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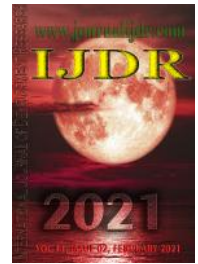
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RESEARCH ARTICLE

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EFFECTS OF THE DEREGULATION OF STATE ACTS CREATED DURING THE PERIOD OF COVID-19 PANDEMIC IN BRAZIL

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ABSTRACT

The goal of this article is to analyze the effects of the deregulation of State acts created during the period of COVID-19 pandemic. The excluding effects over the land rights of the indigenous peoples under study phase or area delimitation (region of *Volta Grande do Rio Xingu* in the *paraense* amazon – TI *Ituna/Itatá*, the TI *paquçamba* and the indigenous reservation - RI) will be discussed. It is important to notice the attempt of regularization of illegally settled lands and the environmental racism of political acts as the government tries to validate illegally occupied lands in the indigenous territory. The results show there has been an increase on the number of certifications and registrations of rural private properties in those lands of public and traditional usage. Those same lands are already subdivided for the agricultural business and mining.

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INTRODUCTION

The first official records in Brazil concerning the acute severe respiratory syndrome coronavirus 2 (SARS-CoV-2) started in the end of February 2020 and the transmission in the population until January 2021 has reached 8753920 inhabitants and 215243 deaths (Health Ministry, 2021). APIB (Articulation of the Indigenous Peoples of Brazil) shows that 50% of the indigenous population have been stroke by the Covid-19 pandemic. This is a total of 46677 indigenous people infected by the virus (APIB, 2021). The indigenous peoples considered vulnerable to the pandemic are completely unassisted when it comes to effective treatment. The uncertainties during the Covid-19 period and the crisis in the politics and the health system have been analyzed in the studies of Kamlot and Jesus (2020). According to Almeida et al., (2020), the racism in the political system over the indigenous territories has increased during the period of the pandemic. The environmental flexibilization is still happening in the country alongside the creation of norms that deregulate the protection of the territorial rights of indigenous peoples which is supported by the constitution. The environmental deregulation is an ongoing process in Brazil. It was intensified in the early 2000s when the flexibilization of the legislation was done mainly by the legislative power which aimed to facilitate the installation of big projects of

infrastructure, hydroelectric power plants, mining companies and agricultural businesses. All those projects are incompatible with the upkeep of territorial and ethnic rights and the environmental conservation (Almeida & Sprandel, 2014; Almeida et al., 2012). The "new" forestry code (law number 12651) was approved in 2012. This code facilitated the practice of the agricultural business and changed the mechanisms of land regularization of occupations in Union territory (temporary measure number 458/2008, converted in the law number 11952/2009 and the temporary measure number 759/2016 transformed in the law number 13465/2017). The law project number 3729/2004 was edited in order to make the environmental authorization of big projects easier. The proposal of the constitutional amendment number 215/2000 was created to change the responsibility for the delimitation of indigenous territories. The National Foundation of the Indigenous People (FUNAI) – a government institution meant to protect and promote the rights of indigenous peoples in Brazil – changes the normative instruction number 9/2020 on April 16, 2020 which allows the certification of private properties inside lands originally settled by indigenous peoples that are under delimitation process. Therefore, the approval of private properties in indigenous territory cannot be prevented without a presidential decree of approval and regularization. Prior to that normative instruction, it was forbidden to settle in indigenous lands.

This includes private properties. It did not matter whether those lands were officially divided or not since the Brazilian constitution guarantees that lands traditionally occupied by indigenous peoples can be permanently owned by them. The constitution also gives them the exclusive right to use the lands, rivers and lakes in those lands. This way, the indigenous lands are inviolable and unavailable to others and the rights of the indigenous peoples over those lands are indefeasible. The creation of that normative instruction serves the interests of rural entrepreneurs connected to the agricultural business who participate of organizations such as the National Confederation of Agriculture (CNA), the Parliamentary Front of Agriculture (FPA) and the Brazilian Association of Agricultural Business (ABAG). They participate in those organizations because lands invaded by illegal occupations get shapes of legality through the emission of a document called certificate of limits acknowledgement which is provided by one of those government organizations. The application of that normative instruction has deleted 235 indigenous territories from the management system of INCRA (The National Institute of Colonization and Agrarian Reform). Those territories used to be protected and now private properties are allowed in those areas. This article aims to discuss the effects of the normative instruction created during the period of Covid-19 pandemic. The focus will be on the lands that are under study phase or area delimitation in the region of *Volta Grande do Rio Xingu*, Brazil. This article also aims to emphasize that those lands are being occupied by private farms.

MATERIALS AND METHODS

The methodological procedures involved a research on the institutional systems and cartographic databases in the National Foundation of the Indigenous People in order to identify the indigenous lands under study period or boundaries delimitation in the region of *Volta Grande do Rio Xingu*. An analysis of the rural private properties that are now certified on the government systems of land certification and rural environmental registration has been made in order to identify the overlapping in indigenous lands.

Field of study: The *Volta Grande do Rio Xingu* corresponds to the section of the hydrographic basin of the *Xingu* river located in the Amazon region which belongs to the state of *Pará*. This area covers the cities of *Altamira*, *Vitória do Xingu*, *Senador José Porfírio*, and *Anapu* (figure 1). The traditional peoples and communities of *Volta Grande do Rio Xingu* are farmers, settlers, indigenous people, fishermen and locals who produce ways of social, cultural and economic existence through the bonds created with the place, the river, the land and the territory (Pncsa, 2018). The *Volta Grande do Rio Xingu* has three indigenous territories in study phase or area delimitation: TI *Ituna/Itatá*, TI *Paquiçamba* and indigenous reserve *Juruna do Km17* (Figure 1). These areas have been affected by the normative instruction 9/2020 that allows private farmers to register their properties on the Land Management System (SIGEF) which is part of the National Institute of Colonization and Agrarian Reform (INCRA). This normative instruction ends up allowing the first to declare ownership on the system to own lands that are part of the indigenous territory. This facilitates the ownership for economical purposes in a process that makes the land regularization easier. The indigenous peoples and traditional communities that live in this region are always fighting against illegal settlers and private farmers due to the violent process of deterritorialization made worse by the installation of the hydroelectric power plant which damaged the hydrographic basin of *Xingu* river. The tension between the peoples and the damage caused to the river and the forest are also happening due to the process of land acquisition by a big project of gold mining called *Volta Grande* Project in the region of the *Xingu* river. The occupation process in this region involves the rubber extractivism, the gold exploration and the construction of the BR230 highway (*Transamazônica* highway) where wide areas have been deforested. There are also thousands of migrants in these areas looking for jobs in farms, logging companies and mining companies (Silvestre, 2019).

Indigenous Territory (TI) Ituna/Itatá: *Ituna/Itatá* has a total of 142402 hectares and it is located in the cities of *Altamira*, *Anapu* and *Senador José Porfírio* (FUNAI, 2021). According to Madeiro (2020), the TI *Ituna/Itatá* was created in 2011 as a way to compensate for the construction of the hydroelectric power plant of *Belo Monte*. It has been declared an indigenous area with usage restriction. It is interdicted in order to protect isolated indigenous groups. Therefore, the entry and transit of other people is very restricted. The territory is surrounded by illegal and pastoralist settlements. There are intense cattle raising in the surroundings and also the farmers regularly invade those lands. All this combined resulted in this area being the most deforested place in the whole country in 2019 with an increase of 700% between the years of 2018 and 2019 according to Carneiro (2019) and Dolce (2019). The deforestation network and all the agrarian conflicts happen mostly in the *Vila Mocotó*. This is the rural area of *Senador José Porfírio*. It is close to *Altamira* and *Vila da Ressaca*. There are many murders in this area due to the fights between farmers and illegal settlers since the end of the 70s. INCRA organized settlements over the course of the *Transamazônica* highway according to the “governmental plans” during that time. A good example of that is the Integrated Colonization Plan (PIC) *Altamira*. Back in January 2020 the *Vila Mocotó* became famous due to the conflicts involving local people and IBAMA (Brazilian Institute of Environment and Renewable Natural Resources) agents who confiscated fuel at illegal gas stations. That fuel was being used in the machinery utilized during the deforestation of more than 1000 hectares of land in the TI *Ituna/Itatá*. All that happened in January (Dolce, 2019).

Indigenous land (TI) Paquiçamba: TI *Paquiçamba*¹ has an area bigger than the one registered in 1991 and it is under review process because of that. The indigenous people called *Yudiá* lives there and the territory is located in an area of 15733 hectares in the cities of *Vitória do Xingu*, *Anapu* and *Senador José Porfírio* (Funai, 2021). The TI *Paquiçamba* is directly affected by the dam of the *Belo Monte* hydroelectric power plant (figure 1). The dam redirected the course of the water and changed the flow of *Xingu* river back in November 2015. The *Belo Monte* power plant caused violent processes of deterritorialization and changed many ways of local life. Many of the local inhabitants left the area (Palmquist, 2018). The drastic transformations caused by the change in the flow of the *Xingu* river resulted in permanent damage in the TI *Paquiçamba* which territory has been incorporated to the area directly affected by the *Belo Monte* power plant (Pezutti et al., 2018).

Indigenous reserve RI Juruna do Km 17: *Juruna do Km17* is also part of *Yudiá*'s territory. It has a population of only 87 indigenous people and 2292 hectares of land. It is very close to the *Ernesto Accioly* highway (PA-415) in the city of *Vitória do Xingu* (figure 1). RI *Juruna do Km17* was also selected to be part of the study that analyses the environmental impact caused by the *Belo Monte* power plant. It is also considered a Directly Influenced Area (AID) (Viera, 2009). With all this, the direct damage caused by the dam can be seeing anywhere near. The increase on the local population has drastically affected the traffic in the PA – 415. Other problems are becoming worse such as violence, proliferation of diseases, environmental degradation etc.

Researches of cartographic data concerning rural properties on the Land Management System: In order to interpretate the dynamic of all the rural properties existent in indigenous territories in the *Volta Grande do Rio Xingu* that are still under area delimitation phase, we have used data and information from the Land Management System (SIGEF) and the National Property Certification System (SNCI). Both these systems are managed by the national Institute of Agrarian Reform and the Rural Environmental Registry System of *Pará* (SICAR/PA) which is managed by the State department of

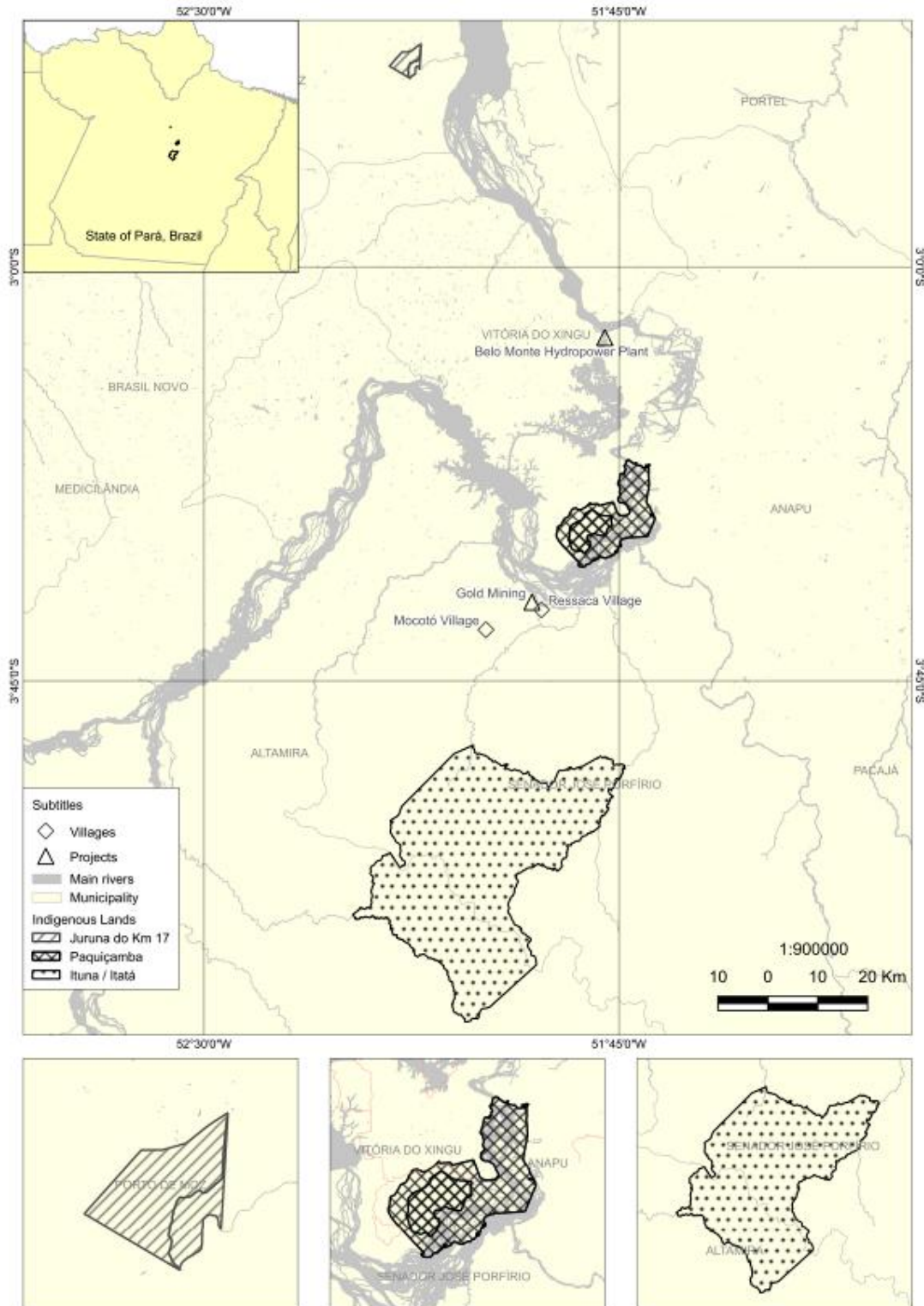
¹ There is a part of the TI *Paquiçamba* (4384.2668 hectares of land in the city of *Vitória do Xingu*) that corresponds to regularized, certified and registered territory according to the Office of property registries and the Union's Property Department (decree 388 – 12/26/1991)

environment and sustainability of *Pará*. The official cartographic databases of land regularization have been analyzed and represented through the use of geographic information systems such as free software.

RESULTS AND DISCUSSION

Considering all the indigenous territories analyzed in this article, *Ituna/Itatá* is in the list of areas that are most invaded by private farmers due to illegal settlement, illegal deforestation and political violence.

At the same time, the government's action that deleted this territory from the cartographic database (it is not considered a preferential area of traditional use as of now) increased the number of processes of certification and inclusion on the rural environmental registry. According to the evaluation of the SNCI system, there are three certified farms in the territory. The farms are called *Serra Dourada*, *Morro Alto* and *Escondido*, respectively. They are located in *Senador José Porfírio* and they were certified on October 21, 2014. The three farms combined represent a total area of 10260,2789 hectares. The *RI Juruna do Km17* has all its area registered on SIGEF and according to the registration, it belongs to the *Coringa* farm. Based on the data from the Rural Environmental Registry System of *Pará* (SICAR/PA).

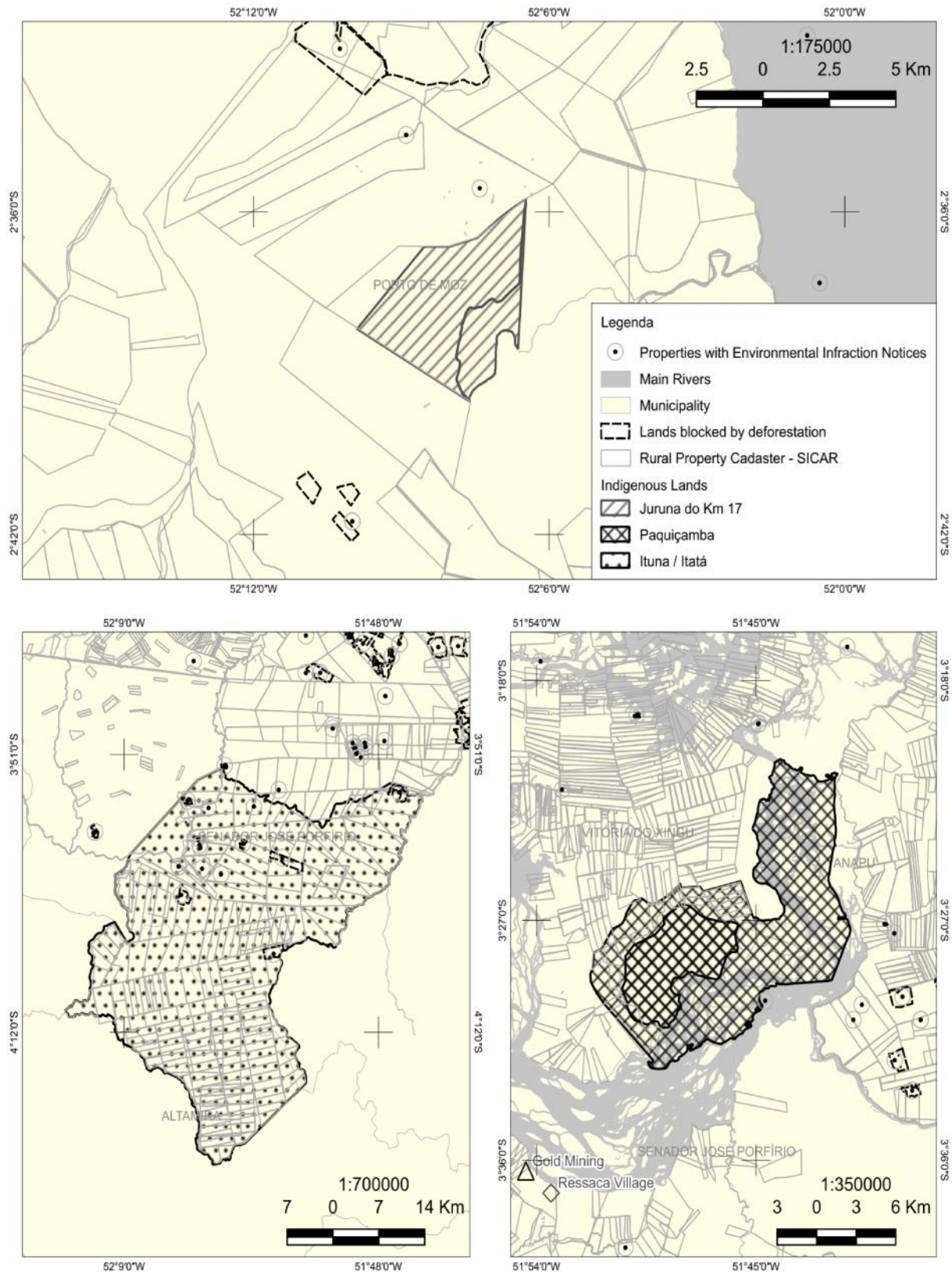


Data source: FUNAI, DNIT, and IBGE. Map prepared in a digital methodological procedure using free software. All rights must be reserved, this map is subject to change or modification, thank you for reporting failures or omissions.

Figure 1. The indigenous territories under study phase or area delimitation in *Volta Grande do Rio Xingu*

Figure 2) it is possible to see that the indigenous territory *Ituna/Itatá* is completely overlapped by 312 rural properties and some other areas interdicted for violation by the IBAMA due to deforestation crimes. Therefore, the area where indigenous people who have never had contact with different people live is already completely divided between farms and settlements according to the system (Figure 2).

The data analyzed on SICAR/PA show that there are 33 private farms in the RI *Juruna do Km 17* and its protective boundary zone. All these farms show on the system as either occupant or owner of the territory. This removes any rights of the *Yudiá* people over these lands. Considering the area analyzed, the TI *Paquiçamba* is the only territory that does not have 100% of its area declared as owned or



Data source: FUNAI, DNIT, SEMAS, IBAMA, SIGEF, and IBGE. Map prepared in a digital methodological procedure using free software. All rights must be reserved, this map is subject to change or modification, thank you for reporting failures or omissions.

Figure 2. Rural properties registered on SICAR/PA that are overlapping the TI *Ituna/Itatá*, TI *Paquiçamba* e RI *Juruna do Km 17*

occupied by farmers or settlers on the system. Even then, 268 registries of rural properties have been found in the territory and its protective boundary zone (Figure 2). When it comes to the indigenous lands allocated to the mining industry, the data of the geographic mining information system managed by the federal government through the Mining National Agency have been monitored. The TI *Paquiçamba* has 100% of its area registered with a total of 20 processes by the name of private owners who ask authorization for research studies and mining activities to dig for gold, tin and clay. There are 6 registries of research authorization and one for mining activities (phosphate, tin and gold) in the TI *Ituna/Itatá*. All of them are registered in the names of companies. Two companies have 3 claims of research authorization (bauxite and kaolin) in the RI *Juruna do Km 17*. During the period of COVID-19 pandemic, the indigenous territories meant for the traditional use, were unprotected according to what the constitution states. Instead, the territories are being deregulated and made available for agricultural and mining projects by infra-constitutional legislations such as IN FUNAI number 9/2020. There was an attempt in the house of representatives to approve the temporary measure MP number 910/2019 known as "MP of illegal settlement" and its transformation to the law project PL number 2633/2020. Those two aimed to allow occupations in lands that belong to the Union. Thus, through the flexibilization of the law it becomes easier for certain economical agents to stay in those lands which will gradually remove the indigenous peoples from there.

Conclusion

During the pandemic period, the biopower operated by the racist mechanisms of the normative instruction FUNAI number 9 of 04/16/2020 promotes the deterritorialization since those mechanisms are carefully chosen to continue the architecture of regularization processes. These processes aim to give territories traditionally occupied by indigenous peoples to the markets of agricultural production and mining. The effects of that normative instruction have direct impact over three territories of *Volta Grande do Rio Xingu* where the indigenous people listen to governmental speeches that say they have no importance to the country; they are obsolete and they are against the development. This article shows that the environmental and land deregulation increases the number of requests for certifications of private properties and rural environmental registries inside *Volta Grande do Xingu*. Those lands are being invaded and violated by big governmental projects connected to the interests of entrepreneurs such as *Belo Monte* Hydroelectric power plant and the possibility of the operation of the biggest gold mining construction in the open. Those lands have also seen an increase on the number of agrarian conflicts for land possession. The deregulation allowed by the government goes against norms and international treaties such as the 169 convention and the International Labor Organization. It also hurt the constitution of 1988 very badly because it clearly increases the right to own a private property in public lands. It also changes the logic behind the land regularization which impacts the rights of the indigenous peoples to their lands and territories traditionally occupied by them.

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