



Broken Promises –

Bleak Future

**Are indigenous peoples and the Amazon paying the price
for the world's appetite for natural resources?**



**SOCIETY FOR
THREATENED
PEOPLES**



The **Society for Threatened Peoples (STP)** is an international human rights organisation working for the protection of persecuted minorities and indigenous peoples. The STP documents human rights violations, raises public awareness and represents the interests of the affected communities before the authorities and policy-makers. It supports local initiatives aimed at strengthening the human rights of minorities and indigenous peoples, working nationally and internationally with other organisations and individuals pursuing similar goals. The STP has consultative status at both the United Nations Economic and Social Council (ECOSOC) and the Council of Europe.

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Glossary

ANA	Agência Nacional de Águas	Government water agency
ANEEL	Agência Nacional de Energia Elétrica	Brazilian electricity agency
CII	Coordenadoria de Índios Isolados	Office of coordination for isolated
CGIIRC	Coordenadoria Geral de Índios Isolados e Recém Contatados	indigenous peoples General office of coordination for isolated
CIMI	Conselho Indigenista Missionário	and recently contacted peoples Mission council for indigenous peoples
Eletrobrás	Eletrobrás	Brazil's main energy supplier
FUNAI	Fundação Nacional do Índio	National Foundation of Indigenous Peoples
IBAMA	Instituto Brasileiro do meio Ambiente e dos Recursos Naturais Renováveis	Brazilian environmental agency
ISA	Instituto Socioambiental	Brazilian NGO, that deals with indigenous peoples in Brazil
IIRSA	Integración de la Infraestructura Regional en América del Sur	Initiative for regional infrastructure integration in South America
Nesa	Norte Energia S.A.	Brazilian consortium of eight companies, concessionaries of Belo Monte
OEA	Organização dos Estados Americanos	Organization of American Countries
PAC	Programa de Aceleração do Crescimento	The national program to accelerate growth
REED	Reducing Emissions from Deforestation and Degradation	Reducing Emissions from Deforestation and Degradation
RIMA	Relatório de Impacto Ambiental	Report/Analysis – concerning impacts on the environment
SPI	Serviço de Proteção ao Índio	Service for the protection of indigenous peoples
TI	Terra Indígena	Indigenous reservation
UHE	Usina Hidroelétrica	Hydroelectric power plant

Preface

For centuries, the indigenous peoples of Brazil – as in many other countries – have experienced oppression, exploitation and displacement, and sometimes even the extermination of entire communities and peoples, as well as the destruction of their cultural identity. In recent decades, however, hopes have risen for a better future in the direction of self-determination on various occasions: On 14 April 1961, the largest park for the Kayapo Indigenous, called the Xingu National Park (Parque Indígena do Xingu), was created. In a formative phase, after overcoming decades of military dictatorship, in 1988, Brazil gave the indigenous peoples significantly more rights through the adoption of the new Constitution and also gave them land rights in terms of the demarcation of their traditional habitats – a milestone in indigenous policy in Brazil. As a result, more than 20 percent of the Amazon region was demarcated. In 2002, Brazil ratified the indigenous convention ILO 169 and thus committed itself to the recognition of indigenous rights provided for by this convention. In September 2007, Brazil finally agreed to support the most comprehensive body of legislation on an international level, the Declaration of the Rights of Indigenous Peoples of the United Nations, and thereby agreed to fully realize the rights of indigenous peoples.

These hopes proved to be false: the Brazilian government has been slowing down the demarcation process in recent years and thus also ignoring a key element of the rights guaranteed by the Constitution. In the Amazon rainforest, one dam after another is being authorized, without obtaining the consent of the indigenous peoples affected. The constitutionally guaranteed consultation of the indigenous people is developing into a fig leaf for the rapid implementation of projects by economically questionable companies. In the fight against poverty - and in the interests of business and land owners - the government wants to transform the species-rich Amazon that is also the origin and home of many indigenous peoples, into a huge industrial center, which will have substantial impacts on the indigenous peoples, biodiversity and the local and global climate.

Brazil's economic development over the past two decades has been impressive. The Brazilian government has euphoric plans to convert almost every patch of their vast land into agricultural areas, to extract every mineral out of the ground, to turn as many rivers into electricity producers as possible and to transform every piece of forest, which should be protected, into hard cash in the carbon market. This, paradoxically, leads to the destruction of what we actually want to protect: the habitat of the Amazon.

Economic progress must not come at the expense of the indigenous population who has been using this land in a sustainable manner for thousands of years before the country was colonized and was named Brazil. It must not be at the expense of the largest rainforest and thereby fuel global warming. Brazil has become powerful, and must thus take on more responsibility: Economic development must be promoted in accordance with the needs of the affected population and the environment.

The Society for Threatened Peoples sees the concept of free, prior and informed consent (FPIC) of affected indigenous peoples, which is supported by international law, as an effective tool to reduce or even solve conflicts over land ownership, land use and self-determination. It suggests that all projects that affect the lives of indigenous people should be negotiated with those people and that those people's consent should be sought. This would result in damage-decreasing

measures being discussed and implemented and in compensations and benefit sharing agreement being negotiated. It would mean that the people who had been previously affected by the damage would now have a share in the benefits.

It also means, however, that the state would be willing to accept a possible “no” from the affected people. Brazil is still far from reaching this point. With this report, the STP would like to show how disastrous the current trend is, how it is affecting the indigenous peoples of the Amazon and why it is important that the rights of indigenous peoples are implemented. The STP also proposes measures as to how Brazil could implement these rights.

Brazil could thereby demonstrate that economic development and the rights of the affected peoples are definitely compatible, and take a big step towards more advanced policies, which are consistent with human rights.

Bern, June 2012

Christoph Wiedmer

Director

Society for Threatened Peoples

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1. Introduction

Growth is the magic formula, which the Brazilian government has been using to develop the land for years. Since the introduction of the export-oriented growth model, in 2003, during the term of former President Luiz Inacio Lula da Silva, the country's economic performance has nearly doubled. In recent years, 40 million Brazilians have risen to the middle class; approximately 20 million managed to escape from absolute poverty.

An enormous price is being paid for such growth: The environmental problems are increasing. The victims are the indigenous peoples in particular; disease, enslavement, dispossession of their land; deforestation and exploitation of natural resources have been threatening their lives since the colonization of the continent. Many indigenous communities have disappeared, in whole or in part, over time or have retreated into the depths of the rainforest. Today, 817'000 indigenous people are living in Brazil, which is less than half a percent of the total population. Many of the traditional habitats or refuges are being exploited and destroyed with or without the permission of the competent authorities.

The Brazilian development program called the Program for the Acceleration of Growth (PAC), which was developed by the Brazilian government to combat poverty, includes huge infrastructure projects. New dams are being planned, and there is an enormous increase in the use of natural resources, crude oil and natural gas and in the construction of roads. In addition, projects in the field of urban and social infrastructure are planned all over Brazil.

Now, this development has taken on a new dimension: Since 2011, the controversial Belo Monte and Teles Pires dams are being built in the state of Pará. There are plans for up to 258 more dams in the Amazon region¹.

Not only hydroelectric power plants have had devastating consequences for the local people, especially the indigenous people, and their environment. The appetite for natural resources, driven by a strong demand in the so-called developed countries and in the emerging markets has raised the prices of natural resources. Now, it is worth mining natural resources even in the most distant regions. Hundreds of requests for mineral drilling have already been submitted, and the Ministry of Mining has already approved some. Some of these permits have even been issued in indigenous reserves, which remain illegal to this day. This has all happened without the knowledge or consent of the indigenous people, who are the legitimate users of these areas. New settlements and arable land for farming are spreading. Vast areas in the Amazon forest are being burned and being used as soy plantations and grasslands for cattle. The Xikrin people on the Catete River, for example, are completely surrounded by intensively used agricultural areas.

The development of Brazilian legislation is also a cause for concern. Although Brazil took a major step toward modern indigenous protection with the 1988 Constitution, since then, Parliament has dismantled the indigenous peoples' human rights protection and their habitat. An example is the new forest law, which will result in a massive increase in deforestation and provide amnesty for forest lawbreakers. The PL 1610/1996 bill for the regulation of the demarcation of indigenous reserves is extremely worrying. If this bill is accepted, it would open the doors to the commercial extraction of natural resources in indigenous reserves. According to the Brazilian non-governmental organization Socioambiental (ISA), 1,338 drilling permits were issued in the reserves by the year 2010. 10,348 such requests are being processed, although the law has not yet been adopted (see Mining Act)².

1 Movimento dos Atingidos por Barragens (2008): Hidrelétricas no Rio Madeira: Energia para qué? E para quem?,

http://www.mabnacional.org.br/publicacoes/cartilha_riomadeira_miolo_2ed.pdf, page 7,

2 Veríssimo, Adalberto et al. (2011): Protected Areas in the Brazilian Amazon,

In addition to these legislative developments, the real policy of the government is clearly against the interests of indigenous peoples and is having a devastating effect on the protection of their habitat. Invasions by settlers, poachers and gold washers are not being stopped. In many conflict zones, the state is not present. New indigenous reserves are hardly being designated. The violence against indigenous people is alarmingly high.

Brazil can be proud of the cultural diversity that has formed in this vast country. This includes the rare indigenous peoples who live completely without contact to other groups or in voluntary isolation. Unaffected by the "outside world" a thousand year old culture has developed among them that must be protected at all costs. Since these communities are particularly vulnerable, they deserve particular attention.

Brazil has not only committed itself to the fight against poverty. By ratifying the International Labour Organization (ILO) 169 Convention and by agreeing to the UN Declaration on the Rights of Indigenous Peoples, Brazil is also obliged to protect indigenous peoples. These concessions must now be followed by action. The protection of the indigenous population must be developed further, the allocated territory must be accounted for in full and the participation of the indigenous population must be guaranteed.

The Society for Threatened Peoples (STP) presents a concept in this report that could help resolve many conflicts: indigenous peoples' right to free, prior and informed and consent regarding all third party activities that affect them or their lifestyle.

2. General Information

Brazil is the world's fifth largest country and has an area of 8,511,950 km². The great ethnic diversity was created by mixing the original indigenous population of Brazil with Portuguese settlers during colonization, the deportation of African slaves, and later immigrants from Europe and the Middle East and Asia. According to the official statistics of FUNAI approximately 817,000 indigenous people remain. This corresponds to approximately 0.4 percent of the total population. They live in communities in the reserves and in cities. In Brazil, 643 indigenous reserves were demarcated by the year 2011, which occupy a total area of 1,154,999km², nearly 28 times the size of Switzerland³.

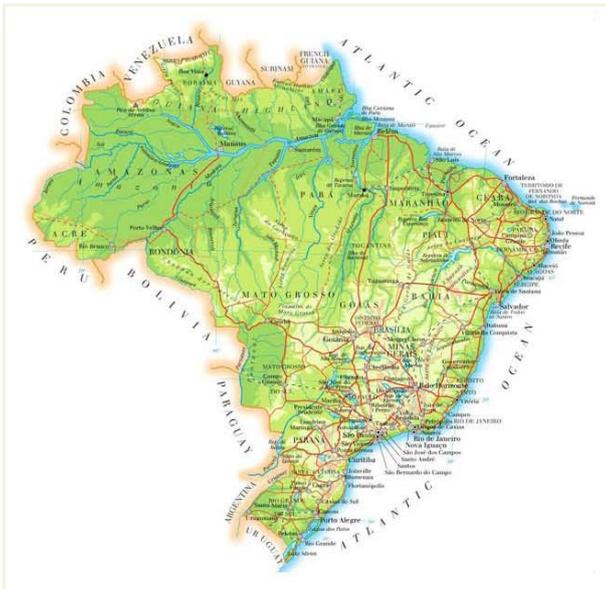


Figure 1: Brazil (Source: Amazonplc⁴)

In the 16th Century, during the Portuguese colonization, an estimated 1,000 indigenous communities were still living and between one and ten million indigenous

3 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 13

4 Source: <http://www.amazonplc.com/About-us/brazil/default.aspx>

people in all of Brazil. Violent conflicts, targeted killings, disease, slavery, the rubber boom and discrimination had reduced that number massively. The indigenous population is growing for the first time in 28 years. Now, the new economic development projects again threaten the existence of indigenous peoples.

The Brazilian Amazon covers an area of 4,200,000 km², which means it makes up half of the country⁵. Of this area, approximately 43 percent is under protection: 49.4 percent are nature conservation and 50.6 percent are indigenous reserves. These protected areas are increasingly suffering attacks due to poor management and inadequate supervision by the government.



Figure 2: Locating the Amazon (Source: Imazon⁶)

5 Also known as „Amazonien“ - in Brazil this area is also known as Amazônia Legal. In this report the words Amazon and Amazon region are used as synonyms.

6 Source: <http://www.imazon.org.br/mapas/amazonia-legal/view>

3. Legal Basis of Indigenous Policy

3.1 The Brazilian Constitution and the Indigenous Statute

After overcoming the military dictatorship, the Brazilian government received a new constitution on 5 October 1988. In addition to advanced elements of a modern human rights policy the new constitution contains progressive sections on the rights of indigenous peoples. Paragraphs 231 and 232 divide the indigenous population into three groups: integrated, partially integrated and isolated indigenous communities. The Constitution refers to the protection of indigenous communities and their traditional life. In addition, they form the basis for the creation of indigenous reserves. With respect to the isolated indigenous the Constitution has also improved, because they will no longer be contacted, per se, but their voluntary isolation is respected.

Parallel to the progressive constitution, the outdated Indigenous statute from 1973 is still in force, which reflects the principle of the Civil Code of 1916. The statute, which seems backward to present beliefs, no longer meets the provisions of the Constitution and the demands of indigenous peoples. A constitutional revision, however, has been being blocked for some time in Parliament. The old Indigenous statute was written under the military dictatorship and declared the indigenous people „relatively incapable“ to exercise their rights, which is in violation of various international and national guidelines.

Furthermore, Article 1 of the statute declares that the indigenous population should be integrated in a harmonious and progressive manner into Brazilian society⁷.

The Constitution of 1988, however, gives the indigenous peoples cultural autonomy and explicitly contradicts the statute. This has created a confusing national judicial system at the expense of the affected communities.

The legal basis for the protection of isolated indigenous peoples is provided in principle, but there is a lack of implementation. Article 231 of the Brazilian Constitution allows a demarcation of the territories of isolated indigenous peoples, without previously having direct contact with them. Previously, the Brazilian government had recognized an indigenous group and their territory only if the community had been contacted and a census was carried out. Today, if strong evidence is found that isolated indigenous people are living in a region, the demarcation process is initiated and implemented by the staff of the Indigenous Protection Agency FUNAI. The gathering of evidence and traces that suggest that a specific area is used by indigenous peoples can take several years. At the same time, strategic points such as along the rivers are established by FUNAI to serve as special monitoring posts in order to protect the habitat of the isolated indigenous peoples from the entry of unauthorized persons.

⁷ Translation from Portuguese: Art.1º Esta Lei regula a situação jurídica dos índio ou silvícolas e das comunidades indígenas, com o propósito de preservar a sua cultura e integrá-los, progressiva e harmonicamente, à comunhão nacional – FUNAI: LEI Nº 6.001 - DE 19 DE DEZEMBRO DE 1973, http://www.funai.gov.br/quem/legislacao/estatuto_indio.html

3.2 The Supreme Federal Court

The Supreme Federal Court (Supremo Tribunal Federal, STF) is responsible, among other things, for constitutional issues and also deals with decisions that affect indigenous peoples. An important decision, which positively and negatively affected indigenous peoples, was made on 19 March 2009. The indigenous peoples of the Raposa do Sol area fought for years for the demarcation and exclusive use of their territory. The former President Luiz Inacio Lula da Silva awarded their territory the status of indigenous reserve in 2005, but a group of rice farmers fought against the decision by submitting an application to the Supreme Court and demanding the abolition of the legal recognition of the territory by the government. The court rejected the claim of the rice farmers and gave the indigenous peoples the exclusive right to use the reserves, but at the same time made clear, that national sovereignty and public interest are above the law. In the case of military facilities, health or educational institutions, road construction, dams or other alternative methods of electricity production and mining, the Parliament must decide whether or not such projects may be carried out in the reserves. Currently, a bill has been presented at the committee hearing, that should settle this decision legally. Although the law intends to consult the indigenous peoples, it does not guarantee their right to codetermination.

3.3 The Indigenous Protection Agency FUNAI

The National Indigenous Foundation (Fundação Nacional do Índio, FUNAI) is a national organization to protect and support the indigenous people in Brazil. Its headquarters is in Brasília and it is under the control of the Ministry of Justice. Prior to the new constitution, the main objective of this organization was the integration of indigenous peoples into mainstream society. In the meantime, FUNAI has set up, among other things, a coordination unit (CII) for peoples living

in voluntary isolation and a separate department for isolated and recently contacted peoples (CGIIRC). The main task of the CGIIRC is to locate the isolated indigenous peoples, without, however, making contact with them.

Today, FUNAI is responsible for the implementation of all measures in favor of the indigenous community in Brazil and must ensure that the laws, the Constitution and the outdated Indigenous statute are respected. Since the end of 2009, FUNAI no longer acts as a direct guardian to the indigenous peoples, but they have the competences to protect the indigenous peoples on behalf of the government and to guarantee their rights. Furthermore, FUNAI must inform the indigenous peoples about projects that affect them and find a common solution to possible conflicts. According to the indigenous people, the main problem is that this task is often inadequately performed⁸.

A central task of the authorities is the demarcation of borders and the enforcement of indigenous reserves. Demarcation - the process of transforming the traditional area used by indigenous communities into indigenous reserves - takes place in Brazil following several required legal steps:

- 1. Identification:** A FUNAI working group identifies the region that is claimed by the indigenous peoples. The president of FUNAI must then confirm the resulting report. The president of FUNAI then publishes a summary and forwards this report to the Ministry of Justice.
- 2. Disclosure:** The justice department announces, after receiving the transaction, the size of the indigenous territory within 30 days.
- 3. Demarcation:** Then, the actual surveying and demarcation of indigenous territories takes place.

⁸ Ricardo, Beto / Ricardo, Fany (2011): Povos Indígenas No Brasil 2006/2010, Instituto Socioambiental: São Paulo, page 92

4. Approval: The President of the Republic confirms the demarcation with his or her signature.

5. Registry in the Land Register: Following approval by the President, the indigenous territory is officially registered in a registry⁹.

The whole process can drag on endlessly if the non-indigenous population raises an objection. Another problem is that in many indigenous reserves mines are being illegally exploited, forest is being cleared and gold is being mined although FUNAI is responsible for the protection of the boundaries of the demarcated areas and to prevent such activities. As a result, FUNAI often appears in a bad light. Although many employees of FUNAI make an outstanding commitment to the indigenous peoples, FUNAI has increasingly become an instrument of the government to enforce its development policy upon the indigenous population. It is not an indigenous institution. Thus, for example Megaron Txucarramãe¹⁰, a chief of the Kayapo in the Xingu region, who worked as regional coordinator for FUNAI, was dismissed because of his opposition to the Belo Monte Dam¹¹.

FUNAI enjoys less and less trust among the indigenous communities. Thus, the communities have, for some time, been demanding a national indigenous organization in which they can assume leadership and decision-making themselves and stand up for their own rights.

9 ISA: Demarcation Process, <http://pib.socioambiental.org/en/c/terras-indigenas/demarcacoes/como-e-feita-a-demarcacao-hoje>

10 Megaron Txucarramãe is the chief of the Kayapo tribe and one of the most important indigenous leaders in Brazil. He is the indigenous chief Raoni's nephew, who, with the singer Sting's support, started an international campaign against the Belo Monte dam 20 years ago. In 1982 he became the first indigenous president of FUNAI.

11 Plattform Belo Monte (01.12.2011): Indigenous people occupy Fuani and demand the return of Kazike Megaron, <http://plattformbelomonte.blogspot.com/2011/12/indios-besetzen-nach-entlassung-von.html>

3.4 International Law

3.4.1 Overview

For decades, the indigenous peoples have fought for the recognition of their rights. Their key demands are:

- The right to self-determination
- The right to their land
- The right to use their land and resources themselves or to be able to control others' use

While the rights of indigenous peoples are hardly guaranteed extensively in any country, legal developments are making progress on an international level, which is illustrated in the following subsections. Thus, to date, 22 countries have ratified the indigenous convention ILO 169 from the International Labour Organization. In addition, in 2007, the General Assembly of the United Nations adopted the Declaration on the Rights of Indigenous Peoples. In February 2012, the UN created guidelines for dealing with isolated peoples. They emphasize that the land of the isolated peoples is inviolable and that no rights to resource exploitation may be granted on their territory. The Brazilian government, as in most other countries, has much catching up to do in the enforcement of these obligations.

3.4.2 Declaration on the Rights of Indigenous Peoples

On 13 September 2007, the United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples (UNDRIP¹²). Brazil agreed to the declaration, which, among other things, calls for a universal framework of minimum standards in the areas of survival, dignity, welfare and rights of indigenous

¹² UNDRIP = United Nations Declaration on the Rights of Indigenous Peoples

peoples. Now, Brazil should include these obligations in the Brazilian legislation.

The Declaration explicitly guarantees indigenous peoples both collective and individual human rights. Articles 3 and 4 (see Appendix) are based on the self-determination of indigenous peoples and Article 8 states that their culture and way of life must be respected.

3.4.3 ILO Convention 169

The ILO Convention 169 is the only international legally binding standard that guarantees the protection of indigenous peoples and entitles them to a number of fundamental rights. This convention came into force on 5 September 1991. Brazil signed it on 25 July 2002 and is thus obliged to incorporate and enforce the 44 basic rights of indigenous peoples in their national laws¹³.

In terms of infrastructure projects and economic projects in Brazil, articles 6, 7 and 15 set out a framework for how the government should deal with the indigenous peoples in order to include them in the plans.

On 2 March 2012, the Commission of Experts of the ILO published a report on the implementation of this convention¹⁴, in which it asked Brazil "to take the necessary measures to carry out consultations with indigenous peoples concerned pursuant to Article 6 and Article 15 of Convention 169 for the construction of the Belo Monte hydroelectric plant, before potential adverse impacts of this project are irreversible and to work together in consultation with indigenous peoples to determine whether the priorities of indigenous peoples are being respected. In addition, the Brazilian government should plan measures to mitigate risks and properly compensate the affected people¹⁵."

¹³ ILO (2011): Convention Nr. C169, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C169>

¹⁴ ILO (2012): Informe de la Comisión de Expertos en Aplicación de Convenios y Recomendaciones, <http://www.politicaspUBLICAS.net/panel/images/stories/docs/2012-informe-ceacr-oit-pueblos-indigenas.pdf>

¹⁵ In Plattform Belo Monte (05.03.2012): Belo Monte verletzt die ILO-Konvention 169,

The Inter-American Commission on Human Rights of the Organization of American States (IACHR) has also criticized the Brazilian government due to its non-compliance with the ILO Convention 169 because of the power plant in Belo Monte. Brazil reacted angrily and suspended their financial contribution to the Organization of American States. At the regional level, the ILO Convention, however, appears to have wider support: Lawyers in the State of Pará, for example, have repeatedly filed complaints against the approval process of the dams and drawn attention to the lack of implementation of Convention 169.

3.4.4 Free, Prior and Informed Consent - FPIC

A key instrument for enforcing the rights of indigenous people is free, prior and informed consent (FPIC). If a third party intends to become active in the territory of indigenous peoples, they must seek the consent of the affected population. In addition, serious negotiations on the proposed project must be conducted in advance. With the help of this concept, damage reducing measures, compensation for the damage and profit sharing can be negotiated. FPIC thus provides an opportunity for sustainable development for the affected population. Industrial or infrastructure projects must thus make a greater contribution to local, sustainable development, if they want to have the chance of gaining the consent of the affected population.

Before the construction of the hydroelectric plants Belo Monte and Teles Pires as well as most other construction projects in the Amazon, the indigenous people on the ground were not at all or insufficiently informed about the projects and were not involved in their implementation. Article 10 of the UN General Assembly resolution 61/295, which was approved by Brazil states that:

"Indigenous peoples may not be forcibly removed from their lands or territories. A relocation may only be voluntary and take place with the prior consent of the indigenous peoples concerned with knowledge of the facts issued and after agreement on a just and fair compensation, and an option to revoke such decisions must exist¹⁶."

The president of FUNAI Márcio Meira is responsible for dealing with indigenous peoples in all projects that affect them. He testified at a meeting with representatives of indigenous peoples about the Belo Monte hydroelectric plant that the FUNAI did not know how to carry out such consultations and involvement of indigenous people¹⁷.

http://plattformbelomonte.blogspot.com/2012_03_01_archive.html

16 UN: Resolution ohne Überweisung an einen Hauptausschuss, [www.un.org/esa/socdev/unpfii/documents/Declaration\(German\).pdf](http://www.un.org/esa/socdev/unpfii/documents/Declaration(German).pdf), page 16-25

17 Xingu Vivo: Problemas continuam sem respostas após reunião com presidência da Funai, dizem indígenas (26.01.2012) : <http://www.xinguvivo.org.br/2012/01/26/problemas-continuas-sem-respostas-apos-reuniao-com-presidencia-da-funai-dizem-indigenas/>

The Society for Threatened Peoples has been working intensively on the implementation of the FPIC concept. In a study on the use of FPIC in the Congo Basin, the STP reached the following conclusions:

- FPIC is applicable to all projects that affect indigenous populations and their habitat.
- All relevant information must be disclosed prior to the activity.
- The information must be prepared so that it is objective, can be conveyed transparently and is understood by the indigenous communities.
- A wide consultation is to be carried out, which takes all affected groups into consideration.
- In the negotiations, no pressure or manipulation may be exercised against those affected.
- Those affected have the right to say "yes".
- Those affected have the right to ask "how?" and to negotiate until they reach an agreement.
- Those affected also have the right to say "no".

Key aspects of the negotiations are: damage prevention measures, protection measures, compensation for damages and benefit sharing.

- At the end of negotiations, those affected decide whether or not they give their consent.
- FPIC is not a one-time consent, but must be further negotiated throughout the entire project. In particular, the flow of information must be guaranteed along with the constant involvement of indigenous communities. If new information arises, or if any information turns out to be incorrect, communities can withdraw their consent and back out again¹⁸.

¹⁸ Lewis, Jerome et al. (2008): Free, Prior and Informed Consent and Sustainable Forest Management in the Congo Basin, http://assets.gfbv.ch/downloads/fpic_congo_report_english.pdf

4. Indigenous Peoples in the Amazon

4.1 Indigenous Peoples

According to the 2010 census, conducted by the Brazilian Institute for Geography and Statistics (IGBE), there are 817,000 indigenous people in Brazil, of which 315,000 live in the countryside and 502,000 in the cities. Approximately 13 percent of Brazil's total area has been demarcated for the indigenous population. Most indigenous people live in the Amazon Basin, which includes the states of Amazonas, Acre, Amapá, Pará, Rodônia, Roraima, Tocantins, Mato Grosso and part of Maranhão.

The indigenous population in Brazil is most affected by poverty. Poverty and land theft have driven more than half of them into the slums of urban centers. 326'375 indigenous people are living in extreme poverty, and about 64,000 indigenous families are dependent upon support from a government social assistance program (Bolsa Família)¹⁹.

Today, there are approximately 235 indigenous peoples, and according to estimates between 150,000 and 350,000 indigenous people live in the Amazon, some in small communities of less than a dozen people, but some also live in larger settlements with up to 30,000 people²⁰. They speak around 180 different indigenous languages. According to ISA, there are 173 indigenous communities living in the Amazon Basin in 405 indigenous reserves, which account for about 22 percent of the Brazilian Amazon²¹.

The rain forest is not only the habitat of indigenous people, but it also supplies them with food, medicine, and almost all the materials they need. In particular, in relation to spirituality and traditional life, the Amazon forest, with its many holy places, is fundamental to the long-term survival of indigenous peoples and their way of life.

The emergence of indigenous reserves goes back to the early decades of the 20th Century. The Constitution of 1988 resulted in many new reserves being created. The establishment of new reserves has decreased alarmingly in recent years. The following table describes the current state of the demarcation of indigenous reserves.

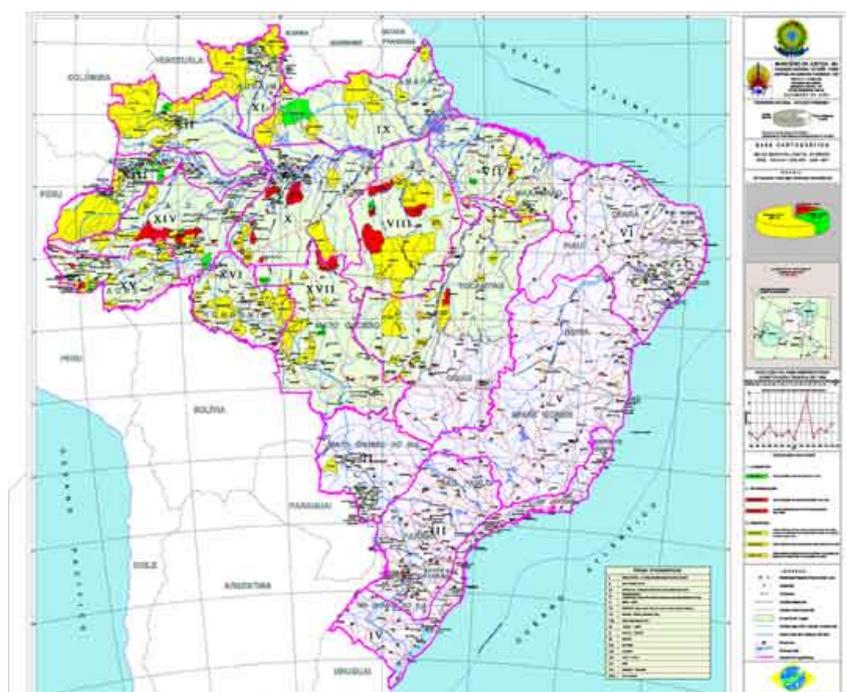
19 ISA: Cresce número de famílias indígenas beneficiadas pelo Programa Bolsa Família (31.05.2011), <http://pib.socioambiental.org/en/noticias?id=102996>

20 Ricardo, Beto / Ricardo, Fany (2011): Povos Indígenas No Brasil 2006/2010, Instituto Socioambiental: São Paulo, page 16

21 Many indigenous reserves are not yet declared as such and therefore also receive no protection from the government.

Table 1: Indigenous Reserves in Brazil (as of July 2011)²²

Situation	Number	Size (ha)
Identified	134	9'964
With limited use of non-indigenous	5	842'022
Total	139	851'986
FUNAI approved	16	1'654'098
Declared	69	5'059'374'452
Reported	23	138'665
Recognized	30	5'549'675
Registered in the land registry SPU/CRI ²³	400	98'289'838
Total in Brazil	677	111'523'636

Figure 3: Indigenous Reserves in Brazil (Source: © FUNAI²⁴)

Legend	
Yellow area:	Indigenous reserve
Red area:	Applications for mineral extraction in indigenous reserves
Green area:	Indigenous reserves in demarcation process

²² Ricardo, Beto / Ricardo, Fany (2011): Povos Indígenas No Brasil 2006/2010, Instituto Socioambiental: São Paulo, page 90

²³ SPU Serviço de Patrimônio da União (Staatseigentumsdienst)/ CRI Cartórios de Registro de Imóveis (Grundbuch)

²⁴ Source: http://www.funai.gov.br/ultimas/e_revista/iconografia/fotos/mapao.htm

4.2 Indigenous Peoples with First Contact

Indigenous peoples with first contact have only recently been in contact with mainstream society. According to ISA, there are seven indigenous peoples in Brazil with first contact. The experiences of the indigenous peoples with first contact clearly reveal the dangers for the people living in isolation:

According to Survival International the Zo'é had their first contact with outsiders in 1987, when missionaries established a base in their immediate environment. The Zo'é were subsequently infected with diseases to which they were not immune. The missionaries did not expect such a situation, and did not know what to do. They asked FUNAI for help, which then sent a team of health care professionals to the Zo'é. Years later, their territory was officially recognized by the government, a health post was created and their territory was placed under protection. Then, the missionaries had to leave the area²⁵. The Korubo had a similar experience. They were contacted for the first time in 1996. This group consists of 27 people. According to ISA, one person from each family has been accompanied to the city at least once to receive medical care and medications because many of the Korubos suffer from malaria and other diseases.

4.3 Isolated Indigenous Peoples

According to the Brazilian Missionary Council for Indigenous Peoples (CIMI), there are more than 150 indigenous peoples living in voluntary isolation worldwide²⁶. Most of them live in the densely forested Amazon, New Guinea and the islands of Andaman and Nicobar.

In South America, it is estimated that there are 127 isolated peoples in seven countries: In Brazil, there are around 90 peoples living, 23 in Peru, 13 in Bolivia, 6 in Paraguay, 5 in Venezuela, 4 in Ecuador and 2 in Colombia²⁷.



Figure 4: Isolated peoples worldwide (Source: Wikipedia²⁸)

There is different information about the number of isolated indigenous people living in Brazil, because, among other reasons, it is a complicated task to collect the data. The Institute Coordenação Geral de Índios Isolados e Recém Contatados (CGIIRC), for example, currently knows of at least 28 different isolated peoples in the Brazilian Amazon region. The Institute Socioambiental estimates that there are as many as 46 communities, and according to CIMI there is evidence of at least 90 isolated groups in Brazil. The only evidence supporting the existence of some of the groups are aerial photos and traces found in the almost inaccessible jungle. The FUNAI has confirmed 28 isolated tribes in Brazil²⁹.

²⁵ Survival International: The Zo'é, <http://www.survivalinternational.de/indigene/zoe/erster-kontakt>

²⁶ Isolated peoples are ethnic groups, who have had no, little or only short-term contact with other people from mainstream society in a certain country.

²⁷ Loebens, Guenter Francisco/Neves, Lino Joao de Oliveira (2011): Povos Indígenas Isolados na Amazônia: A luta pela sobrevivência: Conselho Indigenista Missionário, page 41

²⁸ Source: http://de.wikipedia.org/w/index.php?title=Datei:Uncontacted_peoples.svg&filetimestamp=20100507170210

²⁹ ISA: Índios Isolados, <http://pib.socioambiental.org/pt/c/no-brasil-atual/quem-sao/Indios-isolados>



Figure 5: Settlement of indigenous peoples in voluntary isolation (Source: © Gleison Miranda - FUNAI)

The term “in (voluntary) isolation” was created because many members of these peoples are survivors of violent assaults and retreated again after disastrous experiences with civilization. For example, during the rubber boom in the Amazon in the late 19th Century, nearly 90 percent of indigenous peoples were held as slaves or became victims of brutal violence. The second, respectively third wave of violence reached the Amazon between 1920 and 1960, which many indigenous communities did not survive. For example, in 1963, the entrepreneur Antonio Mascarenhas Junqueira, attacked the Cinta Larga (wide belt) people with bombs from a rented plane, because the indigenous people had disturbed his commercial rubber tapping. A few days after the bombing, he sent a

group of mercenaries on the ground to kill the survivors in the most brutal manner³⁰.

Such traumatic experiences have strongly influenced the survivors of indigenous groups, who have therefore chosen to live in isolation. It is believed that a life in complete isolation is not possible, because most people maintain contact with their immediate neighbors to occasionally exchange goods and food with them. Through this exchange, some isolated peoples have acquired, among other things, metal weapons, cooking utensils and metal parts, for example, from shipwrecks. In the aerial photographs published for research purposes and for the protection of the isolated peoples, these items are sometimes visible.

30 Survival International: Why are they hiding?, <http://www.survivalinternational.de/artikel/3129-warum-verstecken-sie-sich>



Figure 6: Aerial photographs of isolated peoples (Source: © Gleison Miranda - FUNAI)

The map below from FUNAI shows the area in which there is proof or evidence of isolated peoples. Some of these people live in indigenous reserves, but many live in the border areas of reserves or outside such protected areas and have no special protection.

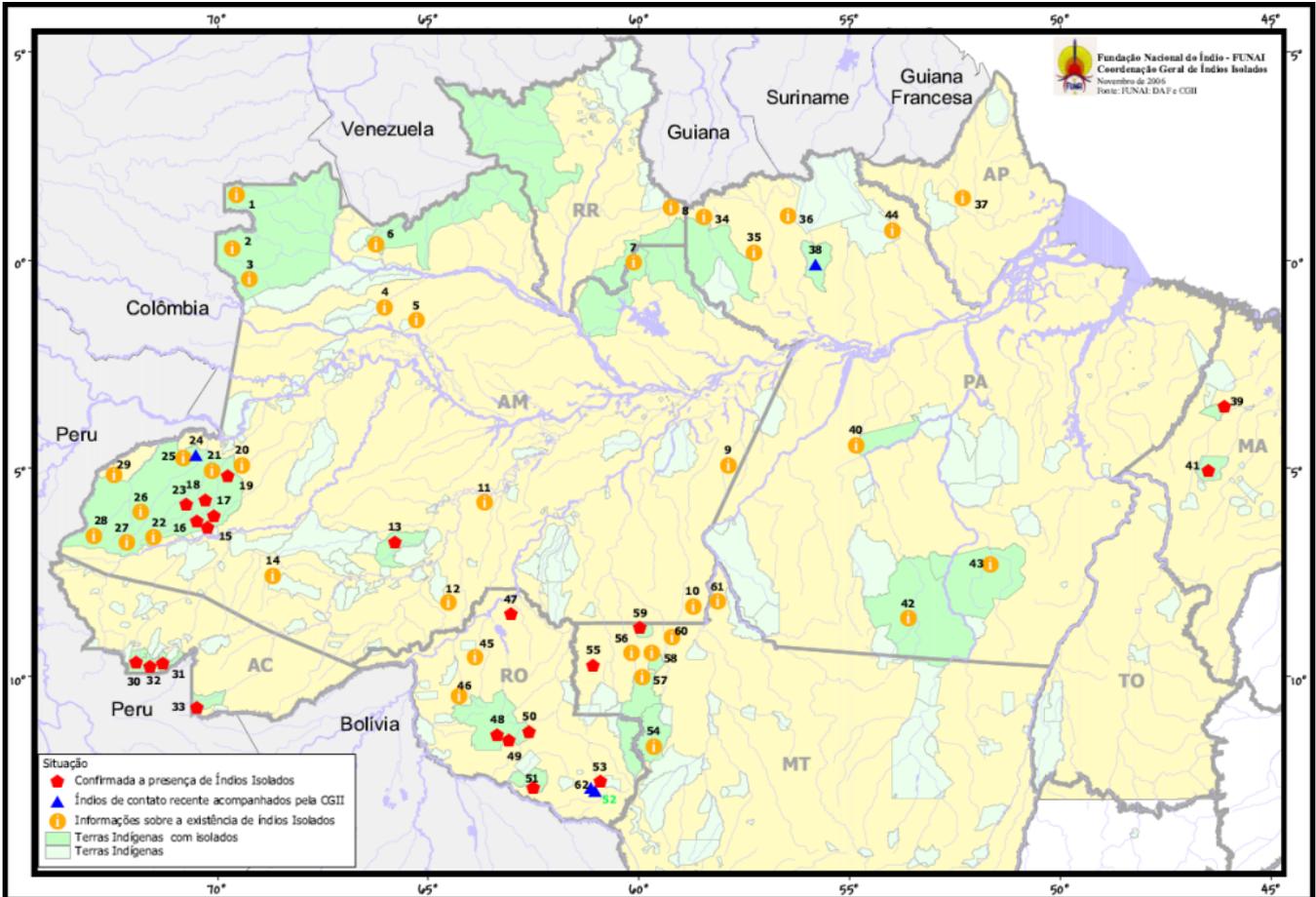


Figure 7: Location of the isolated indigenous peoples in Brazil (Source: © FUNAI³¹)

Legend	
Red house:	Proven isolated people
Blue triangle:	Indigenous peoples, which were recently discovered
Yellow point:	It is believed that isolated indigenous peoples live in this area
Green area:	Indigenous reserves, where isolated indigenous peoples live
Blue area:	Indigenous reserves

31 Source: www.funai.gov.br

The isolated indigenous peoples live a rich cultural life with a holistic knowledge of the flora and fauna. This life is severely threatened by the current development: The construction of dams or roads, but also the search for and extraction of natural resources such as oil, natural gas, gold and other mineral resources attracts people into their immediate environment. Under such circumstances it is not possible for indigenous peoples to continue their traditional way of life.

In recent years, the Brazilian government has granted permits for the Santo Antônio and Jirau hydroelectric plants on the Madeira River, Belo Monte on the Xingu River and Teles Pires on the Teles Pires River, although it has been proven that isolated groups live in those areas. According to FUNAI, there are, for example, one or more groups of isolated indigenous peoples living about 70 kilometers away from the Belo Monte Dam in the Koatinemo indigenous reserve and near the Ipiçava Creek. There is also, according to FUNAI, a group of isolated people in the immediate vicinity, only 30 kilometers, from the Santo Antão dam. They live in the Katauixi / Jacareúba indigenous reserve. Similarly, there is evidence that there are isolated indigenous peoples residing in the vicinity of the Teles Pires hydroelectric plant³².

In addition to the threat posed by infrastructure projects, isolated indigenous people are also at high risk for diseases such as influenza, against which they are not immune. Experience shows that up to two-thirds of a group living in isolation can die after their first contact with mainstream society. Any contact with civilization is, therefore, to be avoided unless they themselves are searching for contact³³.

The construction of the inter-oceanic road from Rio Branco, the capital of the state of Acre, to the Peruvian Pacific coast, which is 300 kilometers from the settled areas of the isolated peoples, led to a veritable invasion of about 60,000 illegal loggers, gold miners and drug dealers into Peruvian territory. Such invaders are currently passing along the rivers Rio de las Piedras, Rio Tauhamanu, Rio Madre de Dios, Purus and Juruá to the most remote settlements of the isolated peoples. A FUNAI employee, José Carlos Meirelles, reports that since the price of gold has tripled, a veritable gold rush has begun in the region³⁴.

In the Peruvian city of Puerto Maldonado alone, on the Madre de Dios River, tons of mercury are sold monthly to gold miners, which eventually ends up in the tributaries of the Amazon and not only pollutes the water but also contaminates the food chain. Thus, in medical examinations of the Ashaninka indigenous people³⁵ maximum values of mercury were measured in their blood³⁶. Since 1990, the Peruvian government has been granting concessions to logging companies in the settlement areas of isolated peoples, which specialize exclusively in the logging of mahogany trees. Exotic woods are exported via the newly constructed road connection to the Pacific coast and then overseas.

Since 2005, however, a big part of the mahogany stocks have been cut down on the Peruvian side. In addition, the Peruvian government has granted concessions to multinational oil companies in almost the entire Peruvian Amazon region. The isolated groups have also

32 Monteiro, Telma (08.01.2012): Indígenas isolados na região das usinas do Madeira tinham sido detectados em 2009, <http://telmadmonteiro.blogspot.com/2012/01/indigenas-isolados-na-regiao-das-usinas.html>

33 ISA, Braune Wiik, Flavio (1999): Xokleng <http://pib.socioambiental.org/pt/povo/xokleng/975>

34 José Carlos Meirelles has worked for FUNAI since 1971 and is well-known for his pioneer work for the isolated peoples in Brazil.

35 The Ashaninka indigenous people live in the East of Peru and in the West of Brazil.

36 For more information see: GfbV - Die Unsichtbaren (2012), http://www.gfbv.at/publikationen/bvbilder/bv01_2012.pdf

5. Economic and Political Threats

5.1 Overview

The biggest threat to indigenous peoples lies in the impacts of the economic development of Brazil. The Brazilian and the global appetite for natural resources and the associated price increase have triggered an enormous interest in minerals and resources in the Amazon. The Brazilian government has developed plans to utilize waterpower, ports, waterways and roads,

mining and the expansion of large-scale agriculture including monocultures and livestock.

The congress is weakening the Forest Act, which will lead to massive deforestation, and there are plans to award them the competence to demarcate indigenous reserves and to allow mining even in demarcated indigenous reserves. This will have devastating consequences for the indigenous population.

The map below shows the pressure being placed on the indigenous communities by the economic exploitation of the Amazon.

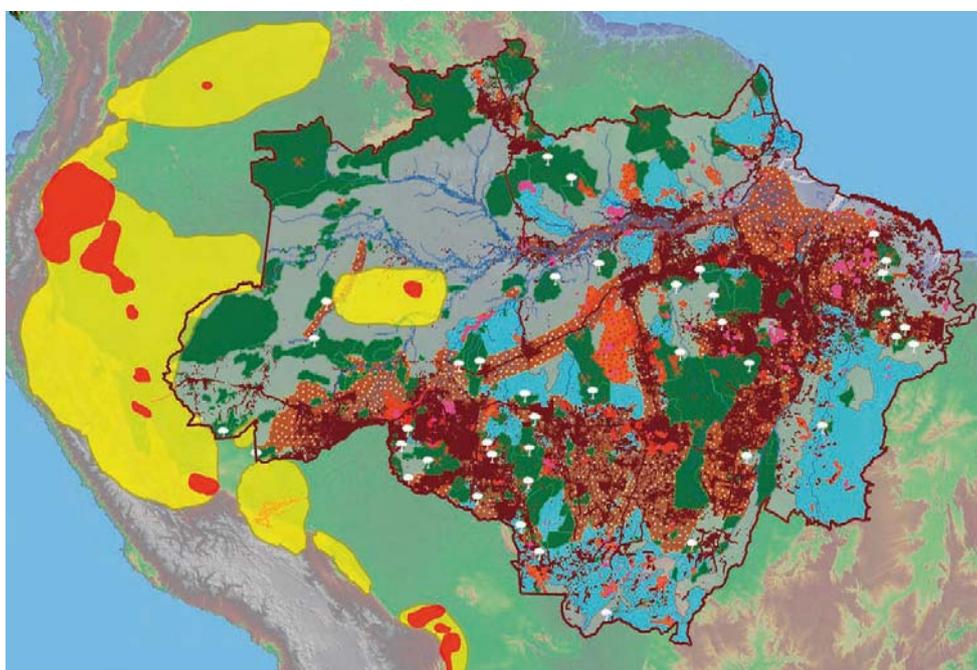


Figure 9: Pressure on and threats to the indigenous reserves in the Amazon Basin (Source: © ISA³⁷)

Legend

Red bucket and shovel:	Gold mining in indigenous reserves
White tree:	Illegal logging
Red line:	Logging road
Pink area:	Current foraging areas
Dark orange area:	Indigenous reserves
Green area:	Logging
Red area:	Current oil and gas fields
Yellow area:	Future oil and gas fields

37 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 8.

One of these axes passes through the entire Amazon: the Pita Pacific Ports in Peru, Esmeraldas in Ecuador and Temuco in Colombia are to be connected to the Amazon

estuary in Belem, Brazil. These transportation routes are to be used to transport mainly minerals from the Andes to Europe and meat and wood to Asia and North America.

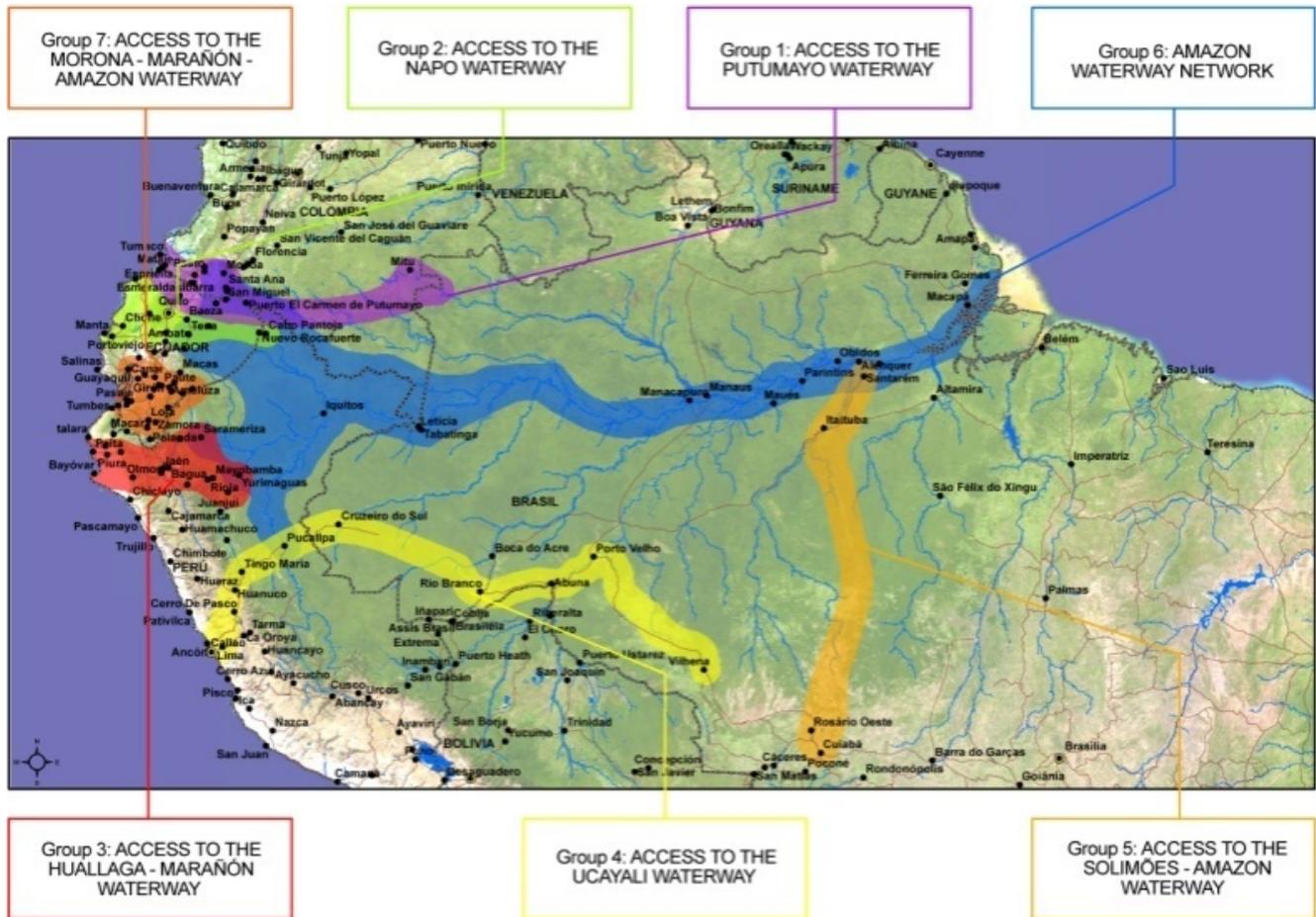


Figure 11: IIRSA axes in the north of South America (Source: GEOSUR³⁹)

39 Source: Geosur, Integration and Development Hubs, http://www.geosur.info/geosur/iirsa/mapas_en.php

5.2.2 National Program for the Acceleration of Growth (PAC)

To combat poverty and promote economic development, the government of Brazil has developed the national program to accelerate growth (PAC), which is along the lines of the major IIRSA projects. It was launched under the government of Luiz Inacio Lula da Silva in 2007 and supports the following projects:

- Expansion of energy supply
- Exploitation of natural resources, e.g. oil, gas and minerals
- New construction and expansion of existing transportation routes on both land and water
- Expansion of agricultural land for cattle ranching and agriculture⁴⁰

In 2010, PAC was replaced by PAC 2, which is supposed to stimulate the economy even more from 2011 to 2014. Activities will focus on energy, infrastructure and social urban development⁴¹.

For a rapid implementation of such projects, the government signed the decree⁴² No. 419/2011 at the end of October 2011, aiming at reduced concession procedures from the environmental agency IBAMA. The decree reduces consultation periods in which those affected can obtain information and explanations from the competent authorities (IBAMA, FUNAI). The Environmental Agencies, therefore, only have 10 days, to inform the affected population about a planned project and to involve them in the process.

Thus, any notion of democratic decision-making and participation becomes a farce. Brazil has committed

40 PAC: <http://www.brasil.gov.br/pac>

41 PAC 2: <http://www.brasil.gov.br/pac/o-pac/conheca-o-pac>

42 A decree is an executive decision directed towards other government offices, for example, towards the Environmental Ministry as in the above example.

itself, by ratifying the ILO Convention 169, to include the indigenous people in the planning of projects by obtaining their free, prior and informed consent (FPIC).

However, this process is threatened by the new decree. In addition, other authorities' licensing process has also been shortened. The shortening of the period disables a detailed scientific analysis. Only after the Environmental Impact Assessment (EIA), does the affected party have the opportunity to have a look at the project plans of the company and to ask questions within a period of 60 days. If there is no EIA this period is even shortened to 20 days. The affected individuals have, at most, the opportunity to demand small changes or adjustments. They can, however, never reject a project completely⁴³. By changing the licensing process, major projects of national or international companies receive a special status and can quickly be implemented without any objection on the part of the indigenous population.

At a meeting of an alliance of indigenous peoples, river residents and NGOs in the Amazon, indigenous delegates criticized the government's development model as follows: "In the past, all major infrastructure projects in Brazil have always brought profit to the powerful economic groups while they brought destruction and death to the way of life of the original and traditional peoples. The construction of dams such as Tucuruí in Pará, Samuel in Rondônia, Estreito in Tocantins and Balbina in the Amazon are clear examples of the evil that this development model has brought⁴⁴."

43 CIMI 9.11.2011): Perversidade e Autoritarismo: Governo Dilma edita portarias de restrição e desconstrução de direitos territoriais indígenas e quilombolas,

http://www.cimi.org.br/site/pt-br/?system=news&conteudo_id=5931&action=read

44 Declaration of an alliance of inhabitants of the Amazon basin and NGOs at the „4 Rivers Meeting“ in Itaituba, Pará, on 27.12.2010

5.3 Road Construction

As part of PAC, the government plans to invest about 5 billion U.S. dollars in gigantic road construction projects. In the Amazon, the Transamazônica (BR 320) and the BR 163 road from Cuiabá to Santarém and BR 319, which leads from Manaus to Porto Velho are to be paved.



Figure 12: Amazonian road network (Source: WWF⁴⁵)

The road not only negatively affects the ecological environment, but also opens the doors to uncontrolled economic development and illegal activities; because the roads can be freely used to transport legally and illegally extracted timber and natural resources.

Furthermore, the road provides access to previously inaccessible areas. Deep in the Amazon forest new settlements are being built. Thus, the indigenous people residing there, in particular those living in isolation, are in danger.

According to the ISA report on the dangers facing indigenous peoples in the Amazon, the impacts are the following: Illegal loggers, miners and squatters are moving into the area of the indigenous peoples and are bringing illnesses, alcoholism and prostitution into their area. Because of the improved trading opportunities

resulting from road construction, agricultural lands are expanding all around the roads. Cachoeira Seca, the indigenous reserve of Arara, has been occupied, for example, by illegal squatters since the Transamazônica road was built. Starting from the Transamazônica, a total of 735 km more roads and streets, mostly illegally, have been built in the Amazon forest and cover a total of 7,350 square kilometers.

4 percent of the indigenous community Cachoeira Seca has already been deforested. Another main road through the Amazon, the BR 163, has, according to ISA, affected 33 indigenous reserves. The BR 319, in turn, which is 877 km long and mostly already built but not yet paved, could affect more than 50 indigenous reserves, respectively, about 6,000 people⁴⁶.

The ISA expects a total of 390,000 sq km of forest to be cleared for road construction by 2050. Furthermore, in this area it is estimated that there are four isolated indigenous peoples. Without the right of participation of the affected local population and their consent, without clear requirements and without rigorous checks by the state, the road construction is accelerating the destruction of the Amazon and the indigenous peoples living there.

⁴⁵ Source: WWF (2007), Infrastructure Projects in the Amazon, <http://www.wwf.at/de/menu27/subartikel476/>

⁴⁶ Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 15

5.4 Dams

5.4.1 Current Situation

The Brazilian government is planning a massive expansion of dams in the Amazon region for energy production. The government already began construction of the Balbina and Tucuruí dams in the 1980s. Even then, there were plans to build the most controversial Belo Monte dam, but failed due to the massive resistance of the indigenous population and environmental organizations.

Large-scale power outages and the growing demand for electricity resulting from the growth of the Brazilian economy provided the government of Luiz Inacio Lula da Silva and Dilma Rousseff with arguments to build large hydroelectric power plants far from the national power grids. Much energy is lost over long transport distances, so the government plans to process the resources that exist in the Amazon in large quantities on location. Now, giant projects such as Belo Monte and Teles Pires are being constructed, to provide mainly the aluminum industry with energy.

These hydroelectric power stations are not only devastating the environment of indigenous peoples, they are contrary to the claims of proponents, not climate-friendly energy sources. Because of the large-scale flooding of the forests, which is necessary for the construction of the dams, large amounts of carbon dioxide are expelled, and during the decay process other greenhouse gases such as methane are released. Furthermore, the reservoirs are the perfect breeding grounds for mosquitoes, which transmit diseases such as malaria. The three most important projects of the business plan, due to their high capacity, are the Belo Monte dam with a maximum capacity of 11,000

megawatts and the Santo Antônio and Jirau dams on the Madeira River, with 6,450 MW combined⁴⁷.

Figure 13 shows the current locations of hydroelectric plants in the Amazon. Some hydroelectric power plants are already in operation, the vast majority are, however, still in the planning phase.

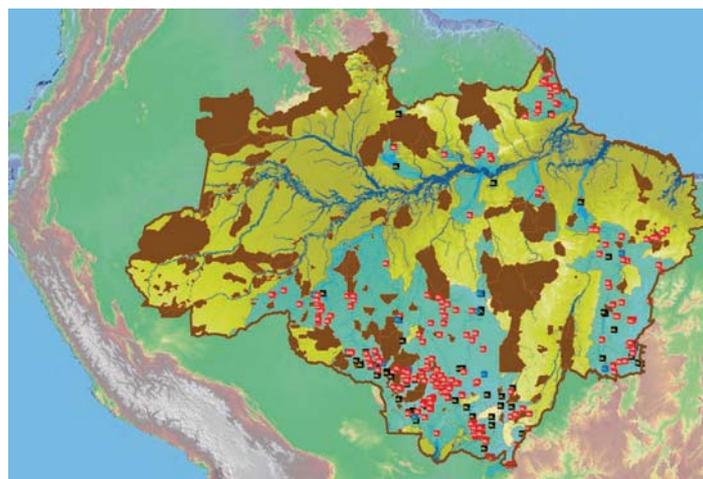


Figure 13: Hydroelectric power plants in the Amazon basin
(Source: © ISA)

Legend	
Black square:	Hydroelectric power plants in operation
Blue square:	Hydroelectric power plants under construction
Red square:	Planned hydroelectric power plants
Brown area:	Indigenous reserves
Blue area:	Affected surface water
Green area:	Amazon

47 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf

5.4.2 Planned Dams

The Brazilian government is planning about 250 dams in various sizes: from the so-called UHE (Usina Hidrelétrica de Energia), large hydroelectric power plants with a capacity starting at 30 megawatts to smaller power plants PCH (Pequena Central Hidrelétrica) with a capacity between 1-30 MW. Small power plants (less than 1 Megawatt) are called CGH (Central Gera Dora Hidrelétrica).

Table 2: Planned dams 2010 – 2020⁴⁸

Year	Project	MW
2011	UHE Estreito	1,087
2011	UHE Dardanelos	261
2012	UHE Randon 2	74
2012	UHE Santo Antônio	3,150
2013	UHE Jirão	3,300
2014	UHE Santo Antônio do Jari	300
2015	UHE Ferreira Gomes	252
2015	UHE Colider	300
2015	UHE Belo Monte	11,233
2015	UHE Teles Pires	1,820
2016	UHE Sinop	400
2016	UHE São Manoel	700
2016	UHE Foz de Apicás	230
2017	UHE São Luiz do Tapajós	6,133
2019	UHE Cachoeira dos Patos	528
2019	UHE Marabá	2,160
2020	UHE Jatobá	2,336
2020	UHE Cachoeira do Caí	802
2020	UHE Jamanxim	881
2020	UHE Serra Quebrada	1,328
Total		37,275

⁴⁸ Plano Decenal de expansão de Energia 2020. Ministério de Minas e Energia. page 67-69

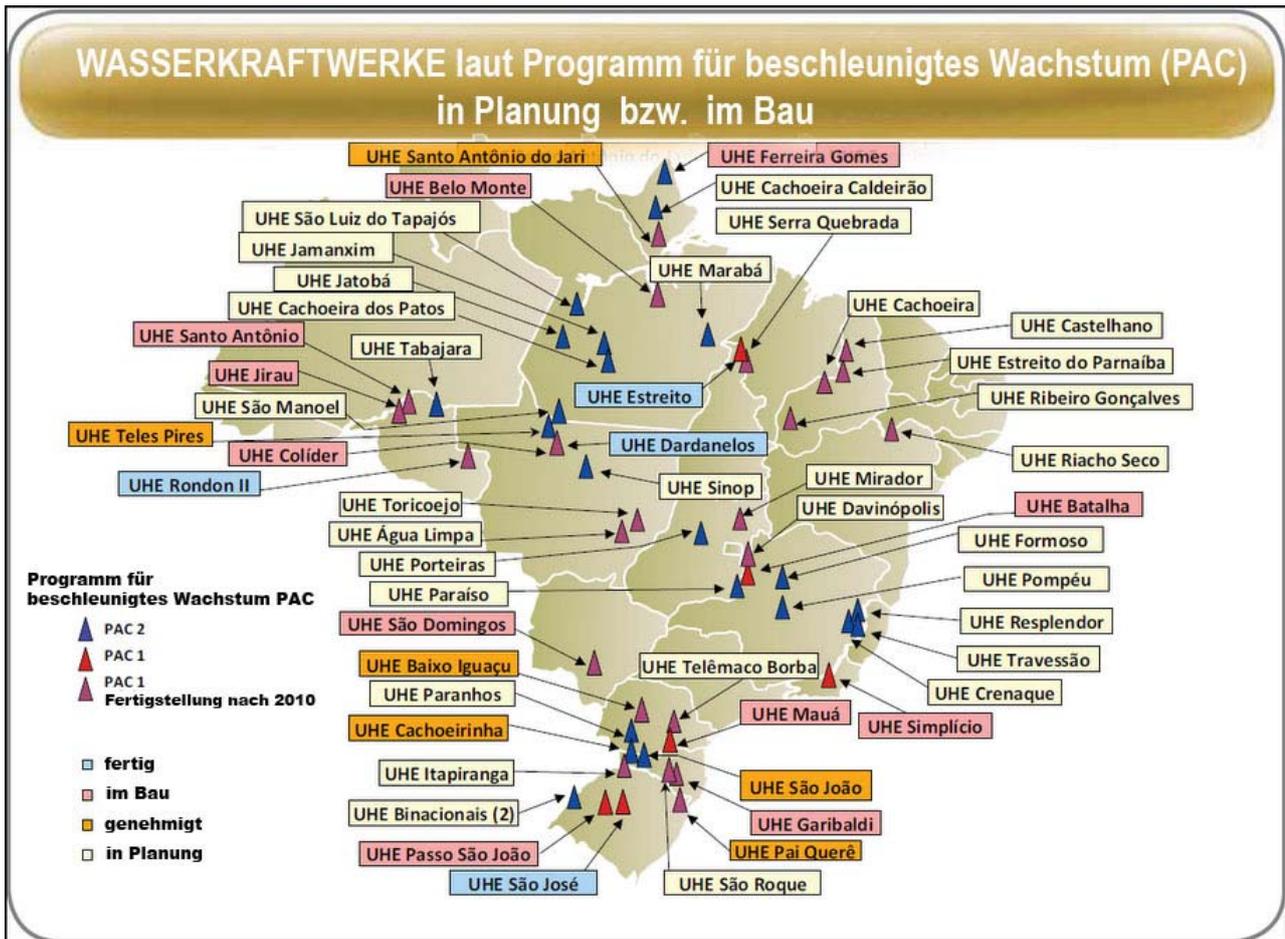


Figure 14: Hydroelectric power plants in Brazil (Source: Plattform Belo Monte⁴⁹)

49 Plattform Belo Monte (01.08.2011): Imagining plans for further plants in the Amazon, <http://plattformbelomonte.blogspot.com/2011/08/regeirung-stellt-plane-fur-weitere.html>

5.4.3 Belo Monte Dam

In the 1980s, plans for the construction of the Belo Monte Dam on the Xingu River, a tributary of the Amazon, were already underway, but after national and international protests, the World Bank withdrew financing, after which the project was suspended. The project plan was, however, resumed 20 years later and despite great opposition, the Brazilian government approved a reduced version of the hydroelectric power plant in February 2010. The current project plans to dam the Xingu with a combined area of approximately 500 square kilometers and according to various sources,

relocate 20,000 to 40,000 members of the local population. 516 km² of forest will be flooded for the construction of the dam, and below the dam wall the Xingu River will hardly carry any water for a distance of more than 100 kilometers. The path of the river will change completely, because it will be diverted through two channels and during the construction of the canals hundreds of millions of cubic meters of earth and rock (more than during the construction of the Panama Canal) will be excavated.



Figure 15: Belo Monte construction in the vicinity of Altamira (Source: © Greenpeace / Daniel Beltra⁵⁰)

⁵⁰ Source: Hance, Jeremy (18.04.2012) :
Pictures: Destruction of the Amazon's Xingu River begins for Belo Monte Dam,
http://news.mongabay.com/2012/0418-hance_belomonte_photos.html#

The Belo Monte Dam is the third largest dam in the world (following the Three Gorges Dam in China, with 18,000 megawatts and the Itaipu Dam in Brazil with 14,000 megawatts), and can generate 11,200 megawatts⁵¹ during peak performance. It can thus provide for about 11 percent of Brazil's electricity needs.

However, this dam only achieves this performance during the rainy season. In the dry season, the energy production drops to almost zero, resulting in an average annual output of only 4,428 megawatts. According to Norte Energia (NESA)⁵² a total 3.7 billion U.S. dollars is flowing into the project and the affected region receives about 50 million U.S. dollars in compensation payments per year. Experts fear, however, that the total costs are much higher than anticipated and therefore warn investors about the risks. The Brazilian energy expert Cêlio Bermann, for example, who teaches at the University of São Paulo, estimates a total of at least 15 billion U.S. dollars, of which 80% will be paid for with public funds⁵³.

Figures 16 and 17 show the location of the Belo Monte dam.

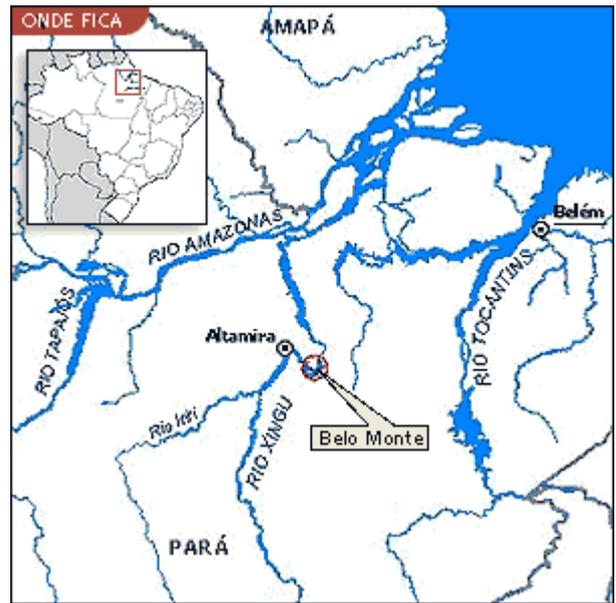


Figure 16: Location of the Belo Monte Dam (Source: © ISA⁵⁴)

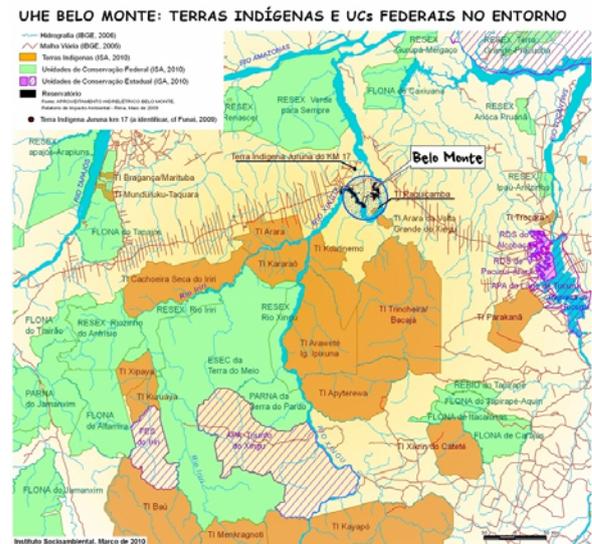


Figure 17: The Belo Monte dam surrounded by indigenous reserves and protected areas (Source: © ISA⁵⁵)

Legend	
Violet area:	State reserves
Green area:	Nationally protected areas
Orange area:	Indigenous reserves

51 11,200 Megawatts is about the amount produced by 12 Swiss nuclear power plants.

52 Norte Energia S.A. is a construction consortium that is consists of 18 private and public companies to realize the Belo Monte project.

53 Brum, Eliane (31.10.2011): Belo Monte, nosso dinheiro e o bigode do Sarney, <http://revistaepoca.globo.com/Sociedade/noticia/2011/10/belo-monte-nosso-dinheiro-e-o-bigode-do-sarney.html>

54 Source: ISA: Belo Monte especial, <http://www.socioambiental.org/esp/bm/hist.asp>

55 Source: ISA: Um conjunto complexo de impactos socioambientais, <http://www.socioambiental.org/esp/bm/isa.asp>

The approval process for the Belo Monte Dam has become a legal dispute. The Attorney General of the State of Pará has suspended the operation several times, but was immediately overruled by the Federal Prosecutor in Brasília. By May 2012, 13 complaints had been filed against the project. The Inter-American Commission on Human Rights of the Organization of American States (OAS) also demanded a construction freeze and criticized the lack of involvement of the indigenous people on location.

Despite all the protests, former President Luiz Inacio Lula da Silva announced the green light for construction on 1 February 2010. Subsequently, the call for bids for the project was held for companies and consortiums on 20 April 2010. Many of the interested companies withdrew from the project because of the high economic risks. NESA, the construction consortium that is led by the company Hidro-Elétrica do São Francisco, won the bid and signed the concession agreement. NESA won the right to use the plant for the next 35 years.

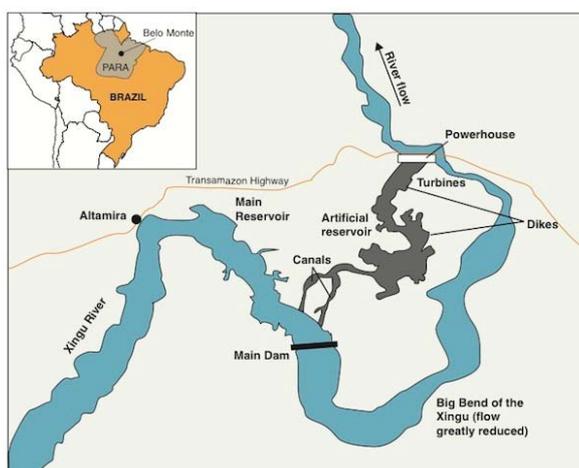


Figure 18: Overview of the Belo Monte dam complex (Source: Eco-Odyssey⁵⁶)

NESA has subsequently completed the mandatory Environmental Impact Assessment⁵⁷ and submitted the report to the environmental agency IBAMA. Within IBAMA there was opposition to the granting of the permit. Shortly after the former President of the Brazilian environmental agency, Abelardo Bayma Azevedo, had submitted his resignation, the consortium was given a partial license. This allowed the consortium to carry out the initial construction work for the Belo Monte dam complex on the banks of the Xingu River. Many suspect that the government exerted great pressure on Azevedo to approve the authorization even in the midst of the great doubt in regards to the environmental impact of the project. The partial license was also legally disputed.

Azevedo was not the first to resign because of a conflict between the Energy and the Environmental Agencies: Marina Silva resigned from the Lula government as environment minister, to send out a signal about the progressive weakening of the environmental approval process. Even the chief of the Kayapo indigenous people, Megaron Txucarramae, was dismissed from FUNAI because of his opposition to the hydroelectric plants⁵⁸.

Independent scientists conducted an assessment, separate from the formal environmental analysis of the construction consortium, showing that the impact of the Belo Monte project is much higher than indicated in the consortium's study⁵⁹.

⁵⁷ The environmental assesment process is based on Brazilian environmental law and requires construction consortiums involved in large projects to conduct an environmetal impact assesment (RIMA- Relatório de Impacto Ambiental), which is understandable and accesable to everyone and must be presented to those affected.

⁵⁸ Xingu Vivo (01.11.2011): Demitido da Funai, Megaron diz que ato foi motivado por oposição a hidrelétricas, <http://www.xinguvivo.org.br/2011/11/01/demitido-da-funai-megaron-diz-que-ato-foi-motivado-por-oposicao-a-hidreletricas/>

⁵⁹ Plataforma Brasileira de Direitos Humanos Econômicos, Sociais, Culturais e Ambientais, Xingu Mission Report – Human rights violations during the approval process for the Belo

⁵⁶ Source: <http://www.eco-odyssey.com/main/hot-topics/Habitat-Loss.html>

Among other things, they criticize the fact that no investigation has yet been conducted on the impacts on the isolated indigenous peoples. There was only one inadequate investigation on the impacts of migration on indigenous reserves, job seekers and the associated increase of poverty, violence and prostitution, as well as the poor state of education and healthcare for the local population.



Figure 19: Initial construction of the hydroelectric plant already causing extensive environmental damage (Source: © Greenpeace / Daniel Beltra⁶⁰)

The future operator of the plant reports the negative impacts of the dam in the environmental impact assessment, but claims that these impacts will be offset by compensation and thus solved.

The Brazilian environmental agency is responsible for the compliance with all environmental regulations and issues a fine for any non-compliance with the regulations. NESAs has already been fined for delaying the implementation of environmental regulations. The consortium was issued a fine of approximately 3.58 million dollars, and it had

to submit an action plan to IBAMA, stating how the environmental programs are to be implemented in the future. The construction consortium was not only blamed for poor environmental policies, but also in terms of their methods of dealing with the residents on location, particularly in relation to resettlement and compensation.

To compensate for environmental damage caused by the Belo Monte dam, Norte Energia must invest approximately 533,000 U.S. dollars for the preservation of the Xingu River and to mitigate any adverse social and environmental consequences. In view of the 2 billion U.S. dollars, which will be due in interest during the construction period alone, the pledged amount is very small. Compensation will be paid in so-called royalties to the affected communities.

However, since there is neither an obligation for transparency nor a control of payments, the money may disappear before it arrives in the communities. In addition, NESAs is negotiating directly with the local indigenous people to break the resistance, but in a non-transparent way without full information and without any serious negotiations or the consent of the parties concerned. The indigenous chief Megaron Tuxarramãe said, in an interview with the STP in 2010, that the public electricity supply companies Eletro Norte and Eletrobrás are offering money, fuel and basic food supplies to those affected so that they will cooperate.

Monte hydroelectric plant,
http://www.dka.at/fileadmin/download/entwicklung/DHESCA_Belo_Monte_Zusammenfassung_deutsch.pdf
 60 Source: Hance, Jeremy (18.04.2012):
 Pictures: Destruction of the Amazon's Xingu River begins for Belo Monte Dam,
http://news.mongabay.com/2012/0418-hance_belomonte_photos.html#



Figure 20: Deforestation for the Belo Monte project (Source: © Greenpeace / Daniel Beltra⁶¹)

About 29 different indigenous communities live in the vicinity of the dam in different indigenous reserves, which are located in the states of Mato Grosso and Pará. These indigenous reserves include an area of about 198,000 square kilometers (almost five times the size of Switzerland) and about 20,000 indigenous people are living there⁶².

The indigenous peoples, who have been living in the area as long as anyone can remember, such as the Kayapó Xikrin (Rio Bacajá) Araweté (Rio Xingu), Kayapó in Kararô (between Rio Iriri and Xingu), Juruna (Volta Grande do Xingu and Km 17), Assurini (Rio Xingu), Kuruáya (Rio Curuá) Parakanã (Rio Xingu), Xipaya (Rio Iriri) and Arara (Rio Iriri and Volta Grande) are particularly affected by the direct and indirect negative impacts.

One of the direct negative impacts will occur due to the diversion of the Xingu River. The former big river will carry only little water even in the rainy season, and the main source of protein of the local indigenous people,

the fish, will be depleted. The indigenous inhabitants of the reserves Paquiçamba and Arara da Volta Grande do Xingu will be severely affected, because they live directly on the riverbank below the dam. They are also dependent on boat transport in order to reach their markets in Altamira. The dam, however, interrupts the navigability. It has been suspected for some time that one or more groups of nomadic indigenous peoples are living in voluntary isolation only about 70 kilometers from the planned site of the dam. The government has not yet finalized a plan as to how these people can be protected from the negative impacts of the dam construction and its indirect impacts.

61 Source: Hance, Jeremy (18.04.2012): Pictures: Destruction of the Amazon's Xingu River begins for Belo Monte Dam, http://news.mongabay.com/2012/0418-hance_belomonte_photos.html#

62 ISA, Belo Monte especial, <http://www.socioambiental.org/esp/bm/loc.asp>

Table 3: Overview of the indigenous peoples, which will be, according to FUNAI, affected by the Belo Monte Dam

Name	Ethnicity	Population	Area	Indigenous Reserve	Treat Belo M.
Paquiçamba	Juruna	81	4,348 ha	Registered	Directly affected
Arara da Volta Grande	Arara	107	25,498 ha	Declaration	Directly affected
Juruna do KM 17	Juruna	38	35 ha	Identified	Directly affected
Trincheira Bacajá	Xikrin	673	1,650,939 ha	Registered	Directly affected ⁶³
Koatinemo	Asurini	144	387,834 ha	Registered	Indirectly affected
Kararaô	Kararaô/Kayapó	39	330,837 ha	Registered	Indirectly affected
Apyterewa	Parakanã	411	773,000 ha	Registered	Indirectly affected
Araweté do Igarapé Ipixuna	Araweté	398	940,900 ha	Registered	Indirectly affected
Arara	Arara	236	294,010 ha	Registered	Indirectly affected
Cachoeira Seca	Arara	81	734,027 ha	Declaration	Indirectly affected

⁶³ According to FUNAI these peoples are only indirectly affected by the project. The research conducted by the STP, however, shows that these people are directly affected by the dam because they will be unable to use their waterways since the river will have too little water. They will also have less fish due to the low water level. The consequences of population growth (increase in violence, prostitution, new diseases, etc.) will also result in a loss of their quality of life.

The Brazilian Constitution guarantees indigenous peoples' consultation on development projects that affect them (see FPIC) but no co-decision. Although, both FUNAI and the NESA consortium held meetings with indigenous peoples, to exchange information, the victims appeared to be anything but happy and did not feel as if they were being taken seriously. There were no serious negotiations about compensation, their concerns were not heard, and the communities gave no consent.

Even if the direct and indirect impacts of the actual dam construction can be mitigated to some extent, there is a far greater threat to the indigenous population and their reservations. According to the environmental impact assessment report about the Belo Monte dam, numerous companies have applied for permits from the government to search for mineral resources in the area. In the indigenous reserve Apyterewa, for example, is, among others, the company Vale SA, one of the world's largest mining companies and winner of the defamatory prize at the Public Eye on Davos 2012. In total, such permits have already been applied for in about 63 percent of the area of the indigenous reserves in the upper Xingu. The indigenous peoples themselves have neither been informed, nor have they approved future resource extraction in their settlement in any way.

Figure 21 shows how far along plans for mining already are. The entire region could soon be transformed into an industrial center, destroying the rainforest and the indigenous reserves. In particular, if the Brazilian Congress passes the law on the use of natural resources in indigenous reserves.

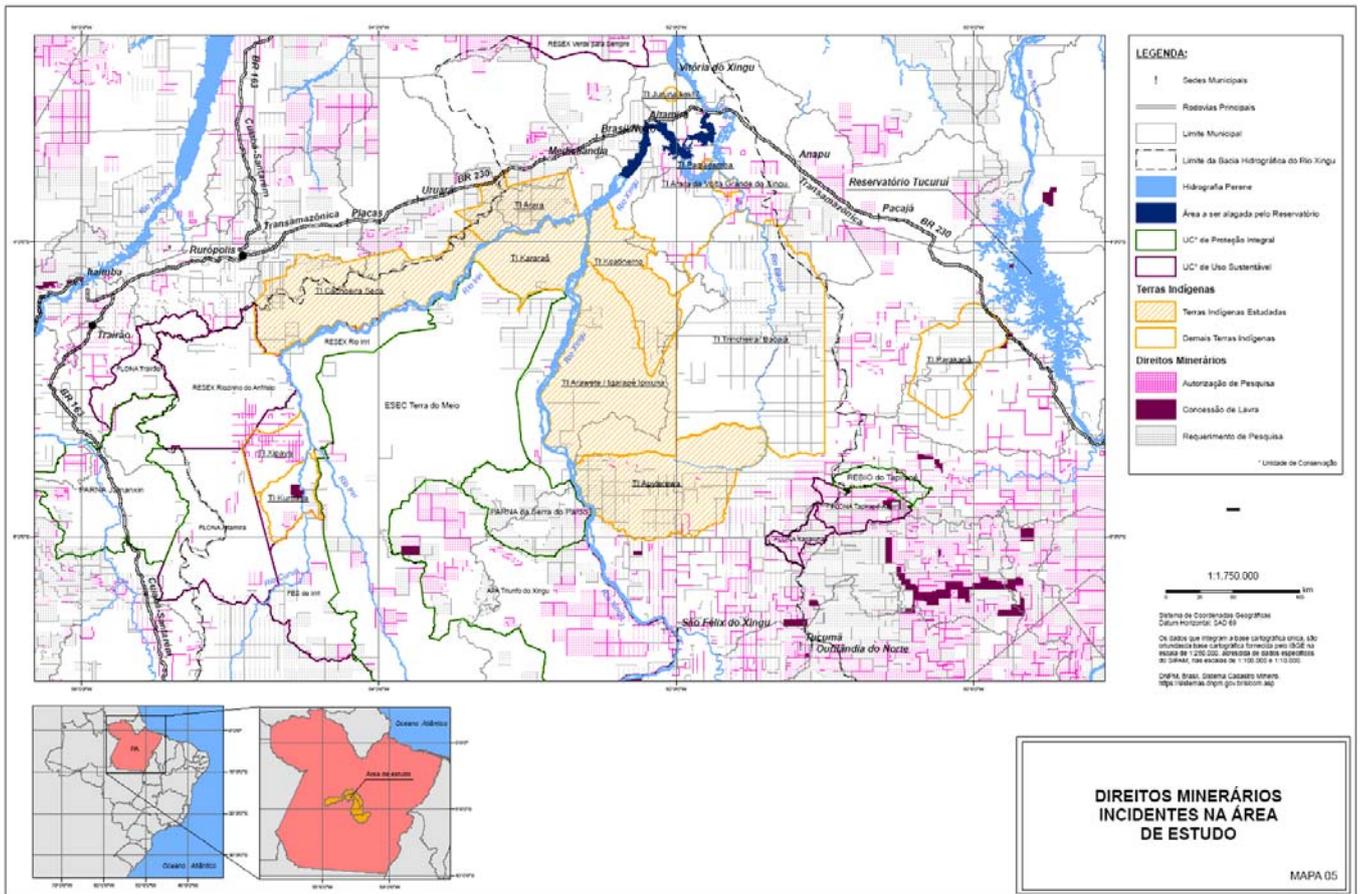


Figure 21: Massive pressure on the indigenous reserves near Altamira and Belo Monte Dam due to the large interest in the mining of natural resources (Source: © DNPM Brazil⁶⁴)

Legend	
Orange shaded area:	Indigenous reserve
Grey rectangles:	Research application submitted
Pink rectangles:	Research permits granted for resource extraction
Dark red area:	Approval for the extraction of natural resources

64 Available online under: http://assets.gfbv.ch/downloads/mapa_direitos_minerarios_incidentes_na_area_de_estudo.pdf

Figure 22 shows the applications for research permits in the Indigenous Reserve Trincheira Bacajá. If Congress accepts the relevant law, soon there will be hardly anything left of this indigenous reserve. The pink rectangles are permits, which have already been granted, even if they violate Brazilian law.

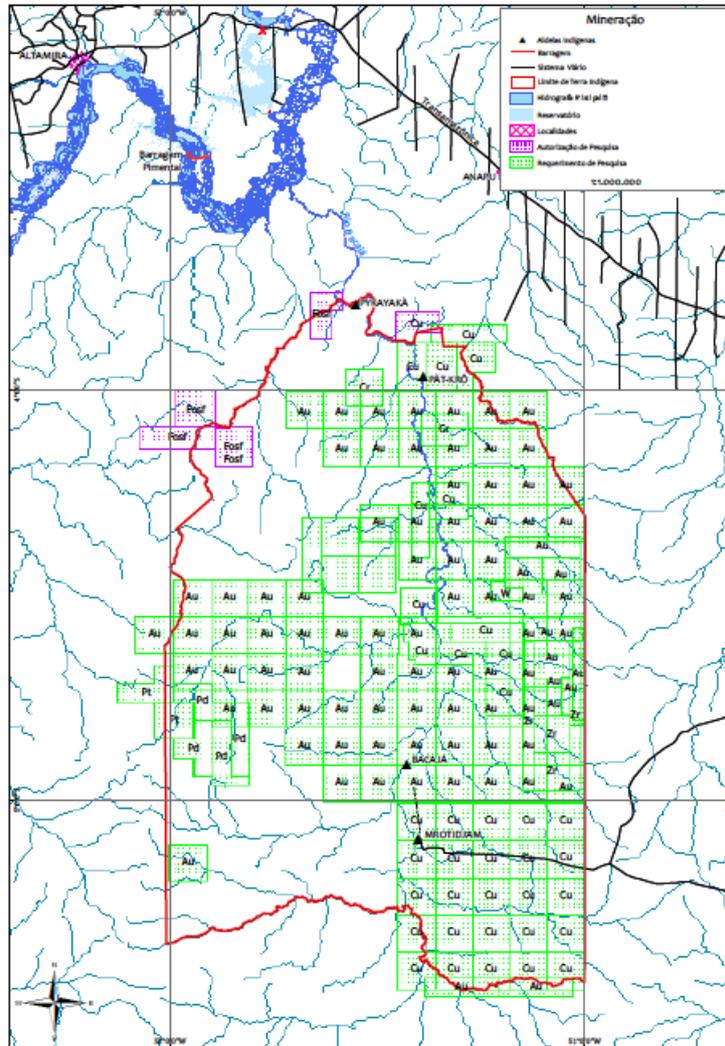


Figure 22: Indigenous reserve Trincheira Bacajá and prospecting requests especially for gold (Au) and copper (Cu) (Source: © IBAMA)

Legend	
Green area:	Prospecting requests
Purple area:	Prospecting permits
Red line:	Indigenous reserve Trincheira Bacajá

Basically, Belo Monte upsets the entire ecosystem of the Xingu region. Rivers and water levels will change completely. The already existing pressure on the Amazon forests and the indigenous peoples in the region will increase. More roads will be constructed and the city of Altamira will grow massively. Thousands of people will flock to the area of Altamira, in hopes of finding work. One of the arguments of the construction consortium and the Government for the construction is that many jobs will be created (18,000 direct and 23,000 indirect jobs). After the work is completed, the region will, however, be faced with a large unemployment rate, because, in accordance with the details of NESAs, after the completion of construction, only about 1,000 jobs will remain. Poverty and the resulting crime and violence

could also increase dramatically. An increase in population brings an increase in illegal land acquisition, logging and slash and burn methods with it as well as increased fishing and hunting - and therefore additional competition for the indigenous population.

Because of their traditional way of life, the affected indigenous communities do not have the financial means to make their voices heard. The long distances between villages and the high cost of travel also complicates the ability for people to meet, exchange information and discuss their position with respect to Belo Monte. Thus, those who suffer the most are those who have been living in this area the longest and have proven that they can live in the rain forest without destroying it.



Figure 23: Fire along the Xingu River on September 17, 2011 (Source: NASA⁶⁵)

65 NASA (17.09.2011), <http://earthobservatory.nasa.gov/IOTD/view.php?id=71256>

5.4.4 Teles Pires

Teles Pires is the name of another dam, which is part of the expansion of Brazil's energy provisions. It is named after the river. The approval process for the construction has already begun and the Attorney General of the federal states of Pará and Mato Grosso has already filed the first complaints, most recently on 16 March 2012⁶⁶.

It is the fourth lawsuit in connection with irregularities in the approval process for this dam. The lawsuit is aimed at the environmental Institute IBAMA and the energy research company EPE (Empresa de Pesquisa Energética) regarding the authorization process and achieved a suspension of the operating license and the construction. This was approved, but after a few weeks it was already canceled.

The project affects the indigenous peoples Kayabi, Munduruku, Apiaká and the isolated indigenous peoples, believed to be in the immediate vicinity of the dam. The indigenous people affected (except those living in isolation) have now joined forces. In a manifesto from 9 December 2011 they positioned themselves against the dams⁶⁷ and demanded:

- That free, prior and informed consent (FPIC) must be obtained before a project is approved.
- Detailed studies of the impacts of hydroelectric power plants on the indigenous people and indigenous reserves are to be conducted.
- Everyone should have the right to be involved in the government's energy discourse.

- There must be a definite stop of the construction of the Teles Pires, São Manoel, Foz de Apiacàs and Chacorão dams.
- The indigenous reserves on location must be demarcated and protected⁶⁸.

On 29 March 2012 the indigenous peoples met again to discuss the current situation and future action. At the meeting, the Environmental Impact Assessment report, conducted by construction consortiums (Odebrecht Energia, Voith Hydro and Alstom) was shown to the indigenous leader, however, the project was declined. They also complained that they were not involved in the planning stages.

The negative impacts are devastating for the indigenous people, because to build the hydroelectric plant, the seven waterfalls (7 Quedas), which serve as a breeding ground for fish, must be submerged. This would have a major impact on the nutrition of the local people. The seven waterfalls are also a sacred place for the indigenous people, which they would lose. In addition, as in the case of the Belo Monte dam, the waterways of the indigenous people will be interrupted and the pressure on indigenous reserves will increase massively due to increased illegal logging, hunting, deforestation and resource extraction.

66 Procuradoria da República no Pará (27.03.2012) : Justiça suspende licença e ordena consulta indígena para usina Teles Pires,

<http://www.prpa.mpf.gov.br/news/2012/justica-suspende-licenca-e-ordena-consulta-indigena-para-usina-teles-pires-2>

67 The Teles Pires dam is not the only dam being built in the area. According to government plans, São Manuel, Foz do Apiacàs, Colíder und Chacorão dams are also planned along the Teles Pires /Tapajós Rivers.

68 COIAB (09.12.2011): MANIFESTO KAYABI, APIAKÁ E MUNDURUKU CONTRA OS APROVEITAMENTOS HIDRELÉTRICOS NO RIO TELES PIRES, <http://www.coiab.com.br/coiab.php?dest=show&back=index&id=807&tipo=A>

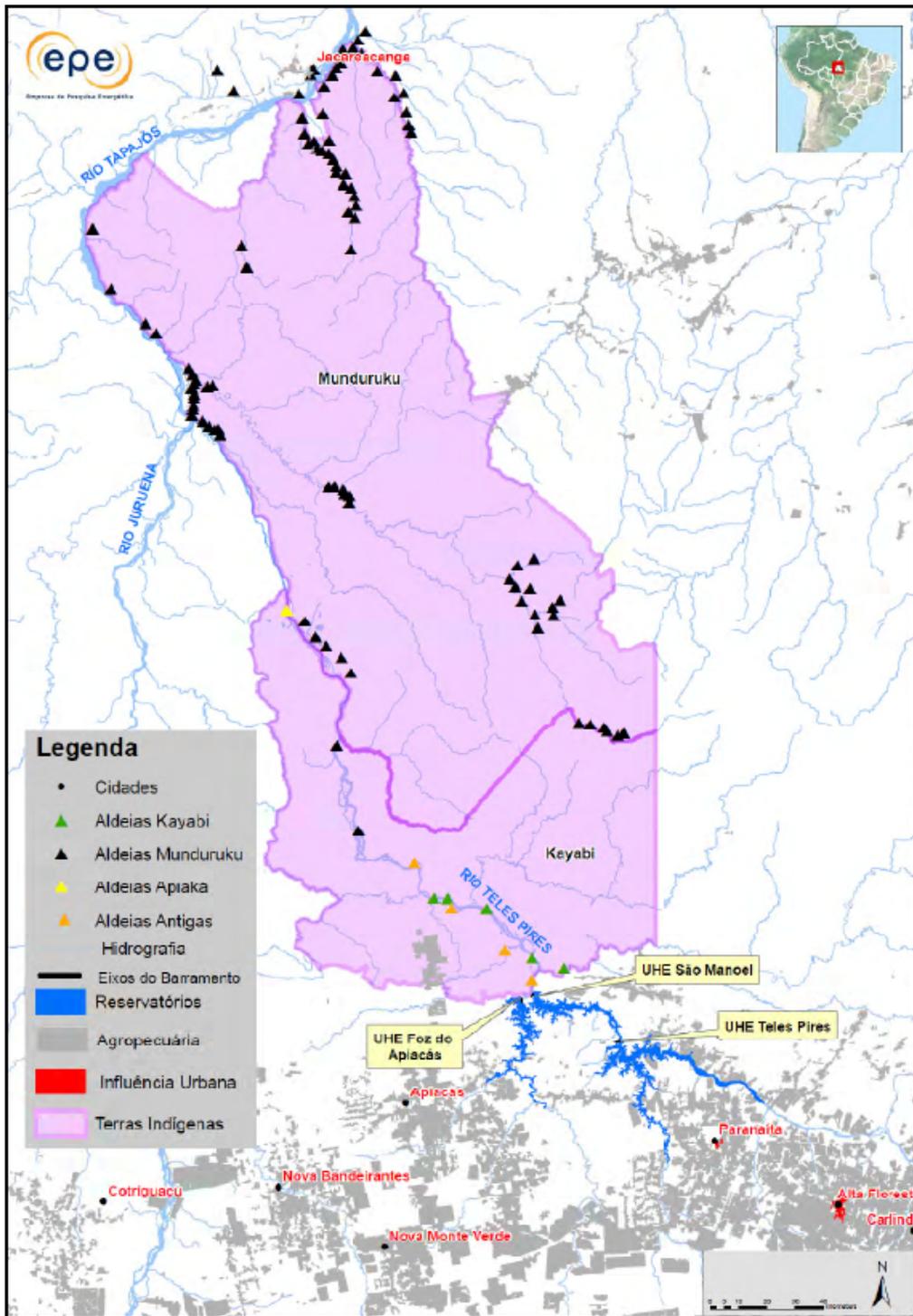


Figure 24: Location of the Teles Pires dam and the indigenous areas (Source: epe)

Legend

Purple area: Indigenous reserve

In addition to Teles Pires, permits have also been granted for the construction of the São Manoel and Foz do Apiacás dams located in the same area, which will have similar impacts on the rainforest and the indigenous population. In addition, all three dams are part of a planned waterway with locks, which should facilitate the transport of natural resources, mainly wood and agricultural products, to retailers in the port city of Santarém at the mouth of the Tapajós River in the Amazon, from which the world markets can be supplied. This would further remove obstacles to the industrial development of the Amazon and accelerate the destruction of the region.

5.4 Deforestation

The deforestation of the Amazon not only affects the climate in Brazil, but large amounts of carbon dioxide are also expelled in the process. This has a massive impact on climate change. In Brazil, deforestation accounts for up to 75 percent of the total emissions of greenhouse gasses.

To date, 14 percent of the 4,200,000 square kilometer (approximately 100 times the size of Switzerland) large area of the Amazon forest has been deforested. The size of the area deforested annually has decreased in recent years (see Figure 26). With the softening of the Forest Act by the Congress, however, a drastic increase is expected.

In the indigenous reserves 98.4 percent of the Amazon forest is still preserved, but they were also not spared entirely; according to ISA between 1998 and 2009 a total of 12,204 square kilometers were cleared in the forest reserves⁶⁹. Only a small portion of the deforestation is attributed to the indigenous population.

The majority, more than 93 percent, of the deforestation in the Reserves can be attributed to the illegal activities of people from outside. According to the ISA, the main fault lies in the poor management of the indigenous reserves by the authorities.

Figure 25 shows the cleared areas. More and more agriculture is entering into these areas, such as in the states of Mato Grosso and Rondônia. Particularly affected are the states of Maranhão and Pará, in which between 18 and 58 percent of the forest in the indigenous reserves has been cut down.

69 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 27

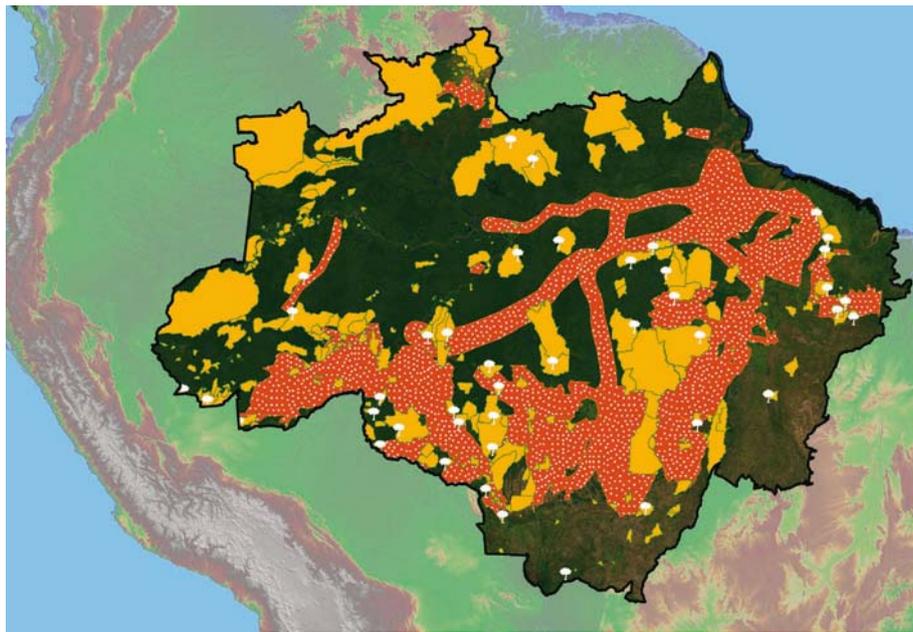


Figure 25: Logging in the Amazon (Source: © ISA⁷⁰)

Legend	
White tree:	Illegal logging
Orange area:	Areas that are threatened by illegal logging and mining
Red area:	Deforestation
Yellow area:	Indigenous reserves

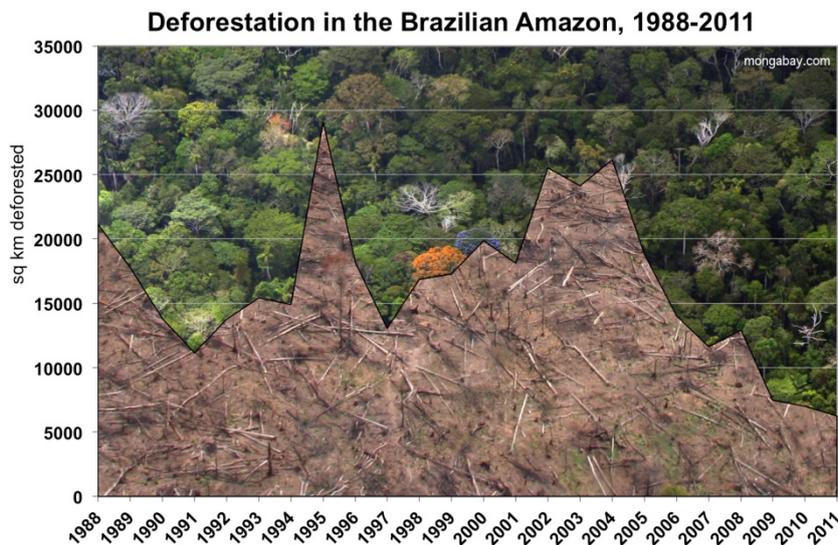


Figure 26: Deforestation statistics in the Amazon from 1988 to 2011 (Source: © Rhett A. Butler, Mongabay⁷¹)

⁷⁰ Source: Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 44

⁷¹ Source: http://photos.mongabay.com/06/braz_defor_88-05-lrg.jpg

The indigenous territory Apyterewa, which is, on the one hand affected by the construction of the Belo Monte dam and on the other hand particularly threatened by deforestation, deserves special attention. According to a FUNAI study between 2006 and 2008 eight percent of the reserve had already been cut down⁷².

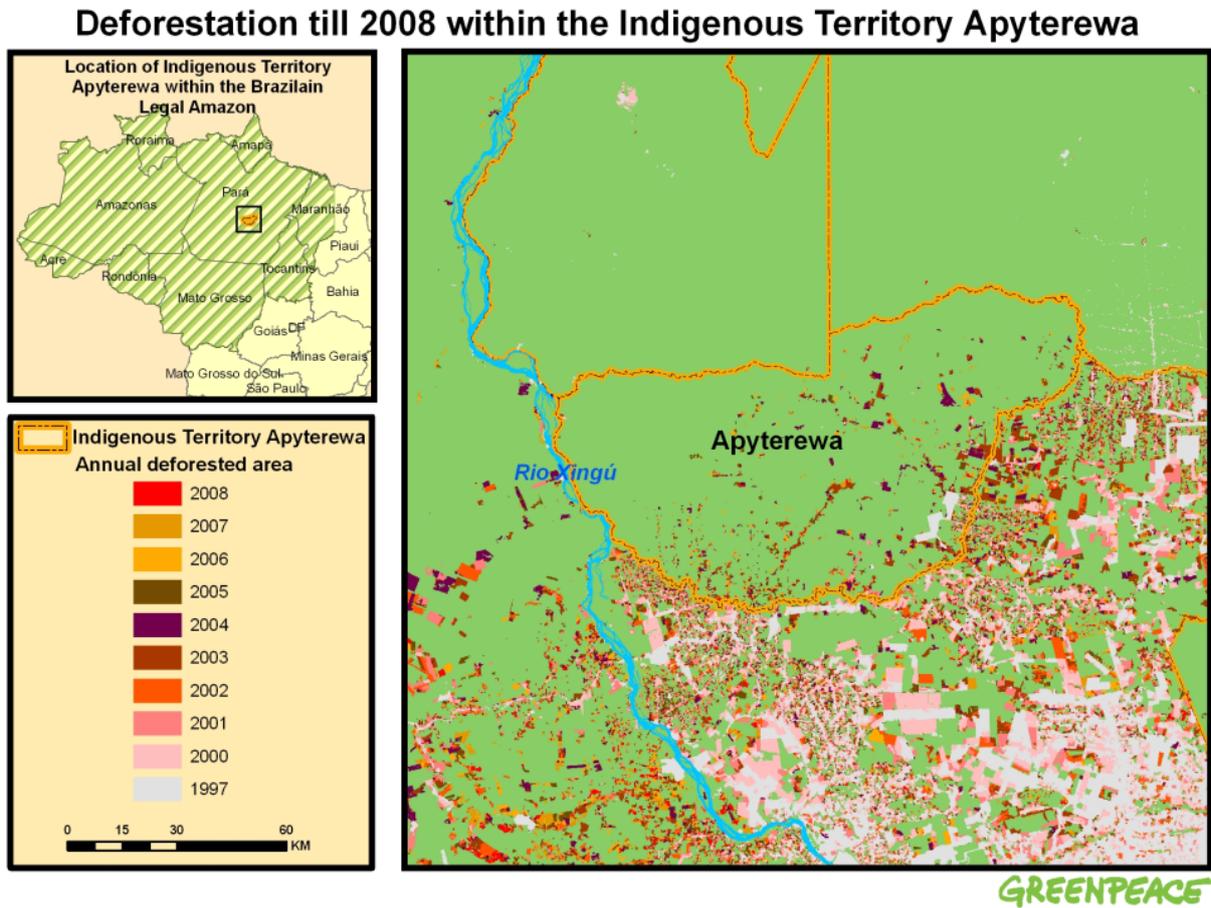


Figure 27: Deforestation in the indigenous reserve Apyterewa (Source: © Greenpeace⁷³)

72 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, Socioambiental: http://www.socioambiental.org/banco_imagens/pdfs/Atlas.pdf.pdf, page 24-26

73 Greenpeace, http://www.greenpeace.org.br/gado/googleearth/TI_Apyterewamapa.jpg

The following two satellite images of the State of Rondônia show the extent of deforestation in the last decade. Rondônia used to have 208,000 km² of forest area and is now the state, which is most affected by deforestation in Brazil.

The first image was taken on 30 July 2000 and the second on 2 August 2010. They show the extent of the destruction caused by deforestation.



Figure 28: Rodônia - photo comparison, 10 years difference (Source: NASA, Robert Simmon and Reto Stöckli⁷⁴)

Unfortunately, this example is no exception. It represents the trend of recent decades throughout the southern and eastern Amazon. The Amazon rainforest is

home to a large number of tree species. Mahogany is especially desired.

To get to these trees, loggers penetrate deep into the forest, mostly illegally, without a permit and cut down these precious woods. They do not stop at the indigenous reserves. Thus, they are a serious threat to the indigenous people.

Major timber companies have the financial capacities to build roads over long distances. Even if they use the wood itself selectively, they leave behind a considerably damaged forest. Small-scale farmers and large landowners penetrate into the areas along the logging roads. They clear the land completely and use the space for agriculture. Thus, the lumber industry opens the door to the destruction of the Amazon.

⁷⁴ NASA (30.07.2000): Amazon deforestation, <http://earthobservatory.nasa.gov/Features/WorldOfChange/deforestation.php>

5.5 Natural Resources

5.5.1 Minerals

Brazil is rich in mineral resources. Since the demand for commodities on the world market and in Brazil is increasing, the prices are also increasing. Thus, more and more companies see new revenue sources in the most remote areas. The Brazilian government has developed, within the framework of PAC, a long-term plan for the development of the mining sector (Plano Nacional de Mineração 2030), which will provide 350 billion U.S. dollars in investments in this area over the next several years.

In large areas of the Amazon, there is a great wealth of minerals, particularly iron ore, bauxite⁷⁵, tin, copper and gold deposits. For many years, therefore, large and small companies and speculators have been applying for permits to search for mineral resources, often in protected indigenous reserves. According to the Brazilian Constitution, no natural resources may be mined from the indigenous reserves, without the explicit consent of the National Congress and the consultation of the affected indigenous peoples. A law that shall govern these exceptions is currently being debated in Congress. In addition, companies that operate mines in indigenous reserves should pay FUNAI and the population residing there a share of the profits (the so-called royalties).

According to ISA, there are applications to explore or mine over 90 percent of the territory of the indigenous reserves Cajueiro (RR), Pequizal (MT), Kwazá do Rio São Pedro e Roosevelt (RO), Xikrin do Cateté (PA), Baú and Arara (PA)⁷⁶.

⁷⁵ Aluminum is made from bauxite, a process which uses large amounts of energy. The energy production from the Belo Monte dam would provide energy for aluminum production.

⁷⁶ Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon,

In 35 other reserves requests have been received, that would cover 50 percent or more of the territory. The reserves with the majority of requests are: Yanomami (AM / RR) with 790 requests, Menkragnoti (PA) with 410 and Alto Rio Negro (AM) with 377⁷⁷. In the reserves Waimiri Atroari (AM / RR), Xikrin do Catete (PA) and to the east of Pará the first licenses have already been granted⁷⁸. Thereby the protection of the reserves will in fact be repealed.

The Parliament is currently working on a bill, according to which, if adopted, each mining venture in the reserves would need to be individually evaluated. In addition, the affected communities would be guaranteed the right to consultation and to have a share in the profits. Some regulations, however, see no need for prior studies on the impact of mining in the region. Furthermore, it is feared that the community's right to consultation is perceived as a mere formality. The consent of the parties is not required.

According to the ISA report, there are eight mining permits and 120 requests to search for natural resources in the area of Xikrin do Catete. Since the 1980s, the Brazilian company Vale SA (formerly Companhia Vale do Rio Doce - CVRD⁷⁹) has been mining for mineral resources in the vicinity of the reserve. The mining activities constitute a threat to indigenous people even when they are outside of the reserves because roads are built for the mines, workers come into the area and the forest is cleared. In 1989, Vale started a program for education, health and infrastructure on location to compensate the indigenous peoples for the mines.

http://www.socioambiental.org/banco_imagens/pdfs/Atlas.pdf, page 35-38

⁷⁷ Ricardo, Beto / Ricardo, Fany (2011): Povos Indígenas No Brasil 2006/2010, Instituto Socioambiental: São Paulo, page 127-128

⁷⁸ Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon,

http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 37

⁷⁹ CVRD is one of the three largest mining companies in the world.

The community received this money, after which their eating habits suddenly changed and many were affected by diabetes, among other things.

The Waimiri Atoari reserve is another example. There are 195 mining processes on 44.5 percent of the reserve. In 1970, large zinc reserves were discovered in the area. The indigenous reserve, founded in 1971, subsequently lost 525,000 hectares of land to build the largest cassiterite mine in the world. In the process, much of the forest was cleared and the river Alalaú, which provides 55 percent of the water supply to the area, was contaminated⁸⁰.

According to ISA, there are already more than 4,903 soil sampling and mining processes in indigenous reserves, which corresponds to a total area of approximately 40.3 percent of the reserves, this before the law has even been passed⁸¹.

Table 4: Current Mining Processes in Indigenous Reserves⁸²

Research permits:	178
Mining permits:	5
Mining applications from companies:	5
Mining applications from individuals:	65
Applications for planning and operating licenses:	4
Applications for mining research permits:	4,404
Availability:	242
Total	4,903

80 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/Atlas.pdf.pdf, page 36

81 ISA: Terra Indígena Apyterewa , <http://ti.socioambiental.org/#!/terras-indigenas/3585>

82 ISA: Povos Indígenas No Brasil 2006/2010, page 127

5.5.2 Oil and Gas

Brazil is also putting its hopes in crude oil and natural gas. They are especially sought after in the western Amazon. There are ten places where oil deposits are suspected. The commercial exploitation of the Urucu river valley (AM) is already underway. In its immediate vicinity, there are no indigenous reserves, but even indigenous peoples living further away are affected by the consequences. The Cajuhiri Atravessado, Paumari do Lago Manissuã, Paumari do Lago Paricá and Paumari do Cuniuá reserves are located in the vicinity of a potential rigging area. If no preventive measures are taken, oil fields, refineries, pipelines, deforestation, pollution, land confiscation and uncontrolled migration are to follow, which will have a devastating impact on indigenous people.

In addition, in April 2012, the government gave the green light to oil and gas wells in the Juruá valley in the state of Acre. This process was initiated in 2007. In the districts of Cruzeiro do Sul, Mâncio Lima, Rodrigues Alves, Marechal Thaumaturgo and Porto Walter petroleum and natural gas were already found⁸³. Currently, some 520 workers have been signed under contract to carry out seismological studies over a period of ten months. This is particularly serious since most of the isolated indigenous people living in Brazil are living in this environment.

The following map shows, where current oil and gas fields are located in Brazil and its neighboring countries.

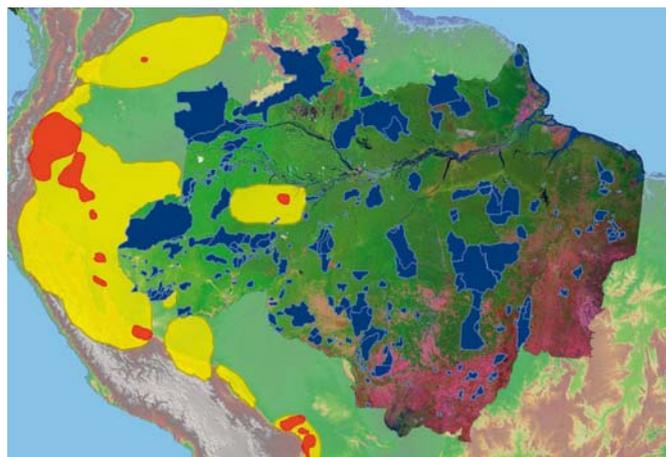


Figure 29: Oil and gas fields - current and potential future sites (Source: © ISA⁸⁴)

Legend

- Red area: Current and expressed interest in oil and gas fields
- Yellow area: Potential exploitation of oil and gas
- Blue area: Indigenous reserve

5.5.3 Gold

For many years, the gold rush has drawn thousands of people to the Amazon region, in hope of a better life. The lack of organization, poor infrastructure, the precarious way of life and the violent intrusion of the gold seekers into indigenous areas creates conflicts with the indigenous peoples. The prospectors penetrate into their reserves and pollute and destroy the environment through mining. The constitution prohibits the search of gold in the indigenous reserves by non-indigenous people. Nevertheless, one of the main areas for gold mining is located, for example, near the indigenous reserve Munduruku, in southwestern Pará.

⁸³ Santana, Nyanne (12.03.2012): Perfurações de petróleo e gás terão início no Vale do Juruá, <http://www.vozdoacre.com/portal/03/perfuracoes-de-petroleo-e-gas-terao-inicio-no-vale-do-juruá/>

⁸⁴ Source: Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 42

To defuse the situation, the government established the Garimpeira do Tapajós zone in 1983, a reserve for prospectors. 20,000 prospectors were attracted into the region by this new source of employment. However, the defined gold search zone does not protect the indigenous people from illegal invaders.

In the late 1980s, thousands of miners came to the Yanomami area in the state of Roraima. Since prospecting for gold usually involves the use of the highly toxic metal mercury, the river, soil and water have been poisoned. Violent conflict and newly introduced diseases claimed the lives of more than 1,500 Yanomami. Only after worldwide protests, did the Brazilian government actively begin to recognize, in 1992, a large part of the Yanomami indigenous territory as a reserve and ordered the military to expel the prospectors from the area. In 2003, research revealed that large uranium deposits are also suspected in the Yanomami territory, which creates a new threat to the people.

The socio-ecological impact of gold mining is enormous. For a few grams of gold tons of soil are washed away and large areas are deforested. The process can poison water and animals, especially fish. Humans can, however, also be seriously affected by inhaling toxic vapors, drinking contaminated water or eating contaminated food. Gold mining also leads to erosion and pollution of the soil and destroys the environment. In the Amazon, there are an estimated 1,300 sites, where the precious metal is being searched for, including various indigenous reserves.

5.6 Political Processes

5.6.1 Demarcation of the Indigenous Reserves

Since the Brazilian Constitution of 1988 promised the indigenous peoples better protection, the indigenous

peoples have been awarded about 20 percent of the Amazon rain forest in the form of reserves. For the indigenous population, the environment and the land on which they live are the most important factors to ensure their survival. The economic pressure is, however, growing and the economic interest in natural resources is increasing. Thus, a consistent demarcation of indigenous territories is essential to their survival. According to the Constitution the demarcation should have been completed within five years. However, the process is slow and the protection provided by demarcation is weak.

The initiation of a land law application, however, places high demands on the indigenous communities and their representatives, because in order to identify a reserve ethnographic knowledge and tools are needed, which are not part of the indigenous culture.

Once the demarcation of a reservation completed, the indigenous peoples are certainly not safe from conflict. If a reserve is declared, the Brazilian non-indigenous people are excluded from the area and receive a "reasonable" compensation. This procedure often provokes conflicts between the indigenous and non-indigenous population, which can lead to violence.

In recent years, despite many requests, almost no new reserves have been declared. With the legislative changes, the President might no longer approve the demarcation, but the more economic-friendly congress. The planned allocation of resource extraction even puts the protection of existing indigenous reserves, in all regions where there are mineral resources, fundamentally at risk.

The state's presence in the vast areas of the Amazon is extremely weak. FUNAI lacks monitoring and control capabilities to enforce the law. One ISA report shows that more than 18 percent of the protected indigenous reserves Alto Rio Guamá, Awá and Caru, which have a

combined area of 11,000 km², have been illegally deforested⁸⁵.

The Raposa Serra do Sol in Northern Brazil had to fight for their reserve for a long time. The reserve, on the border with Venezuela, was placed under protection in 2005. Many indigenous people were killed because the immigrant settlers and ranchers did not want to leave the area and resisted violently. The majority left the area with compensation payments from the government. A small group of farmers, with the support of politicians, remained and took revenge on the indigenous people. Many people were killed, bridges were set on fire and a bomb was even thrown over an indigenous village⁸⁶. The situation did not calm down until the federal police forced the settlers out of the area.

5.6.2 Forest Law

The agricultural lobby is campaigning for a new forest law (Código Florestal). The existing forest law, which has been in force since 1965, attempts to find a compromise between conservation and exploitation. In the past 40 years, nearly 18 percent of the rainforest has been destroyed, which has had a momentous impact on climate change and also meant a reduction of biodiversity. Therefore, Brazil is one of the largest emitters of CO₂ in the world. Most of the deforestation up until now has been less of a problem of legislation, and more a problem of illegal logging and the inability of the state to enforce the laws in the Amazon. Law enforcement must therefore be improved.

The current law is an important tool to reduce Brazil's carbon dioxide emissions. It requires that in the

purchase of a large forest area, no more than 20 percent of the forest can be cut, and thus, 80 percent must remain protected. The agricultural lobby now wants to weaken the Forest Act by reducing the protected area to 50 percent. In addition, they propose amnesty for persons who have illegally cleared forest. At the time this report was being written, Parliament had already adopted the Forest Law. The President, Dilma Rousseff, submitted a partial veto to the law on 25 May 2012: With her veto she blocked twelve parts of the bill, and made 32 amendments to the bill directly. The parliament now has the final say and may override the decree of the president with a simple majority in both houses of congress⁸⁷.

85 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 27

86 Survival International: The Indigenous Peoples of Raposa – Serra do Sol, <http://www.survivalinternational.de/indigene/raposa>

87 Freitas, Carolina (25.05.2012): Dilma veta doze itens do Código Florestal, <http://veja.abril.com.br/noticia/brasil/dilma-veta-12-itens-do-codigo-florestal>

5.7 Agriculture

5.7.1 Overview

The military government of the 1970s shaped the campaign "land without people for people without land" in order to facilitate the settlement of masses of people from heavily populated areas or areas plagued by drought into the forested Amazon. The governments of Fernando Henrique Cardoso and Luiz Inácio Lula da Silva merely made things worse. Between 2003 and 2008, 66 per cent of the plots distributed by the Institute for Land Development and Agrarian Reform (INCRA) were located in the Amazon. Although the settlers are not solely responsible, they certainly play a significant role in the deforestation of the area.

The expansion of extensive landed properties in the southern and eastern Amazon is far more serious. The next chapters show how huge areas continue to be cleared for cattle, soy plantations and in the near future sugar cane. Without political control, this will accelerate at the expense of the rainforest due to the world community's massive demand for agricultural fuel.

5.7.2 Cattle

Brazil has been the largest beef exporter in the world since 2004. Since the price of land in the Amazon is much lower than in the south, many cattle ranchers have been expanding in the north. This has resulted in large-scale deforestation: Up to 80 percent of the forest has been cut down in favor of cattle pastures⁸⁸. In the years between 1992 and 2006 the number of cattle has more than doubled. The trend continues, and in 2010 there were more than 209 million cattle in Brazil. The largest

increases have been recorded in the Amazon region, especially in the state of Pará⁸⁹. This growth trend is in line with the government's plan to double meat exports by 2018. The invasion of cattle breeders is threatening the indigenous peoples. For example, the land of the Awá, some of whom live in isolation, was granted for cattle farms by the government. Many of the indigenous people died thereafter due to conflicts with ranchers and newly introduced diseases⁹⁰.

5.7.3 Soy

Since the global demand for cheap soybeans for animal feed has increased, the Brazilian Amazon rain forest has been being cleared for more soy monocultures. Brazil has been the world's largest soybean supplier since 2005. The beans continue to be grown mainly in the south. Alarmed by the danger of large-scale deforestation of the Amazon by the soybean industry, in 2006, Greenpeace successfully negotiated a plantation moratorium⁹¹ to prevent new large areas of rainforest from becoming victims to the soy industry.

The existing soybean plantations in the Amazon clearly show the possible dangers. Due to the poor soil, fertilizer is heavily used. Brazil is one of the world's largest consumers of pesticides. The use of chemical fertilizers leads to further soil depletion. According to WWF, between 150,000 and 200,000 people are poisoned by pesticides every year, 4,000 of those people die as a consequence. It is believed that 10 percent of the

88 Carneiro Filho, Arnaldo/ Braga de Souza, Oswaldo (2009): ATLAS of Pressures and Threats to Indigenous Lands in the Brazilian Amazon, http://www.socioambiental.org/banco_imagens/pdfs/AtlasofPressuresandThreatstoIndigenousLandsintheBrazilianAmazon.pdf, page 31

89 Instituto Brasileiro de Geografia e Estatística (26.10.2011): PPM 2010: Rebanho bovino nacional cresce 2,1% e chega a 209,5 milhões de cabeças,

http://www.ibge.gov.br/home/presidencia/noticias/noticia_visualiza.php?id_noticia=2002&id_pagina=1

90 Survival International: The most threatened people in the world, <http://www.survivalinternational.de/indigene/awa>

91 The moratorium was initiated by Greenpeace in 2006 for two years and has been extended annually since, last in October 2011. The worldwide biggest grain traders, Cargill, Bunge, Archer Daniels Midland (ADM), Dreyfus and Grupo Maggi agreed not to buy newly cleared soy fields in the Amazon rainforest. Furthermore, the soy farmers must prove that their plantation is legitimate.

population, especially the indigenous peoples and rural workers, are exposed to the pesticides, which end up in the rivers and thus, eventually find their way into the food chain⁹².

For the soybean to sell cheaply on the world market, huge industrial plants and mechanized processes are required. Thus, small soy farmers can no longer compete with the big industries and are forced to shut down. The four largest companies (U.S. grain traders, Cargill, Bunge and Archer Daniels Midland (ADM), and the Brazilian company Blairo Maggi⁹³) export around 60 percent of Brazil's soybean harvest. These four multi-national companies own 80 percent of the soybean mills in Europe, which continue to sell the cheap soy meal for animal feed. According to research by Greenpeace, these four grain traders buy from Brazilian soy farmers, who are also involved in illegal land acquisition, deforestation and slavery⁹⁴.

5.7.4 Sugarcane

Sugarcane cultivation has increased significantly in Brazil. The main plantations used to be found in the south of the country, however, in recent years new fields have been planted in the north, especially in Mato Grosso. These plantations are also part of the government's economic plan to increase fuel production with the alcohol obtained from sugar cane. In general, 20 to 25 percent ethanol is added to Brazilian gasoline. This alternative fuel is controversial: on the one hand, ethanol is a more environmentally friendly fuel compared to petroleum because it releases less greenhouse gases. On the other hand, sugar cane is grown in large-scale monocultures, for which the massive use of pesticides is

required. In addition, sugar cane cultivation displaces food production, which has fatal consequences for the prices of basic foodstuffs. Another point of criticism is the poor working conditions on the plantations.

A sad example is the Guarani indigenous people in southwestern Brazil. The multinational corporation Shell and the Brazilian company Cosan are planting sugarcane on the ancestral lands of the Guarani. Since the companies began using their land and using chemicals for their crops, the health of the Guarani living in that environment has rapidly deteriorated: They suffer from diarrhea more often. They also complain of fish and plants dying in their area. According to a report by Survival International, the Guarani were never asked for their consent⁹⁵. Since the territory of the Guarani is still not registered as a reserve, they receive no special protection from the government and are thus virtually defenseless against the activities of the companies.

5.7.5 Palm Oil

The Brazilian palm oil industry is also aiming at a dramatic increase in production. Most of the plantations in the Amazon are in the state of Pará. The potential for possible cultivation in the Amazon is great because the Dendé palm, which is used to produce palm oil, grows very well in tropical climates. The palm trees are planted on large monoculture areas using a large amount of pesticides and fertilizers, which is a major threat to the environment and the local people.

The palm oil is processed, on the one hand, for food and chemical industries, and on the other hand, for the production of fuel. Currently, fuel is mainly produced from sugarcane and soy, but since the Brazilian government has decided that diesel must contain at least three percent of the so-called bio-diesel, palm oil has been declared an alternative fuel.

92 WWF (2007): Sojaanbau am Amazonas, http://assets.wwf.ch/downloads/hg_amazonas_sojaanbau_071018.pdf

93 Blairo Maggi is governor of the state of Mato Grosso and the biggest Brazilian corn-trader.

94 Greenpeace (17.10.2006): „Eating up the Amazon“, <http://www.greenpeace.org/international/Global/international/planet-2/report/2006/7/eating-up-the-amazon.pdf>

95 Survival International (6.09.2011): Brasilien: Indigene fordern Shell zum Abzug auf, <http://www.survivalinternational.de/nachrichten/7677>

5.8 Global Carbon Market

Due to the dimension of forest destruction and deforestation, Brazil has become one of the biggest CO₂ polluters in the world, and has thus also become the focus of discussions about the process of Reducing Emissions from Deforestation and Forest Degradation, abbreviated REDD (Reducing Emissions from Deforestation and Forest Degradation)⁹⁶. REDD programs seek to stop forest destruction and degradation and attribute commercial value to the carbon dioxide stored in the forest⁹⁷. The concept is highly controversial and not yet completed. Many open questions remain, such as doubts about funding, implementation and consent of the indigenous population. It is questionable whether REDD will ever make a significant contribution to reducing CO₂ emissions. Firm and binding guidelines are missing for the implementation of the projects. For the indigenous population REDD would only be acceptable if it fully acknowledges the rights of indigenous peoples in accordance with the Declaration of the Rights of Indigenous Peoples. This means that no project should be financed, if the indigenous community has not given their free, prior and informed consent (FPIC).

The prospect of quick money on the carbon market sprouts clever speculators and companies that try make money off of the carbon market by financing conservation projects. Thus, the Irish company Celestial Green Ventures PLC, based in Dublin, claimed to protect the carbon stock in at least ten Brazilian indigenous reserves⁹⁸. The company, for example, signed a highly problematic contract with the indigenous Munduruku

tribe on 1 June 2011⁹⁹. This contract required the indigenous people to lease their reserve (approximately 23,818 km² of forest) to the Irish company for an amount of 120 million U.S. dollars for a 30 years period. Payment is at an annual rate of 4 million U.S. dollars between the years of 2012 and 2041. In return, the company not only has the right to all carbon credits in the area, but also acquires all rights to the biodiversity in the leased area. In other words, the indigenous people are not allowed to use their own land over a period of 30 years without the permission of the company, if their activities are to have any impact on the carbon storage - which is the case in almost all economic activities. Celestial Green Ventures is well covered in the contract: If they were unable to earn enough money on the carbon market, the contract becomes void, and the Munduruku will not receive the promised payments.

According to statements by members of the Munduruku community, the signing ceremony was not conducted in a legal manner. During the discussions about the contract signed with Green Celestial Ventures PLC, the company informed the indigenous people present, in the course of a morning, about their intentions. Those in attendance, however, did not sign the treaty because the chiefs and the majority of the indigenous people were against it. It was not until later that afternoon that the controversial contract was signed, in a different location, by about ten indigenous people, excluding the chiefs. The FUNAI director, Márcio Meira, made it clear at a press conference that the contract was not valid. FUNAI must be involved in order to prevent abuses in such negotiations¹⁰⁰.

96 In the meantime REDD+ has also been created, which should guarantee sustainable use of the forest, preservation of the forests and an improvement of carbon levels.

97 Kuhlmann, Wolfgang: Wald und Klima: Bäume pflanzen reicht nicht, http://www.oekom.de/nc/zeitschriften/umwelt-aktuell/archiv/umwelt-aktuell-archiv.html?artikel_id=3850&rubrik=Klima%2B%2526%2BEnergie&backpid=448&nummer=5%2F2009%29&mag=aus%20umwelt%20aktuell%26%23160%3B%28

98 Homepage von Celestial Green Venture: <http://www.celestialgreenventures.com/>

99 Lang, Chris (15.03.2012): Celestial Green Ventures' contracts are "not valid", says Brazil's National Indigenous Foundation, FUNAI, <http://www.redd-monitor.org/2012/03/15/celestial-green-ventures-contracts-are-not-valid-says-brazils-national-indian-foundation-funai/#more-11623>

100 <http://www.redd-monitor.org/2012/03/15/celestial-green-ventures-contracts-are-not-valid-says-brazils-national-indian-foundation-funai/#more-11623>

Compensation for conservation efforts made by indigenous peoples could be an attractive alternative to the commercial and economic exploitation of their environment. This should not be based on a speculative basis, but on serious commitment. In particular, the affected communities should be well informed and involved, and projects should only be carried out after their consent has been given.

In August 2011, the Organization of Indigenous Peoples in the Amazon Region (COICA) held a conference, in collaboration with the Brazilian indigenous rights organization COIAB, on "Traditional knowledge, indigenous peoples and living in harmony with the forests." There was also a debate about REDD and among other things, the following requirements were made¹⁰¹:

- With no assigned territory or guaranteed collective rights, REDD+ is infeasible;
- To respect and support the conservation of the forests as a whole, not only in the areas where deforestation occurs;
- to ban fraudulent companies and NGO's that have been denounced by the indigenous peoples, and to work with communities to create an understanding that they should not sign any 'REDD+ contracts' or 'carbon deals' until all national and international regulations are implemented.
- To respect our national regulation proposals in regards to REDD and to ensure prior, free and binding consultation and consent.

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http://webcache.googleusercontent.com/search?q=cache:hStXvBe4EY4J:dialogos2012.org/novo/Biblioteca/Territorios/Biblioteca/TerritorialeBemViver_COICA.rtf+conferencia+manaus+15-18.+agosto+2011+coica&cd=1&hl=de&ct=clnk&gl=ch

6. Other Threats

In addition to the risks faced by the indigenous communities and their environment due to Brazil's economic development, other threats exist due to the non-observance of fundamental human rights by Brazilian society and the state. Violence and death threats against indigenous human rights activists have been increasing. Between 2003 and 2010 a total of 453 indigenous people were killed in Brazil. In recent years, there has been an average of 60 people killed per year¹⁰². Much of the violence stems from illegal occupiers of indigenous territories. These are often large landowners and their paid mercenaries, employees of logging companies and other individuals. Hunters and fishermen also join together in armed groups and enter into the reserves to kill, injure, threaten, rob or rape members of indigenous communities.

The Brazilian government is not in a position to offer the indigenous people the ability to exercise their right to life, medical care and special treatment methods, to offer protection from their attackers and to safeguard their physical and cultural heritage. In remote forest areas, the power of the strongest prevails, the state is barely present, and usually the indigenous people are left to fend for themselves in conflict situations. Some state officials maintain stereotypical, discriminatory views on indigenous communities and violate their rights. Ultimately discrimination and marginalization by the government and society leads to violence against the indigenous people. Furthermore, many violent crimes remain unpunished.

The state of health care and education provided for the indigenous population has also been being criticized for a long time. International and national organizations and the local indigenous people have advocated a re-

organization of these areas and submitted a federal lawsuit in 2009 because of the lack of health care¹⁰³. Many indigenous people are dying of diseases that could be easily controlled or eradicated, or suffer from malnutrition. In addition, the infant mortality rate is alarmingly high compared to the national average and the indigenous peoples have a much lower life expectancy, on average, than the rest of the population. James Anaya, UN special reporter on the rights of indigenous peoples, criticized the situation of indigenous peoples in Brazil in his report¹⁰⁴ in regards to access to health care. The state health department (FUNASA) has taken special measures to make health care more accessible even to more remote groups; however, the structural defects of the FUNASA limit progress. In 2011, for example, six Xavante indigenous people died of complications from pneumonia and childbirth. In 2010, 200 newborns died from illnesses such as respiratory diseases due to inadequate medical care¹⁰⁵.

The new Constitution of 1988 clearly states that the indigenous peoples have the right to be taught in their own language and with their own teaching methods. The initial efforts of the government began to bear fruit, and by 2007, there were 2,480 Indigenous schools across the country and 176,714 indigenous students. Significant challenges still remain: there is a shortage of teachers and indigenous languages and culture are not sufficiently being included in the curriculum. In addition, many indigenous children only complete primary school and do not continue schooling after that.

103 CIMI (16.01.2011): O caos no atendimento à saúde indígena,
<http://www.adital.com.br/site/noticia.asp?lang=PT&cod=53409>

104 UN Report on the Situation of Human Rights of Indigenous Peoples in Brazil (26.08.2009)
<http://unsr.jamesanaya.org/country-reports/report-on-the-situation-of-human-rights-of-indigenous-peoples-in-brazil-2009>, Page 18-19

105 CIMI (16.01.2011): O caos no atendimento à saúde indígena,
<http://www.adital.com.br/site/noticia.asp?lang=PT&cod=53409>

102 Relatório Violência contra os povos indígenas no Brasil – Dados de 2010, CIMI

7. Conclusions and Solutions

The state is responsible for the enforcement of indigenous rights. The Society for Threatened Peoples therefore calls on the Brazilian government to stand to the meaning and spirit of the Brazilian Constitution of 1988 and to implement the Declaration on the Rights of Indigenous Peoples and the ILO Convention 169. This means in particular:

1. The recognition of the self-determination of indigenous peoples;
2. Genuine participation of indigenous peoples in all parliamentary initiatives and government programs such as the projects to accelerate growth and other developmental programs, which have an impact on the lives of indigenous people and their environment;
3. Institutional reform of the Brazilian state and the states and communities that care for the indigenous people's concerns, in order to ensure a true representation of indigenous interests towards the state and the authorities, and the revision of the Indigenous Statute, with the participation and the consent of the indigenous peoples;
4. The guarantee of the right to free, prior and informed consent of the affected indigenous communities for all economic and development projects. This applies in particular to infrastructure (roads, railways, waterways, dams), economic projects (logging, mineral resources), agricultural development and the establishment of protected areas and climate projects in the indigenous reserves;
5. The prompt demarcation of all regions that have traditionally been used by indigenous groups;
6. The construction of a protection system for the indigenous reserves, which prevents any illegal activities, with the cooperation and consent of the indigenous population;
7. The immediate demarcation of areas where isolated indigenous peoples live or are suspected to be living, and partitioning of these areas effectively, regardless of any economic interests;
8. The development of effective protection programs for endangered indigenous human rights activists and the prosecution and conviction of those responsible, who exert force or threaten with violence;
9. The launching of national programs for the benefit of the indigenous population and against the marginalization and stigmatization of indigenous peoples in Brazilian society.

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Appendix

Brazilian Constitution

Article 231¹⁰⁶

Indigenous shall have their social organization, customs, languages, creeds and traditions recognized, as well as their original rights to the lands they traditionally occupy, it being incumbent upon the Union to demarcate them, protect and ensure respect for all of their property.

§ 1:

Lands traditionally occupied by indigenous are those on which they live on a permanent basis, those used for their productive activities, those indispensable to the preservation of the environmental resources necessary for their well-being and for their physical and cultural reproduction, according to their uses, customs and traditions.

§ 2:

The lands traditionally occupied by indigenous are intended for their permanent possession and they shall have the exclusive usufruct of the riches of the soil, the rivers and the lakes existing therein.

§ 3:

Hydric resources, including energetic potentials, may only be exploited, and mineral riches in indigenous land may only be prospected and mined with the authorization of the National Congress, after hearing the communities involved, and the participation in the results of such mining shall be ensured to them, as set forth by law.

§ 4:

The lands referred to in this article are inalienable and indisposible and the rights thereto are not subject to limitation.

§ 5:

The removal of indigenous groups from their lands is forbidden. Except ad referendum of the National Congress, in case of a catastrophe or an epidemic which represents a risk to their population, or in the interest of the sovereignty of the country, after decision by the National Congress, it being guaranteed that, under any circumstances, the return shall be immediate as soon as the risk ceases.

§ 6:

Acts with a view to occupation, domain and possession of the lands referred to in this article or to the exploitation of the natural riches of the soil, rivers and lakes existing therein, are null and void, producing no legal effects, except in case of relevant public interest of the Union, as provided by a supplementary law and such nullity and voidness shall not create a right to indemnity or to sue the Union, except in what concerns improvements derived from occupation in good faith, in the manner prescribed by law.

§ 7:

106 <http://www.v-brazil.com/government/laws/titleVIII.html>

The provisions of article 174, paragraphs 3 and 4, shall not apply to indigenous lands.

Article 232

The Indigenous, their communities and organizations have standing under the law to sue to defend their rights and interests, the Public Prosecution intervening in all the procedural acts.

Declaration on the Rights of Indigenous Peoples

Article 3¹⁰⁷

Indigenous Peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 8

1. Indigenous peoples and individuals have their right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - a) Any action which has the aim or effect of depriving them in their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - d) Any form of forced assimilation or integration;
 - e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

ILO-Convention 169

Article 6¹⁰⁸

1. In applying the provisions of this Convention, governments shall:
 - a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
 - b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

107 UN – United Declaration of the Rights of the Indigenous Peoples: http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf

108 ILO Convention 169,

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:1134746210291311::NO:12100:P12100_INSTRUMENT_ID:312314:NO#A6

c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement.

3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

Article 15

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

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**SOCIETY FOR
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