Organized land theft for industrial tree plantations in Brazil: The case of AMCEL

Land grabbing in Brazil is a clear example of organized crime, of land theft from small farmers. To understand this, it is important to have a historical perspective. WRM spoke with a member of the Pastoral Land Commission in Amapá about the AMCEL company, which has FSC-certified plantations to produce wood chips for export for the pulp industry and energy production in Denmark.

Territorial regularization is one of the solutions proposed by the Bolsonaro government to overcome the deforestation crisis. But Brazilian organizations that work in defense of small farmers and traditional communities, such as the Pastoral Land Commission (CPT, by its Portuguese acronym), warn that this regularization could legalize the grabbing of public lands (known as "*grilagem*" in Portuguese). An emblematic example of land grabbing in the Brazilian Amazon is the case of the company Amapá Celulose S.A. (AMCEL).

Grilagem is the illegal creation of property titles for public lands, giving them a legal appearance. This practice began in colonial times with the theft of indigenous peoples' lands, and it continues to be widely used by representatives of big capital interests, such as landowners and agribusiness, mining and tree plantation companies, among others. This mechanism allows for the appropriation of land, by expelling small farmers and preventing them from enjoying their right to use the land for their livelihoods. One of the most recent strategies to legalize land grabbing, mainly in the Brazilian Amazon region, is through the CAR (Rural Environmental Registry). This is a mechanism provided for in the new Brazilian Forest Code for registering lands digitally (1).

As a result of this historical process of land grabbing, Brazil currently has one of the most unequal land ownership situations in the world: 1% of landowners own almost half of all the rural area in Brazil; meanwhile, 50% of the properties cover only 2.3% of this area (2). Another consequence of the invasion of capital interests in the countryside—via land grabbing—was the often violent expulsion of small farmers. These farmers had to move to the cities—where 85% of the Brazilian population currently resides—and face more problems like unemployment and urban violence. In an inverse process, the struggle of the MST (Landless Workers' Movement) and other organizations managed to get Brazil to begin, at least timidly, a process of agrarian reform.

Land grabbing in Brazil is a perfect example of organized crime, of land and forest theft from small farmers, with the participation of a group of actors who benefit in some way from it. First, there are government agencies that encourage territorial occupation for certain projects at any cost. They are willing to break the law and provide significant financial support to companies and landowners through their development banks. Then, there are companies and landowners who grab land. There are also the owners of notarial firms that prepare fraudulent land deeds, as well as judges who turn a blind eye to this fraud and who often also possess land through illegal titles. Finally, there are private financiers—such as national and international investment funds—that invest in the companies' activities; and then there are landowners who use the lands that have been grabbed.

There are still more actors who collaborate in the crime, such as the international certification system for tree plantation companies' timber (the FSC). The consulting firms that perform the certification have been true "defense attorneys" for the land-grabbing companies, declaring that the wood is obtained using "socially just" practices (3).

Amapá Celulose (AMCEL) is one of the few large tree plantation companies located in the Amazon, which is one of the most conflictive regions in Brazil when it comes to land grabbing. AMCEL has FSC-certified eucalyptus plantations which produce and export wood chips, both for the pulp industry and as raw material for energy/electricity production in Denmark.

AMCEL was created in 1976 by mining company CAEMI, and it later belonged to the North American companies, Champion and International Paper. Since 2007, AMCEL has been controlled by the Japanese groups, NipponPaper Industries and NYK (Nippon Yusen Kabushiki Kaisha) (4).

WRM spoke with Father Sisto Magro, a member of the Pastoral Land Commission in Amapá (CPT), about AMCEL's land grabbing.

Question: Could you give a brief historical summary of the occupation of lands by small farmers, and the problems they have faced in the state of Amapá?

Father Sisto: The history of small farmers in the state of Amapá began along the river. They occupied the banks of the rivers and the ocean in what is called the Bailique archipelago, which joins the Amazon river, streams and part of the ocean. These people lived by hunting, fishing, gathering acaí and bacaba fruits, and subsistence agriculture—mainly based on cassava flour. They also raised cattle and buffalo in the flooded areas. This is how the story of the farming community in Amapá began, besides the indigenous peoples who were already in the territory. The farmers had a subsistence culture and did not seek wealth; they did not have fences, and they respected their neighbors' land. When roads opened up, other communities of small farmers began to settle along the roads.

Large projects started arriving in the area in the 1950s, in an attempt to connect Amapá with the rest of Brazil and the world. First, there was the Icomi mining project. And starting in the 1970s, there was the Amapá Celulose project, as well as a port for export. Many people from outside came to work on these projects. And, at the same time, a different logic also arrived: one that seeks to turn the small farmer into an entrepreneur, and that tries to introduce "modern" agriculture to "develop" the state. This means transforming the subsistence culture of these farmers into a capitalist culture based on money. This attempt was unsuccessful, because it is very different from the gathering- and subsistence-based culture of the rural people.

In order to understand the current land conflicts, it is important to remember that around 1900, when Amapá was part of the neighboring state of Pará, the government of Pará sent coronels to Amapá and granted them property titles to large tracts of land. They did this through notarial firms whose owners were sometimes the coronels themselves. The aim was to distribute these lands among ranchers and small farmers. This agrarian reform did not work, but it generated a series of old land documents from 1900, 1910 and 1920, which—though now obsolete—are used today by large landholders to try to take land away from small farmers.

Even now, there are attempts to bring workers from the South [of Brazil] who have different ideas about agriculture, the countryside, and producing wealth for export and GDP growth (Gross Domestic Product). Our farmers are not concerned with increasing GDP, but rather with producing food to feed

themselves and at most sell crops at the Macapá market (the main city of the state). They are more humble, and the Amazon needs that humility. The more a capitalist mentality based on production and wealth is implanted in the Amazon, the more this important biome and ecosystem are destroyed. The farmers in Amapá know this all too well. It is the big capitalists, who devote themselves to the culture of money and who are not from here, who seem not to understand this.

Question: According to the company's FSC certification reports, AMCEL managed to appropriate almost 400,000 hectares of land in Amapá (5). About 167,000 hectares are certified, and according to the FSC, their titles were recognized by the INCRA (federal land management agency in charge of agrarian reform). Another 119,000 hectares are not certified, and according to the company, there are "illegal" occupations by small farmers. In 2005, the company reportedly returned another 105,000 hectares to INCRA. What is CPT's view on the legality of AMCEL's lands and the process of acquiring these lands?

Father Sisto: First, it is important to say that the AMCEL project is a project of the federal government itself. In an attempt to modernize the countryside, the government promoted the distribution of public lands in Amapá and other Amazonian states, pretending like it was a fair distribution of land. The government held a land auction for an area in Amapá of great interest to AMCEL, which today includes part of the municipalities of Porto Grande, Ferreira Gomes, Cutias de Araguary and Itabaul. Each company could bid, but only on one lot. AMCEL belonged to the CAEMI group, a powerful mining company in the state of Amapá. CAEMI participated with six firms, some of which were ghost companies—because they were never heard of in Amapá. One of the six firms was AMCEL, but the others had nothing to do with timber plantations; they were linked to the mining sector. All of them participated, and they won the tender for a huge lot of 20,000 to 25,000 hectares. The bidding contract states that each company was to exploit that lot. However, immediately after obtaining the lands, every single one of the other companies leased the land to AMCEL—despite the fact that the bidding contract did not allow this. This is how AMCEL began its tree plantation project, which at first was with pine trees.

One of the items of the bidding contract stated that the company must conduct a topographical study and demarcate the area. All of the companies that won the contract did this, but they committed another malfeasance: they increased their areas even more. For example, land that was 20,000 hectares became 27,000 hectares after the demarcation. Another term of the contract was that the company who won the bid must not include places with inhabitants and small farmers in the demarcated area. But these companies did not do that. On the contrary, AMCEL began to promote outright evictions of people living in those areas. Most people were expelled in the early 1980s. In some cases, AMCEL compensated small farmers for the land—which was not allowed either, since the contract ordered for inhabited areas to be excluded, period. Then, between 1983 and 1985, INCRA awarded the titles to AMCEL and the other five companies that had won the tender, even though there were a large number of farmers on those lands. Later, the other companies sold their land to AMCEL. While this was good for AMCEL, to me this is major fraud, because AMCEL and the other companies acted jointly and breached the terms of the tender.

Today there are few inhabitants left, as most have already been expelled. But it is interesting that AMCEL says that there are no conflicts on the 167,000 hectares—that the conflict must be on the other 119,000 hectares. Because there are also conflicts in the area that has been certified [by the FSC], and the proof is that they are currently in the courts. On the Amapá Court of Justice website, one can easily see current disputes over areas that the company says legally belong to them. Inhabitants who still resist in these areas have been, and are being, judicially expelled; because AMCEL shows the titles of the companies that won the tender, which now comprise the single large

deed to 167,000 hectares. It should be added that in the northernmost part of the territory, in Ferreira Gomes municipality, the company has already exceeded the area of the consolidated title it obtained. This was proven in a technical report that INCRA produced at the request of the judge in one of the legal proceedings. But the judge says that it only exceeded “a little bit.” However, that boundary was 28 km long, so any small variation ends up being a big difference.

Question: AMCEL claims that in 2000/2001, there was a Parliamentary Commission of Inquiry (CPI, by its Portuguese acronym) on public lands in the Federal Chamber in Brasilia, which concluded that AMCEL’s land acquisition process was legal. Do you agree with this statement?

Father Sisto: Then how is it possible that in 2005—after a 2004 CPI on public lands headed up by the Legislative Assembly of Amapá state—AMCEL had to return 105,000 hectares to the Union [federal government]? It is a gigantic contradiction. The 2004 CPI report was almost written by a person who was later prosecuted and convicted for land grabbing. Fortunately, it was possible to appoint another deputy, Ruy Schmidt, who was not associated with the land grab. This CPI, in which the CPT played a key role, managed to reveal AMCEL’s whole fraudulent land grabbing process. We have all of this documentation, and as a result, AMCEL had to hand over 105,000 hectares on the other side of the Araguari River. In reality, there was not a single title for that land, not a single deed! They were just documents of possession, sales receipts, any real estate document.

On the other hand, regarding the situation of AMCEL’s lands, the company has a relatively small area with definitive titles. These are for lands purchased from people who held those titles, and they are recognized by INCRA and cannot be challenged. However, the rest of the land was obtained through another criminal process: so-called notarial appropriation. These were notaries from Amapá district and Tartarugalzinho municipality. These two notaries provided public deeds—registered with the notary public—of lands that are actually public lands, which INCRA never titled, sold or managed to regularize. If you go to INCRA, and they look at the map they have of these areas, they will say that those lands are theirs, that they still belong to the Union [federal government]. That’s why we at the CPT challenge the legality of those areas, as alleged by AMCEL. They are registered areas totaling more than 100,000 hectares, but they have been registered in an illegal and irregular fashion. They are lands that should also be returned to the Union. In 2003, a Justice of the Peace and a Chief Magistrate asked the Amapá notarial firms to correct these fraudulent records, including those that registered the lands where AMCEL is located. But nothing happened after that, and the judges in the case argue that the Attorney General’s Office (AGU by its Portuguese acronym) should take legal action to recover those areas and be able to create settlements under agrarian reform. But the AGU is not doing this. Today, AMCEL is negotiating these illegal titles with soybean agribusinesses, as a tactic to get rid of that land.

Question: Who financed AMCEL, including all of the land grabbing?

Father Sisto: The FNO (Constitutional Fund to Finance the North [region]), which is Brazilian public money, financed a large part of AMCEL’s plantations. This is money that should also finance small farmers, but they do not have access to these funds because they lack the conditions to formulate and present a project. It is AMCEL, and other companies and landowners associated with soybean agribusiness, for example, that develop projects and have access to this money.

Question: The company claims it is “committed” to resolving conflicts with small farmers through “dialogue.” How do you evaluate the company’s relationship with the inhabitants?

Father Sisto: The relationship is not respectful. AMCEL tears down residents' houses. Last year five houses were demolished in Ferreira Gomes municipality. This year they demolished another one in Tartarugalzinho municipality, with protection from the judge for that area, because they won a lawsuit against a small producer. Only this house was in the middle of a field. And what did AMCEL do? The judicial officer came to the site, AMCEL pointed out the house, and the officer ordered the demolition of this man's brother's house—which is on the street and was not part of the process! This seems to indicate that the company seeks to further expand its territory, in part because it lost several cases against inhabitants. I ask: Why does AMCEL, having lost several lawsuits, still possess the 167,000 hectares? It is probably trying to recover the areas it legally lost in court. And faced with the farmer's request for compensation, instead of asking AMCEL to immediately rebuild the house, the judge in Tartarugalzinho said he would start a legal process, and that the first hearing would be next year. Against this backdrop, the farmer is afraid to rebuild his home, because the company has already demolished it once, and he is afraid the judge will order for it to be demolished again.

Question: Although some inhabitants won lawsuits, in most cases AMCEL was victorious. Can we expect justice from the Amapá judiciary?

Father Sisto: No. For example, in the case of the five houses that were demolished in Ferreira Gomes municipality, the judge himself was present during the demolition. According to inhabitants who were there, he said "I want to see those houses on the ground." The judge from Tartarugalzinho is even worse. In response to the unlawful demolition of homes, not only did he not recognize the error, he overlooked the issue, saying that it would be discussed in February / March [of 2021]. But he has already made it clear that absolutely nothing will happen to AMCEL. This same judge occupies a piece of public land. With state judges in place that AMCEL always calls upon to evict inhabitants, it is very unlikely that a favorable decision for small farmers will be made.

Question: Considering the fact that CPT acts from a social justice perspective, what is the path to take to resolve the land conflict that AMCEL created, starting in the 1970s? And what is your message to the people of the country of Denmark, where AMCEL sends FSC-certified wood chips?

Father Sisto: The Federal Judiciary should intervene and instruct Amapá state judges not to make any more decisions. If the Federal Judiciary gets involved, it is different; since it tends to analyze the property rights of an area, and whether it is an AMCEL territory or not. The Federal Judiciary will analyze property titles to see if it is a public land, and if so—even if it is just a millimeter of public land—AMCEL will have to return the land it appropriated. State judges, on the other hand, tend to assert that the lands belong to the state of Amapá and not to the Union. Several state judges even participated in the agribusiness project. Some have been on radio programs with agribusiness representatives. There are also federal judges who favor agribusiness, but their decisions tend to be more balanced. That is why AMCEL always tries to go to state courts, never to federal ones.

Right now there is a complicated process underway in the state of Amapá. Lands that belong to the Union are being transferred to the state of Amapá, which wants to regularize them and give them to agribusiness, not to small farmers. At the same time, the Bolsonaro government is not giving a cent to INCRA, precisely to avoid having to do anything. We are in a very challenging time, in which there is no political will to carry out territorial regularization that would benefit small farmers.

I would tell Danish citizens that it is time for you to plant trees in Denmark, and to harvest those trees, instead of harvesting trees here. We are already in a severe process of deforestation, devastation and destruction here, promoted by the government of Bolsonaro. He is bolstered when he can say

that we are exporting timber to Denmark because they ask for it. Meanwhile, he is playing with fire, encouraging the burning and destruction of the forest to make way for cattle ranching, soybeans and agribusiness. And timber is a good excuse to do it. It is high time that European countries plant the trees that they themselves destroyed in the past, that they replant [in Europe] and use their own timber, and not timber from the Amazon—as this causes more people to be evicted and more environmental crimes to be committed.

(1) GRAIN, The dangers of legalising public land theft in Brazil : agribusiness, deforestation, and the melting pot of future pandemics, April 2020
(2) OXFAM Brazil, Land and inequality
(3) WRM Bulletin, Are FSC and RSPO accomplices in crime? Jari Florestal and Agropalma's Unresolved Land Question in the Brazilian Amazon, 2018
(4) AMCEL – Amapá Florestal e Celulose S.A.
(5) Amcel, Evaluation report for certification of forest management and chain of custody, from the forest to exit of the product