
Are FSC and RSPO accomplices in crime? Jari Florestal and Agropalma's Unresolved Land Question in the Brazilian Amazon

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Brazil's history is marked by violent and massive evictions of indigenous peoples and traditional and peasant communities from their land. A recurring practice among large landholders—wanting to become "owners" of these community lands—is the manufacture of false documents. The practice is so widespread that there is a word for it in Brazilian Portuguese: *grilagem de terras*. (2) This practice has helped Brazil become as one of the countries with the most unequal land distribution in the world today.

By granting their labels, the certifiers become accomplices in the process of expropriation and violence, as they endorse the – questionable - legality of the companies' position with respect to the land.

The Case of Agropalma

Agropalma is one of the main oil palm plantation companies in Brazil, and its plantations cover about 39,000 hectares in the state of Pará. According to its website, the company has several certification labels, which are "essential to maintain its credibility in the market". (3) One of these is the RSPO label, which they obtained in 2013, and which covers all of the area that Agropalma has planted. (4)

Agropalma also participates in a society called the Palm Oil Innovation Group, which was created together with non-governmental organizations such as WWF, Greenpeace and the Forest Peoples Program (FPP), "in order to intensify and improve the principles and criteria of the Roundtable on Sustainable Palm Oil (RSPO)." (5)

However, the Federal Police has been investigating Agropalma in the state of Pará since 2016 for involvement in alleged criminal activities. Company officials produced and used falsified documents before public agencies, in order to obtain the regularization of land and possible access to public financing - to the detriment of residents who lived there.

In March 2018, company premises were searched and material confiscated, and four people directly involved in the scheme - including an Agropalma official - were temporarily arrested. According to the police officer responsible for the investigation, "There are signs that point to this being case of land

appropriation through falsified documents (...). Agropalma is the true beneficiary of the criminal scheme." The officer also stated that "They went to a notary public's office in Belém [the capital of Pará State] and created a false deed -a whole false chain of ownership that ended at the company; as if the land, after many turns, had ultimately been sold to the company. They later returned to the municipality in question and requested the book of deeds that had supposedly gone missing to be reinstated." (6)

According to the investigation, a decision by the Pará Court of Justice authorizes that a lost book of deeds can be reinstated if the interested party has documented evidence to confirm the authenticity of the book of deeds. Through an artifice of false deeds, Agropalma was able to see the book of deeds restored, based on false documents, putting land in the company's name and increasing its land area. It then began the process of land regularization at public agencies.

In August 2018, Prosecution Authorities of the state of Pará filed a Public Civil Action, which required (among other measures) that the real estate records of the two farms - Roda de Fogo and Castanheira – be nullified and cancelled. Together, these two farms cover over 9,501 hectares, an area the size of almost 9,000 football fields. Agropalma acquired both farms using false records obtained at a phony notary public in the city, and these records were being processed at the Land Institute of Pará (ITERPA, by its acronym in Portuguese). (7)

The Case of Jari Florestal

In 1967, US millionaire Daniel Ludwig paid three million dollars to the Brazilian military dictatorship to control no less than 1.6 million hectares of forest in the north of the country—in a region called Vale do Jari, between the states of Pará and Amapá.

His venture caused major deforestation, in order to set up plantations of an exotic tree from Indonesia called *Gmelina arborea*, for pulp production. With public financing from the Brazilian Development Bank (BNDES), Ludwig commissioned the construction of a pulp mill that was brought in by sea from Japan.

The venture attracted thousands of people to the region. The urban hub of Monte Dourado, in the municipality of Almeirim, in Pará, became the center of the project. After planted fungus infested the 64,000 hectares of *Gmelina* plantation already planted, the company turned to pine plantations, and later to eucalyptus. Due to growing criticism of the military's support for the foreign businessman, and because he was in a serious financial crisis, Ludwig sold his company in 1982 to a consortium of 23 Brazilian companies. The purchase was made with public money (8).

In 2000, the ORSA group began controlling the company, and in 2003 this group created ORSA Florestal, to focus on logging. In 2004, ORSA Florestal obtained the FSC label through the SCS certification company for forest management of 545,000 hectares. At the same time, the company obtained the FSC label for pulp plantations. (9)

In 2013 the enterprise began to be called Jari Group, while ORSA Florestal became Jari Florestal. (10) In 2014, the company's forestry management -now Jari Florestal -was re-certified for a total area of 715,665 hectares. Of these, 666,100 hectares are for logging, with an expected wood extraction of 30m³ per hectare and year, mainly for export. (11) In its 2014 report, SCS states that "the company has legal land ownership documentation for the land eligible for certification from public authorities -for the areas in both Pará State and Amapá State", in the name of the Jari Celulose company, belonging to the Jari Group.

SCS also states that "the legitimacy of this documentation was verified through consultations with the competent authorities." Nonetheless, SCS admits that in its first certification evaluation in 2003/2004, it had already identified the lack of regularization of land for communities that live in the Jari area. At that time, SCS requested the company draw up a regularization plan for inhabitants with ownership rights, but between 2004 and 2013 a series of problems arose that made execution of the plan difficult. Always maintaining that "the company has legal and legitimate documentation," SCS alleges that the problems were caused by purported "invaders" on company land, and that is why Jari pursued legal action against those people to reconstitute its property.

SCS makes Jari out to be a victim in this land title mess. When it writes that "Jari Florestal cannot be blamed, much less punished, for the past successes and mistakes of the 'Jari Project,'" SCS is suggesting that the company has no responsibility for the existing land problems. And that "if it meets FSC guidelines, it is qualified to have and maintain certification, as it has done throughout these nine years." (12)

Perhaps that is why in its report, SCS completely ignored two judicial processes that were already underway, and which contradict its assertions about the supposed legality of the documentation of the land Jari Florestal claims.

The first is a 2005 legal action that the government of the state of Pará initiated, requesting that it be declared that Jari Florestal does not own the land which it intends to legalize at the Land Institute of Pará. (13) In the action, the Pará state attorney general calls into question Jari Group's alleged property of land that in the past was Fazenda Saracura, a 2,6-million-hectare farm. According to a historical study, "the circumstances in which [the alleged owner, around 1882] obtained those areas are surrounded by accounts of electoral fraud and fraud in the notary registrars of the region, thus starting a complicated land situation which to this day is unresolved." (14) Therefore, the Pará state Court of Appeal called for the cancellation of registrations, transcripts, records, and marginal notes about the [Fazenda Saracura] property, "(...) in order to avoid the legalization of how Jari 'magically' transformed the Fazenda into property," the attorney general states in the 2005 action.

The second action was in 2011 and was processed before the Federal Justice in Pará. It was based on the Federal Public Ministry's indictment against the director of Jari Group, who allegedly engaged in criminal acts when presenting land titles to obtain authorization to extract wood of native species. Jari Group presented a forest management plan to the federal environmental organization, IBAMA, in 2001, in order to obtain authorization to start logging. The Federal Public Ministry initiated the action in 2005, based on IBAMA's suspicions of fraudulent documents. (15)

Jari Florestal's FSC certification has been suspended since 2017, but not because of the land issue. (16) The SCS made this decision based on a special audit carried out in 2015, after an IBAMA operation fined the company 6 million Brazilian Real, for irregularities in its forest management that pointed to the illegal sale of wood. Due to the company's lack of cooperation in the certifier's investigation, SCS decided to suspend the certificate. (17)

According to news published in the press at that time, the "workers' complaints and (...) violence against traditional communities" also influenced the decision. (18) In its latest report, available on the FSC website, SCS reports that the suspension is being maintained. Since the irregularities occurred outside the area certified by the FSC, SCS points out that it is up to FSC International to decide whether to keep Jari Florestal as an affiliate or not. (19) To date, Jari is still a member of the FSC.

Final Considerations

A tactic that companies use to mask illegal actions is to look for mechanisms that can make their practices appear legal. The FSC and RSPO seem to fit within this approach, even more so when certifiers end up doing a big favor to the company -by accepting their land titles as legal while completely ignoring communities' evidence and the years of investigations and legal actions carried out by the competent authorities. Demonstrating its awareness of this tactic, in its legal action against Agropalma, the Public Ministry of Pará mandated that, in light of the irregularities, the company must refrain from displaying the RSPO Certificate "8-0090-08-100-00" on its advertising pieces. (20)

In the case of Jari Florestal, this company also found a strategic ally in the certification process, in this case, in the FSC. The environmental and social chaos that this enterprise causes in the region should automatically prevent it from receiving any certificate of sustainability that could give it greater economic importance and credibility in wood-consuming markets. But the enterprise not only obtained the FSC certificate, but found the certifier to be an ally in "solving" its major land problems. While the problems remained unresolved, with its certificate the company managed to sell its wood as certified in international markets, from 2004 to 2015. This was the case until the IBAMA operation triggered a suspension of the certificate. Even so, the FSC keeps Jari Florestal as an affiliate.

Virtually ignored by the FSC, and in spite of the pressure they have endured, a group of traditional communities has been fighting for years to recover their land, not as individual lots but as collective territories recognized by official bodies. Seeking collective land titles has been the main strategy that traditional communities across the country have used to fight for justice and the reparation of historical violation of their rights. Communities in Brazil use this strategy to be able to resist the head-on advance of large land holdings, and to guarantee their future physical and socio-cultural survival.

Finally, it should be noted that Jari Florestal has also been involved in a REDD+ project since 2010, along with the company Biofílica, as another way to profit. REDD+ is a payment mechanism for reducing deforestation. Conveniently, the baseline for Jari Group's REDD+ project was set between 2000 and 2010, thus excluding the history of large-scale logging, not to mention the forest degradation this logging has caused over the last 15 years. Jari has already made money from the REDD+ project, by selling 200,000 carbon credits. What is striking is that, also in the sphere of the REDD+ project, community members have presented the same demand for regularization of their territory. It is not surprising that this project also led to another certification for Jari Florestal, in 2013, this time by the VCS certification system for REDD+ projects (Verified Carbon Standard). (21). According to the VCS program's database, this certification is still valid. (22)

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(1) The certification systems of the FSC (Forest Stewardship Council) are for the management of forests and tree plantations; while those of the RSPO (the Roundtable on Sustainable Palm Oil) are for palm plantations. For more information, see [here](#).

(2) The practice known as 'grilagem' in Portuguese aims to transfer public lands to the private sector using falsified public documents of possession or property (TRECCANI, 2001); this action implies a group of associated crimes such as embezzlement, criminal association, bad administrative practices, and illicit enrichment. In most cases this practice is associated with acts of violence, since the lands in question are occupied by traditional peoples and communities or family farmers (SIDALC, BDAGBAMB), who are expelled by judicial order or by armed militias. (TRECCANI, Girolamo Domenico. *Violência e grilagem: instrumentos de aquisição da propriedade da terra no Pará*. UFPA, ITERPA, 2001; y SIDALC, BDAGBAMB. *O livro branco da grilagem de terras no Brasil*. P. imprensa: Brasília, DF (Brasil). nd. 41 p.)

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- (3) www.agropalma.com.br
- (4) <https://rspo.secure.force.com/membership/servlet/servlet.FileDownload?retURL=%2Fmembership%2Fapex%2FRSPOCertSearch&file=00P9000001KQ4JEEA1>
- (5) <https://wrm.org.uy/articles-from-the-wrm-bulletin/section1/brazil-discourse-of-innovation-contrasts-with-a-reality-of-life-in-conditions-akin-to-slavery-for-workers-employed-by-one-of-agropalmas-suppliers/>
- (6) <https://g1.globo.com/pa/para/noticia/operacao-da-pf-investiga-fraudes-em-documentos-de-regularizacao-fundiaria-no-para.ghtml>
- (7) <https://www2.mppa.mp.br/sistemas/gcsubsites/index.php?action=Noticia.show&id=1697&oOrgao=94>
- (8) https://wrm.org.uy/wp-content/uploads/2013/04/Pulping_the_South.pdf and <http://www.fgv.br/cpdoc/acervo/dicionarios/verbete-tematico/projeto-jari>
- (9) http://www.inesgodinho.com.br/pdfs/RS_Orsa_2010.pdf
- (10) Jari Group is also made up of Jari Celulose, which manages the pulp plantations—most of which are eucalyptus; Ouro Verde Amazônia, which is focused on non-timber products; and the Jari Foundation, which carries out social projects in communities to mitigate the company's negative impacts. See [here](#).
- (11) <https://br.fsc.org/preview.fmpubjariflorestal071614port.a-611.pdf>
- (12) Ibid
- (13) Declaratory action of non-existence of domain and the impossibility of recognition of domain outside of administrative channels, with a request for a temporary injunction. Belém, 21/09/2005. Ibraím José das Mercês Roch, Pará State Prosecutor, coordinator of the Office of Lands (Procuradoria Fundiária), distributed in connection with case number 2004100356-1.
- (14) FOLHES, Ricardo; CAMARGO, Maria Luiza. LATIFÚNDIO. Conflito e desenvolvimento no Vale do Jari: do aviamento ao capitalismo verde. Agrária (São Paulo. Online), n. 18, p. 114-140, 2013.
- (15) Police Investigation (Federal Police of Santarém: Number: 192/2004-DPF/SNM/PA) and Santarém Federal Court Process (Federal Court of Santarém: No. 423-06.2012.4.01.3902).
- (16) <https://info.fsc.org/details.php?id=a0240000005sV5xAAE&type=certificate>
- (17) <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000evgxOEAQ>
- (18) <https://www.celuloseonline.com.br/fsc-suspense-certificacao-da-jari/>
- (19) <http://businessdocbox.com/Forestry/70796352-Forest-management-and-stump-to-forest-gate-chain-of-custody-surveillance-evaluation-report.html>
- (20) <https://www2.mppa.mp.br/sistemas/gcsubsites/index.php?action=Noticia.show&id=1697&oOrgao=94>
- (21) <https://redd-monitor.org/2015/12/17/the-jari-amapa-redd-project-brazil-greenwashing-illegal-logging-a-pulp-mill-and-a-48-year-old-land-grab/>
- (22) https://www.vcsprojectdatabase.org/#/projects/st_/c_BR/ss_0/so_/di_/np_