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SAME GAME, NEW RULES: A land solution for the Amazon

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ESCOLHAS





Same game,
new rules:
A land solution
for the Amazon

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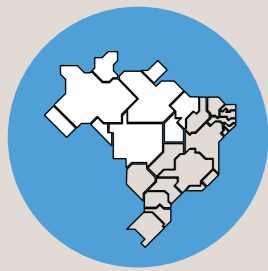
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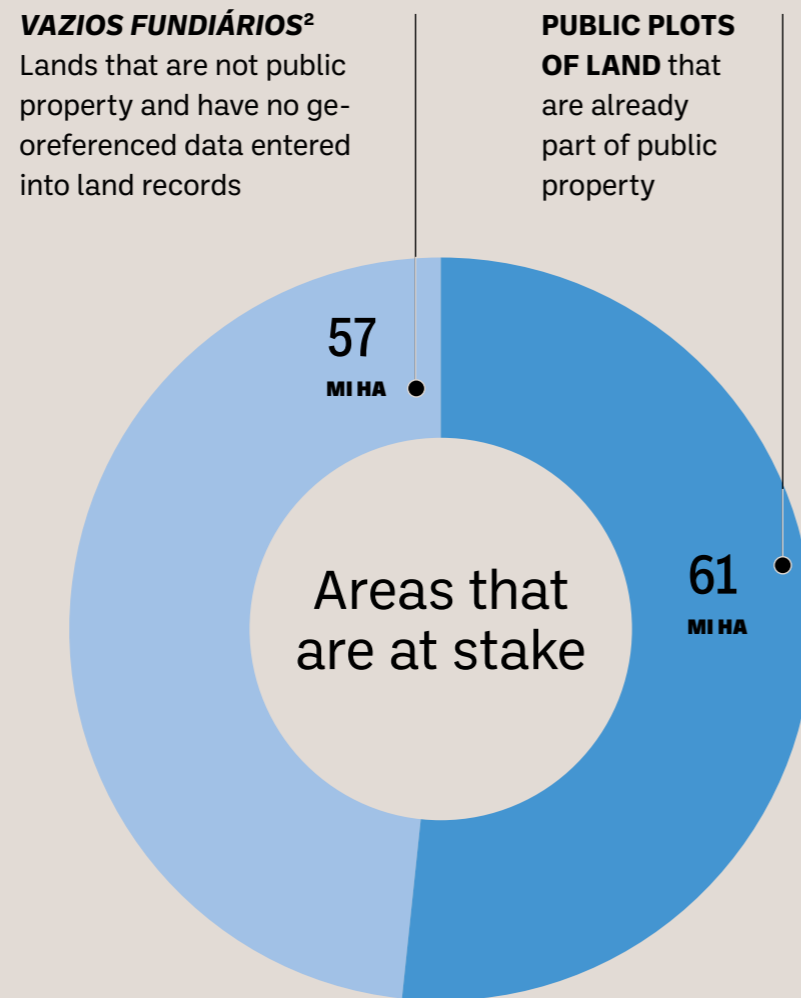
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1. The land challenge in the Amazon



118 million hectares is the total area of undesignated public lands in the Amazon, including areas that the government has not yet acquired¹



The expression *vazios fundiários* only indicates the lack of georeferenced records and does not mean land not occupied by individuals or communities.



¹ In this study, all references to “Amazon” refer to the Legal Amazon, which encompasses the States of Acre, Amapá, Amazonas, Mato Grosso, Pará, Rondônia, Roraima, Tocantins and part of Maranhão. Public lands without defined destination are those that are not included in georeferenced land records. ² These areas represent “vacant public lands” (“*terras devolutas*”), which are public lands that have not yet been properly discriminated and acquired by the government, so that they can then form part of public property and be classified as “public tracts of land” (“*glebas públicas*”). They may also include private properties that have been duly regularized, but have not been updated since 2001 and, therefore, have not been entered in the georeferenced land records. Since these areas do not have georeferenced records, they are also called “*vazios fundiários*”. ³ The Rural Environmental Registry (CAR). ⁴ Areas completely covered by native vegetation. ⁵ Occupancies up to 2,500 hectares existent before July 22, 2008, as established by Law 11,952/2009, as supplemented by Law 13,465/2017. ⁶ Considering the actual price of these lands on the market and that there is no cost to regularize properties smaller than 1 Brazilian rural tax unit, right wick must be kept.

1. AREAS WITHOUT INDICATION OF LAND USE

59.5 million hectares of land that could promptly be designated as protected territories.

Not registered with the CAR
This includes 6.1 million hectares of land that are not registered with CAR³, but have already been deforested. These areas must be recovered, helping Brazil meet its climate goal of recovering 12 million hectares of forests.

Registered with the CAR but with no indication of land use⁴



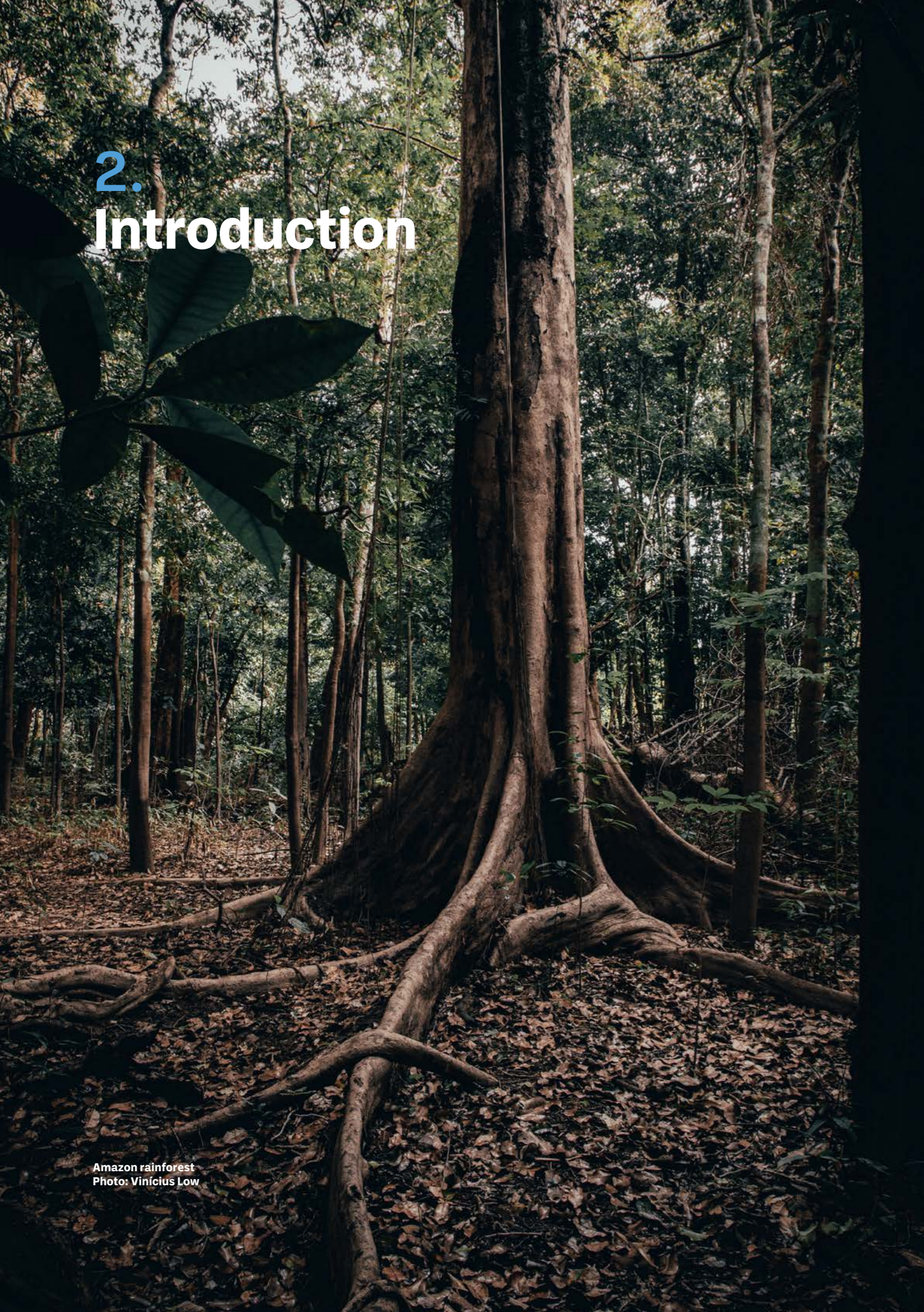
2. AREAS REGISTERED WITH THE CAR

56.4 million hectares of land where land regularization could be evaluated

33.5 MI HA
Refers to small-land occupancy⁵ and areas without recent deforestation, of which 78% are smaller than 100 ha

22.9 MI HA
Require thorough case studies or legislative changes for regularization, since these refer to large occupied areas and/or areas with recent deforestation

The land regularization of 56.4 million ha of land will likely raise to BRL 470 billion for the government⁶. This amount should form a fund to create new protected areas, such as Protected Units, Indigenous Lands, *quilombola*'s and other traditional peoples' and communities' territories.



2. Introduction

Amazon rainforest
Photo: Vinicius Low



⁷ In this study, all references to “Amazon” refer to the Legal Amazon, which encompasses the States of Acre, Amapá, Amazonas, Mato Grosso, Pará, Rondônia, Roraima, Tocantins, and part of Maranhão.

⁸ Both at the Federal government level and at the State government level.

⁹ In georeferenced land records. The georeferenced land records cited in this study are: SIGEF, SNCI, CNFP (National Registry of Public Forests), and all georeferenced land databases of INCRA, FUNAI and MMA. Notice that the CAR is not considered a record with land value. The CAR was considered in this study only as an indication of occupancy of the territory, as it is a self-declaratory record.

¹⁰ Or by occupants’ georeferencing of properties.

¹¹ These areas include “vazios fundiários”, which are public lands not yet properly detailed and acquired by the government, necessary steps for them to be classified as “public tracts of land” (“Glebas públicas”). They may also include private properties duly regularized, but which have not undergone any updating since 2001 and, therefore, have not been entered in the georeferenced land records. Since these areas do not have georeferenced records, they are also called “vazios fundiários”.

¹² The continuous incorporation of land into the market through illegal deforestation, which later is provided as reason for the grant of land titles, is still common practice for occupancy of lands in the Amazon, as discussed in the article “Brasil precisa de lei de responsabilidade fundiária” (“Brazil needs a land responsibility law”), published in the newspaper O Globo, on September 7, 2023.

¹³ On September 5, 2023, the Amazon Day, the federal government enacted Decree No. 11,688, resuming the Technical Chamber for Land Destination and Regularization of Federal Public Rural Lands, under the coordination of the Ministry of Rural Development and Family Farming. The Decree provided (Art. 12, 9th Paragraph) that the allocation of public forests will be restricted to the creation and regularization of Protected Units, the demarcation and regularization of Indigenous Lands, quilombola’s and other peoples’ and traditional communities’ territories, and the grants and other forms of allocation compatible with the sustainable management of public forests.

The land issue in the Amazon is one of the most complex challenges that Brazil needs to face to ensure a successful path toward social justice and environmental protection⁷.

Today, the region has 118 million hectares of public land with no defined destination^{8,9}, of which 61 million hectares are already part of public property, and another 57 million hectares have not even gone through the formal acquisition process by the government¹⁰ (therefore, these lands do not appear in georeferenced land records, and are called *vazios fundiários*¹¹).

This vast extension of undesignated public land, equivalent to a quarter of the Brazilian Amazon, is entirely subject to invasions, deforestation, and violent conflicts. Evidence of this is that half of this area already has irregular occupancies, both on public land and the so-called *vazios fundiários*. The other half of the land will follow the same path if the government does not take any measures.

Thus, both the environment¹², which needs to be protected, and groups in vulnerable situations, such as small family farmers, indigenous peoples, and other traditional peoples and communities, who do not have their rights respected or listed as a priority in discussions and actions to the allocation of land, are adversely affected¹³.

Brazil needs, once and for all, to resolve the land chaos, breaking with the political and economic forces that fuel it. Brazil needs to allocate the 118 million hectares of land in a responsible, democratic, and sustainable way, considering those who need it most and protecting the forests as priorities.

This study proposes that these areas immediately become part of a destination plan, which should, at the same pace and motivation, make land allocations for environmental protection to the collective territories of traditional peoples and communities and for social use of the land. In other words, another area could be released for land regularization for each protected hectare of land, focusing mainly on vulnerable people. Therefore, this would end undesigned areas in the Amazon while pursuing environmental and social goals.

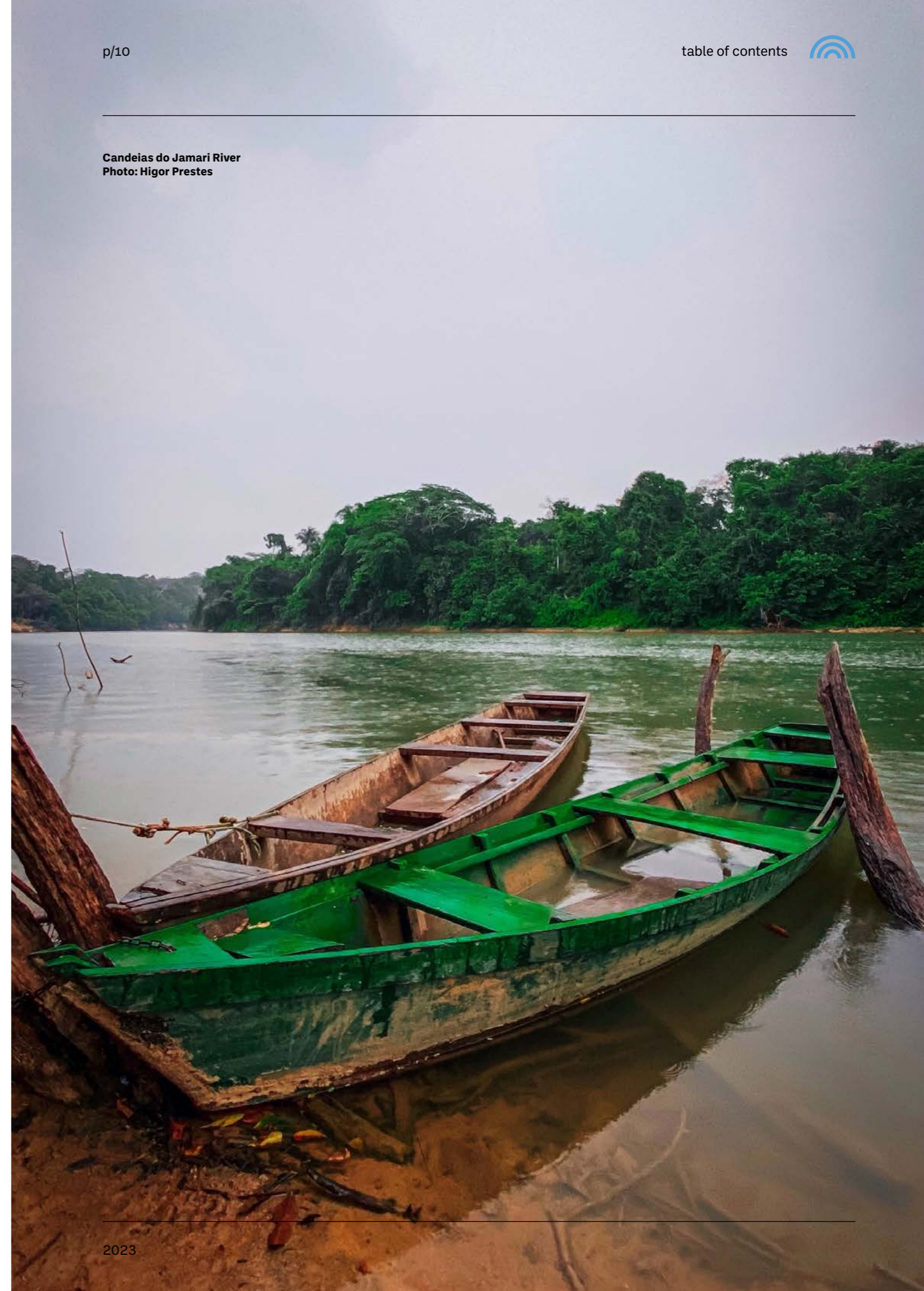
Given the strength of political and economic interests that benefit from the lack of definition regarding the use of these public lands – whether because they profit from the land-grabbing industry or exchange property titles for votes – a New Land Tenure Policy must be created, grounded on a significant political agreement.

The government must establish new regulations, conditions, incentives, and punishments so the land allocation procedures are carried out properly since the current regulations, which are continuously amended – no matter which government, have not yet been able to tackle the issue definitively.

This study contributes in this respect, bringing essential information such as a complete picture of the areas at stake, which is not always noticed, and encouraging new ways of thinking about policies to tackle the issue. The task is not simple, but effort and boldness are critical to changing the story in the Amazon.



Candeias do Jamari River
Photo: Higor Prestes





3.

Allocation of public lands in the Amazon

Amazon rainforest
Photo: Mariusz Prusaczyk

In the Amazon, of the 118 million hectares of public land without destination¹⁴, around half of the area, or 59.5 million hectares, could be preliminarily directed for environmental protection by creating protected areas, such as Conservation Units and collective territories¹⁵.

Within this extensive land, most areas are not registered with the Rural Environmental Registry (CAR) – which would otherwise indicate interest in them – and not deforested – which, if they were, would indicate the physical occupancy of the territory. This is a significant area where protection efforts could be concentrated, preventing the spread of land-grabbing¹⁶.

Within this area, 4.9 million hectares of land are registered with the CAR but do not indicate land use¹⁷. Therefore, the cancellation of the land registrations should be evaluated. Another 6.1 million hectares of land have already been deforested and should be reforested to help Brazil recover 12 million hectares of forests by 2030¹⁸.

¹⁴

In georeferenced land records.

¹⁵

See previous footnote (13).

¹⁶

These are possible reviews using remote sensing data. Destination actions must always verify whether or not the areas are actually occupied and ensure that the rights of potential occupiers are respected. Destination for protected areas may also be compatible with occupancy by traditional peoples and communities.

¹⁷

CAR areas in Public Tracts of Land or *Vazios Fundiários* that did not present any anthropogenic pixel until 2021, according to data from Mapbiomas Collection 7.0.

¹⁸

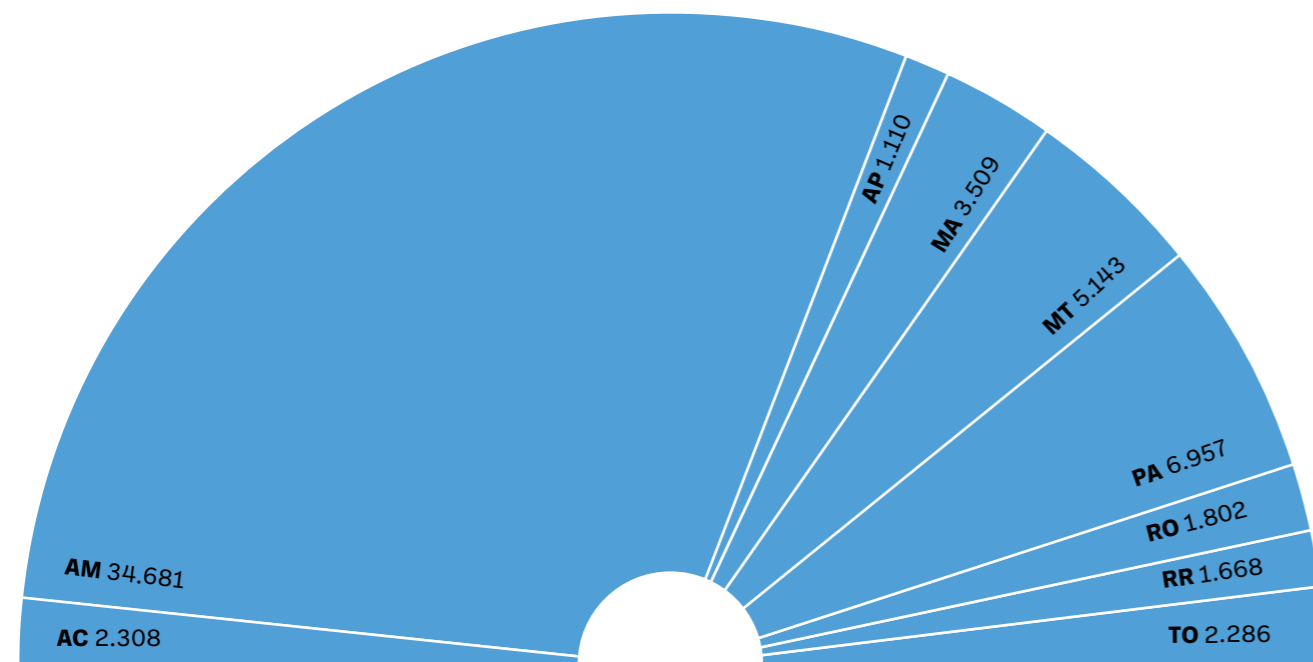
According to the study by Instituto Escolhas, “[The good fruits from forest recovery: from investment to benefits](#)”, forest recovery can generate 5.2 million new jobs and produce 156 million tons of food.



Table I.

Areas on public lands not yet designated in the Amazon that could be destined for environmental protection and collective territories

(THOUSAND HECTARES)



State/Category	Area not registered with CAR	Area registered with the CAR, but without other indication of use ¹⁹	Total area for environmental protection
AC	2,141	167	2,308
AM	32,328	2,353	34,681
AP	918	192	1,110
MA	3,224	285	3,509
MT	4,765	378	5,143
PA	6,195	762	6,957
RO	1,737	65	1,802
RR	1,168	500	1,668
Total	54,528 54.5 million hectares	4,940 4.9 million hectares	59,468 59.5 million hectares

Source Instituto Escolhas

Area not registered with CAR

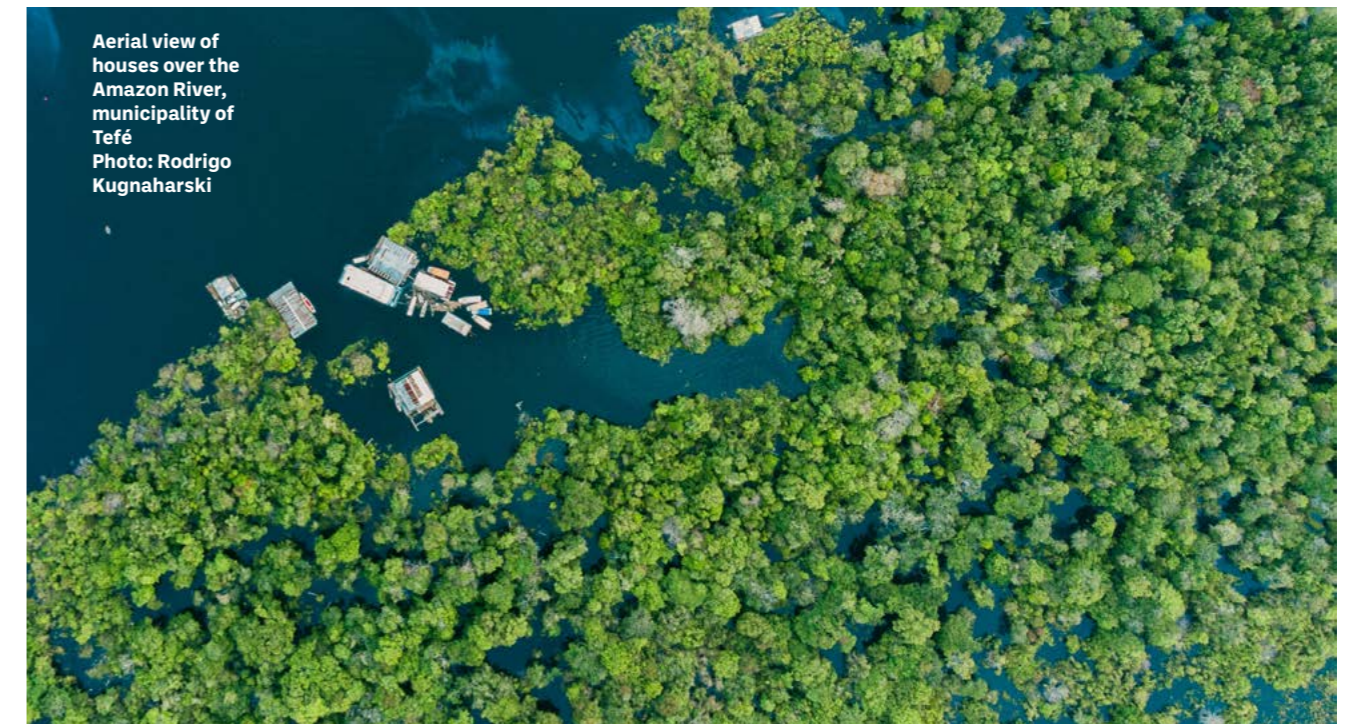
54.5
million hectares

Area registered with the CAR, but without other indication of use

4.9
million hectares

Total area for environmental protection

59.5
million hectares



On the other hand, the other half of the 118 million hectares of public lands without a defined destination is already occupied by CAR-registered areas. Therefore, the allocation for social use of land and land regularization could be evaluated in this area.

Most of these occupancies, which total 33.5 million hectares, have been deforested before 2008 and are smaller than 2,500 hectares. That is, they would meet these two criteria of the current laws on land regularization in the Amazon²⁰. Therefore, they could be reviewed for this purpose preliminarily.

Another 22.9 million hectares of land have been deforested after 2008, or the areas are more extensive than 2,500 hectares, or both. In this case, the reviews for the likely allocation of lands for social use of land and land regularization would require thorough case studies and potential changes to legislation.

¹⁹ CAR Area on public tracts of land or vazios fundiários that did not present any anthropized area per pixel until 2021, according to data from MapBiomias Collection 7.0.

²⁰ Law 11952/2009 provides for land regularization in the Legal Amazon. It was amended by Law 13465/2017. According to it, occupancies of lands of up to 2,500 hectares before July 22, 2008 are entitled to land regularization at a cost for properties above 1 Brazilian rural tax unit and free of charge for properties smaller than 1 Brazilian rural tax unit.



Table 02

Areas on public land not yet allocated in the Amazon where land regularization could be evaluated.

²¹
All reported areas were calculated after eliminating overlaps between areas registered in the CAR database.

Source Instituto Escolhas

Areas registered in the CAR and indication of use on public lands not yet allocated in the Amazon by State (THOUSAND HECTARES)²¹

Status	Areas deforested before 2008 and smaller than 2,500 hectares		Areas deforested after 2008 and smaller than 2,500 hectares		Areas larger than 2,500 hectares that have been deforested, or not, after 2008	
	Public Plots of land	Vazios Fundiários	Public Plots of land	Vazios Fundiários	Public Plots of land	Vazios Fundiários
AC	302	530	57	44	181	693
AM	1,527	610	266	50	6,682	5,098
AP	166	33	5	1	59	12
MA	454	3,024	4	158	43	784
MT	1,335	7,008	35	259	324	2,725
PA	4,652	5,152	285	145	1,040	2,078
RO	2,578	1,509	96	17	111	62
RR	1,312	94	253	5	92	7
TO	563	2,654	85	558	81	490
Total	12,890	20,616	1,088	1,236	8,613	11,951





REVIEW CRITERIA: SIZE OF AREAS AND BEGINNING OF DEFORESTATION



The review of occupancies on public lands not yet designated in the Amazon was based on records of the Rural Environmental Registry (CAR), deforestation and land use data. These occupancies were classified based on the following criteria: size, whether larger or smaller than 2,500 hectares, and the start date of the occupancies, whether before or after 2008. Both requirements are included in the law on Land regularization in the Amazon – Law 11,952/2009, known as the Terra Legal Program Act, and Law 13,465/2017.

TRADITIONAL PEOPLES AND COMMUNITIES AND FAMILY FARMING ARE A PRIORITY



Traditional peoples, communities, and family farming are the most harmed regarding land allocation in the Amazon. On the one hand, they must face attacks, often violent, from those who want to squat their lands and challenge their ways of life. On the other hand, they are invisible and need to fight to join the round table of political discussions and decisions regarding their territories. The spatial review in this study assumes that every land and environmental protection action, program or policy in the Amazon must consider preliminarily traditional peoples and communities and family farming, ensuring that their rights are recognized and respected.



Photo: Terri Butler

a. Classification of Amazon by land categories

The Amazon²² has an area of approximately 500 million hectares. Today, almost a quarter of this area is considered public land without a defined destination (including public plots of land and *vazios fundiários*), which is vulnerable to invasions and deforestation and, therefore, needs to be urgently allocated.

Upon the allocation of 59 million hectares to Conservation Units and collective territories, as proposed in this study, protected areas in the Amazon – between Protection Units, Indigenous Lands and Quilombola Territories – would increase from 171 million hectares to 231 million hectares. The proposed allocation of 56 million hectares of land for social use and land regularization would also increase the number of areas dedicated to settlements, private properties and traditional territories awaiting regularization.

²² In this study, all references to “Amazon” refer to the Legal Amazon, that is, the area comprising the States of Acre, Amapá, Amazonas, Mato Grosso, Pará, Rondônia, Roraima, Tocantins, and part of Maranhão.



Table 03

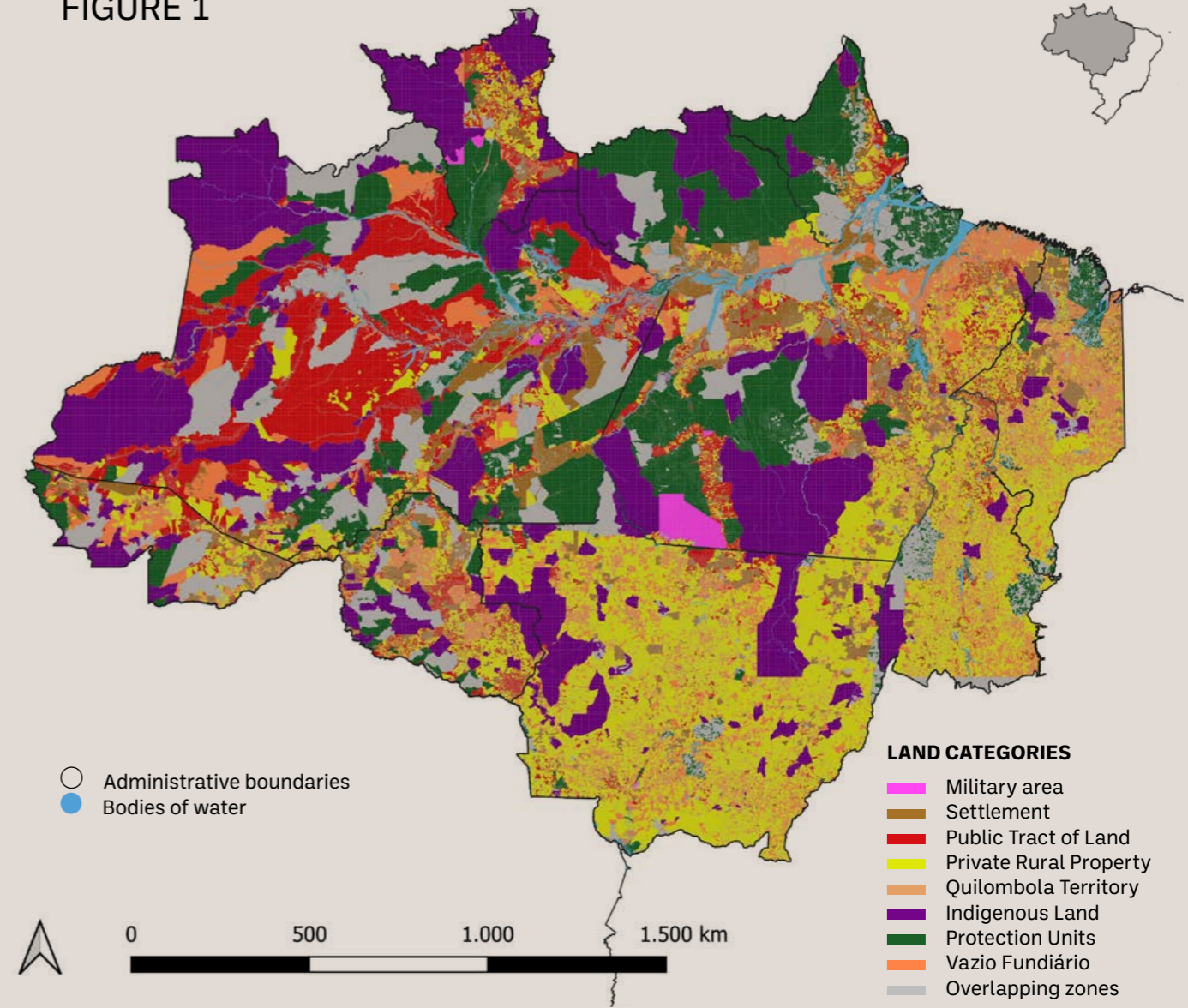
The Amazon by its land categories

Source
Instituto
Escolhas.

Land category	Area (thousand hectares)	% of the Amazon	
Public plots of land	60,873	12.2%	◀▶
Vazios Fundiários	57,083	11.4%	◀▶
Indigenous Lands	102,178	20.4%	◀▶▶
Quilombola Territories	431	0.1%	◆
Protection Units	68,700	13.7%	◀▶
Settlements	30,576	6.1%	◀▶
Military areas	2,616	0.5%	◆
Private properties	111,319	22.2%	◀▶▶
Bodies of water	10,699	2.1%	◀▶
Areas of overlap between categories	56,172	11.2%	◀▶▶
Total Amazon	500,647	100%	

Source: Instituto Escolhas.

FIGURE 1



OVERLAPPING ZONES: PROTECTION OR CONFLICTS

In georeferenced land records, there are many overlapping areas with different land categories. This study found more than 56 million hectares of land in this situation. This may indicate conflicts over land. However, we noticed most of the overlapping zones (47%) are found between settlements and Sustainable Use Protection Units, which is expected since many Protection Units are created to protect traditional peoples and

communities and sustainable ways of life. On the other hand, there are overlapping zones between private properties and Full Protection Conservation Units (5%) and Indigenous Lands (2%), among others, which, in many cases, represent situations of serious land conflict and land-grabbing. Therefore, the Authorities must review and address these cases.



4. A New Land Tenure Policy for the Amazon

Andiroba tree in the Amazon
Photo: Adobestock

Land chaos in Brazil – especially in the Amazon – is a historical problem that government changes or law amendments have not yet resolved. Large areas remain with their use undefined and vulnerable. The old dynamic of occupying public lands, deforesting them, and then claiming the title continues to be the usual practice.

Some people benefit from this situation, either because they profit from the land-grabbing industry or exchange titles for votes, keeping the stock of public lands available for political bargaining. Many people are harmed, as those who need the land to live are not given priority in the political game and have their rights trampled on. If there is no protection, the forest is cut down progressively.

We need a New Land Tenure Policy for the Amazon that can, once and for all, allocate land in a responsible, democratic, and sustainable way, granting priority to those who need it the most and conserving forests.



This implies:

→ **Allocate all public lands** not yet designated, including public plots of land and areas not yet acquired by the government, so they are acknowledged as areas not subject to land-grabbing.



→ **Properly punish land-grabbers** and public agents who fail to act to prevent land-grabbing or encourage or allow land-grabbing.



→ **For each hectare transformed** into a protected area, such as Conservation Units and collective territories, release one hectare for the social use of land and land regularization²³, until the entire stock of public lands is appropriately allocated for any purpose.

→ **With the participation of state governments, carry out a broad process** for the breakdown and acquisition of public lands that are not yet part of public assets (acquisition of “vacant public lands”).

→ **Charge the actual market price for land** in land regularization processes while respecting the right of free access to small properties that cost up to a Brazilian rural tax unit.



→ **Provide priority to traditional peoples and communities,** family farming and sustainable ways of life, considering the most appropriate land categories in land allocation processes.



→ **Create and maintain a fund** with the money raised in land regularization processes to allow new protected areas, such as Conservation Units and collective territories.

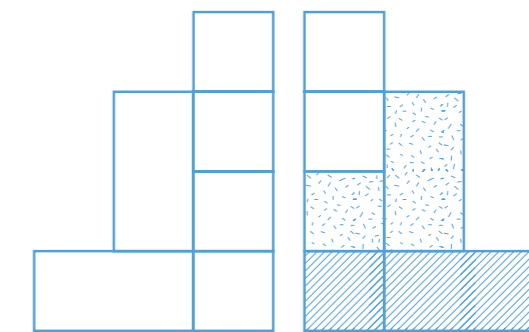
→ **Ensure legal security,** technical tools, and administrative support to allow public agents to allocate lands.

²³ Considering and providing priority to the rights of traditional peoples and communities, family farming and sustainable ways of life and the most appropriate land categories.

ENVIRONMENTAL PROTECTION AND SOCIAL USE OF LAND GO HAND IN HAND

Allocating public lands for environmental conservation and the social use of land and land regularization requires the same ambition and speed. Within a unified program, which looks at these two goals, each hectare of land transformed into a protected area, such as Conservation Units and collective territories, would release the title of one hectare of land.

Environmental Protection



Social use of land and land regularization

RESOURCES FROM LAND REGULARIZATION COULD HELP PROTECT FORESTS

Land regularization policies do not have a fundraising purpose for the government but generate resources from the sale of land to its residents in properties that are more extensive than a Brazilian rural tax unit²⁴. These resources could feed a fund to assist in creating and managing Conservation Units and other protected areas, such as Indigenous Lands, quilombola’s and other traditional peoples’ and communities’ territories. If 56.4 million hectares of land identified as occupancies on public land were regularized, the government could earn up to BRL 470 billion if the land was sold at its actual market value²⁵ (however, this has not happened yet).

²⁴ The regularization of properties smaller than 1 Brazilian rural tax unit has no cost. This is a right that must be kept. According to the data reviewed by this study, only 11% of the area registered with the CAR, in public tracts of land and vazios fundiários, consists of areas smaller than 1 Brazilian rural tax unit.

²⁵ Considering the average value of land in municipalities in the last quarter of 2022, according to data from the “Agrifone” newsletter, of Informa Economics FNP (IEG FNP).

Likely resources if lands were to be sold at the actual market value

BRL **470** billion



Methodological note

This study was carried out based on the review of land categories in the Legal Amazon (public plots of land, *vazios fundiários*, Indigenous Lands²⁶, Conservation Units, Quilombola Territories, settlements, private properties, and military areas). The study processed and crossed data collected from various sources, such as the Brazilian Ministry of Environment and Climate Change (MMA), the Brazilian National Institute of Colonization and Agrarian Reform (Incra), the National Foundation of Indigenous Peoples (Funai), and the Brazilian National Registry of Public Forests (CNPFP).



The land categories were reviewed based on records from the Rural Environmental Registry (CAR), deforestation data from PRODES and the MapBiomias Collection 7.0 for land use, collected in November 2022. The details of the methodology are available in the technical report “Subsídios para a formulação e tomadas de decisão em políticas públicas” (Territorial Planning in the Legal Amazon: Inputs for resolutions and decision-making in public policies), available on the Instituto Escolhas website.

This study is also available in an abridged version [here](#).

To learn more about the methodology, please [click here](#) and read the technical research report (Portuguese only).

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²⁶

The study considered approved and non-approved Indigenous Lands.

Realization



Technical Execution



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