

Balancing Progress and Preservation: Safeguarding Indigenous Peoples' Rights in Brazil's Development Projects



Introduction

Indigenous peoples are vital custodians of cultural heritage and environmental sustainability. As stewards of the world's biodiversity, they preserve ancient traditions, languages, and knowledge systems that contribute to the ecological balance of our planet. Globally, there are over 476 million indigenous individuals across 90 countries, forming 6.2% of the global population.¹ In Brazil, this diversity is even more pronounced, with over 300 distinct ethnic groups representing a rich tapestry of cultural and ecological significance.² Indigenous peoples collectively manage or hold tenure over approximately 38 million square kilometres of land—28% of the Earth's surface—including some of the planet's most ecologically significant and biodiverse regions.³ In Brazil alone, indigenous territories encompass around 13% of the country's land area⁴, much of which overlaps with the Amazon rainforest—a critical global resource that absorbs approximately 2 billion tons of carbon dioxide annually, highlighting its vital role in biodiversity conservation and climate regulation.⁵

Despite their vital role, indigenous communities remain among the most vulnerable populations, facing persistent threats such as land encroachment, environmental degradation, and pressures from development projects. Their vulnerability is rooted in historical injustices, including land dispossession and systemic marginalization, which are compounded by modern challenge.⁶ In specific, infrastructure projects, while essential for economic growth and social progress, often pose significant risks to indigenous peoples. Large-scale developments such as dams, highways, and mining operations frequently result in loss of biodiversity, displacement, loss of livelihoods, and the destruction of cultural heritage.⁷

Recognizing these risks, national and international development financing institutions have established policies and guidelines to safeguard indigenous rights. Multilateral development banks (MDBs) and some regional development banks, play a critical role in this process. They emphasize the importance of preserving indigenous rights while promoting the integration of indigenous voices into project decision-making. These institutions aim to ensure meaningful

participation of indigenous peoples in projects that directly or indirectly affect their communities.

A cornerstone of these safeguards is the principle of Free, Prior, and Informed Consent (FPIC), first proposed in international discussions in the 1980s and formalized in instruments such as the UN Declaration on the Rights of Indigenous Peoples and the International Labour Organization's Convention 169.⁸ FPIC requires that consultations with indigenous communities occur before project approval, are conducted without coercion, and provide access to adequate and relevant information to support informed decision-making. This principle has become central to ensuring that development respects indigenous peoples' rights and aligns with their priorities.

The New Development Bank (NDB) embodies its commitment to safeguarding indigenous peoples through its Environmental and Social Framework (ESF), particularly Environmental and Social Standard 3 (ESS3). ESS3 emphasizes the importance of designing and implementing projects that respect the identity, dignity, and rights of indigenous peoples. It ensures that these communities not only benefit from development initiatives but do so in a way that avoids adverse impacts, promoting inclusive and sustainable outcomes.

The NDB defines indigenous peoples broadly as "distinct social and cultural groups" who self-identify as indigenous, maintain unique traditions, and have historical connections to their territory.⁹ This definition extends to other traditional communities in Brazil, such as *quilombola* groups, whose rights and protections are upheld in Brazilian law.

MDBs has embraced principles such as FPIC and/or rigorous safeguard frameworks to ensure that development respects indigenous peoples' rights and aligns with their priorities. These efforts are vital for bridging the gap between economic growth and the preservation of cultural heritage and biodiversity. However, the practical implementation of these safeguards often encounters significant obstacles, particularly in diverse and ecologically sensitive regions like Brazil.

Key Challenges: Implementing Safeguards for Indigenous Peoples in Brazil

Despite robust legal protections and international recognition of the importance of respecting indigenous peoples' rights, MDBs may encounter challenges when implementing safeguard frameworks in Brazil. These challenges stem from a combination of systemic barriers, competing economic priorities, and the complex interplay between local and global standards. Addressing these obstacles is essential to ensuring that infrastructure projects align with both ethical development principles and the rights of indigenous communities. Key challenges include:

1. Legal and Administrative Barriers: Brazil's legal framework elevate indigenous protections in its constitution and recognizes their right to ancestral lands. However, the process of demarcating indigenous territories is often delayed due to bureaucratic inefficiencies and competing land claims. Reports from third-party sources and academic studies highlight underfunding and challenges faced by government institutions such as the National Indigenous People Foundation (FUNAI) in enforcing these protections effectively.¹⁰

2. Economic and Development Pressures: Economic development initiatives often prioritize large-scale infrastructure and resource extraction projects over indigenous rights. These projects might lead to displacement and loss of livelihoods, disproportionately affecting indigenous peoples. Without adequate implementation of safeguards, these projects undermine indigenous communities' ability to sustain their cultural and economic practices.

3. Environmental Degradation: While indigenous territories in Brazil are globally recognized for their ecological significance, they are increasingly targeted by infrastructure, agriculture, and extractive projects. Activities such as deforestation, mining, and dam construction disrupt ecosystems and contribute to habitat loss and pollution. These impacts threaten biodiversity and undermine the traditional knowledge systems indigenous communities rely on for sustainable land use and resource management. The lack of local stringent environmental safeguards in these projects exacerbates these risks, leaving indigenous peoples and ecosystems vulnerable to irreversible damage.¹¹

4. Weak Enforcement Mechanisms: While Brazil has robust legal protections for indigenous rights, enforcement mechanisms are inconsistent. Developers sometimes exploit legal loopholes or delay compliance with environmental and social

requirements. Weak penalties for violations reduce incentives to adhere to these regulations.

5. Cultural and Social Impacts: Displacement and land dispossession disrupt spiritual and cultural connections to ancestral lands. Since these cultural connections cannot be monetarily measured, they are often disregarded. As a result, indigenous communities face erosion of their traditional knowledge, practices, and social cohesion when forced to relocate or adapt to externally imposed development.

In many instances, indigenous communities face the compounded effects of historical marginalization and contemporary development pressures. Displacement from ancestral lands, environmental degradation, and loss of cultural heritage are persistent risks. These impacts threaten not only these communities' physical and economic well-being but also their spiritual and cultural identities, which are deeply tied to their environments.

Best Practices: Toward Inclusive Development

While directly addressing some of these challenges may be beyond the capabilities of MDBs, their role as financiers enables them to influence project design and implementation significantly. By embedding best practices into their investment frameworks, MDBs can mitigate risks, uphold indigenous rights, and promote sustainable development. Noteworthy practices include:

1. Early Screening and Risk Identification

- **Proactive Identification of Indigenous Communities:** Require clients to conduct early screening during project planning to identify the presence of indigenous groups and their territories. This helps flag potential risks and ensures safeguards are integrated into the project design from the outset.
- **Early Risk Assessment:** Mandate comprehensive assessments to identify environmental, social, and cultural risks to indigenous peoples. Use this information to design mitigation measures that align with international standards and the MDB's own safeguard frameworks.

2. Ensuring Meaningful Consultation

- **Adopt FPIC Principles where Relevant:** Promoting FPIC principles ensures consultations are free from coercion, culturally appropriate, and occur early in project planning. The formal consent requirement also ensures indigenous people

are active decision makers in the process. This fosters trust and supports project legitimacy.

- *Culturally Tailored Engagement*: Require clients to design consultation processes that respect indigenous traditions, languages, and decision-making structures. Meaningful participation requires indigenous voices to be central to project decisions.

3. Promoting Sustainable Development Practices

- *Green Infrastructure Development*: Encourage clients to adopt designs and technologies that avoid or minimize environmental impacts, such as reducing deforestation and preserving biodiversity.
- *Community-Led Development Initiatives*: Support project models that empower indigenous communities to lead development initiatives aligned with their cultural and economic priorities. This ensures indigenous peoples are beneficiaries, not just stakeholders.

4. Strengthening Monitoring and Compliance

- *Indigenous Peoples Plan (IPP)*: Require project proponents to develop a comprehensive IPP as part of the project approval process. The plan should outline specific measures to address potential impacts on indigenous communities, including culturally appropriate consultation, mitigation strategies, and benefit-sharing mechanisms. The IPP must be publicly disclosed and regularly updated to reflect changes during the project lifecycle, ensuring transparency and accountability.
- *Independent Monitoring Mechanisms*: Include independent third-party monitoring as part of the project requirements to ensure compliance with safeguard measures throughout the project lifecycle.
- *Stronger Safeguard Requirements*: Develop clear safeguard conditions tied to project financing, with enforceable consequences for non-compliance to incentivize adherence.

5. Capacity Building and Knowledge Sharing

- *Enhancing Indigenous Advocacy*: Promote capacity-building programs to disseminate indigenous people's rights throughout the project life cycle.
- *Leverage Traditional Knowledge*: Require project developers to integrate indigenous knowledge into environmental management plans, where possible. This approach strengthens both project outcomes and cultural preservation.

6. Avoiding or Divesting from Harmful Projects

- *Avoidance of projects with significant adverse Impacts*: If significant adverse impacts on indigenous peoples are unavoidable and cannot be mitigated, MDBs should consider refraining from investing in such projects. This approach aligns with the "do no harm" principle and ensures accountability in safeguarding indigenous rights.

Conclusion: Toward Ethical and Inclusive Development

Investors wield significant influence in shaping the trajectory of development projects. By integrating indigenous rights into their investment criteria, they can drive a paradigm shift toward ethical and sustainable development. This involves screening projects for alignment with strong indigenous people safeguard principles and prioritizing those that respect indigenous rights and environmental sustainability. Moreover, investors can act as catalysts for change by advocating for best practices in project design, implementation, and monitoring.

The commitment to "do no harm" requires not only compliance with legal standards but also the integration of indigenous perspectives into decision-making processes. This is particularly crucial in Brazil. The country's vast natural capital, including 60% of the Amazon rainforest, highlights the interconnectedness of indigenous stewardship and environmental sustainability.

Promoting direct engagement with indigenous communities is another critical aspect of investor responsibility. Building trust through transparent communication and inclusive decision-making processes can foster mutually beneficial partnerships. Supporting capacity-building initiatives and community-led projects further empowers indigenous peoples, enabling them to take an active role in development planning and implementation. By leveraging their financial influence, MDBs and investors alike can incentivize developers to adopt practices that align with the long-term viability of projects and the preservation of indigenous rights.

While progress has been made, there is still a long way to go in addressing the challenges faced by indigenous peoples. Ultimately, the journey toward ethical development hinges on the recognition of indigenous peoples as partners in progress, rather than obstacles to it. By fostering a harmonious relationship between development and indigenous rights, we can pave the way for a future that is equitable, sustainable, and

inclusive. In Brazil and beyond, this vision is not just an ideal—it is a necessity.

Useful Tools and Resources

International Frameworks and Guidelines

1. **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**. United Nations, 2007
<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>
2. **ILO Convention 169 on Indigenous and Tribal Peoples International Labour Organization, 1989**
<https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/indigenous-and-tribal-peoples/lang-en/index.htm>
3. **Convention on Biological Diversity (CBD)**
United Nations, 1992
<https://www.cbd.int>
4. **Equator Principles**
A Guidance Note for Evaluating Projects with Affected Indigenous People.
https://equator-principles.com/app/uploads/Affected_Indigenous_People_Sep2020.pdf

Resources on Environmental Sustainability

5. **Environment and Social Framework (ESF) : ESF Guidance Note 7 Indigenous Peoples**
World Bank, 2018
<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/972151530217132480/esf-guidance-note-7-indigenous-peoples-english>

6. **IFC Performance Standards on Environmental and Social Sustainability, Performance Standard 7 – Indigenous Peoples**
International Finance Corporation (IFC), 2012
https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards
 7. **Amazon Assessment Report**
United Nations Environment Programme (UNEP), 2021
<https://www.unep.org/resources/amazon-and-climate-change>
- ### Indigenous Rights and Advocacy
8. **Food and Agriculture Organization (FAO): Indigenous Peoples**
Comprehensive data on the role of indigenous peoples in sustainability.
<https://www.fao.org/indigenous-peoples>
 9. **FUNAI (National Indigenous Foundation of Brazil)**
Institutional framework for the protection of indigenous peoples in Brazil.
<https://www.gov.br/funai>
 10. **Amazon Watch**
Advocacy organization focused on indigenous rights and environmental sustainability.
<https://amazonwatch.org>
 11. **Global Witness**
Reports on environmental defenders and indigenous rights.
<https://www.globalwitness.org>
 12. **Indigenous Navigator**
A tool for indigenous peoples to monitor their rights and development goals.
<https://indigenousnavigator.org>

¹ Food and Agriculture Organization of the United Nations (FAO). (n.d.). *Indigenous Peoples: Who We Are*. Retrieved from <https://www.fao.org>.

² Fundação Nacional dos Povos Indígenas (FUNAI). (n.d.). *Institutional framework for the protection of indigenous peoples in Brazil*. Retrieved from <https://www.gov.br/funai>.

³ Stone, R. (2018). Indigenous peoples and local communities are essential partners in protecting at least 30% of the Earth by 2030. *National Geographic News*. Retrieved from <https://news.nationalgeographic.org/indigenous-peoples-and-local-communities-are-essential-partners-in-protecting-at-least-30-of-the-earth-by-2030/>.

⁴ Food and Agriculture Organization of the United Nations (FAO). (n.d.). *Indigenous Peoples: Who We Are*. Retrieved from <https://www.fao.org>.

⁵ United Nations Environment Programme (UNEP). (2021). *Amazon and Climate Change*. Retrieved from <https://www.unep.org>.

⁶ International Labour Organization (ILO). (1989). *Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. Retrieved from <https://www.ilo.org>.

⁷ International Labour Organization (ILO). (1989). *Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. Retrieved from <https://www.ilo.org>.

⁸ See items 1 and 2 on the Useful Tools and Resources.

⁹ New Development Bank. (2016). *Environmental and Social Framework*. Shanghai, China: New Development Bank. Retrieved from <https://www.ndb.int/document/environmental-social-framework-esf/>.

¹⁰ Global Witness. (n.d.). *Defending Tomorrow: The climate crisis and threats against land and environmental defenders*. Retrieved from <https://www.globalwitness.org/>.

¹¹ WWF. (2019). *Living Amazon Report 2019*. Retrieved from <https://www.worldwildlife.org/threats/deforestation-and-forest-degradation>

The New Development Bank is a multilateral development bank established by Brazil, Russia, India, China and South Africa with the purpose of mobilising resources for infrastructure and sustainable development projects in emerging markets and developing countries.

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