

Practical Guide:

How to use international instruments related to the right to food at the national and subnational levels - the case of Brazil

THE HUMAN RIGHT TO ADEQUATE FOOD AND THE RIGHTS OF INDIGENOUS PEOPLES

6



PRACTICAL GUIDE: HOW TO USE INTERNATIONAL INSTRUMENTS RELATED TO THE RIGHT
TO FOOD AT THE NATIONAL AND SUBNATIONAL LEVELS - THE CASE OF BRAZIL

The Human Right to Adequate Food and The Rights of Indigenous Peoples



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Elisabetta Recine
President of CONSEA

SECRETARIA-EXECUTIVA DO CONSEA

Marília Mendonça Leão
Executive Secretary

Elaine Martins Pasquim
General Coordinator

PREPARED BY

Cilídia Barbosa de Souza
Elaine Martins Pasquim

WITH CONTRIBUTIONS FROM (ONSEA MEMBERS AND COLLABORATORS)

Alfredo da Costa Pereira Júnior
Ana Maria Thomas Maya Martins
Marília Gabrielly Peixoto Souza
Glenn Massakazu Makuta
Inês Rugani Ribeiro de Castro
Lívio Sérgio Dias Claudino

COORDINATION OF THE CONCEPTION PROCESS AND TRANSLATION INTO ENGLISH

Elisabetta Recine
President of CONSEA

Martin Wolpold-Bosien
Senior Policy Adviser, German Institute for Human
Rights (2023–2025)

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 contato@apd-brasil.de  www.apdbrasil.de  [APD Brasil Alemanha](#)  [APD Brasil Alemanha](#)

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Coordination of Editorial Design

Agricultural Policy Dialogue Brazil-Germany: Gleice Mere, Alexander Borges Rose and Carlos Alberto dos Santos

English translation: Katie Whiddon - ktwhiddon@gmail.com

Editorial Design: Scriptorium Design Editorial - Kenia de Aguiar Ribeiro and Beatriz Gomes

Cover Illustration: Beatriz Gomes

 seconsea@presidencia.gov.br

 www.gov.br/secretariageral/pt-br/consea



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INTRODUCTION

BRAZIL AND THE HUMAN RIGHT TO ADEQUATE FOOD

At the heart of today's debates on equity, justice, sovereignty and democracy lies the human right to adequate food (right to food). It is not only about ensuring access to food and meals; it also means recognising that land and territory, water, health, food culture and food supply are inseparable parts of a fundamental right – one that underpins citizenship and must be guaranteed through public policies.

Brazil enshrined the right to food in the Constitution in 2010 and has since developed pioneering public policies for food and nutrition security. This is a collective achievement, resulting from decades of social mobilisation, academic work, institution-building and international commitments undertaken by the Brazilian State. This accumulated experience is expressed in a set of legal instruments, treaties, resolutions and pacts that have recognised the right to food as a legal, political and ethical guideline.

Today, this framework is not only a reference for Brazil: it has become a concrete example, able to inspire governments, institutions and civil society. In a global context of geopolitical instability, environmental crises and deep inequalities, the realisation of the right to food cannot be treated as a mere administrative choice. It is a constitutional duty and a moral imperative. Hunger, deforestation, water insecurity and an exclusionary, health-damaging agri-food model are all symptoms of the same system, which continues to violate rights and destroy lives.

Brazil has a responsibility to maintain and deepen its normative frameworks. This means advancing public policies, strengthening participatory democracy, protecting traditional peoples and communities, ensuring agroecology as a viable horizon, and confronting interests that seek to reduce food to a commodity and to superficial solutions.

The existing set of international normative instruments related to the right to food has been fundamental in guiding Brazilian public policies on how to use human rights-based approaches at national and subnational levels. This guide provides an overview of how public policies of major relevance to the realisation of the right to food in Brazil connect with international instruments adopted by the United Nations and by regional bodies as part of an advanced normative framework on the right to food; how these instruments can be used for effective policies to combat hunger and malnutrition, to guarantee healthy food; and how they relate to key areas such as social participation, accountability, corporate power and finance.

Bringing together the core instruments that underpin the right to food internationally and nationally, linking them to public policies in practice, and identifying challenges is not a bureaucratic exercise. It is a political act. It is a way of insisting that rights cannot be suppressed, diluted or negotiated away. It affirms our place in a history that moves forward when the State plays its role and when civil society participates, holds authorities to account, proposes solutions and drives change.

The human right to adequate food is more than a constitutional provision: it expresses a social pact. A pact that allows no setbacks, and that demands vigilance, commitment and courage to meet the present while keeping our eyes on the future.

CONSEA Brazil

THE HUMAN RIGHT TO ADEQUATE FOOD AND THE RIGHTS OF INDIGENOUS PEOPLES

INTERNATIONAL INSTRUMENTS

United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)¹ – Adopted by the Human Rights Council in 2007, this declaration is a non-binding instrument that recognizes the individual and collective rights of Indigenous Peoples, such as self-determination, cultural preservation, and access to lands and natural resources. Although not legally binding, it provides important guidance for interpreting the Constitution, in line with Article 5, §2 of the 1988 Federal Constitution, §2 of the 1988 Federal Constitution, and reinforces principles such as human dignity, cultural pluralism, and the original rights of Indigenous Peoples over the lands they traditionally inhabit. The declaration forms part of the normative reference framework for interpreting and realizing Indigenous rights in Brazil, guiding

1 United Nations Declaration on the Rights of Indigenous Peoples, 2007. See: www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples

both jurisprudence and the formulation of public policies to guarantee self-determination, cultural preservation, and territorial security for Indigenous Peoples.

International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention No. 169) (1989)² – Adopted in 1989 and in force since 1991, this binding international treaty ensures recognition of the social, cultural, and institutional values of Indigenous and tribal peoples. Its central pillar is the duty of prior and informed consultation, requiring governments to consult these peoples before adopting legislative or administrative measures that directly affect them. In Brazil, it was incorporated through Decree No. 10,088/2019 and has supra-legal status, serving as a mandatory reference for interpreting and applying the Indigenous rights provided for in the 1988 Federal Constitution.

International Convention on the Elimination of All Forms of Racial Discrimination (1969)³ – This convention obliges States Parties to adopt measures to eradicate racial discrimination in all its forms, expressly covering Indigenous Peoples and other native peoples. It provides for prevention and punishment of discriminatory practices, protection of territorial, cultural, and political participation rights of these peoples, and is monitored by the UN Committee on the Elimination of Racial Discrimination (CERD). In Brazil, the Convention aligns with the 1988 Federal Constitution, especially Article 231, which recognizes the original rights of Indigenous Peoples to traditionally occupied lands, consolidating protection against racial and ethnic discrimination.

Universal Declaration of Human Rights (1948)⁴ – This declaration establishes a fundamental framework for protecting the dignity, freedom, and equality of all individuals, regardless of race, ethnicity, religion, or social origin. It recognizes civil, political, economic, social, and cultural rights, including protection of life, personal liberty, security, education, decent working conditions, and participation in community life. For Indigenous Peoples, these rights take on special relevance, ensuring not only protection against discrimination

2 ILO Convention No. 169, 1989. See: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

3 International Convention on the Elimination of All Forms of Racial Discrimination, 1969. See: www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial

4 Universal Declaration of Human Rights, 1948. See: www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

and violence, but also the preservation of their cultures, territories, ways of life, and participation in decisions affecting their communities. The UDHR thus serves as a universal normative reference underpinning national legislation and public policies, promoting inclusion, social justice, and respect for cultural diversity, and constituting an essential instrument to ensure the effectiveness of the human rights of Indigenous Peoples.

International Covenant on Civil and Political Rights (ICCPR) (1966)⁵ – This binding international legal instrument is recognized by Brazil through Legislative Decree No. 226 of 12 December 1991. It safeguards fundamental rights related to freedom, equality, and political participation, and establishes principles of protection against discrimination, ensuring that all individuals are treated equally before the law and can fully exercise their civil and political rights. For Indigenous Peoples, the ICCPR is especially relevant, as it recognizes collective rights, ensuring participation in decisions about their territories, preservation of their culture, and self-determination, serving as a normative basis for implementing public policies and national legislation that promote inclusion, respect for ethnic diversity, and protection of the human rights of historically vulnerable communities.

International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)⁶ – This binding treaty is recognized by Brazil through Decree No. 591 of 6 July 1992, which establishes protection of rights essential to human dignity, including access to work, health, education, and an adequate standard of living. For Indigenous Peoples, the ICESCR is particularly important as it provides an international normative basis for public policies aimed at food security, promotion of health, differentiated education, and sustainable economic development. The Covenant thus reinforces States' obligations to adopt concrete measures to realize these rights, promoting social inclusion, cultural valorization, and improved living conditions for Indigenous communities, in line with the principles of equality and non-discrimination.

5 International Covenant on Civil and Political Rights, 1966. See: www.oas.org/dil/port/1966%20Pacto%20Internacional%20sobre%20Direitos%20Civis%20e%20Pol%C3%ADticos.pdf

6 International Covenant on Economic, Social and Cultural Rights, 1966. See: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

(1979)⁷ – This binding international instrument is recognized through Legislative Decree No. 93 of 14 November 1983, which seeks to guarantee full equality of rights between women and men, covering civil, political, economic, social, and cultural aspects. For Indigenous women, CEDAW is especially relevant, as it protects against multiple forms of intersectional discrimination, ensuring equal access to land, work, education, and social and political participation. The convention thus guides the development of public policies and legislative measures aimed at the inclusion, recognition, and protection of Indigenous women, promoting social justice, gender equality, and respect for cultural diversity.

UN Convention on the Rights of the Child (1989)⁸

– This binding international treaty was incorporated in Brazil through Decree No. 99,710/1990. It aims to guarantee comprehensive protection for children and adolescents, ensuring civil, social, economic, cultural, and participatory rights, with special attention to vulnerable groups. For Indigenous children, the convention is strategically important as it recognizes the need to respect their cultural specificities, promoting access to differentiated education, appropriate health services, and protection against any form of discrimination or exploitation. The convention thus provides an international normative basis for public policies that allow Indigenous children to develop fully, in conditions of protection, social inclusion, and cultural preservation.

UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)⁹

– This international instrument was promulgated in Brazil by Decree No. 6.177 of 1 August 2007. It recognizes the importance of cultural diversity as an essential element of human and social development. The convention upholds the protection and promotion of the cultural rights of all peoples, with special attention to preserving languages, traditional practices, artistic expressions, and ancestral knowledge. For Indigenous Peoples, the norm provides a legal basis for public policies and programmes aimed at safeguarding their cultural identity, ensuring that their traditional knowledge, social practices,

7 Convention on the Elimination of All Forms of Discrimination against Women, 1979. See: www.un.org/womenwatch/daw/cedaw/cedaw.htm

8 Convention on the Rights of the Child, 1989. See: www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

9 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 2007. See: <https://www.unesco.org/en/legal-affairs/convention-protection-and-promotion-diversity-cultural-expressions>

and intangible heritage are respected, valued, and transmitted to future generations.

Convention on Biological Diversity (CBD) (1992)¹⁰ – This binding instrument was approved by Brazil through Legislative Decree No. 2 of 1994 and ratified by Federal Decree No. 2,519 of 16 March 1998. It establishes principles for biodiversity conservation, sustainable use of natural resources, and fair and equitable sharing of benefits arising from their use. For Indigenous Peoples, the convention recognizes the central role they play in environmental preservation, maintaining ecosystems, and sustainably managing their traditional territories. The treaty serves as a legal foundation for environmental conservation policies and programmes that respect and integrate Indigenous traditional knowledge, promoting the protection of their territorial and cultural rights while contributing to global sustainable development.

UN Convention to Combat Desertification (UNCCD) (1994)¹¹ – This binding international treaty was promulgated in Brazil by Decree No. 2,741 of 1998. It seeks to prevent and combat land degradation, promoting sustainable use of arid and semi-arid areas. For Indigenous Peoples, the UNCCD is particularly relevant, as it directly impacts land-use policies in their territories, ensuring effective participation in environmental management and protection against the improper exploitation of natural resources. The convention provides a normative basis for land restoration and sustainable management programmes, respecting Indigenous territorial rights and traditional knowledge while contributing to ecological preservation and sustainable development.

International Labour Organization (ILO) Convention No. 155 concerning Occupational Safety and Health and the Working Environment (1981)¹² – This instrument was ratified by Brazil through Decree No. 1,254 of 29 September 1994. It establishes standards to ensure safe and healthy working conditions, providing effective protection for all workers. For Indigenous Peoples, the convention is especially relevant as it protects those involved in rural, extractive, and agricultural activities, ensuring prevention of occupational risks and dignified working conditions. Applying these standards helps promote the health, safety,

10 Convention on Biological Diversity, 1994. See: www.cbd.int/convention/text

11 United Nations Convention to Combat Desertification, 1994. See: <https://www.unccd.int/convention/overview>

12 ILO Convention No. 155 on Occupational Safety and Health. See: normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155

and well-being of Indigenous communities, strengthening public policies and national regulations aimed at protecting labour rights and valuing Indigenous work.

American Convention on Human Rights, or Pact of San José, Costa Rica (1969)¹³ – This instrument was ratified by Brazil via Decree No. 678 of 25 September 1992. By ratifying this instrument, Brazil accepted the contentious jurisdiction of the Inter-American Court of Human Rights, enabling the Court to hear cases concerning alleged violations of fundamental rights by the Brazilian State. This has been particularly significant for the protection of Indigenous Peoples and communities in the Americas, alongside universal international human rights instruments and strengthening regional mechanisms for accountability and redress. The Court's jurisprudence has reaffirmed essential principles, such as the right to land and territory, the right to self-determination, cultural preservation, and the right to Free, Prior and Informed Consent (FPIC) in projects that affect their territories and ways of life. This instrument obliges Member States to adopt legislative, administrative, and public policy measures that ensure respect for the collective and cultural rights of Indigenous Peoples, guaranteeing full reparation in cases of violations, protection against forced displacement, and recognition of their participation in governmental decision-making processes.

UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)¹⁴ – This declaratory instrument does not require a decree of incorporation. It carries the status of a UN resolution that seeks to protect ethnic and cultural minorities from discrimination, exclusion, and forced assimilation. This Declaration is particularly relevant as it guarantees effective participation in public policies, political representation, preservation of languages and cultural practices, and respect for collective identity. The instrument provides a normative basis for States to formulate measures for the protection and promotion of cultural diversity, reinforcing social inclusion, equal rights, and the valorization of the knowledge and traditions of Indigenous Peoples within democratic societies.

13 American Convention on Human Rights, 1969. See: https://www.oas.org/dil/access_to_information_American_Convention_on_Human_Rights.pdf; www.oas.org/en/sare/documents/DecAmIND_POR.pdf

14 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992. See: www.ohchr.org/en/instruments-mechanisms/instruments/declaration-rights-persons-belonging-national-or-ethnic

EXAMPLES OF NATIONAL-LEVEL IMPLEMENTATION

The history of Indigenous Peoples in Brazil has been marked by more than five centuries of resistance since the Portuguese invasion in 1500. In the twentieth century, the Brazilian State created institutions such as the Indian Protection Service (SPI) in 1910 and the National Indian Foundation (FUNAI) in 1967¹⁵, still under a tutelary and integrationist view that denied Indigenous autonomy and treated their cultures as transitory. With the advent of the 1988 Federal Constitution, there was a turning point from this colonial logic. For the first time, Brazil recognized the original rights of Indigenous Peoples over the lands they traditionally occupy, guaranteeing exclusive use of natural resources, respect for their languages, beliefs, and traditions, and the right to self-determination. This constitutional recognition was a direct result of the struggles of the Indigenous Peoples themselves, who mobilized organizations, alliances, and movements to assert their existence and dignity. In the following decades, further gains were consolidated: historic decisions such as the Raposa Serra do Sol case (2009); ratification of international treaties such as ILO Convention No. 169 and the Pact of San José, Costa Rica; and expansion of public policies on intercultural education, differentiated health care, and land demarcation.

According to the 2022 Census by the Brazilian Institute of Geography and Statistics (IBGE), Brazil's Indigenous population is approximately 1.7 million people, present in every state, with the highest concentration in the North Region (about 45%), particularly in the states of Amazonas, Roraima, Pará, and Mato Grosso do Sul. The country recognizes 305 ethnic groups and 274 Indigenous languages still spoken, demonstrating the vitality and cultural diversity of these peoples. Despite constitutional advances, serious inequalities persist: many peoples face lack of access to health, sanitation, and education, as well as high infant mortality rates and food insecurity. Data from the Indigenous Health Care Subsystem (SIA-SI) indicate that Indigenous health indicators remain below the national average, reflecting longstanding conditions of socioeconomic exclusion and territorial vulnerability.

¹⁵ The original institutional names are retained here for historical accuracy. In contemporary usage, the term “Índio” has been replaced by “Indigenous Peoples” in accordance with current international and national standards.

After a long period of invisibility, political and institutional recognition advanced with the creation of the Ministry of Indigenous Peoples (MPI) in 2023, an unprecedented symbolic and political landmark. For the first time, the Brazilian State institutionally recognizes Indigenous leadership in policy-making.

Law No. 6,001/1973 – Known as the *Indian Statute (Estatuto do Índio)*¹⁶, this law predates the 1988 Constitution but still regulates several aspects related to the civil, political, and territorial rights of Indigenous Peoples. Although marked by a tutelary conception, this law remains a legal reference, especially for territorial protection.

Decree nº 7.747/2012 – This is a relevant framework as it established the National Policy for Territorial and Environmental Management of Indigenous Lands (PNGATI), implemented under the responsibility of FUNAI. The policy aims to promote sustainable management of Indigenous territories, conserve biodiversity, and preserve and promote traditional seeds and crops, which are essential to the food and nutrition security of Indigenous Peoples. By recognizing the importance of recovering and preserving ancestral agricultural practices, the norm reaffirms the link between environmental preservation, food sovereignty, and cultural identity.

Thus, we can observe that the Constitution and infra-constitutional legislation together form a normative framework that recognizes Indigenous Peoples as rights-holders and underscores the intrinsic connection between land, culture, and food. Yet its effectiveness continues to face concrete challenges such as land conflicts, economic pressures, and environmental threats. Overcoming these barriers requires coherent public policies and firm action by the institutions charged with protecting Indigenous rights.

Law No. 12.288/2010 (Racial Equality Statute) – Although aimed primarily at the Black population, this law includes provisions related to recognizing and valuing traditional cultures, including Indigenous Peoples.

Decree No. 6,861/2009 – This decree regulates Indigenous school education, detailing the training of Indigenous teachers and the production of bilingual teaching materials. The Ministry of Education is responsible for supporting these actions. The norm recognizes Indigenous schools as schools with their own rules and specific curricular guidelines, with

¹⁶ See footnote 15.

valorization of ethnic diversity, strengthening of sociocultural practices and each community's mother tongue, and affirmation of ethnic identity.

Law No. 11,645/2008 – This law makes the teaching of Indigenous history and culture mandatory in all schools across the country. It places responsibility on the Ministry of Education to support these actions and amends the National Education Guidelines and Framework Law (Law No. 9,394/1996) to include this theme in official curricula.

Decree No. 6,040/2007 – This decree establishes the National Policy for the Sustainable Development of Traditional Peoples and Communities, covering Indigenous Peoples in actions aimed at sustainability and protection of their territories. The norm defines “Traditional Peoples and Communities” as “culturally distinct groups who self-identify as such, possessing their own forms of social organization, who occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral, and economic reproduction, using knowledge, innovations, and practices generated and transmitted by tradition.”

Decree No. 8,750/2016 – This decree establishes the National Council of Traditional Peoples and Communities (PCTs), identifying Indigenous Peoples as one of the PCT segments.

Law No. 11,346/2006 – This law creates the **National Food and Nutrition Security System (SISAN)**, recognizing the importance of incorporating diverse environmental, cultural, economic, regional, and social dimensions into policies and actions. It also adopts universality and equity as principles in accessing adequate food without any form of discrimination, and the preservation of autonomy and respect for human dignity. These dimensions and principles are fundamental to upholding the right to food of Indigenous Peoples.

Decree No. 5,051/2004 (repealed and replaced by **Decree No. 10,088/2019**) – This decree promulgates ILO Convention No. 169, which guarantees rights of consultation and participation for Indigenous Peoples in all measures that directly affect them.

Law No. 9,985/2000 – This law establishes the National System of Conservation Units (SNUC), providing mechanisms to reconcile environmental preservation with the presence of Indigenous Peoples in protected areas. The Ministry of the Environment is responsible for organizing and maintaining a National Register of Conservation Units, with the collabo-

ration of Ibama and the competent state and municipal bodies. It seeks to conserve nature through management of human use of nature, encompassing preservation, maintenance, sustainable use, restoration, and recovery of the natural environment.

Decree No. 1,775/1996 – This decree establishes the administrative procedure for demarcation of Indigenous lands, regulating article 231 of the Constitution. Indigenous lands are administratively demarcated upon the initiative and under the guidance of the federal agency for Indigenous assistance.

Law No. 9,394/1996, National Education Guidelines and Framework Law (LDB) – This law recognizes Indigenous school education as a specific and differentiated modality, guaranteeing the use of mother tongues and their own learning processes.

Law No. 9,836/1999 – This law creates the Indigenous Health Care Subsystem within the Unified Health System (SUS), ensuring differentiated care for Indigenous communities.

MAIN CHALLENGES

Significant threats to Indigenous Peoples, biodiversity, and the environment include the time-frame thesis (“marco temporal”), the Devastation Bill (Bill 2,159/2021), and mining on Indigenous lands. The time-frame thesis is a legal theory that restricts the demarcation of Indigenous lands to those occupied on 5 October 1988. This interpretation violates the fundamental and inherent rights of Indigenous Peoples, which predate the Constitution itself. The “Devastation Bill” (Bill 2,159/2021) weakens environmental licensing by allowing self-licensing, representing a rollback in the defense of territories and affected peoples. Mining on Indigenous lands is an agenda advanced by illegal or small-scale mining (“garimpo”) interests in the National Congress, and any project on Indigenous land must uphold the right to **Free, Prior and Informed Consent (FPIC)** as provided in ILO Convention No. 169.

Legal and Recognition Challenges – Indigenous Peoples face significant legal and recognition challenges, especially concerning land regularization. Despite constitutional guarantees, many traditionally occupied lands have not yet been officially demarcated, generating conflicts with land-grabbing, mining, and agribusiness expansion. In addition, prior consultation and FPIC, as provided for in ILO Convention No. 169, often encounter practical obstacles due to political resistance, bureaucracy, and a lack of effective participation mech-

anisms. There is also the issue of the effectiveness of laws, as national and international norms do not always translate into real protection, whether due to judicial slowness or insufficient administrative implementation, undermining full guarantees of territorial, cultural, and collective rights of Indigenous communities.

Socio-economic Challenges – Indigenous Peoples face major socioeconomic challenges, evidenced by poverty and inequality, which manifest in limited access to essential services such as education, health, transport, and basic sanitation. Food and nutrition security is also compromised, as changes in territories and traditional practices affect local food production, increasing community vulnerability. There is also the issue of economic inclusion: difficulties in accessing credit, support programmes for agricultural production, and markets limit Indigenous economic autonomy, hindering sustainable development initiatives and perpetuating historical inequalities.

Cultural and Identity Challenges – Indigenous Peoples face significant cultural and identity challenges, particularly regarding the preservation of languages and traditional knowledge threatened by globalization and processes of cultural assimilation, which endanger the continuity of ancestral practices, knowledge, and cultural expressions. Moreover, differentiated education still has gaps, and it is necessary to reconcile formal curricula with culturally relevant content that respects Indigenous diversity and ways of life, to ensure the strengthening of identity, knowledge transmission, and effective community participation in educational processes.

Environmental Challenges – Indigenous Peoples face serious environmental challenges, as made evident by deforestation and land degradation resulting from agribusiness expansion, mining, and illegal exploitation of natural resources, which compromise ecosystems essential to their subsistence and traditional ways of life. Climate change increases this vulnerability, impacting agricultural practices, water availability, and biodiversity. Added to this is the difficulty of sustainable territorial management, stemming from the absence of integrated public policies that reconcile environmental preservation with the protection of Indigenous Peoples' territorial and cultural rights. All of this undermines the sustainable development and the maintenance of their ancestral ways of life.

Gender and Vulnerability Challenges – Indigenous Peoples also face gender and vulnerability challenges, particularly the situation of Indigenous women, who suffer intersection-

al discrimination on the basis of gender and ethnicity, facing greater barriers to education, health, political participation, and economic resources. Likewise, Indigenous children and youth are particularly vulnerable to rights violations, including exclusion from essential services such as quality education, adequate health care, and social protection, which compromises their full development and perpetuates historical inequalities within Indigenous communities.

In addition to the above challenges, in the field of food and nutrition security, the Third National Food and Nutrition Security Plan (Plansan III)¹⁷ highlights challenges such as: ensuring food and nutrition security for Black populations, Quilombolas, Indigenous Peoples, and Traditional Peoples and Communities, with support for family farming; the acquisition and distribution of culturally appropriate foods in situations of vulnerability; income transfer; access to water, environmental sanitation, and electricity; improving public management and public policies to combat racism and disrespect for the traditional ways of life of Black populations, Quilombolas, Indigenous Peoples, and Traditional Peoples and Communities; promoting food and nutrition security policies that consider local specificities, the traditional knowledge of Indigenous Peoples and Traditional Peoples and Communities, and the importance of the ecosystems in which they live.

SOCIAL PARTICIPATION

With the promulgation of the 1988 Federal Constitution, a new paradigm was established in the protection of Indigenous Peoples' rights, recognizing in article 231 their social organization, customs, languages, beliefs, traditions, and inherent rights over the lands they traditionally occupy. This recognition goes beyond the territorial dimension, extending to the realization of democracy itself and the development of public policies tailored to their specific realities.

Social participation, guaranteed by various constitutional provisions and reinforced by international instruments such as ILO Convention No. 169, requires that Indigenous Peoples be consulted in a free, prior and informed manner on all decisions that affect them. This principle is binding on the Brazilian State, calling for the creation of institutional spaces for dialogue that respect cultural diversity and ensure these Peoples' right to self-determination.

At the institutional level, Indigenous social participation takes place across different spheres – through representation on

public policy councils and committees, participation in national conferences, and in specific bodies such as the National Council for Indigenous Policy (CNPI). Politically, there has been visible progress, with Indigenous leaders increasingly elected to public office, thereby strengthening and expanding democratic debate. Internationally, their active engagement in multilateral organizations such as the UN and the Organization of American States (OAS) highlights their growing influence and integration within global human rights and climate justice agendas.

Nonetheless, significant obstacles remain to the full realization of Indigenous Peoples' rights, including structural racism, violence against communities, and the lack of material conditions that would enable their qualified participation in decision-making spaces. Therefore, Indigenous Peoples' social participation cannot exist merely as a

CORPORATE POWER

Corporate power often limits Indigenous social participation through the influence of organized economic sectors that wield significant political leverage and exert pressure on the State. In Brazil and across Latin America, these include:

- Agribusiness – large-scale producers and exporters of soy, corn, beef, and other commodities, seeking to expand the agricultural frontier over Indigenous lands and traditional territories.
- Mining – national and multinational companies engaged in the extraction of gold, iron, bauxite, niobium, and other minerals, often seeking to exploit areas overlapping Indigenous lands.
- Logging and land grabbing – groups that profit from illegal deforestation, predatory exploitation of forests, and land speculation.

- Infrastructure and energy enterprises – major construction companies, hydro-electric firms, and, more recently, wind and solar energy projects in areas of traditional use, which frequently disregard the obligation of prior consultation.
- Financialization of territory – investment funds and transnational corporations that acquire land or control production chains, reinforcing the commodification of nature.

These sectors often operate in synergy with major business associations and the legislative branch – particularly with politicians linked to agribusiness – who work to weaken Indigenous, environmental, and territorial rights.

ACCOUNTABILITY AND ENFORCEABILITY

With regard to responsibility for Indigenous Peoples in Brazil, it is shared among Indigenous communities themselves, the State, civil society, and the private sector. It is the duty of Indigenous Peoples to care for their territories, cultural practices, and traditional ways of life. As established in the 1988 Constitution and in international treaties, the State has the obligation to protect Indigenous lands, ensure their demarcation, respect cultures and languages, conduct prior consultations, and guarantee the participation of communities in the management of natural resources. Civil society and private enterprises, in turn, have the duty to adopt responsible consumption practices and be held accountable for negative impacts on Indigenous rights and the environment.

Therefore, it is this shared responsibility that aims to guarantee the effective protection of Indigenous rights, territories, and cultures, ensuring social participation and public policies that promote and preserve traditional ways of life, in line with national and international norms.

As for accountability, when the State or society fails to protect Indigenous Peoples' rights, these Peoples may resort to legal, institutional, and social mechanisms to ensure their enforcement. These include judicial actions such as writs of mandamus and public civil actions; the work of the Federal Prosecution Service (MPF) and the Federal Public Defender's Office (DPU); and recourse to international human rights bodies. Within the MPF, the 6th Chamber for Indigenous Peoples and Traditional Communities (6^aCCR) plays a key role in ensuring that the rights of these Peoples and communities are respected and strengthened.

When domestic justice mechanisms fail, Indigenous Peoples may appeal to the Inter-American Court of Human Rights, as provided for under Brazil's adherence to the American Convention on Human Rights (Pact of San José, Costa Rica, 1969).

The MPF's main activities in this area include legal review, promotion of ethnic and cultural pluralism, social integration and mobilization, exchange, and coopera-

tion. Notably, the National Council of the Public Prosecutor's Office (CNMP) signed a Protocol of Intent on 18 March 2025 to improve national legislation for the protection and enforcement of Indigenous rights. The protocol aims to expand access to information on Indigenous Peoples' rights and protection mechanisms, and to enhance existing regulations governing the MPF's role in safeguarding Indigenous rights in Brazil¹.

At the same time, social mobilization and participation in Indigenous policy councils and forums strengthen political advocacy. These instruments allow Indigenous Peoples to defend their territories, cultures, and traditional ways of life, upholding their rights even in the face of external failures.

1 See: www.cnmp.mp.br/portal/images/noticias/2025/Mar%C3%A7o/Protocolo_inten%C3%A7%C3%B5es_calj_mpf__assinado.pdf

FINANCING

In Brazil, the financing of Indigenous organizations is essential to the protection of rights, cultural preservation, and the sustainable development of communities. Resources come from national and international organizations through programmes focused on health, education, infrastructure, and territorial development policies—notably those implemented by FUNAI, MPI, and the Ministry of Health / Secretariat for Indigenous Health Care, among others.

The Third National Food and Nutrition Security Plan (Plansan III)¹ includes Announcement 5, which states that “The Brazilian population increasingly consumes healthy and agroecological foods produced by family farmers, urban and peri-urban producers, and by Indigenous Peoples and Traditional Peoples and Communities, who have expanded their participation in national food supply.” Announcement 7 covers the “the human right to adequate food

guaranteed for Black populations, Quilombolas, Indigenous Peoples, and Traditional Peoples and Communities, through the fight against racism, gender equity, and respect for and appreciation of their ways of life, territories, and food cultures.” It also includes Intersectoral Strategy 4: Food and Nutrition Security for Indigenous Peoples. These announcements bring together the main programmes and actions in the field of food and nutrition security aimed at Indigenous Peoples.

In addition to the bodies mentioned above, other examples include:

- National Programme for Technical Assistance and Rural Extension (PNATER) – provides agroecological guidance for family farmers, traditional communities, and Indigenous Peoples, with particular attention to women and youth (Ministry of Social Development and Assistance, Family and Fight against Hunger – MDS);

1 See: https://www.gov.br/mds/pt-br/noticias-e-conteudos/desenvolvimento-social/noticias-desenvolvimento-social/iii-plano-nacional-de-seguranca-alimentar-e-nutricional-e-aprovado/SECF_III_PLANSAN.pdf

- Minimum Price Guarantee Policy for Sociobiodiversity Products (PGPMBio) – establishes differentiated payments above the minimum price for family farmers, agrarian reform settlers, Indigenous Peoples, and Traditional Peoples and Communities (Ministry of Agrarian Development – MDA);
- Food Acquisition Programme (PAA Indígena) – MDS;
- Indigenous Kitchen Program – MDS;
- National School Feeding Program (PNAE) – encourages the purchase of food products specific to Indigenous Peoples. (Ministry of Education / National Fund for Education Development – MEC/FNDE).

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