project resources were also used to support other overarching activities that benefit traditional communities in the *Cerrado* region of Piauí (see examples in the paragraph below).

29. The following activities, which have already been supported by the Project, also benefit traditional communities in the *Cerrado* region of Piauí:

- ***Operationalization of the Land Tenure Regularization Center (LTRC)*** – On April 17, 2018, the Office of the Inspector General of the State Secretariat of Justice (*Corregedoria*) inaugurated the LTRC, whose mandate includes: (a) preparing a proposal for revising Piauí's land law to explicitly address, *inter alia*, land regularization of traditional communities; (b) arbitrating land conflicts; and (c) preparing with INTERPI a State Plan for Land Regularization. The Project financed the hiring of a senior land governance advisor to the LTRC coordinator and, since December 2019, five consultants who support the activities of the LTRC, including in the investigation of land conflicts between private parties, including traditional communities.

- ***Supporting the participatory preparation and dissemination of State Law n° 7.292/2019*** – On April 17, 2018, the State of Piauí instituted a joint commission responsible for preparing a new land law. The preparation of the law was coordinated by the Advisory Council of the LTRC and involved the participation of traditional communities. Law n° 7.292/2019 was adopted on December 6, 2019. The law recognizes traditional communities and includes provisions for INTERPI to formalize their land rights. The Project will now finance the dissemination of the law.
- ***Provision of vehicles to INCRA and GERCOG*** – To support the activities of the GERCOG in the *Cerrado* region of Piauí, two vehicles were acquired with Project funding and were formally transferred to the State Public Prosecutor’s Office in June 2018. Since October 2019, INTERPI also made available two vehicles to the *Quilombola* Services of the INCRA to support land tenure regularization.
- ***Demarcation of the territories of the traditional communities of Melancias, Salto I and Salto II*** – INTERPI mobilized the Project’s anthropologist to prepare anthropological studies for the traditional communities of *Melancias, Salto I* and *Salto II*. The purpose of these studies was to characterize these communities and better understand their concerns before demarcating their territories. INTERPI also mobilized surveyors to demarcate the territories claimed by these traditional communities.
- ***Supporting the first regional seminar of the Northeast on Traditional Peoples and Communities*** – The Project co-financed the first meeting of Brazil’s Northeastern Traditional Peoples and Communities on November 11, 2019. Participants identified possible areas of intervention around land regularization and the productive inclusion of traditional peoples and communities.

Alleged Slow Pace of the Land Tenure Regularization Process

30. ***The Project is strengthening INTERPI’s implementation capacities to speed up the land regularization process for Project beneficiaries.*** In November 2019, it was agreed that INTERPI could use Project funds to hire 64 consultants and procure vehicles and equipment to accelerate the regularization of small-scale farmers in State agrarian reform settlements and *Quilombola* communities. INTERPI provided support to *Melancias, Salto I, Salto II* and also intends to support other traditional communities identified by CPT in 2020. INTERPI also plans to use Project funds to finance a study to characterize further traditional communities in the *Cerrado* region of Piauí, which is the first step for the land regularization process.

31. ***While Management understands the Requesters’ concerns about the slow pace of the land regularization process, the causes for these delays are entirely beyond the Project’s control, and that the pace would be even slower without the support that the Project provides. It is therefore not clear how the Requesters would be adversely affected by the Project.***

32. ***Management notes that even with the Project’s support, INTERPI’s capacity remains constrained to deliver on the land regularization of small-scale farmers and Quilombola communities in a timely manner.*** The Project’s initial objective was for INTERPI to issue 5,000 registered titles to small-scale farmers in State agrarian reform settlements and three registered titles to *Quilombola* communities. By the Project’s MTR in June 2018, INTERPI had issued and registered 253 titles to small-scale farmers but no collective titles yet to *Quilombola* communities. The Bank notes encouraging progress since the MTR, with the number of registered titles to small-

scale farmers increasing to 896. Moreover, INTERPI completed the paper-to-digital transformation of land regularization processes, which will allow for further reduction of processing time.

33. ***The land regularization of traditional communities is much more complex than that of small-scale farmers in State agrarian reform settlements.*** In these State agrarian reform settlements, the land is already registered in the name of the State, which makes the transfer of land rights to the beneficiaries relatively straightforward. However, in the case of traditional communities, the first step generally consists of characterizing the communities and demarcating their land claims, which is what the Project has already done for some traditional communities at their request and following exchanges with the Bank in 2018 and 2019. Then, INTERPI initiates a lengthy procedure (“*ação discriminatória*”) to identify all existing land rights over the areas claimed by the communities and detect unregistered State land. Once INTERPI has identified unregistered State land, it needs to start another lengthy procedure to register untitled State land (“*arrecadação*”) before it can then be regularized in the name of a claiming community. If the identified land is not State-owned, but Federal, municipal or private land instead, different institutions would be in charge of addressing such claims and, as such, the resolution of these claims cannot be supported by the Project since it is beyond the Project’s scope and the mandate of INTERPI.

34. ***In the specific case of the traditional community Melancias, a long-standing land conflict that predates the Project and is beyond the Project’s control, is still pending decision from the Bom Jesus Agrarian Court.***⁶ Management understands that a large part of the area claimed by the *Melancias* community is also claimed by surrounding farmers, which makes the land regularization process complex and uncertain. In his report prepared for *Melancias*, the Project’s anthropologist identified a long-standing land conflict that predates the Project and is pending decision from the Bom Jesus Agrarian Court. During the November 2019 mission, the Bank was informed about another conflict between members of the community and a farmer claiming to own a property with a registered title, also preceding the Project. INTERPI has also identified over ten parcels recorded in INCRA’s cadaster that are overlapping with the areas claimed by the community. These cases will be further investigated as part of the “*ação discriminatória*” that was initiated by INTERPI in December 2019.

35. ***INTERPI’s experience with the land regularization process for the rural community of Santa Fé, which is also cited in the Request, shows that even when once unregistered State land is identified, it can take years to register it under the name of the State.*** *Santa Fé* is a rural community of the municipality of *Santa Filomena* mentioned in the December 2017 letter from the Federal Public Prosecutor’s Office. INTERPI has made the land regularization of this rural community a priority because it occupies a part of a 30,033-hectare parcel known as *Riozinho* that is in the process of being registered under the name of the State of Piauí. Since the Bank started following up on this case in mid-2018, INTERPI has initiated the process of registering the parcel in the name of the State, but this has been delayed due to missing documentation, the replacement of the notary, and delays in obtaining a legal opinion from the judge.

36. ***In conclusion, Management notes that the slow pace of land regularization of traditional communities of the Cerrado in Piauí is rooted in lengthy legal and procedural requirements and uncertainties regarding the ownership of the land claimed. Delays with land regularization of traditional communities have not been caused by the Project and are beyond the Project’s***

⁶ The Agrarian Judicial Court located in *Bom Jesus*, Piauí was set up in 2012 and is specialized in solving land disputes.

control. Therefore, the Project has not adversely affected such communities when compared to the no-Project situation.

Alleged Delays in Land Regularization for *Quilombola* Communities

37. While the Request refers specifically to delays with the land regularization of traditional communities of the *Cerrado* region of Piauí, Management notes that *Quilombola* communities face similar issues.

38. Regularizing lands of *Quilombola* communities is also a complex legal process due to the procedural requirements, the uncertainties regarding the status and ownership of the lands claimed, as well as the need for inter-institutional collaboration between the Federal and State levels with jurisdiction on the matter. INTERPI is the State agency responsible for the land regularization of *Quilombola* communities but its role has mainly consisted in supporting INCRA, which is the Federal agency responsible for land regularization of *Quilombola* communities. INTERPI intervenes in INCRA's land regularization process when INCRA has concluded that the land claimed by a *Quilombola* community is owned or thought to be owned by the State.

39. ***The titling and regularization of lands of Quilombola communities is regulated by a number of legal instruments at both Federal and State levels.***⁷ The process of land regularization for *Quilombola* communities located on State land in Piauí, which is being supported under the Project, comprises the following phases:

- (i) *Self-identification as a Quilombola community.* The *Quilombola* community needs to present the "Self-Identification Certificate" that is issued by the FCP. In the State of Piauí, the FCP certified 87 *Quilombola* communities. Beyond self-identification as *Quilombolas*, the certification of a *Quilombola* community by FCP requires: (a) the presumption of black ancestry, (b) a history of collective resistance to oppression suffered during the slavery and post-slavery period, (c) common characteristics as a group (kinship, social organization and productive activities), and (d) special attachment to a territory.
- (ii) *Elaboration of the Identification and Demarcation Technical Report.* A *Relatório Técnico de Identificação e Delimitação* (RTID, Identification and Demarcation Technical Report) has to be prepared by INCRA to identify and demarcate the requested *Quilombola* territory, comprising geographic, cartographic, land tenure, agrarian, environmental, socioeconomic, historical and anthropological information gathered through field work and desk review. The RTID is prepared by an interdisciplinary technical group composed of an agronomist, anthropologist, cartographer, and registration technician.
- (iii) *Disclosure of the RTID.* The RTID is disclosed at least twice and its disclosure opens a period of 90 days for the presentation of disputes to INCRA. There are two instances to analyze these disputes within INCRA. Decisions about disputes can be appealed to INCRA's Board of Directors within 30 days from their notification. The RTID is also sent to several Federal and State agencies. If the required territory is within areas of interest of these agencies, a negotiation is opened in the Federal Conciliation and Arbitration Chamber of the General Advocacy of the Union.

⁷ Including through Federal Decree 4887/2003, INCRA's Normative Instruction 57/2009, and State Law 5.595/2006.

- (iv) *Publication of the Recognition Ordinance of INCRA.* The publication of this ordinance in the Official Diary of the Union ends the identification stage and recognizes the boundaries of the *Quilombola* territory.
- (v) *Regularization of State land.* If INCRA concludes that the *Quilombola* community occupies State land, then INCRA requests INTERPI's support. If INTERPI determines that the land claimed is already registered under the name of the State, and provided that the claim is not contested, INTERPI may proceed with the issuance of a collective title for the corresponding area. However, if the land is presumably State land but has not yet been registered, it must register it through a lengthy sequential procedure (“*ação discriminatória*” and “*arrecadação*”) before titling it to the *Quilombola* community. It should be noted that INCRA will engage with relevant bodies depending on the type of ownership of the land claimed. When the *Quilombola* territory is confirmed and overlaps with private landholdings, these are expropriated by a Presidential Decree and compensated accordingly.
- (vi) *Titling.* INTERPI issues and registers a collective title to the legally constituted *Quilombola* association found on State land.⁸

40. Given the complexity of the aforementioned process, no *Quilombola* titles have yet been issued and registered under the Project. During the January 2020 mission, INTERPI reported good progress with the land regularization of *Quilombola* communities and reiterate its commitment to meet the Project's target to issue titles for three *Quilombola* communities by the Project's Closing Date.⁹

41. ***The delays with regard to regularizing Quilombola communities are rooted in the applicable legal, procedural and inter-institutional requirements; have not been caused by the Project; and are beyond the Project's control. Therefore, the Project has not adversely affected such communities when compared to the no-Project situation.***

Alleged Support for “Agribusinesses and Large Landowners” through the Project

42. ***The Project neither promotes nor supports the regularization of agribusiness or large landowners.*** Pursuant to State law, the owners of medium and large farms must bear all the costs (procedural and material) related to regularizing their land claims. They are, hence, not entitled to receive any support through the Project.

43. ***The Project only supports the procedural costs for titling and registering individual and collective titles of small-scale farmers in State agrarian reform settlements and Quilombola communities, respectively, where the State donates the land to these beneficiaries.*** The initial objective was for INTERPI to issue and register titles to 5,000 small-scale farmers in State agrarian reform settlements and three collective titles to *Quilombola* communities. Following the MTR and as part of the proposed restructuring, this target may be reduced to 3,000 titles to small-scale farmers in State agrarian reform settlements, but no change to the three collective titles to *Quilombola* communities. The Project provides funds for INTERPI to purchase vehicles, field work

⁸ INTERPI only has jurisdiction over issuance of collective titles for *Quilombola* communities occupying State land. If *Quilombola* communities occupy Federal land, INTERPI has no jurisdiction and is required to submit the process to INCRA.

⁹ The Project Closing Date is December 31, 2020.

equipment, and hire technical staff such as surveyors, agronomists and Geographic Information Systems Analysts to carry out these activities.

44. ***Since the beginning of the Project, INTERPI has registered 7,020 new land regularization requests by small-scale farmers and issued 896 registered land titles¹⁰ for small-scale farmers*** living in 18 State agrarian reform settlements, covering a total area of 22,874 hectares. Between 2016 and 2019, INTERPI's technical staff spent 7,192 days in the field to prepare the documentation required to process regularization requests by small-scale farmers and *Quilombola* communities to regularize their land rights (see Figure 1). In 2020, INTERPI plans to issue and register an additional 2,000 titles to small-scale farmers and collective titles to three *Quilombola* communities.

45. ***The Project financed the acquisition of equipment, software and consulting services to support the paper-to-digital transformation of INTERPI.*** Since November 2019, all processes have been digitized, which brings more efficiency, transparency, and control to INTERPI's operations. The paper-to-digital transformation was essential for the Borrower to scale up investments in the land regularization of small-scale and *Quilombola* communities supported by the Project. It also provided the Borrower with better control over all land regularization processes.

46. ***The Project also directly supports the judiciary in order to further strengthen the State's overall fight against land corruption and limited transparency through INTERPI's partnerships with the LTRC and GERCOG,*** through the provision of equipment and consulting services. INTERPI's paper-to-digital transformation also allows for the GERCOG, LTRC and other institutions to access all land regularization processes, including those related to small and large farms.

47. ***The Project supports the State Secretariat of Justice's Office of the Inspector General ("Corregedoria") in its efforts to better regulate notarial services.*** Historically, in the *Cerrado* region of Piauí, one of the main sources of irregularities regarding land transactions has been the lack of control of notarial activities. One of the Project's objectives was for the *Corregedoria* to adopt an integrated real estate registration system for notaries, allowing the *Corregedoria* to better monitor notarial activities. This system was introduced in 2017 and is being progressively adopted by Piauí's 128 notaries.

48. ***The Project is not supporting INTERPI's activities to issue titles to medium and large farmers. Nevertheless, the Bank has requested INTERPI to review these activities in light of the concerns expressed in the Request.*** Information provided by INTERPI shows that it issued 227 titles for medium and large farms between 2016 and 2019, of which 195 (86 percent) are related to land regularization requests filed before the Project was approved. The Bank understands that INTERPI is reviewing these 227 transactions to ensure that there are no irregularities or pending disputes.

49. ***Management shares some of the concerns raised by the Requesters regarding the historical escalation of land grabbing in Piauí.*** This phenomenon has been occurring in Piauí over the past decades, and the Borrower has been unable to address the challenge due to INTERPI's weak capacity and difficulties in coordinating with the judiciary. Weak land governance is a driving force behind land grabbing in any national or regional context.

¹⁰ I.e., land titles that were issued and recorded in the land registry.

50. **Recognition of the importance of strengthening land governance motivated the State of Piauí and the Bank to include the “Strengthening real property rights” subcomponent in the Project.** Therefore, by design the Project allocates resources for the issuance and registration of titles only for small-scale farmers in State agrarian reform settlements and for *Quilombola* communities. Since 2018, at the request of traditional communities in the *Cerrado* region of Piauí, it was agreed that INTERPI could use Project funds to support key specific activities aiming at the eventual regularization of their land (preparation of anthropological studies, land demarcation activities and the inception of the “*ação discriminatória*” and “*arrecadação*” process). It should be noted that strengthening real property rights could not be achieved without the Project’s efforts to strengthen and modernize INTERPI, and to strengthen the role of the judiciary in addressing land tenure matters.

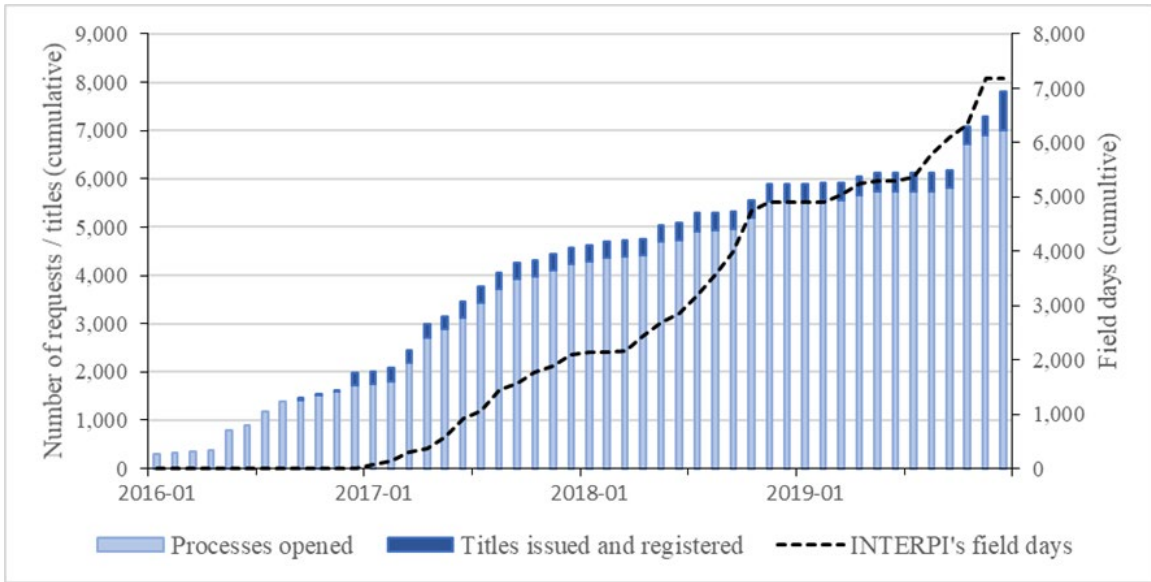


Figure 1. INTERPI's Land Regularization for Small-Scale Farmers and Quilombola / Traditional Communities

Alleged Lack of Public Safety, Social Assistance and Support for Schools

51. **Management notes that the Project does not include any activity related to public safety, social assistance or elementary education.** Management is aware of the communities’ concerns regarding school closures, which, however, are unrelated to the Project. During the January 2020 mission, concerns about the state of elementary education in the *Cerrado* region where traditional communities live were also shared by the CPT and members of the traditional communities *Vão do Vico* and *Salto II* (including related to school closings, poor state of infrastructure, and long distances to schools). The Project focuses on **secondary education** (grades 10-12), which is the

responsibility of the State of Piauí, and does not target or include elementary education (grades 1-9), which is the responsibility of municipal governments in Piauí.¹¹

52. The Project supports five programs that apply only to secondary education, namely: Youth Savings, Full Time Schools, Technical Education, Distance Learning, and Student Assessment programs. The overall objective of these programs is to improve retention in secondary education. ***The Project, however, does not support construction of new schools, their closing or relocation.***

53. Additionally, since *secondary* education activities supported by the Project are aimed at poor and remote rural areas, the Project is contributing to increasing access and retention of vulnerable communities in secondary education.

Application of Bank Safeguard Policies

54. ***Management notes that under the applicable Bank safeguard policies, the environmental and social risks and potential impacts of the Project were appropriately assessed by the Borrower with the support of the Bank, during Project preparation, and continue to be assessed and managed as they arise during implementation.*** Relevant safeguard instruments to adequately manage the Project's potential environmental and social impacts have been and are being prepared by the Borrower and reviewed and approved by the Bank.

55. At the Project concept stage in 2014, the Project triggered OP4.01 (Environmental Assessment), OP4.04 (Natural Habitats), OP4.36 (Forests), OP4.09 (Pest Management), OP4.11 (Physical Cultural Resources), and OP4.12 (Involuntary Resettlement). During Project preparation, the Borrower prepared an Environmental and Social Management Framework (ESMF), which comprises a socio-economic baseline of Project beneficiaries, including, for example, the *Quilombola* communities. A Resettlement Policy Framework (RPF), Pest Management Plan (PMP) and a Health and Waste Management Plan (HWMP) were also prepared. These documents were consulted upon and disclosed prior to appraisal and reviewed and approved by the Bank.

56. Management notes that OP4.12 on Involuntary Resettlement was triggered on a precautionary basis to address any potential Project-related resettlement in the context of demarcation of *Quilombola* territories. This was primarily due to the potential resettlement of non-*Quilombola* community members. Federal laws applicable to the regularization of the territory of *Quilombola* communities can lead to the expropriation and displacement of individuals who are not members of the community, as such territories are titled collectively. To date, no such displacement has occurred in the context of the Project.

57. During Project implementation, as a result of the recent Project engagement with traditional communities of the *Cerrado* region of the State of Piauí, additional social analysis (e.g., anthropological studies) was and is being carried out by the Borrower to provide an anthropological and socio-economic assessment of these communities to better understand their situation and concerns. In this context, in 2018 the Borrower started updating the Project's ESMF and RPF to reflect, among other things, the broader scope of the Project and the inclusion of the traditional communities within the scope of the Project.

58. ***OP4.10 was not triggered during Project preparation in 2014 as Bank Management determined, through a screening assessment, that no groups in the Project area met the required***

¹¹ According to the Brazilian education system, elementary education (or “ensino fundamental”) covers grades 1-9, and secondary education (or “ensino medio”), grades 10-12.

criteria for Indigenous Peoples set forth in OP4.10. Although, at the time, and as reflected in the PAD and Integrated Safeguards Data Sheet, three groups in Piauí claimed to be indigenous, based on research, field visits and consultations with those groups and other stakeholders, Management concluded that they did not meet the criteria of OP 4.10 to be considered Indigenous Peoples. Nevertheless, the ESMF mentioned the need to assess their socio-economic conditions and undertake further analysis of whether they would require a specific treatment for purposes of social inclusion.

59. ***Since 2018, the Bank team has been considering whether to trigger OP 4.10 on a precautionary and proactive basis, as part of the Borrower's proposed Project restructuring. This has been under consideration due to an ongoing and evolving process of acknowledgement, at the State level, of certain groups that self-identify as and claim to be Indigenous Peoples (IPs).*** This State process recently resulted in the submission of a proposed law (*projeto de lei* No 54 of December 16, 2019) to the State-level legislature, which would acknowledge self-identification as the determinant for being considered IPs in the State of Piauí (the proposed law has not been voted yet). The Federal institution in charge of IP matters in Brazil has to-date not recognized any groups in the State of Piauí as being IPs. The Bank acknowledges the ongoing process of recognition of IP groups in Piauí under the Borrower's national legal framework, which is why the Bank is considering triggering OP4.10 on a precautionary basis. As part of this process, and since it is not yet known whether any of these groups would be in specific Project intervention areas, the Borrower has already prepared an Indigenous People Planning Framework (IPPF), which was comprehensively consulted upon with the representatives of the groups and is currently being reviewed by the Bank.

60. ***Management would like to note not only the proactive approach taken to this evolving situation, but also, importantly, that the Request neither cites any specific harm allegedly caused or likely being caused by the Project to IPs, nor does it allege any violations of OP4.10 with regard to the Project or the alleged harm.***

61. ***Grievance Redress.*** The Project supports the strengthening of the existing system for addressing grievances in the State of Piauí (Ombudsman office), through capacity building support and inter-institutional coordination. The State's General Ombudsman office also functions as the Project-level grievance redress mechanism (GRM).

62. The General Ombudsman Office is located under the *Controladoria Geral do Estado* and has several channels to receive complaints, including a three-digit free-toll phone line, an institutional phone line, e-mail and boxes located in several agencies as well as its office located in Teresina. All complaints are registered through an electronic system (e-Ouv). Complaints received are screened and referred to the sectoral ombudsman offices organized and operating in several State secretariats and agencies (including INTERPI and each one of the other Project implementing agencies). In the last year, only one of the complaints received by the General Ombudsman Office (an average of 180 per month) was referred to INTERPI and it concerned a dispute among private third parties in relation to an urban land plot in Teresina. In addition to the e-Ouv system and under the same *Controladoria Geral do Estado*, there is a e-Sic system, which receives requests for information and other feedback in accordance with the Access to Information Law. Since 2014, the e-Sic system registered 25 requests related to INTERPI but none of them mentioned the Project. Both e-Ouv and e-Sic must respond to the requests they receive within a 21-day time limit.

Conclusion

63. In Management's view, the Bank has followed its policies and procedures with respect to the Project activities and matters raised by the Request. As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

Annex 1. Claims and Responses

No.	Claim	Response
	FROM REQUEST	
1.	<p>The rural communities who have lived for many generations in the <i>Cerrado</i> (savannahs) region of Piauí have suffered expulsion from their lands, destruction of their means of support, pollution of the soil and sources of water, and threats from land grabbers and agribusiness firms as a consequence of the land speculation encouraged by international financial companies and major (UNDER) development Projects. Because of this scenario, the World Bank created the Project “Piauí: Pillars of Growth and Social Inclusion,” to finance actions by the Piauí state government in the fields of education, social assistance, health, and land tenure regularization. With respect to land tenure regularization, the Piauí: Pillars of Growth and Social Inclusion Project was to have as one of its objectives a guarantee of the land rights of rural communities.</p>	<p><i>The PDO is to (i) reduce dropout of students in public secondary education; (ii) increase access to diagnosis and treatment for patients with chronic diseases; (iii) expand registration of groundwater users in rural areas and land tenure regularization; and (iv) increase the participation of rural family farmers in rural productive value chains.</i></p> <p>With regard to the land tenure regularization activities under the Project, the Project’s subcomponent 1.4 targets small-scale farmers in <i>State agrarian reform settlements</i> (the initial target was the issuance and registration of 5,000 titles, which may be reduced to 3,000 as part of the Project’s ongoing restructuring) and three <i>Quilombola</i> communities to receive registered collective land titles through the State land tenure regularization program.</p> <p>Although initially the Project targeted only small-scale farmers in State agrarian reform settlements and <i>Quilombola</i> communities occupying State land, following explicit requests in 2018 by traditional communities living in the <i>Cerrado</i> region of Piauí, the Bank agreed that INTERPI could use Project resources to help address the land concerns of traditional communities identified by the CPT. Specifically, to address such concerns, the Project is financing anthropological studies, demarcation of territories, and the inception of the process through which INTERPI identifies and registers State land (“<i>ação discriminatória</i>” and “<i>arrecadação</i>”). The Project will also finance a study to identify and characterize traditional communities in the <i>Cerrado</i> region of the State of Piauí.</p> <p><i>Management notes that the objective of subcomponent 1.4 is not to “guarantee the land rights of rural communities” as erroneously cited in the Request for Inspection.</i></p> <p>The Project also does not support social assistance activities as incorrectly stated in the Request.</p>
2.	<p>However, the Project is now well underway, has reached an advanced stage, and no community has had its land regularized.</p>	<p><i>To date, 896 small-scale farmers in 18 State agrarian reform settlements have benefited from the land tenure regularization activities under the Project and received registered individual land titles.</i></p> <p>Specifically, as of January 2020, INTERPI had issued and registered individual land titles for 896 small-scale farmers living in 18 State agrarian reform settlements, covering a total area of 22,874 hectares.</p> <p>The regularization of the territories of <i>Quilombola</i> communities has</p>

No.	Claim	Response
		<p>moved more slowly than expected due to different legal, procedural and inter-institutional requirements that apply to them and which are different from the ones applicable to the State agrarian reform settlements. For State agrarian reform settlements, the land in question is already owned by the State, which facilitates and expedites the land regularization process.</p> <p>Regularizing lands of <i>Quilombola</i> communities is a much more complex and lengthy process due to the procedural requirements and uncertainties regarding the ownership of the lands claimed. The legal requirements and the bureaucratic process applied here are beyond the control of the Project or the State of Piauí.</p> <p>Therefore, no <i>Quilombola</i> collective land titles have been issued and registered yet under the Project, but the process of land regularization for the <i>Quilombola</i> communities that the Project is supporting is well underway.</p> <p>Since 2018, and as noted under Item 1 above, following explicit requests by traditional communities living in the <i>Cerrado</i> region, the Bank has agreed that INTERPI could use Project resources to help address some of the land concerns of such communities. In this regard, Management would like to clarify that it was agreed that the Project would only support preliminary activities leading to land regularization of these traditional communities, namely the preparation of anthropological studies and land demarcation activities for these communities (which have already been carried out for <i>Melancias</i>, <i>Salto I</i> and <i>Salto II</i>), and the start of the process through which INTERPI identifies and registers State land (“<i>ação discriminatória</i>” and “<i>arrecadação</i>”). Additionally, Project resources were also used to support the process to revise Piauí’s land law, which culminated with the adoption of law n° 7.292/2019, on December 6, 2019, which recognizes traditional communities and includes provisions to formalize their land rights.</p> <p>To speed up land regularization for all Project beneficiaries, the Project is strengthening INTERPI’s implementation capacities. In November 2019, it was agreed that INTERPI would hire 64 consultants and procure vehicles and equipment. In line with the Project’s targets and objective, INTERPI will continue to support the regularization of <i>Quilombola</i> communities and small-scale farmers in State agrarian reform settlements. INTERPI also intends to continue to support the communities of <i>Melancias</i>, <i>Salto I</i> and <i>Salto II</i> in relation to starting the process through which INTERPI identifies and registers State land (“<i>ação discriminatória</i>” and “<i>arrecadação</i>”). INTERPI plans to support preliminary activities referenced above, including the demarcation of the land of additional traditional communities identified by the CPT.</p> <p><i>The delays with regard to the progress to regularize Quilombola and traditional communities are beyond the Project’s control and have not been caused by the Project. Therefore, the Project has</i></p>

No.	Claim	Response
		<i>not adversely affected such communities when compared to the no-Project situation.</i>
3.	Only communities that were already well-established have had their areas regularized.	<p><i>Consistent with the Project’s objective and targets, INTERPI has prioritized land regularization (i.e., titling and registration) in State agrarian reform settlements and Quilombola communities.</i></p> <p>Under the Project, INTERPI was able to title and register the land of 896 small-scale farmers living in State agrarian reform settlements, which follows a process that is faster than that for <i>Quilombola</i> communities because the lands occupied by State agrarian reform settlements were already registered in the name of the State.</p> <p>By contrast, titling <i>Quilombola</i> communities’ territories takes much longer before the collective land title can be issued and registered to the <i>Quilombola</i> community. As for other traditional communities, see Items 1 and 2 above.</p>
4.	And the local traditional communities have been left out of the Project.	<p><i>Management does not agree with the claim that traditional communities have been left out of the Project.</i></p> <p>The Project includes support for small-scale farmers living in State agrarian reform settlements and <i>Quilombola</i> communities. Moreover, the Bank agreed with INTERPI that the traditional communities from the <i>Cerrado</i> region of Piauí identified by CPT would receive support from the Project (see also Item 1 above). These traditional communities were not part of the initial design of the Project. They were included following their own request in 2018 and after discussions with the CPT.</p> <p>Since 2018, in response to the request of traditional communities and their representatives, the Project has already supported the following activities:</p> <ul style="list-style-type: none"> (i) <u>A commission was established on April 17, 2018, to review the State land tenure regularization law.</u> The process of reviewing and revising this law involved extensive participation of members and representatives of traditional communities. The law n° 7.292/2019 adopted on December 6, 2019 recognizes traditional communities and includes provisions to formalize their land rights. The Project will now finance the dissemination of the law; (ii) <u>The Project’s anthropologist (hired to support <i>Quilombola</i> communities) was mobilized to prepare anthropological studies for the traditional communities of <i>Melancias</i>, <i>Salto I</i> and <i>Salto II</i>.</u> The purpose of these studies was to characterize these communities and better understand their concerns; (iii) <u>INTERPI mobilized teams to demarcate the territories claimed by the communities of <i>Melancias</i>, <i>Salto I</i> and <i>Salto II</i>.</u> INTERPI also initiated the process whereby INTERPI

No.	Claim	Response
		<p>identifies the parts of these territories that are owned by the State (“<i>ação discriminatória</i>”);</p> <p>(iv) <u>GERCOG agreed to investigate land conflicts reported by members of the <i>Melancias</i> community.</u> In January 2020, INTERPI informed the Bank that this is a long-lasting land conflict between members of the communities and the fazenda Cosmo, which predates the Project. INTERPI provided the Bank with information on the court case, which is still pending decision from the Bom Jesus Agrarian Court. Disputes between private parties are beyond the mandate of INTERPI.</p> <p>(v) <u>The first regional seminar of the Northeast on Traditional Peoples and Communities was supported.</u> The Project co-financed the first meeting of Brazil’s Northeastern Traditional Peoples and Communities on November 11, 2019. Participants, including representatives of traditional communities, identified possible areas of intervention around land regularization and the productive inclusion of traditional peoples and communities.</p> <p>(vi) <u>The Land Tenure Regularization Center (LTRC) was operationalized.</u> On April 17, 2018, the <i>Corregedoria</i> inaugurated the LTRC, whose mandate includes: (a) preparing a proposal for revising Piauí’s land law; (b) land conflict conciliation chamber; and (c) preparing with INTERPI a State Plan for Land Regularization. The Project financed the hiring of a senior land governance advisor to the LTRC coordinator and, since December 2019, five consultants who support the activities of the LTRC, including in the investigation of land conflicts.</p> <p>In 2020, INTERPI plans to conduct similar activities in other traditional communities (in addition to <i>Melancias</i>, <i>Salto I</i> and <i>Salto II</i>) being supported by the Project and identified with the support of the CPT. INTERPI will also commission a study to identify traditional communities in the <i>Cerrado</i> region of the State of Piauí.</p> <p>Management notes that these recent activities are in direct response to the traditional communities’ requests for assistance. However, Management would like to highlight that the overall process of regularization of traditional community lands is complex and slow, particularly due to uncertainties regarding the ownership of the lands claimed and the legal procedures that are applicable. It should also be noted that despite the Project’s effort to strengthen the capacity of INTERPI to process land tenure regularization requests, it remains limited. The State of Piauí is approximately the size of the UK, INTERPI is already dealing with a backlog of over 5,000 land regularization requests from small-scale farmers, and an even larger number of requests have yet to be filed.</p>

No.	Claim	Response
5.	<p>Hundreds of communities have been affected by the expansion of agribusiness in the region, and even those best able to organize, who have already sent letters to the World Bank and petitions to INTERPI, are dealing with the sluggishness and near stagnation of the land tenure regularization process as it applies to their areas.</p>	<p><i>The Project neither promotes nor directly supports the expansion of large agribusiness in the region.</i></p> <p>The land regularization process in <i>Quilombola</i> and traditional communities (which are not part of State agrarian reform settlements) faces the following challenges:</p> <ul style="list-style-type: none"> (i) the legal and procedural complexity of the land tenure situation in these areas; (ii) the uncertainty regarding the State’s jurisdiction over some of these lands; and (iii) the limited capacity of INTERPI to respond to multiple and growing demands. <p>To address these capacity constraints, the Bank agreed with INTERPI to use Project resources to hire 64 consultants and purchase additional vehicles and equipment to speed up the process. Part of these resources will be mobilized to support anthropological studies and land demarcation activities for additional communities indicated by the CPT (these are the first steps in the process of land regularization for these communities). INTERPI will also commission a study to identify traditional communities in the <i>Cerrado</i> region in the State of Piauí (see also Item 4).</p> <p><i>While Management understands the Requesters’ concerns about the slow pace of the process, this is beyond the Project’s control. The pace would be even slower without the support that the Project provides. It is therefore not clear how the Requesters are adversely affected by the Project.</i></p>
6.	<p>This uncertainty leaves communities vulnerable, since the Project promotes regularization only for agribusiness and the large landowners who are expanding their crops, (monoculture), by using chemical products that destroy biodiversity, soils, and water.</p>	<p><i>The Project neither promotes nor supports the regularization of agribusiness or large landowners.</i></p> <p>Pursuant to State law, medium- and large-scale farmers must bear all the costs (procedural and material) related to regularizing their land claims. They are, hence, not entitled to receive any support through the Project.</p> <p>The Project only finances the procedural costs for titling of small-scale farmers in State agrarian reform settlements and <i>Quilombola communities</i>, where the State donates the land to these beneficiaries.</p> <p>Since the beginning of the Project, INTERPI has issued and registered 896 individual land titles of small-scale farmers in State agrarian reform settlements where land was donated to these beneficiaries by the State.</p> <p>Since 2018, the Project also has been financing multiple activities to address the land tenure concerns of traditional communities from the <i>Cerrado</i> region identified in consultation with CPT, at their own request (see also Items 4 and 5 above). Support provided by</p>

No.	Claim	Response
		the Project includes the preparation of anthropological studies, the demarcation of the land claimed by these communities and the inception of the process through which INTERPI identifies and registers State land (“ <i>ação discriminatória</i> ” and “ <i>arrecadação</i> ”).
7.	We know that this agricultural model is one of the primary causes of climate change, which has disastrous consequences for local communities that are losing their lands, their crops, and their subsistence, while it also has catastrophic effects on society as a whole	The Project neither promotes nor supports the agribusiness model of large farms (see also Items 5 and 6). The Project supports regularization of the land rights of small-scale farmers in State agrarian settlements, and <i>Quilombola</i> communities. Since 2018, at their request, the Project supports preliminary activities towards land regularization for other traditional local communities in the <i>Cerrado</i> region of the State of Piauí (see details on Project support to traditional communities in Items 1 and 4 above).
8.	Prior Contact. [M]eetings were held with representatives of the World Bank and from INTERPI. Letters have been sent (copies attached), and partner organizations have already met with representatives of the World Bank in Washington, but so far the work of surveying the territory and conducting the anthropological study has been done in only two communities. All the communications gave promises that progress would be made, but at every new meeting or even reply from the World Bank countless allegations are made by INTERPI, but progress in the work has not been observed, since there is sluggishness in the process of regularization of our areas. Even knowing that we are daily suffering threats and violations against our lives and the biodiversity of our very environment. It is	<p>Management notes that the concerns of some traditional communities from the <i>Cerrado</i> region of Piauí were first brought to the attention of the World Bank by a recommendation issued by the Federal Public Prosecutor’s Office to INTERPI on December 21, 2017, which also contained some recommendations for the Bank in relation to the Project. The Bank replied to such recommendations on January 22, 2018. On March 21, 2018 the Bank was notified by FIAN International of its International Statement regarding land activities in Piauí, to which the Bank replied on April 3, 2018.</p> <p>Since then, the Bank has been meeting regularly with community members, their representatives, and partner organizations. Field visits to some of these communities took place in May and December 2018, and in June and November 2019. Meetings were also held with ActionAid and the CPT in Washington, DC, in March and October 2019.</p> <p>As indicated under Item 4, some key actions have been already undertaken under the Project to support the referenced traditional communities. This includes the process of revising Piauí’s land law, which culminated with the adoption of law n° 7.292/2019, on December 6, 2019, which recognizes traditional communities and includes provisions to formalize their land rights. As requested, INTERPI also mobilized the Project’s anthropologist initially hired to support <i>Quilombola</i> communities to document the status of the communities of <i>Melancias</i>, <i>Salto I</i> and <i>Salto II</i>. It also mobilized technical staff to demarcate the lands claimed by these three communities and is now assessing the legal ownership of these areas (“<i>ação discriminatória</i>” and “<i>arrecadação</i>”).</p> <p>In 2020, INTERPI intends to proceed with the anthropological studies and demarcation of the land claimed by the traditional communities identified with the support of the CPT. The Project</p>

No.	Claim	Response
	<p>absolutely essential that someone take a close look at this situation since we are vulnerable in the presence of agribusiness and other land and agricultural development Projects.</p>	<p>will also finance a study to identify and characterize traditional communities in the <i>Cerrado</i> region of the State of Piauí.</p> <p>Management notes that it has responded and continues to respond to the requests of traditional communities. However, the process of regularization of traditional community lands is different and slower than that applicable to small farmers in State agrarian reform settlements, due to the legal and procedural complexity of the land tenure situation in traditional communities as opposed to those of small farmers in State agrarian reform settlements. It is also beyond the mandate of INTERPI (and the scope of the Project) where traditional communities are claiming land that belongs to private parties, or Federal and municipal entities.</p> <p><i>While Management understands the Requesters’ concerns about the pace of the process, this pace would be even slower without the support that the Project extends to INTERPI. Therefore, the Project has not adversely affected traditional communities when compared to the no-Project situation.</i></p>
<p>9.</p>	<p>Furthermore, we are dealing with a lack of public safety and social assistance. Our schools are closing. We are afraid of what might happen in our communities and to the physical safety of each man or woman who lives in the communities of our <i>Cerrado</i>.</p>	<p><i>The Project does not include any activity related to public safety and social assistance.</i></p> <p><i>Management is aware of the communities’ concerns regarding school closures, which are unrelated to the Project.</i> During the January 2020 mission, concerns about the state of elementary education in the <i>Cerrado</i> areas where traditional communities live were also shared by the CPT and members of <i>Vão do Vico</i> and <i>Salto II</i> (including related to school closings, poor state of infrastructure, and long distances to schools).</p> <p>Management notes that the Project supports five programs that apply to <i>secondary education</i> (grades 10-12) (and not elementary education, or grades 1-9), namely: <i>Youth Savings, Full Time Schools, Technical Education, Distance Learning, and Student Assessment programs</i>.</p> <p>The overall objective of these programs is to improve retention in secondary education. The Project, however, does not support construction of new schools, their closing or relocation. Furthermore, Management notes that the Project focuses on secondary education, which is the responsibility of the State level. Elementary education in Piauí is the responsibility of municipal governments and is not targeted or included in the Project. Finally, since education activities are aimed at poor municipalities and remote rural areas, the Project is contributing to increasing access and retention of vulnerable communities in secondary education.</p>
<p>10.</p>	<p>Policies violated. The World Bank says that its policies are intended to promote social welfare, but this Project sparks</p>	<p><i>The Project neither promotes nor supports the advances of agribusiness, nor does it regularize land grabs. On the contrary, the Project supports State efforts to combat land grabs by</i></p>

No.	Claim	Response
	<p>insecurity in rural communities that are losing their means of support because of the advances made by agribusiness, which is now legalized with World Bank funds. This region has a history of land grabbing, which is now made legitimate by the actions of the state, using World Bank resources, while communities are losing their lands and the <i>Cerrado</i>, with its enormous biodiversity and water sources, is being destroyed. Furthermore, the Project calls for regularization of the communities, but none of them have seen the work be completed.</p>	<p><i>supporting the special group responsible for investigating land grabs (GERCOG).</i></p> <p>The Project does not support the regularization of medium and large farms as it targets specific communities, namely small-scale farmers in State agrarian reform settlements, <i>Quilombola</i> communities and, since 2018, traditional communities. Project resources have been used to hire staff, and acquire vehicles and equipment required for INTERPI to conduct field work in these areas.</p> <p>Regarding small-scale farmers in State agrarian reform settlements, their land rights are being strengthened through titling and registration. In the case of <i>Quilombola</i> communities, the process involves coordinating with INCRA, assessing the legal ownership of land claimed, identifying State land and registering it under the name of the State so that a collective title can then be transferred and registered on behalf of the respective <i>Quilombola</i> communities. The Project has since 2018 sought to address the land concerns of traditional communities, at their request, and in this regard, agreed to support some preliminary activities to support their land tenure regularization (see details in Item 1 above).</p> <p>During Project Implementation Support Missions, the Bank team regularly meets with community members and their representatives, as well as with GERCOG, the <i>Corregedoria</i> and other key stakeholders from both the executive and judiciary. Management has not heard from communities that the Project has sparked “insecurity in rural communities.”</p> <p>Under the Project, INTERPI has provided registered titled to 896 families from 18 communities of smallholder farmers in State agrarian reform settlements. The slow pace of titling <i>Quilombola</i> communities and the Project’s support to address land tenure issues of other traditional communities are explained in Item 5 above.</p> <p>Moreover, Management notes that the Project supports the State of Piauí’s efforts to combat land grabs through a partnership between INTERPI and GERCOG.</p> <p>GERCOG is a group of State Public Attorneys within the structure of the General Justice Internal Affairs (<i>Corregedoria</i>) that responds to grievances about invasions of State lands. GERCOG carries out investigations of these grievances through site inspection visits and on that basis, it may open the process to cancel the unlawful registration/attempt at registration of land titles in the Agrarian Courts. To support the activities of GERCOG in the <i>Cerrado</i> region of Piauí, two pickup trucks were acquired with Project funding and were formally transferred to the State Public Prosecutor’s Office in June 2018.</p> <p>Management also notes that the Project supports the State’s efforts to reduce the scope for fraud and corruption in the land sector</p>

No.	Claim	Response
		through the digitization of land services. The Project financed the acquisition of equipment, software and consulting services to support the paper-to-digital transformation of INTERPI. Since November 2019, all processes have been digitized, which brings more efficiency, transparency, and control to INTERPI's operations.
11.	<p>Lack of Dialogue. [D]ialogue between the state and the communities is practically nonexistent. We are afraid that after this letter that direct relationship between the state and the communities will be even more limited.</p>	<p>Management notes that since INTERPI was issued a recommendation by the Federal Public Prosecutor's Office in December 2017, INTERPI, with the support of the Project and the Bank, has maintained a dialogue with several traditional communities in the <i>Cerrado</i> region and their representatives (mainly the CPT). As documented in the mission's Aide Memoires, the Bank regularly meets with member of traditional communities and/or their representatives, often in the presence of INTERPI. Representatives of traditional communities are represented in the Advisory Council of the LTRC of the <i>Corregedoria</i>, and it is Management's understanding that traditional communities actively participated in the preparation of the new land law (State law no 7.292/2019), which includes specific provision regarding traditional communities. CPT has confirmed on a number of occasions that the law was prepared in a participatory way. Also, on November 11, 2019, the State Secretariat for Family Farming and INTERPI organized the first regional seminar of the Northeast on Traditional Peoples and Communities.</p>
	FROM INTERNATIONAL STATEMENT	
12.	<p>The escalation of land grabbing in Piauí and the northeastern part of the Brazilian <i>Cerrado</i> is directly related to the inflow of hundreds of millions of dollars from foreign pension funds, university endowments and other financial companies that are acquiring farmlands by way of Brazilian intermediaries. Internal documents show that the World Bank is aware of the extent of land grabbing in the area.</p> <p>Through a 120 million USD loan, the World Bank</p>	<p><i>Management confirms that the Project neither promotes nor supports land grabbing in Piauí. More generally, the Bank has promoted global awareness and carried out studies related to the issue of land grabbing.¹²</i></p> <p><i>Moreover, the Project has no relation to the cited injection of capital into investor-driven agriculture. To the contrary, the Project supports State efforts to protect small-scale farmers, Quilombola communities and traditional communities, by financing activities that support the land regularization process and by strengthening the capacities of the State public entities tasked with investigating land grabs.</i></p> <p>Management notes that Project funds allocated to land activities amount to US\$5.3 million under Component 1 and US\$2 million under Component 2 (Technical Assistance to INTERPI). Loan disbursements under Component 1 are made against the achievement of two results related to the registration of land tenure regularization requests by small-scale farmers located on State agrarian reform settlements and <i>Quilombola</i> communities on State</p>

¹² Deininger and al. (2010) Rising Global Interest: Can it yield sustainable and equitable benefits? The World Bank.

No.	Claim	Response
	<p>thus supports a land titling program that risks sanctifying these land grabs and paving the way for a new rush of 'legalized' land grabbing, with more catastrophic social and environmental consequences.</p>	<p>land and the mobilization of teams to carry out land regularization activities.</p> <p>The environmental and social risks and potential impacts of the Project were appropriately assessed by the Borrower with the support of the Bank, and the required plans were put in place to mitigate negative risks and impacts related to Project activities.</p> <p>In this regard, the following safeguard policies were triggered for the Project: OP4.01, OP4.04, OP4.36, OP4.09, OP4.11, OP4.12. and the related required safeguard instruments (ESMF, PMP, RPF, EMP, HWMP) were prepared, consulted upon and disclosed prior to Project appraisal.</p> <p>Management notes that OP4.12 on Involuntary Resettlement was triggered on a precautionary basis and an RPF was prepared to address any potential Project-related resettlement, primarily due to the potential resettlement in the context of demarcation of <i>Quilombola</i> territories. Federal laws applicable to the regularization of the territory of <i>Quilombola</i> communities can lead to the displacement (“<i>desintrusão</i>”) of individuals who are not members of the community, as such territories are titled collectively.</p> <p>During Project implementation, additional social analysis (e.g., anthropological studies) was carried out by the Borrower focusing specifically on land regularization in the three traditional communities in the <i>Cerrado</i> region that were added to the Project during its implementation. Anthropological studies will be carried out in 2020 for traditional communities identified by CPT.</p> <p>The ESMF and RPF have been in the process of being updated to reflect the engagement with these additional communities and the broader scope of the Project after 2018.</p> <p>The Bank team is considering triggering OP4.10 on a precautionary and proactive basis, as part of the proposed Project restructuring. This was done to reflect an ongoing and evolving process of acknowledgement, at the State level, of certain groups that self-identify as and claim to be Indigenous Peoples (IPs). An IPPF is being finalized to reflect this ongoing process of recognition.</p>
13.	<p>The World Bank Project contains no concrete safeguards to ensure that it actually secures people’s tenure rights against dispossession by local agribusiness and speculators, and to guarantee that it does not formalize the dispossession of communities in the context described above.</p>	<p><i>The Project does not support regularizing the landholdings of medium- and large-scale farmers.</i> As explained under Item 1, the Project supports exclusively the regularization of the land tenure of small-scale farmers and <i>Quilombola</i> communities, and provides support to address land concerns of traditional communities. Pursuant to the land law of the State of Piauí, small-scale farmers are those who possess or own less than four fiscal modules, which means areas that do not exceed between 120 hectares and 360 hectares in Piauí, depending on the municipalities. In the case of the 896 small-scale farmers in State agrarian reform settlements who</p>

No.	Claim	Response
	<p>As such, the <i>Project</i> does not close the gaps of the state of Piauí’s law on land regularization and is not in line with the <i>UN Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests</i> (Tenure Guidelines).</p>	<p>have already received registered land titles with the support of the Project, the average size of the lot is 25.5 hectares.</p> <p>The Tenure Guidelines (or VGGTs), to which the Request refers, represent a voluntary, non-binding consensus among participating countries as to key principles and best practices that should guide each country’s approach to tenure governance issues. The Bank is not a party to the VGGTs and the VGGTs do not constitute World Bank policy approved by the Bank’s Board.</p> <p>That said, the Bank supports the efforts of its members to implement the VGGTs. In this respect, every effort has been made in Project design and implementation to ensure that the regularization processes supported by the Project respects and does not undermine existing tenure rights, and that principles of transparency and accessible grievance mechanisms are observed.</p> <p>The Project supports the strengthening of the existing system for addressing grievances in the State of Piauí (Ombudsman office), through actions such as digitization, capacity building and inter-institutional coordination. The State’s Ombudsman office also functions as the Project-level GRM.</p>
14.	<p>The Brazilian Public Prosecutor’s Office intervened on December 18, 2017 by issuing a formal recommendation to the World Bank to suspend the land program and to adopt measures to remedy the violations of the land rights of traditional peoples and communities that have already occurred. The World Bank has yet to respond.</p>	<p>Management acknowledged receipt of the letter from the Federal Public Prosecutor’s Office to INTERPI on December 21, 2017, to which the Bank also replied on January 22, 2018. On March 21, 2018 the Bank was notified by FIAN International of its International Statement regarding land activities in Piauí, to which the Bank replied on April 3, 2018 (See also Item 8 above).</p> <p>The Federal Public Prosecutor’s Office also issued a recommendation to INTERPI on December 21, 2017. In its recommendation, the Federal Public Prosecutor’s Office recommended that INTERPI suspend land tenure regularization in the areas that are occupied by traditional people and communities.</p> <p>The Project is not supporting INTERPI’s activities to issue titles to medium and large farmers. Nevertheless, the Bank has requested INTERPI to review these activities in light of the concerns expressed in the Request. Information provided by INTERPI shows that it issued 227 titles for medium and large farms between 2016 and 2019, of which 195 (86 percent) are related to land regularization requests filed before the Project was approved. The Bank understands that INTERPI is reviewing these 227 transactions to ensure that there are no irregularities or pending disputes.</p>
15.	<p>On January 17, 2018, INTERPI responded to the recommendation of the Public Prosecutor’s Office. In its letter, INTERPI states that the regularization process includes public</p>	<p><i>Management notes that the cited cases pertain to land that had already been registered prior to the Project. The Project has not supported the regularization of land to private entities on which traditional communities live.</i></p> <p>Management notes that when the land claimed by a particular traditional community has already been registered by another party,</p>

No.	Claim	Response
	<p>lands that are occupied and used by peasant communities and that it has, on some occasions, issued collective titles, in particular in the case of <i>Quilombola</i> communities. INTERPI's response also contains information regarding the communities in the municipalities of Santa Filomena and Gilbués, also visited during the international fact-finding mission. According to the letter, all these communities, with the exception of Santa Fé, are situated on lands that are already registered in the name of owners and can therefore not be regularized by INTERPI (This applies to the communities of Sete Lagoas, Brejo das Meninas, Baixão Fechado, and <i>Melancias</i>). At the same time, the letter claims that INTERPI's procedures contain safeguards to ensure that lands that are occupied by other groups, in particular local communities, cannot be registered by big landlords.</p>	<p>as is the case for <i>Melancias</i>, INTERPI initiates a review procedure (“<i>ação discriminatória</i>”), which entails a review of the public registry and a public invitation to present land-related documentation and any conflicting claims. If, during this process, INTERPI identifies that some of the contested land rights were illegally registered, the registration is invalid and, therefore, legally cancelled. In the case of <i>Melancias</i>, the land had already been registered by another party prior to the Project.</p> <p>For the traditional communities of <i>Sete Lagoas</i>, <i>Brejo das Meninas</i>, and <i>Baixão Fechado</i>, INTERPI intends to proceed with the demarcation of their respective territories in 2020, and subsequently assess the legal ownership of the areas claimed. Should that process reveal that a third party has illegally acquired ownership over the land claimed by the community, the above review process would be initiated to ensure that no illegal claims undermine the community's land rights.</p>
16.	<p>According to the World Bank's most recent Implementation Status & Results Report (dated 17 January 2018), so far 258 beneficiaries have received registered land titles under the current loan, while another 336 beneficiaries were in the final stages of receiving their title before the end of 2017, bringing the total so far to 694 beneficiaries</p>	<p><i>Management notes that the last supervision mission of January 2020 concluded that 896 small-scale farmers in State agrarian reform settlements received registered land titles under the Project (the initial target was 5,000 farmers and may be reduced to 3,000 as part of the Project's ongoing restructuring). By the end of 2020 INTERPI expects to reach a target of 3,000 registered titles to small-scale farmers and three titles to Quilombola communities.</i></p> <p>The goal of titling and registering the land of three <i>Quilombola</i> communities by the end of the Project has not yet been achieved, but increased resources are being allocated to prioritize these activities and progress is well underway.</p>

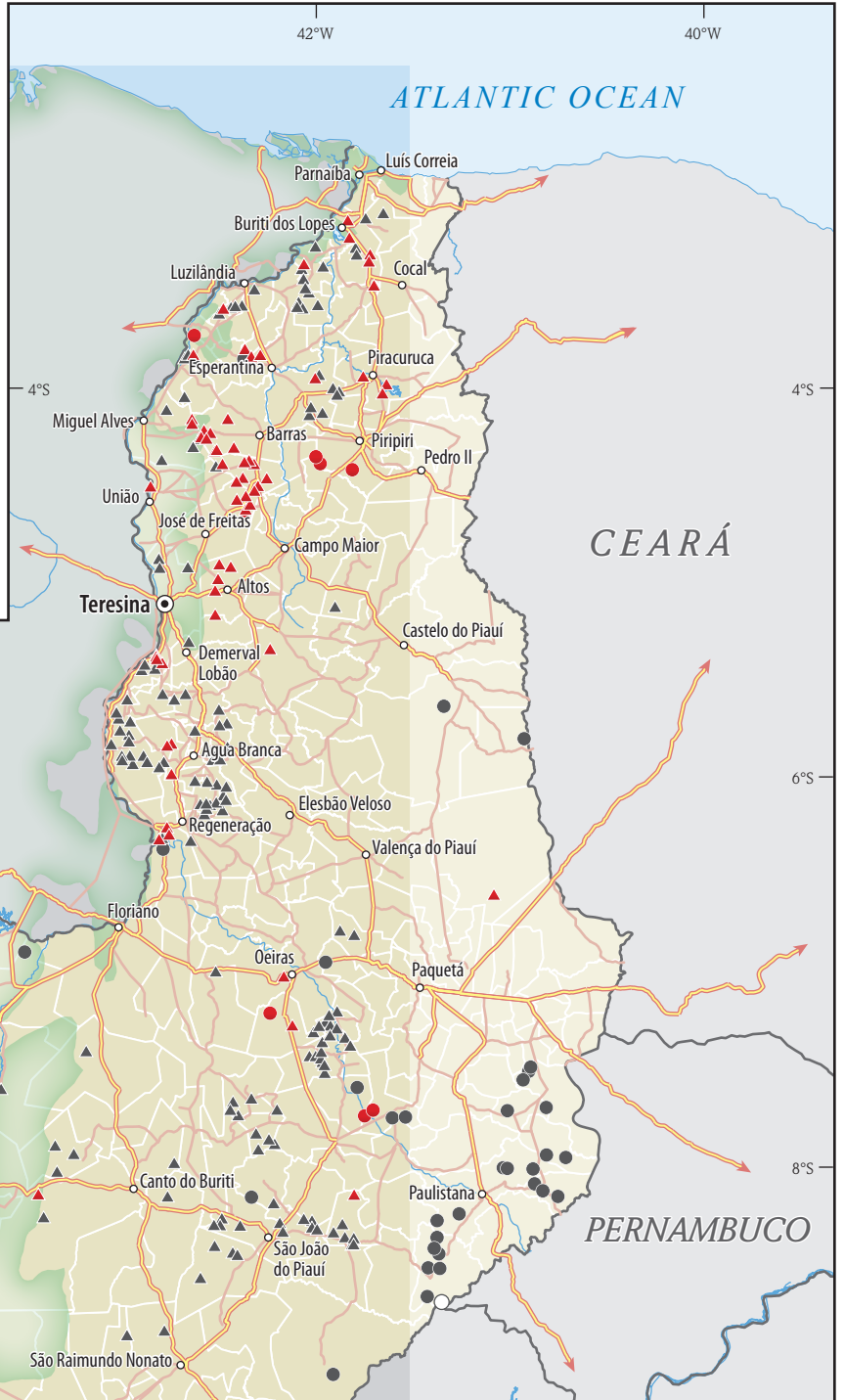
No.	Claim	Response
	<p>with a received a registered land title. This means that the Project target of 2000 land titles issued in 2016 and 2017 (cumulative) was not achieved. According to the same report, there are currently 7,937 requests filed by small-scale farmers for land titles through the state program and eight teams in place to “execute land tenure regularization activities.” Five <i>Quilombola</i> communities have further received land titles under the Project.</p>	<p>The five <i>Quilombola</i> communities to whom the Requesters refer received their titles before the Project started.</p>
17.	<p>The World Bank Project is intervening in a region, which is currently facing high degrees of land grabbing and land-conflicts, which are linked to the expansion of monocultures into the region known as MATOPIBA, and the Brazilian <i>Cerrado</i> more generally. Extensive research by CSOs and an international fact-finding mission, which took place in September 2017, has documented severe impacts on local communities and the ecosystem. Loss of land, food insecurity, disputes over water use and pollution of water, violence against community leaders, deforestation and loss of biodiversity through the destruction of the <i>Cerrado</i> biome are among the most critical impacts. The research has also documented the links to the ongoing land grab and</p>	<p>The Project neither promotes nor supports land grabbing, nor does it promote or support any particular crop production. Moreover, the Project does not work with or provide support to the cited investor-driven agricultural production. The Project has no relationship with the cited pension funds and their investments (see also Items 5, 6, 7 and 12).</p>

No.	Claim	Response
	transnational financial actors, in particular pension funds in the USA and Europe.	
18.	The expansion of soy monocultures into the <i>Cerrado</i> has led to an explosion of land prices and speculation. Companies and individual investors are making a business with land, by enclosing areas that are without property title and creating farms/fazendas, which are then sold. Fraud and falsification of land titles is common (grilagem) as land grabbers seek to legalize the appropriation of lands, including those that have been occupied and used by local communities over generations.	<p><i>As documented in the PAD, Management notes that cases of disorderly appropriation of lands in the Cerrado region of Piauí precede Project design or implementation.</i></p> <p><i>A part of the Project is geared towards supporting State efforts to review and rectify such instances of illegal land appropriation.</i></p> <p>Precisely because of the precarious land tenure situation throughout the State, at Project design a deliberate decision was made to finance (i) titling and registration of lands belonging to small-scale farmers in State agrarian reform settlements and <i>Quilombola</i> communities, and (ii) strengthening of INTERPI capacities to carry out its legal mandates more effectively and transparently. Specifically, the Project supports INTERPI's paper-to-digital transformation; the renovation of its headquarters in Teresina and the opening of a satellite office in Bom Jesus; the improvement of INTERPI's human and technical capacity, and the development of partnerships with other State agencies and with the judiciary.</p> <p>The Project also directly supports the judiciary in order to further strengthen the State's overall fight against land corruption and limited transparency. The Project has supported the regulation of notarial activities, the creation of the LTRC and the operationalization of GERCOG.</p>

BRAZIL
PIAUI: PILLARS OF GROWTH AND SOCIAL INCLUSION PROJECT
Request for Inspection

- | | | | |
|-------------------------|-----------------------------|---|--|
| Targeted by the project | Not targeted by the project | ▲ | INTERPI SETTLEMENTS |
| ● | ● | ▲ | QUILOMBOLA COMMUNITY |
| ○ | ○ | ▲ | TRADITIONAL COMMUNITIES |
| + | | ▲ | RURAL COMMUNITY |
| ■ | | ▲ | CERRADO BIOME |
| ○ | | ▲ | CITIES WITH MORE THAN 10,000 INHABITANTS |
| ⊙ | | ▲ | STATE CAPITAL |
| — | | ▲ | PAVED MAIN ROADS |
| — | | ▲ | OTHER ROADS |
| — | | ▲ | MUNICIPALITY BOUNDARIES |
| — | | ▲ | STATE BOUNDARIES |

Source: IBGE



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