Awá: On the Brink Of Extinction

Indigenous Rights in Brazil

Conference Report

22 January 2014, European Parliament

Organised by Richard Howitt and Catherine Gràze MEPs in collaboration with the Unrepresented Nations and Peoples Organization

Unrepresented Nations and Peoples Organization (UNPO)

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Closing Remarks
Barbara Truffin

Université Libre de Bruxelles (Belgium)

Barbara Truffin is an Assistant Professor at the Université Libre de Bruxelles, where she teaches Legal Anthropology. She is the Director of the ‘Centre d’histoire du droit et d’anthropologie juridique’. She holds a PhD in Anthropology (Université libre de Bruxelles), a Master of Social Sciences (University of Chicago), a Degree in Law and a Degree in International Law (ULB). Her doctoral studies included fieldwork in the Ecuadorian Amazon on legal pluralism and indigenous rights (see: B. Truffin, “El papel de los derechos indígenas en la Amazonía ecuatoriana”, Nueva Antropología, Instituto Nacional de Antropología e Historia, El Colegio de México 71, 2009: 115-150). She is currently conducting research in her area of interest on ‘multicultural’ family justice(s) in Belgium.

Sarah Shenker

Survival International (U.K.)

Sarah Shenker is a campaigner at Survival International, the global movement for tribal peoples’ rights. She has been with Survival since 2009 and works on campaigns for the rights of the Guarani, Awá Guajá and Yanomami tribes of Brazil. She has visited many communities in these areas. She is involved in Survival’s campaign highlighting the threats to uncontacted tribes, and the urgent need to protect their land to allow them to survive and thrive. She has a BA in French and Hispanic Studies from the University of Nottingham and a MSc in International Public Policy from University College London, for which she conducted fieldwork research with indigenous Tzotzil and Tojolabal communities in southern Mexico. She has also spent time with Adivasi communities in southern India.
Natan Elkin

International Labour Organization (Switzerland)

Natan Elkin graduated from the Faculty of Law at the National University of Buenos Aires. He also studied European Law at the Catholic University in Louvain-la-Neuve, where he obtained a PhD in Law. He worked for the Permanent Secretariat of the Latin American Economic System (SELA) in Brussels and Geneva. In 1986, he joined the International Labour Standards Department of the International Labour Office. He is the Chief of Unit for Employment, Tripartite Consultation Indigenous Peoples Team (EMPIIP) for the International Labour Standards Department at the International Labour Office (ILO) in Geneva.

Tatiana Gomes Bustamante

Brazilian Mission to the EU (Belgium)

Tatiana Gomes Bustamante is a Brazilian diplomat, currently working at the political sector of the Brazilian Mission to the European Union in Brussels, Belgium. Gomes Bustamante was born in Rio de Janeiro. She has been dealing with international legal cooperation, foreign trade and bilateral and multilateral political affairs since 1998.
Padre Ton

Member of Parliament (Brazil)

Mariton Benedito de Holanda, or Padre Ton, is a Brazilian Member of Parliament. He is the President of the Congressional Front for Indigenous Peoples, a member of the Committee on Participatory Legislation and a substitute for the Committee on the Amazon and on Social Security and Health. He joined the seminary ‘Seminário Católico dos Religiosos do Verbo Divino de São Paulo’ in 1989. He studied philosophy at San Francisco University, theology at the Theological Institute of St. Paul and was ordained in 1998. His training and professional career are based around ecclesial communities, family farms, and advocacy for the protection of human rights. He has been affiliated with the Workers’ Party (‘Partido dos Trabalhadores’) since 1987 and has consistently advocated for unity, democracy, party loyalty, consistency and ‘going back to the basics’. In 2004, he became the first priest to be elected mayor, and later congressman, in the history of Rondônia. In 2010, he became a candidate for the national Parliament running on an under-financed, but surprisingly successful campaign. At the Parliament, Padre Ton’s contributions are based on Christian teachings calling for a fairer nation.

Kevin Jackson

Solvay Brussels School of Economics and Management (Belgium)

Kevin T. Jackson, Ph.D., is respected as a leading world scholar in global economic governance, international business ethics, sustainability and philosophy of law. His research papers have been published in top-tier journals, among them Business Ethics Quarterly, Journal of Business Ethics, Brooklyn Journal of International Law, Harvard Journal of Law and Public Policy and Law and Philosophy. Currently, he is the Daniel Janssen Chair in Corporate Social Responsibility at Solvay Brussels School of Economics and Management of the Université Libre de Bruxelles. He is also a Professor of Law and Ethics at Fordham University Graduate School of Business and a senior fellow with the Witherspoon Institute in Princeton, New Jersey. Previously, Dr. Jackson taught at Georgetown University, Peking University and Princeton University. He has delivered seminars on leadership, sustainability, business ethics, law, corporate governance, and global CSR and has been a frequent commentator on the CBS Evening News, CNN, Fox News and National Public Radio.
Erika Yamada

National Indian Foundation (FUNAI) (Brazil)

Erika Yamada is currently the General Coordinator for the promotion of Citizenship/FUNAI and is representing the President of FUNAI, Maria Augusta Assirati. Yamada has a PhD in Law focusing on indigenous peoples’ right to lands. She went to Law School at the University of São Paulo in Brazil. She obtained an LLM in International Human Rights and Humanitarian Law from the University of Lund in Sweden and a Doctor of Juridical Science Degree in Indigenous Peoples Law and Policy from the University of Arizona in the United States of America.

Adrianus Koetsenruijter

Head of Mercosur Division, EEAS (Belgium)

Adrianus Koetsenruijter is the Head of Mercosur Division of the European External Action Service. He has assumed this position in September 2012 and is responsible for relations with Latin American countries in the Mercosur region. He has worked on EU foreign relations and development policy since 1989. He was the EU Ambassador in Colombia and Ecuador between 2003-2007 and in Tunisia and Libya from 2008-2012.
Conference speeches

Opening remarks – Marino Busdachin

I would like to start by thanking Richard Howitt and the S&D Group as well as Catherine Grèze and the Group of the Greens for hosting today’s conference. Both Mr. Howitt and Ms. Grèze have repeatedly insisted on placing the protection of human rights in every EU trade agreement, putting emphasis on those with the Latin American and the Caribbean countries in specific. Today’s event is a clear manifestation of their strong commitment towards the protection and promotion of human rights.

I would also like to thank all the speakers for having taken the time to come here, and especially those who have travelled all the way from Brazil to share their views on the important question of the survival of the Awá indigenous peoples, one of the last uncontacted tribes in the world.

This conference is a part of UNPO’s “No Forest. No Awá” campaign, supported by the Nando Peretti Foundation, and aims at raising awareness of the environmental, cultural and socio-economic issues facing Indigenous peoples in Brazil, and in particular the Awá. For generations, the Awá people lived in harmony with their environment, picking fruit, hunting, and following the seasons’ rhythms in their patch of the lush Brazilian Amazon rainforest. However, years of illegal logging and land grabs have jeopardised the survival of their people.

Over the past decades, factors such as population growth, expanded agricultural settlement, increasing trade, investment and economic activity have all exerted pressure on already limited world resources. The territories occupied by most indigenous populations are located far from the centres of political and economic power, which makes them an easy target for resource exploitation, as the indigenous communities lack the political power needed to oppose this exploitation. Decisions to exploit these resources are mostly taken without the consultation of the local populations, and subsequent projects are accompanied by abuse and destruction.

Brazil is one of the 20 countries in the world that has ratified the most powerful and binding international instrument of protection for indigenous peoples, ILO Convention 169. Brazil still struggles however, to comply with the convention, while it could be taking a leading role in this field, considering that most European countries did not even sign or ratify ILO 169.

Democracy and the rule of law are the principles upon which EU-bilateral agreements rely. Thus, it is not only the moral duty, but also the legal duty of the EU to call upon Brazil to implement its legal provisions, such as the protection of indigenous rights. The Brazilian government must comply with international standards and its own law, and permanently evict the settlers out of legally recognised Awá land, cease all illegal activities, prevent future invasions and respect the principle of Free, Prior and Informed Consent, introduced in the ILO Convention.

This conference comes as Brazil’s National Indian Foundation, FUNAI, stated that the Brazilian Ministry of Justice gave a forty-day notice for trespassers to leave Awá lands. The conference thus constitutes a unique and timely forum that brings together a variety of experts and decision makers who can contribute to finding the right solution to this issue. I believe that Brazil has now an important decision to make – now is the moment for the government to show what it can do in order to save one of its own peoples, the Awá, and at the same time become a model for many states in its protection of indigenous people’s rights.
Panel I – Traditional Lands, Indigenous Territories and Natural Resources

Setting the Scene: Indigenous Peoples in Brazil and in Latin America - Barbara Truffin

In the last decades, the vast majority of Latin American States have taken steps towards translating their multi-ethnic constituencies and cultural diversity into legal terms, both at the constitutional and international levels.

Since we will discuss the situation of the Awá people in Brazil today, I would like to give a general overview of indigenous rights in the sub-continent and situate this alarming case within a broader framework to allow us to reflect on the role of international law, human rights and social movements in order to promote alternative political conceptions.

My presentation is structured around three main points. First, I will go back to the emergence of indigenous rights and their characteristics in Latin America. Second, I will address the specificities of indigenous struggles in the Amazonian region. Finally, I will draw some conclusions regarding the alternative political and legal views, those movements are invested with.

1) Emergence of indigenous rights in Latin America: promises and stakes

The history and the socio-political realities of the peoples, who nowadays self-identify themselves as indigenous peoples, are highly diverse and cannot be easily summed up. Considering the heterogeneity, their struggles are very similar occurring in colonial and postcolonial contexts.

In 1970s Latin America, indigenous struggles acquired mediatised and political visibility with historical momentum. It was also a period in which several political organizations were created and allied themselves in a regional alliance. It coincided with the democratization processes taking place in Latin American States such as Brazil, Ecuador and Peru.

This was particularly the case in Brazil. After the military dictatorship, the democratisation process of the 80s was a key moment in the development of indigenous organizations with the help of other social movements. The Brazilian legal instrument (Indio Statute of 1973) defined indigenous peoples of the Amazon as having minor status and in need of emancipation from their condition (similarly to slaves). Indigenous leaders argued, that Brazil had the constitutional duty to demarcate and protect their lands. The controversy around Indian lands was further complicated by the discovery of precious metals in their territories and the consequent encroachment of mining companies in the forest. The pressures placed on indigenous lands became an issue discussed in the national media and the adoption of a new constitution in 1988 gave way to heated debates on the place of Indians in Brazilian society.

The situations of indigenous peoples were also raised at the international level; first at the International Labour Organization (ILO). Indeed, Convention 107 Concerning Indigenous and Tribal Populations received new momentum in the 1970s. This renewed attention can be explained both by internal changes in the organisation, but also by the increasing awareness regarding the threatened physical survival of several indigenous groups, such as the Yanomami in Brazil and the Colombian Amazon. The ILO took its monitoring activities to a new level by developing it through its regional bureau in Lima. The Conference Committee on the Application of Standards engaged the Committee of Experts to closely monitor the situation of indigenous peoples, especially in the Brazilian Amazon.
Another consequence of the mobilization of indigenous peoples was that it reached to the Sub-commission on Prevention of Discrimination and Protection of Minorities, which designated José Martínez Cobo, as the Special Rapporteur for the study on the problem of discrimination against indigenous peoples. Meanwhile, in 1982, the Working Group on Indigenous Peoples was established by ECOSOC. Composed of 5 independent experts, it opened its annual meetings to the participation of indigenous peoples.

This growing attention at the international level placed indigenous struggles at the core of human rights debates, encouraging indigenous organizations to frame their claims according to their ethnic identities and human rights discourse. The ILO was engaged in a partial revision of Convention 107, until a new Convention, **Convention 169**, was adopted in 1989. This instrument renewed efforts protecting indigenous peoples, *without the paternalistic and “assimilationist” undertones present in the previous document*. The Convention has been ratified by 22 States, among which 14 are Latin-American States. This gives a strong regional representation to one of the main and binding legal instruments in the field of indigenous rights.


This strong Latin-American support is also expressed in the region-wide constitutional movement which took place from the late 80s and onward to recognize and protect indigenous rights:

More recently, these States have also played a great role in the adoption of the **United Nations Declaration on the Rights of Indigenous Peoples** at the General Assembly on the 13th of September 2007. This declaration, negotiated with the participation of indigenous peoples organizations was *adopted by 144 votes in favour, 4 votes opposed* (Australia, Canada, New Zealand and the United States), and **11 abstentions** (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russia, Samoa and Ukraine). Resolutions of the General Assembly are not opened to ratification and do not have binding force.

**The declaration** might be seen as political promises to promote and respect indigenous rights. However, it *systematically categorizes rights already recognized by other instruments*. The keystone of such provisions is the right to be consulted, which implies a commitment to their autonomy. However, compliance by States is still low: the very situation of the Awá people unfortunately demonstrates this point.
2) Specificities of Amazonian peoples struggles regarding human rights issues

If one looks at the monitoring activities of international law or human rights bodies, Amazonian peoples are especially vulnerable to human rights violations. Several factors explain this vulnerability and consequently the special attention Amazonian peoples deserve in monitoring universal human rights.

The history of contact and economic development of the Amazonian region are far more recent than for other indigenous peoples in post-colonial context. Moreover, the lowlands they inhabit appear as macro-economic stakes since they contain (or might contain) resources such as oil, gas, water, precious metals and woods. In other words, such territories fuel diverse economic interests and competition.

To add another layer to this geostrategic problem, state powers of regulation in the Amazonian region have no historical foundation and are weak and confused with private interests. This reality is somehow reinforced by the normative framework of most of Latin American States regarding indigenous territories.

States own subsoil resources even if land rights are granted to communities or peoples. The normative framework, which includes human rights instruments appear somehow at odds with those other ways of conceiving human and environment relationships.

At the national level, problems in the articulation of instruments and their applicability are even higher because they are open to contradicting interpretations and a fragmentation of State powers. The 1988 Brazilian Constitution does not recognize ‘peoples’ as such and the rights they refer to are categorized as ‘originary’. It nevertheless engages the Brazilian state regarding their identity, access to traditional lands and the natural resources they contain. It also guarantees the right to maintain their cultures and the right to education. The Federal State has the obligation to demarcate indigenous lands, which remain in the public domain.

The Brazilian constitutional right of indigenous peoples to land is recognized as an originary right. This means that this right is derived from their ancestral possession of the land. Those lands are characterized as inalienable. The ownership of the lands is attributed to the Federal State for protection purposes. In other words, indigenous peoples have a right to their lands in order to ensure permanent entitlement to it and to prevent forced displacement. They have exclusive rights to the use of its soil, rivers and lakes.

The constitution also indicates that the use of hydro- and mining resources on indigenous lands have to be authorized by the National Congress after hearing from the concerned communities about the project and assuring equitable use of resources resulting from exploitation. Many academics and researchers, such as Oliveira Godinho have already documented the great social and political difficulties regarding the delimitation of indigenous lands. In 2007, a researcher, Alison Brysk, considered that Brazil was the most striking example of contradictions between formal recognition and absence of structural policies. This ultimately led to a big failure in the demarcation of lands and a rise in conflicts as already noted by the UN Special Rapporteur on contemporary forms of racism in October 2005.

3) Conclusions

The shortcomings of human rights instruments and international law in the protection of indigenous rights are especially apparent in the Amazonian region. This should urge us to conceive and engage in a more sophisticated human rights discourse. Indigenous struggles have always been strongly connected with other social movements claiming social justice. Together they can support alternative conceptions of ‘the state’ and international legitimacies.

For me, the fact that the situation of the Awá peoples is being discussed in European fora is a step in the right direction.
The Awá: Earth’s Most Threatened Tribe - Sarah Shenker

Who are they?

The Awá people are a tribe of approximately 450 people, 100 of whom remain uncontacted. They live in the north-eastern Brazilian Amazon. Most Awá live in five indigenous territories, though some probably remain in the dwindling forest surrounding these territories, or in the Gurupi Biological Reserve. They are one of the last nomadic hunter-gatherer tribes in the Amazon. While contacted Awá live in four settled communities in the forest, uncontacted Awá live on the move, constructing temporary camps and hunting shelters.

Both contacted and uncontacted Awá have a very strong practical and spiritual connection with the forest: they depend on it for their food and shelter and cannot exist as a people without it. The women harvest babaçu palm, bananas, roots and wild berries. The men fish and hunt tapirs, monkeys and other animals.

The contacted Awá, who hunt increasingly less, have learned with FUNAI’s encouragement to grow manioc, corn, sweet potatoes and yams, but most still consider themselves primarily as hunter-gatherers and spend much of their time in the forest.

The Threat

Awá’s land has been officially mapped out as a series of indigenous territories, but illegal loggers, ranchers and settlers are living and operating on their lands, destroying the forest and jeopardizing their survival. Their forest is being destroyed at one of the fastest rates of all indigenous territories in the Brazilian Amazon. Almost 35% of the forest of their central territory has already been lost, and illegal logging roads cut that territory in two. This territory is now already only half the size it should have been. The Awá are living in a disappearing island of forest.

A railway line runs just a few meters away from the edge of one of Awá people’s territories. Trains pass day and night, carrying iron ore from the Carajás mine to the coast. They are some of the longest trains on Earth, at 2km in length. This was funded partly by the European Community.

Less forest cover means fewer animals for the Awá to hunt. And the trains’ noise scares away the game. In addition, many Awá are scared to hunt as loggers have attacked them in the past, massacring whole families in the 70s and 80s. More recently, they have begun beating up Awá families when caught hunting in the forest.

These factors combined make it almost impossible for the Awá to hunt and find game in the forest to sustain themselves. The uncontacted Awá are even more vulnerable. They face the additional threat of being killed by outsiders during contact with violence or diseases to which they have little immunity.

Brazilian experts, including a local judge, have warned that the Awá face genocide and extinction.

A Brief History

In the 1970s, huge deposits of iron ore were discovered in the Carajás hills, relatively close to Awá land. This marked the birth of Great Carajás Project: the largest open cast iron ore mine in the world, accompanied by a transport network to carry the ore from the mine to coastal ports. The project was officially inaugurated in 1982. A railway from the mine to the coastal city of São Luís, completed in 1985, cut directly across Awá lands and was rapidly followed by a road. For the first
time, Awá lands became readily accessible to outsiders, who arrived in their thousands. Loggers, in particular, stood to make huge profits from the hardwoods, but ranchers and small scale farmers also prospered. All took advantage of the absence of any effective form of law enforcement in the region; the brutal oppression of the Awá, even their murder, was allowed to go unpunished. Whole Awá families were massacred in the forest, including the family of Karapiru Awá, who was the only survivor. He consequently spent 10 years alone in the forest, struggling to survive.

The Carajás mining project was partly funded by the World Bank and the then European Community. Not long afterwards, both institutions realized the gravity of the effects that the project was having on the Awá’s lives. By 1988 the World Bank had accepted that “the Awá [are] endangered ... as regards to their survival ... [by] assault and murder by non-Indians.” The European Parliament, too, agreed that the Awá were at risk, and stated that “little has been done to protect them.”

In light of this mass immigration, the Government of Brazil decided to contact and settle the Awá in communities in a series of government-led contact missions. Many died of diseases, such as from the common cold and measles, to which they had little resistance.

Following pressure from local NGOs, public prosecutors and Survival International, the Awá territories were then created, between 1982 and 2005, in line with the Brazilian constitution, which demands the official demarcation and protection of all indigenous lands. But in practice, the existence of the territories changed little. The invaders have been permitted to remain in place and to continue their illegal operations. It is almost as if the territories had never been formed. In December 2011, a Judge ruled that non-Indians, alongside with their constructions, must be removed from the indigenous territory within a year. But this decision was not enforced.

**On the Ground Now**

Loggers have continued to destroy more and more Awá forest. They are converging on Juriti community from three different directions, ‘closing in’ on the Awá, and operating at just 3km away, possibly even closer. Life has been very hard for the Awá, who say that the loggers’ chainsaws are screaming day and night, and their children are going hungry.

There are several non-indigenous settlements with Awá members with an estimated 370 houses. Game has becoming increasingly scarce, and there are fewer fish. The loggers’ roads are becoming more numerous and blocking streams and polluting water. Families still go on hunting trips, but not as many and not as long as previously. On a 5 hour hunting trip I recently did with the Awá, the men caught just two monkeys.

The violence in the forest is also preventing some Awá from hunting. Kamairu Awá was recently tied up, blindfolded, beaten up. He says, the loggers tried to decapitate him, but he escaped. His wife was also able to escape and as she ran away, the loggers fired shots at her. The Awá are very worried about the violence, and uncontacted relatives who could be suffering from violence without anyone knowing. The deforestation is also affecting other tribes such as the Ka’apor, Tembé and Guajajara who live in the same area. The situation has become so severe that Brazilian experts have reiterated warnings of extinction and genocide.

To add to invaders’ destruction, Vale railway duplication plans mean more trains and more noise. The Awá already say that the ground is shaking and the animals are fleeing, and they do not agree with this expansion. Until recently, the invaders were moving freely in the forest, and FUNAI had no power to stop them. FUNAI confiscated wood from time to time, but had no power to arrest them. The Awá have sent out several desperate appeals demanding the immediate eviction of the invaders.
The Campaign

Survival has been calling for the protection of the indigenous land in this part of Brazil for the last 45 years. In April 2012, Survival launched a new phase of the campaign, calling for the urgent eviction of all non-Indians from the Awá’s lands, and a long-term land protection plan to prevent reinvasion. We also aimed to make the Awá an international household name, so their tragedy could not go ignored.

The Awá are the most threatened tribe because of their small population, vulnerability, uncontacted way of living, and because their territory is being deforested at one of fastest rates of the entire Amazonian region. Their territories are completely surrounded by already deforested areas. There are no other cases of threatened indigenous peoples where these three elements are all present.

We made new films showing Awá life, land and the threats they face. There is also an appeal by Colin Firth. We sent letters to Minister of Justice urging for evictions. There is also an ‘Awá icon global movement’; where people are asked to spread an icon. We have been engaged in direct lobbying with the Government, including letters and reports.

I visited last in Jan 2013 and no base camp had been built and no evictions had taken place, but there has been major media coverage worldwide such as in Globo, Vanity Fair, Sunday Times, France 5. Since the start of this phase of the campaign, FUNAI has made clear that the Awá were a priority. The Awá issue reached top Government meetings.

Finally, the beginning of this month [January 2014] brought a key moment for the Awá and a huge step forward in their fight: the Government operation to remove all non-Indians from Awá land began. The government deployed a 200 strong squad consisting of FUNAI, soldiers, police, and IBAMA. It is currently operating in the area, notifying the non-Indians that they have 40 days to leave. INCRA is responsible for the resettlement of people and can offer social service.

This is great news, but long overdue. Still, it must happen efficiently and thoroughly. The Brazilian Government must ensure permanent presence in the area even after the completion of the operation with a complete land protection plan in order to prevent reinvasion.

Any loggers caught operating in the Awá territories in the future must face greater fines and penalties. Similar operations must also be carried out in all territories where Awá live: Alto Turiaçu, Caru and Araribóia, and fast.

Law

The Awá will not survive without their lands, and it is the Brazilian Government’s responsibility to take full and effective measures to protect those lands from the loggers, ranchers and settlers who continue to encroach upon them. This responsibility is enshrined in the Brazilian constitution, in the Indian Statute, in ILO 160 and in UNDRIP.

Brazil owes the Awá their right to their land, life, self-determination, liberty, and to the preservation of their culture, health and well-being. This duty is owed not just to the Awá of today, but also to future generations.

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Ratifying ILO Convention 169: Implications and Responsibilities
- Natan Elkin

International Labour Organization (ILO) Convention No. 169 is ratified by 22 States, 14 of which are from Latin America. It is important to see that there is still some homework to do outside of Latin America in order to give this Convention a fully international message. It is impossible to see this Convention in terms of universality, if it is only legally binding for the 14 Latin American and 4 European States that have already ratified it. The 4 European States are: Denmark, the Nederland, Norway and Spain. This opens the door for many other European countries to sign, implement and promote Convention No. 169 in order to give it legal effect in European institutions. As an example, when the European Commission provides technical assistance to Latin America it stipulates that it will do so by promoting the application of Convention No. 169. Since this approach worked in Latin America, it can also be applied effectively in European States.

Do not forget that Belgium and Portugal ratified ILO Convention No. 107 - the earlier convention on indigenous peoples - even though the approach towards indigenous peoples was very different because ILO Convention No. 107 focused on indigenous populations and before that, indigenous workers. What is new in Convention No. 169 is the notion of collective rights.

What is important to note is that, just as with other ILO conventions, governments are required to provide reports to the ILO on the application of Convention No. 169. Those are submitted and monitored by an independent body called ‘The Committee of Experts on the Application of Conventions and Recommendations’. It is interesting to remember that in 2013 the Committee of Experts had the opportunity to examine about 18 reports on the application of the Convention.

When the Committee examines the reports, it provides remarks on State implementation of provisions. These are not just words; it drafts observations and direct requests.

I will now comment on the observation that the Committee of Experts formulated in late 2012 and published in 2013. We can see that at the very beginning it encourages governments to provide reports in consultation with social partners and the indigenous peoples’ organizations. A specific characteristic of Convention No. 169 is that it allows for the participation of employers and workers organizations or what we call “social partners”. Social partners are our constituents and as such, they have opportunities to provide their own observations.

Indigenous peoples’ organisations cannot submit their own comments directly to the ILO and this is still under discussion, but it can be solved easily with partnerships between indigenous peoples’ organisations and various social partners. Through these workers organisations, indigenous peoples’ organisations may gain access to the ILO supervisory bodies.

In 2012, the International Organisation of Employers - the largest network of private sector employers -, submitted important remarks asking the Committee of Experts to be aware about the difficulties that may occur in case the requirements for consultation, provided in Convention No. 169, are not respected.
In the case of Brazil, what was noted with interest, because it was an improvement since 2004, is that the Government, alongside an extensive involvement of indigenous peoples’ organizations, tried to elaborate regulation on consultation. This resulted in the so-called ‘consultation of the consultation’. The important question is whether the process before adopting a regulation includes consultations with all interested parties, and can therefore better anticipate needs and provide inputs to try to reach a consensus. The most recent law adopted via consultation in Latin America was in Peru. There were many interesting developments occurring in Chile in 2013 and all of these were part of a slow process of improving the application of Convention No. 169 in the region.

Another point that was discussed in the observation was the follow-up on the representation, because it is a specific procedure stipulated in article 24 of the ILO Constitution after a claim by the Union the government of Brazil was requested to modify the legislation on forest and it seems that in June 2012 was established the national policy for the anti-governmental and territorial management of indigenous land. The government also reported some improvements on this issue this year.

The specific issue related to lands and natural resources was made in this observation. Three hydro-electric projects were under discussion, because the rights of indigenous peoples were not fully respected. What is important to recognize is that there is dialogue. The Government is trying to reply to the complaints made by indigenous organizations and workers organizations. The ILO is also trying to improve the application of the Convention in Brazil through dialogue.

I would like to finish here with the following remarks:

I invite all of you to read the Handbook for ILO Tripartite Constituents, Understanding the Indigenous and Tribal Peoples Convention, 1989 (No. 169) as it provides information about the obligations under the Convention and how government authorities, social partners and indigenous peoples should follow the requirements of the Convention. It is important to note that our constituents agreed on the content of this handbook.

Following the examination of State reports on the application of the Convention No.169 and according to the data made available by FUNAI, 109 million hectares have been identified as land belonging to indigenous peoples. The indigenous population in Argentina numbers around 900,000 people or 1.5% of the population. According to official data, presented by a researcher at the University of California, Los Angeles, 113 indigenous titles have been guaranteed. That covers around 4 million of such titles covering around 4 million 300 hectares, which in addition to the reservations amounts to approximately 35 million 600 hectares that were given to indigenous communities. This is in compliance with article 14 of Convention No. 169.

I think that there are very few international instruments that have a concrete impact on civil rights, and property rights in particular, such as Convention No. 169. There are very few cases of application of international law that the international community can be proud of.
Brazil’s Approach Towards Indigenous Peoples: Legal Framework and Current Actions - Tatiana Gomes Bustamante

Firstly, I will discuss the institutional framework in the domestic policy as related to the subject of Brazil’s indigenous peoples.

In the international sphere, Brazil has signed the UN Declaration on the Rights of Indigenous Peoples, the ILO Convention 169 on indigenous and tribal peoples and has had an influential performance in key multilateral and regional forums on indigenous peoples.

In the domestic realm, it is important to stress that indigenous people’s rights have been intensively guaranteed by the Brazilian Constitution and by ordinary legislation.

Based on this legal framework, the Brazilian government has implemented a comprehensive and integrated set of policies specifically designed for this population, which have typically 3 main goals:

1. Ensure the protection of the way of life of indigenous peoples.
2. Cultural integrity.
3. Education and health.

In order to protect the way of life of indigenous peoples, the Brazilian government has established indigenous territories in areas traditionally inhabited by indigenous populations. These protected areas cover about 1.1 million square km, the equivalent to more than 13% of the Brazilian territory, or more than 25% of that of the European Union, where 224 people reside, a population of approximately 900,000 people.

In order to preserve their cultural integrity, the National Foundation of Indigenous Peoples, FUNAI and other relevant entities have adopted a general policy of not contacting indigenous peoples who have clearly made the choice to live in isolation from the rest of Brazilian society. Today in Brazil, an estimate of 80 to 108 indigenous groups live in voluntary isolation.

Concerning education, the Brazilian Constitution states that Indigenous peoples must be provided with education in their own languages and the use of specific learning processes. Having this goal in mind, the Ministry of Education has produced educational material in several languages and has trained a wide range of specialist teachers, many of whom belong to the communities where they teach. Moreover, it is worth noting that since 2012, Brazilian Federal Universities have offered special quotas for indigenous peoples.

Ensuring health care exists for Brazilian indigenous people is the main goal of the Ministry of Health. In 2010, the Special Secretary for Indigenous Health, CESAI, was created, focusing exclusively on indigenous people. In collaboration with other federal and local bodies, the CESAI has managed a wide range of healthcare units, including mobile healthcare all over Brazil.

Specifically concerning the Awá-Guajá tribe, it is essential to recall that (in accordance with the Brazilian indigenous policy) in 2005 a presidential decree labeled the Awá territory as an area of over 116,000 hectares. To confirm the area of land...
occupied by this population, the Brazilian government carried out anthropological studies, taking into consideration the fact that the Awá-Guajá is a nomadic hunting and gathering tribe.

Among this population, the studies also confirmed the existence of isolated groups that have avoided contact with FUNAI and surrendered. Due to the particular vulnerability of the concerned communities, in 2009 FUNAI also established the Awá-Guajá Ethno-Environmental Protection Front.

Despite these efforts, the Awá indigenous territory has been disputed over for decades by loggers, farmers and small factory owners who have already removed 40% of the area’s forest.

**The Brazilian government understands that the situation is grave**, and has tried for years to remove the non-indigenous occupants from the territory, however numerous law suits brought on by the occupants of the territory have prevented these measures from being effective. However, last December 2013, a court decision ordered the immediate eviction of illegal loggers from the Awá indigenous territory. Based on this court decision, the Brazilian government has started the operation to evict the settlers from Awá indigenous territory.

**By Court order, settlers are forced to leave** the Awá area in 40 days, otherwise they will be removed. In addition, all constructions built by occupants will be demolished. It is important to stress that all farmers removed from the Awá territory are being enrolled in the land reform program, the housing program, the family program and the rural retirement program in addition to other relevant actions by the government. This will allow their integration into new land areas and ensure that they will not return to the previously occupied area.

Concerning the dialogue with the Brazilian government and the EU on indigenous issues, the Brazilian government points out that if it is in the interest of the EEAS, Brazil is willing to reinforce the current dialogue with the EU on issues related to indigenous peoples, in the international forum and in the Brazilian-EU strategic partnership on an equal basis.

Bearing in mind the institutional framework set by the joint action plan of 2011, indigenous people’s issues can be addressed under the bilateral dialogue and human rights in the next meeting, which will take place in Brasilia this semester.

In addition, further political cooperation may be discussed in the UN Permanent Forum on Indigenous Issues and at the World Conference on Indigenous Peoples, being held in New York in May and September 2014 respectively.
Panel II – What future for Indigenous Peoples in Brazil?

Towards an Inclusive Brazil: the Importance of Acknowledging Indigenous Peoples’ Rights – Padre Ton

I represent the Brazilian National Congress and I am the President of the Brazilian front for indigenous defence.

The Brazilian Congress has about 513 Congressmen and Congresswomen. Our Senate has 81 members, who represent the 27 states that form Brazil.

Our current constitution is 25 years old and it is the best one because all Brazilians had the chance to participate in its creation: indigenous peoples, as well as other minorities in the country.

The problem is that, currently our Parliament is much more conservative than 25 years ago. It is becoming more and more conservative, because our political system is privatized; to become a Congress member one must have a substantial amount of money. I became a Congressman, because I am a priest; Brazil is a catholic country and people trust that a priest is not corrupt.

In Brazil, 40% of the population are people of colour (approximately 60 million), but only 8% of representatives in Congress are people of colour. We do not have any indigenous peoples’ representative; in 1982, after the dictatorship, we had a Congressman of indigenous origin, who was elected for Rio de Janeiro.

After this introduction, I will use my time to talk about politics: the importance of indigenous peoples for Brazil and the rest of the international community.

The current Constitution is the only one in Brazilian history that recognizes indigenous rights; they are stipulated under Articles 281 and 282. Until 1988, the ideology of our country and the Government was that indigenous peoples had to be integrated into the Brazilian society. In today’s Constitution, indigenous peoples are recognized as the original people of the country, i.e. people of colour and European descendants of Portuguese origins are not recognized as such, because they are not original inhabitants of Brazil, In the Brazilian Congress, we have different working groups, among them are groups of people of colour (Quilombos), landlords, as well as indigenous peoples. The indigenous working groups represent indigenous peoples on questions of law. The Constitution also establishes protections for indigenous lands that are in need of special protection and development by Brazilian legislation.

When the Portuguese arrived, Brazil had about 5 million indigenous peoples; this number has decreased sharply since. The demarcation of their land has proven to be very important to protect them.

We have about 800,906 indigenous people currently in Brazil, according to the Brazilian Institute of Demography. The majority of them live in the rural areas. Around 48% of Brazilian population lives in the cities. That is why the demarcation of indigenous lands is very important # to prevent violence.
The Constitution recognizes approximately 274 spoken languages and 305 different ethnicities. Only 37% of indigenous peoples under the age of five speak indigenous languages. In Brazil there is a lot of discrimination. While I do defend indigenous peoples as a Congressman, the Parliament does not like indigenous peoples or NGOs defending indigenous peoples. This is the reality in Brazil. Brazilians like to write many laws, but we have trouble following the law.

The Awá case is not the only case; we have many other indigenous groups that are being in Brazil such as the Guaraní Kaiowa for whom we had a big campaign on twitter for them.

If we look at research, the majority of the Brazilian population actually supports indigenous peoples’ rights as well as environmental protection. However, in reality, because of the way Congressmen are elected into the Parliament, the Parliament is implementing laws that the majority of Brazilians disagree with. The only requirement to run for elections is to be wealthy enough to sustain your campaign.

The main enemies of the indigenous peoples in Brazil are agribusinesses, miners, loggers and some sectors in the Government arguing in favour of exploitation of indigenous lands for profit, as well as some infrastructure projects, since there are increasing pressures on food production and mining projects. They engage in these exploitative activities even in indigenous peoples’ demarcated lands. Despite this, it is forbidden to undertake mining activities on indigenous territories under Brazilian law. The Brazilian indigenous movement is currently the strongest social movement in Brazil protesting and demonstrating in Brasilia weekly. Speaking about the Awá in particular, the State of Maranhao belongs to the northeast and half of this territory is considered part of the Amazon. The Awá is the only isolated tribe consisting of only a few more than 400 individuals, living in the most crucial moment struggling for their survival.

The removal of the invaders of the Awá land started at the beginning of January 2014 and they have been given 40 days to leave the Awá territory. That is a concrete step taken by the Government to put pressure on illegal settlers to stop deforestation in the area. People think that the Amazon’s resources are limitless, but this is not true, and that is why there are laws forbidding mining and exploitation of these areas.

Padre Ton
Corporate Social Responsibility for Indigenous Peoples – Kevin Jackson

Introduction

Corporate Social Responsibility (CSR) is a concept meant for businesses to take responsibility for the impact of their activities on the environment and communities in which they operate. That responsibility extends further than following national, regional and international law. It includes as well responsibilities shaped by “soft law,” expectations of good corporate citizenship and global sustainability. Since the adoption of the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP) in 2007, the need for an inter-nationally acceptable minimum standard applicable to corporations operating in indigenous territories has become imperative and urgent.

According to the UN, indigenous peoples disproportionately suffer the brunt of many resource-intensive projects. There are countless human rights impacts: loss of traditional territories and land, eviction, migration and resettlement, depletion of resources needed for physical and cultural survival, destruction and pollution of the environment, social and community disorganization, long-term health and nutritional disturbances, as well as, in some instances, harassment and violence.

While there are gaps in international instruments concerning the responsibilities of corporations towards indigenous populations (because most international human rights legal frameworks only address state responsibilities), nevertheless, there are a number of international standards, guidelines and policies which corporations are obliged to heed. Among them are the United Nations Global Compact, World Bank Operational Policy on Indigenous people (OP 4.10), International Financial Corporation (IFC) Performance standard PS-7, Convention on Biological Diversity Akwé: Kon Guidelines (2004), and prescriptions from the UNDRIP and the International Labor Organization Convention 169.

These documents impose on business enterprises expectations of due diligence and the duty to respect indigenous rights. These responsibilities require corporations, before commencing operations in indigenous communities, to ensure adequate observance and respect, not just for domestic law governing that jurisdiction, but also for all international indigenous rights standards binding on states.

Illegal Logging

Concerning illegal logging, a wide range of mechanisms come from the private sector, from non-governmental organizations and from governments to verify legality and traceability of lumber products. Legality verification and chain-of-custody certification can help assure buyers and customers that lumber or lumber products have been harvested in line with applicable laws.

For the most part, legality verification is voluntary, although some legislation specifies requirements for verification. For instance, the Voluntary Partnership Agreements established between the EU and producer countries as part of the FLEGT Action Plan institute national Legality Assurance Systems to make sure lumber entering the supply chain comes from a legal source, and with which timber products must comply if they are to be awarded a FLEGT license.

To be sure, these represent significant steps in global efforts to diminish the trade in illegal timber. But to bring about change in all the world’s forests, these measures need to be adopted by more countries -- in particular the countries that
are the biggest consumers.

Until only recently, main trade flows were from tropical forested countries directly to Europe and North America. This has shifted dramatically. Regional and domestic markets in many developing countries are becoming increasingly important as their demand for timber escalates. Examples are India and East Africa. Another trend is the emergence of countries as key processing hubs. Here I would point to China along with some other Southeast Asian countries. With stepped up amounts of timber being traded via these countries, rather than directly to consumer countries, the monitoring of supply chains is getting harder.

**Some Caveats**

Thus, it is vital to recognize that in practice forestry supply chains are not linear, simplistic or unidirectional – as suggested by the term ‘chain’ – but rather resemble networks that can be quite protracted and intricate. Some points to note:

- While the U.S. and Europe have regulations on forestry, many emerging countries do not. So there needs to be more *widespread* commitment to responsible forestry standards.

- As well there needs to be respect for *international rule of law*, not just enforcement of national law. Because otherwise the plight of indigenous peoples will be determined by ad hoc, wily-nily political trends, vagaries of corrupt heads of governments, and corporate power.

- What we are witnessing is not only a crisis for the Adá people. Regardless of what plays out concerning their fate, there are many other indigenous peoples imperilled.

- So when Colin Firth and other celebrities intervene to motivate the Minister of Brazil to evict invaders that is great. However, we need to ask how much of a long-term success is that? It is only a short-term fix. It is a political for sure, but one effective only for one region. It is not a solid, juridical sustainable solution, which is what I would advocate.

Not to be excessively negative, but instead perhaps *appropriately negative*, I would caution about “economic hit-men” – most all logging, mining and oil companies. Their primary objective is short-term profit. They come smiling and eagerly shake hands. Yet at the end of the day, they ignore the plight of the host country, turning instead to the quest for profit maximization. For all of their CSR and sustainability rhetoric, too many of these companies have no interest in the local populace. The unconscionable damage to local indigenous tribes in Brazil through illicit logging illustrates that if this continues the damage and impact will be permanent and irreversible. Developing countries can, however, seek professional outside help. They can invite the best, most innovative talent to probe for resources in a sustainable and stable growth oriented fashion that respects human rights.

**Focus on China**

Brazil’s Amazon region contains vast natural resources: land, timber, minerals and hydroelectric potential. China’s robust economy and large demands relative to domestic supplies of these resources mean that China is becoming Brazil’s largest trading partner. Mainly for natural resources.

China impacts deforestation in Brazilian Amazonia in various ways, through direct influence of Chinese enterprises via land purchases and other mechanisms. The quick rise in exports of soy and beef products to China, in particular is a major
driver of Amazonian deforestation in Brazil.

China has cut virtually all its own natural forests. So apart from large-scale plantations of fast-growing trees, the country has a great thirst for timber such as that from Brazil’s Amazon forest. In contrast to European and North American markets, China is willing to purchase timber from most any variety of tropical tree.

**Chinese Land Purchases**

Land bought directly by foreigners is currently restricted to a maximum of 50 rural modules. This makes the limit 5,000 hectares in most of the Amazon region. The Brazilian government aims to lower the limit. The express purpose is to inhibit land purchases by China. Among other effects, the Brazilian government thinks that a spate of recent Chinese land grabs has a key role in the steep increase in Brazil’s land prices. (The rising price of soy also is a factor.)

Two examples of recent Chinese land purchases in Brazil (2012) are: (i) Chongqing Grain Group’s purchase of 100,000 hectares, with an option to expand to 200,000 hectares. This represents an investment of $879 million USD, much of it coming from the Development Bank of China. (ii) Pengxin Group’s purchase of 200,000 hectares.

However, this data is quite incomplete. That is because the Brazilian government ceased tracking foreign land purchases in 1994, only to resume collecting such information from April 2012. It is worth noting as well that restrictions on outright purchases by foreigners are not likely to stop the trend of escalating control of land from abroad. That is because Brazil’s 1988 Constitution redefined the meaning of “Brazilian” companies. Instead of requiring a majority of capital to be Brazilian, firms can be classified as “Brazilian” simply by keeping a headquarters within Brazil. Indeed, the lower house of the National Congress is debating the question of land acquisition by foreigners. A number of influential deputies have proposed changes in the law to ease existing restrictions.

**No Simple Solution**

The problem is complex. On one hand, some progress can be seen at the global level. There is a growing recognition within various business sectors that implementing the right to free, prior and informed consent is the key to improving relationships with indigenous people. However, at local levels the situation is urgent. Many countries lack legislation to protect indigenous peoples’ rights. Many developing countries have inconsistent policies that fail to balance human rights with extractive rights. Granted, to get financing and a license to operate corporations need to conduct social and environmental assessments. Yet these assessments often omit human rights principles promulgated by the United Nations.

While there are no easy solutions, here are some ideas for helping companies form better relationships with indigenous peoples.

- Learning the history and culture of local indigenous people with the aim of building trust and understanding
- Enlisting third party experts, selected in consultation with affected communities, to assess and confirm local conditions
- Appreciating that indigenous people comprehend time horizons and development differently, and realizing that actions taken need to benefit future generations
- Viewing inclusion as an opportunity for creating shared value
Mapping and Protecting indigenous peoples lands in Brazil - Erika Yamada

On behalf of the Presidency of FUNAI, I thank you for the invitation and I hope to be able to share with you some of the advances and challenges regarding the protection of indigenous peoples’ lands in Brazil, as of today.

As you are very well aware, we have in course a complex process of de-intrusion – removal, and in some cases resettling, of non-indigenous occupants - from the Awá land (located in Maranhão). Those are long waited measures to ensure indigenous peoples fundamental rights.

Since the 9th January 2014 FUNAI is coordinating the removal process along with representatives from other federal institutions such as the General Secretary of the Brazilian Presidency, Environmental Ministry (IBAMA), Ministry of Agrarian Development (INCRA) and Federal Police and Road Federal Police, under the Ministry of Justice along with Funai.

Despite the recognition of Awá indigenous land by Funai and the Ministry of Justice, in 1992, and despite its ratification by the Brazilian President in 2005, the constitutional right of the Awá people was not being respected as their lands and natural resources was not fully and exclusively possessed and used by them. In fact, between the year 2000 and 2009 the deforestation rate increased significantly reaching around 30% of the forest cover (36thousand hectares). Illegal logging and occupation became a concern not only from the environmental point of view, but mostly or also because it affects the survival of the Awá people and isolated indigenous group that live in the region.

The loss of forest is directly connected to the territorial restrictions and loss of food resource for the Awá people, as they have the hunting activity as the basis of their subsistence. Besides, indigenous members from the Awá people report that the presence of non-indigenous occupants make them runaway within their own land and that is, unfortunately, the reality of many indigenous peoples in Brazil as demarcation of lands have not yet been fully implemented in many regions. In some cases the procedure of lands recognition carried out by Funai is paralyzed. In other cases, like the Awá, despite formal recognition, indigenous lands continue to be invaded and degraded by non-indigenous occupants for decades until a judicial or political decision ensure that indigenous peoples fundamental rights prevail over private and economic interests.

Here it is important to stress that indigenous lands in Brazil have a significant value due to its meaning for the survival of indigenous peoples, but also concentrates the most environmentally protected areas. In the Amazon region, indigenous lands hold about 25% of the Amazon land. Except from extreme exceptions such as the Awá land, indigenous areas have presented substantially low rates of deforestation (less than 2%) which is lower than conservation unities’ rates. Therefore, Funai has been investing in empowering indigenous peoples in the management and use of their lands according to their own view, along with partnership with environmental bodies to prevent fire, and to monitor and control indigenous lands against intruders and illegal activities. Sustainable initiatives are also supported by Funai in order to guarantee the integrity of indigenous peoples lands and culture.
The 2010 census reveals that in Brazil there are around 896 thousand indigenous people, which represent 0.4% of the Brazilian population. Most of them live in community within 645 indigenous lands and in some urban areas. Besides the isolated groups, there has been registry of 305 different ethnic groups or peoples and 274 indigenous languages in Brazil.

The Awá people are considered as recently contacted group, not only due to the recent period of contact (1973) but particularly due to their very selective choice of the level of relationship they want to maintain with the non-indigenous society. This expression of autonomy through an own way of life - maintenance of their language, practices, tradition and culture - became formally protected with the promulgation of the Brazilian Democratic Federal Constitution in 1988. Article 231 of Constitution brings the concept of indigenous lands as those areas necessary for the continuity of indigenous peoples in all its aspects. Therefore, land rights are the basis for all the other rights. That has been a landmark change in law for indigenous people's fundamental rights.

Before that, the State would expect that indigenous peoples and their cultures would fade away, as time passed by and put in place measures for assimilation. Therefore, only few lands would be merely reserved, and not exactly to attend to their physical and survival needs of indigenous peoples, but as a transitory state to the transformation of indigenous individuals into workers.

Now, since the 1988 Brazilian Federal Constitution, indigenous peoples are acknowledged and respected as such and formally the expectation of assimilation through the imposition of a non-indigenous culture and way of life is disregarded. Therefore indigenous peoples hold exclusive and permanent rights over their traditional lands and natural resources there found, with some exceptions regarding the use of subsoil and water resources. Moreover, according to the Constitution, indigenous lands are those areas traditionally occupied by indigenous people, inhabited on a permanent basis, used for their productive activities, fundamental to the maintenance of the natural resources necessary to their well-being and, to their physical and cultural reproduction according to their uses, customs and traditions. Indigenous lands are part of the Union’s patrimony (Article 20). Nonetheless, permanent possession and exclusive right to use the natural resources of those lands belong to indigenous peoples.

Important to note that those substantial advances of constitutional protections for indigenous lands in Brazil were due active participation of the indigenous leaders and organizations in the process of making the 1988 Constitution. Despite the advances, they are now facing increasing challenges and attempts to changes in the constitution, including from the National Congress itself. That is because indigenous peoples claims (to the full recognition of their rights) have not yet found the social and political support necessary to face discrimination and even racism in the context of lands and territorial ordering.

Erika Yamada
In this context, the situation of isolated groups and recent contact peoples – such as the ones in Awá - deserves special attention due to the major responsibilities of the State to promote and protect their rights respecting their choices and unique ways of lives. In fact, Brazil has a worldwide known policy for the protection of isolates indigenous groups, having recognized that forced contact for assimilation resulted in a great number of diseases and deaths. Today, there are about 70 references of isolated groups in Brazil and 32 of those references are confirmed in the Brazilian Amazon.

However, to ensure the protection of those groups, Funai has invested in monitoring and protecting their lands, under an increasing pressure against that, due to interests of particular sectors in the exploitation of lands and resources (for cattle and monoculture, as well as construction of roads, dams, and activities of mining or logging). The dispute of interests is more and more perceived also within federal bodies that deal with different matters. And, many times, indigenous peoples are not conferred their right to speak out, not to mention to participate and be consulted in development plans for their regions. There is where Funai plays a role along with judicial instances, civil society and international community.

Indeed, many industries and investments as well as consumers, whose activities impact indigenous peoples and the environment, are spread out in the world. Maintaining a pattern of production and consumption - in an old-fashioned colonial based concept of development – is still a challenge for all of us. Let’s take for example how much our cultural and even aesthetic values, as in the pictures seen. Why does it not yet influence spheres in the politics and economics decisions, where native peoples have historically been put aside?

Colonial practices since the arrival of the first Europeans in the continent have defined manners of use and exploitation of lands and natural resources and its consequences is still observed. Unequal distribution of lands has led to concentration of political power and economic influence in Brazil or elsewhere. That for its turn, maintain restrict participation of certain groups in the political life of the society. In order to revert this situation, in 2012 Brazil launched the National Policy of Environmental and Territorial Management of Indigenous Lands (PNGATI) – with great participation of indigenous peoples - as presented in the material handed.

So, recognition of fundamental human rights as well as land rights for indigenous peoples needs special efforts to be implemented. It has shown to demand much more than international commitments, the intent of public initiatives, but also the understanding and engagement of civil society and major media sectors to support and respect distinct ways of lives and to open space to question our own way of living.

FUNAI

Fundação Nacional do Índio – Funai is the Brazilian Federal Body for indigenous issues, part of the structure of the Ministry of Justice. Funai was established in 1967 (Law 5.371/1967) to coordinate the Brazilian policies aimed at indigenous peoples’ rights promotion and protection. As of today, besides the conduction of lands’ demarcation, Funai’s main institutional purpose is to advance indigenous peoples’ own economically and environmentally sustainable management of their lands. Funai is also responsible to monitor and control indigenous lands in order to protect natural resources, to prevent conflicts and to protect indigenous peoples’ own ways of lives and forms of organization, including indigenous peoples in voluntary isolation, in recognition of indigenous people’s autonomy (Decree 7.778/2012).

Funai has also worked to improve participation of indigenous peoples in the planning and implementation of State activities pertaining to them, as well as to support indigenous peoples own initiatives in the management, control and use of their territories and natural resources.
Indigenous lands are considered part of the Union’s patrimony and therefore the Constitution established that the federal government shall demarcate, and ensure protection to all the indigenous peoples’ lands. Still according to Brazilian Federal Constitution, removal of indigenous peoples from their traditional lands is forbidden, except “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”.

The demarcation procedure is composed of 04 major steps. First, an area is identified by a multidisciplinary group of experts in accordance with the traditional use of the territory by an Indigenous people. Second, the Minister of Justice declares the area as an indigenous land. Third, the indigenous land is physically demarcated by the federal indigenous agency (FUNAI). Finally the demarcation is ratified in a homologation decree signed by the President of Brazil. After the above mentioned administrative procedure allows for the enforcement of removal of non-indigenous occupants and the Union confers compensations for the good-faith improvements made by non-indigenous occupants until de ministerial declaration act. Physical demarcation is then conferred to the indigenous land and ratified by a Presidential Act (Decree 1.775/96).

Indigenous lands are titled as areas of the Union for the permanent and exclusive use and possession by indigenous peoples. The procedure allows for manifestation of other organs and non-indigenous people interested in the procedure, as well as for federative states and municipalities to participate including presenting administrative appeals and documents relevant to the studies within the demarcation procedure.

Indeed, indigenous peoples cannot acquire full property rights over their traditional lands, but the possession and right to use are understood as a special kind of ownership right. However, the most urgent claims in Brazil have been limited to the safeguarding of the demarcation of indigenous lands according to the constitutional provision of CF Article 231, and generally do not raise issues claiming for the extension of the ownership right conferred. Constitutional provision of Article 231 has been considered to offer satisfactory, formal security to indigenous peoples and their lands.

So far, the main claims of indigenous peoples in Brazil concern securing lands in the constitutional sphere without much discussion on the formal title of the lands. The combination of possession and property rights to indigenous peoples, and the Union, is believed to better secure indigenous right to land, attending to special needs that may arise in protection of vulnerable groups.
EU-Brazil Relations: Is the EU Paying Attention to Indigenous Rights? – Adrianus Koetsenruitjer

As Europeans, we have great interest for what is happening in the Amazon. We support the cause of indigenous rights and we are very much engaged in everything that concerns them and the work of the UN on this matter. Through the Union, also our members’ states subscribe to this.

Some remarks on this issue:

Principles of European engagement towards indigenous peoples are found on the context of the UN declaration on the rights of indigenous peoples of 2007, which advances the rights of indigenous peoples and ensures the access to continued development of indigenous peoples around the world.

The EU seeks to integrate all people’s rights, including indigenous people's rights, into every aspect of our policy-making and include this topic in the political dialogue with third countries and international organizations. I am very glad to confirm that EU-Brazil also focuses on this issue in our human rights dialogue, so it is a firm chapter of discussion with Brazil as well as with other countries in Latin America.

The international day of indigenous peoples, introduced in 1994, is very important for us. On that particular day, European representatives always make a statement. High Representative Catherine Ashton expressed herself on the enormous contribution of indigenous peoples to the world’s cultural heritage. This is important but not the only reason to defend the causes of the indigenous peoples and seek their protection.

The EU engages in activities and forums on indigenous peoples and contributes to the cooperation of UN agencies in these aspects. In the EU’s cooperation agreements, indigenous people’s rights are part of the strategy where relevant. Although Brazil is not benefiting from development cooperation anymore, it has cooperation agreements for human rights and for working with civil society, and it is here that indigenous people's issues are addressed.

Finally, not only do we directly support organizations like FUNAI who deal with indigenous peoples, we also support NGOs who defend indigenous peoples’ rights. The EU has just made public its call for proposals for this year on “developing indigenous networks and enhancing the international, national, regional and local level”. This will address the frequent denial of indigenous rights among local populations.

In these policy considerations we should not overlook that economic pressures can be in conflict with indigenous peoples’ interests. Emerging economies have increased world demand for primary products and minerals but also internal development objectives from the government of any country play their part. Only 0.4 % of the Brazilian population is indigenous. On top of this, many are not really integrated in the population so it is often the case that politicians do not feel responsible for them. It is for this reason that defending the indigenous case, also in Brazil, can be difficult. Therefore we have to formulate good reasons of justifying the protection of indigenous people’s rights.

Brazil has a good basis: they have laws, the Constitution, and they act to protect the indigenous rights as the pictures of the evictions have shown. They are making extensive efforts to protect this small percentage of Brazil’s population, so much so that great numbers of poor people in Brazil can reasonably ask why they are not receiving such special support. We cannot deny this demand. It is necessary to find different ways of seeing things in order to protect the indigenous
people, i.e. by putting forward the cultural heritage aspect that is recognized at a UN level. This would emphasize that there is certain population who represent something from the past that we do not want to lose.

But there is more: we have heard here today that indigenous peoples are often doing better in protection the forests by their traditional ways of living than official protection measures do. Deforestation in the long run is not only negative for Brazil, but for all of our global survival. Therefore we should commit ourselves more to these cases because they are of global concern. The argument could equally be made in favour of environmental and wildlife protection and conservation. Indigenous peoples are in some regions perhaps the best "forest rangers" one could imagine.

Finally, let me also mention that defending indigenous people’s rights isn’t always a straightforward case. It is sometimes difficult for the European Union to understand the needs and objectives of an indigenous community because of its western mentality. Some indigenous people reject the services that we as westerners, consider as crucial, such as education and health. Some claim that they want to stay away from this modern style of living, whereas we tend to think of development as giving communities the possibility to introduce education, social services and access to the modern world, which will bring them more access to food, security etc. This is a dilemma in the indigenous peoples’ rights discussion that we cannot ignore and that we should also try to consider carefully before entering in "modernisation" programmes. Good dialogue and consultation with stakeholders from all sides will always remain crucial for a successful support to indigenous peoples.
Annex

Conference Poster

AWÁ: ON THE BRINK OF EXTINCTION

INDIGENOUS RIGHTS IN BRAZIL

Hosted by Richard Howitt and Catherine Grêze MEPs

22 January 2014, 15:00-18:30, European Parliament Brussels, Room A7E387

Registration:
d.pamias@unpo.org
(Include full name, ID number, DOB and nationality)
Deadline: 15 January 2014

Unrepresented Nations and Peoples

With the support of
Awá: On The Brink Of Extinction
Indigenous Rights in Brazil

3-6.30 pm
Wednesday 22 January, 2014
European Parliament, Room A7F387, Brussels

9 January 2014, Brussels – The Unrepresented Nations and Peoples Organization (UNPO), in coordination with Richard Howitt (S&D) and Catherine Grèze (Greens) MEPs will be convening a conference at the European Parliament to assess the precarious situation of Brazil’s indigenous peoples.

The Awá tribe, also referred to as Guajá, lives in the rainforest area of the state of Maranhão, on the eastern Amazon forest of Brazil. Besides harassment from loggers and other illegal settlers, the Awá tribe has been facing relocation to legally demarcated reservations by the Brazilian government since 1973. In 1980, with the launch of the Carajás mining project, extractive industries pursued their activities at an alarming pace for the Awá tribe, whose population has shrunk to only 450 members.

Despite the different international instruments acknowledging indigenous peoples rights in Brazil – the ratification of the ILO 169 Convention on Tribal Peoples in 2002 and the signature of the UN Declaration on the Rights of Indigenous Peoples in 2007 - Indigenous peoples in Brazil are still facing evictions from their traditional lands, and the violation of the principle of Free, Prior and Informed Consent (FPIC) in mining projects is often reported. This timely conference comes as Brazil’s National Indian Foundation (FUNAI) stated just a few days ago that the Brazilian Ministry of Justice will give a forty-day notice, urging all trespassers to leave Awá lands. This has been the first substantial move from the Brazilian authorities and the Minister of Justice to enforce Indigenous rights, and thus to save the Awá, one of the last partially uncontacted tribes in the world. However, the future for the Awá people is still under severe threat.

With two panels hosting international experts, from governmental, academic and civil society backgrounds, the conference will focus on the challenges the Awá are currently facing in securing their existence. Confirmed speakers are Padre Ton (Brazilian MP), Barbara Truffin (Free University of Brussels), Sarah Shenker (Survival International), Adrianus Koetsenruijter (EAS) and the International Labour Organization (ILO). The discussion will intend to inform an audience of policy makers, press and activists, and assess current and future courses of action on the protection of Indigenous peoples in Brazil.

To register for this event, please contact UNPO sending your full name, ID/Passport number, DOB, place of residence and nationality to d.pamias@unpo.org

Registration closes on 15 January 2014
For media queries please contact:
Maud Vanvalleghem | +32 251 314 59 | mv@unpo.org
Media Coverage

25th February - Somaliland Sun

SOMALILAND SUN

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To register for this event, please contact UNPO sending your full name, ID/Passport number, DOB, place of residence and nationality.
Major operation to save Earth’s most threatened tribe makes progress

29 January 2014

After months of campaigning by Survival International, Brazil’s government is finally going to evict illegal invaders from the Awá tribe’s land.

The Brazilian government’s operation to remove all invaders from land of the Awá tribe is now in its fourth week.

The large-scale operation involves several ministries, Brazil’s indigenous affairs department FUNAI, the army, federal police and the President’s office, with a ground squad of at least 200 agents.

It follows Survival’s global campaign to save Earth’s most threatened tribe from extinction.

At least 368 eviction orders have now been served, notifying 90% of the territory’s illegal occupants that they must leave.

Settler families have 40 days to leave from the day they receive the notice, and will be given alternative land and access to a range of benefits.

Overflights are currently underway to identify ranches and settlements which have not yet been registered.

Norberto Yamanawá, an Amazon Indian in London, said, “After so many years of fighting, my Awá brothers and sisters are finally seeing a light of hope and a sign that they’ll be able to live in harmony with their forest.”

Last week Padre Tomás, a Brazilian Deputy and President of the Parliamentary Group on Indigenous Peoples, denounced the dangers facing the Awá at a conference entitled ‘Awá on the brink of extinction’, convened by the Unrepresented Nations and Peoples Organization at the European Parliament. A Survival researcher also spoke.

Last week on TV Globo News in Brazil, Judge Carlos Magliana declared that all outsiders must leave the area highlighted the huge international concern for the Awá, revealing he had received 10,000 letters from around the world urging him to act.

Speaking on the government’s television channel, the President of FUNAI said, “The organizations will certainly remain in the area to monitor the indigenous areas so that illegal occupations don’t occur again.”

Over 34% of the Awá Indigenous territory has been deforested.

The Awá are one of the last remaining nomadic hunter-gatherer tribes in the Amazon. They will not survive unless their forest is protected.
Indigenous News this week

2014 JANUARY 12

by Citizen Journalist Exchange

tags: Alaska Native, Indigenous, Native American

Conference Invitation: Awá, On the Brink of Extinction

Venue: European Parliament, Room A7-F387, Brussels

Somaliandun - The Unrepresented Nations and Peoples Organization (UNPO), in coordination with Richard Hewitt (Silv) and Catherina Creutz (Groeno) MEPs will be convening a conference at the European Parliament to assess the precarious situation of Brazil’s indigenous peoples.

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Despite the different international instruments acknowledging Indigenous peoples rights in Brazil – the ratification of the ILO 169 Convention on Tribal Peoples in 2002 and the signature of the UN Declaration on the Rights of Indigenous Peoples in 2007 – Indigenous peoples in Brazil are still facing evictions from their traditional lands, and the violation of the principle of Free, Prior and Informed Consent (FPIC) in mining projects is often reported. This timely conference comes as Brazil’s National Indian Foundation (FUNAI) stated just a few days ago that the Brazilian Ministry of Justice will give a forty-day notice, urging all trespassers to leave Awá lands. This has been the first substantial move from the Brazilian authorities and the Minister of Justice to enforce Indigenous rights, and thus to save the Awá, one of the last partially uncontacted tribes in the world. However, the future for the Awá people is still under severe threat. More...
Battle to protect rights of threatened Awá people raised in European Parliament

04/02/2014
Survival, UNPO organizations ask EU to use political influence in favour of indigenous rights in Brazil and abroad - Plan by Brazilian Federal Government under way to evict illegal settlers from Awá-Guaçá Indigenous Territory

The Brazilian Government sent the army to the Awá-Guaçá Indigenous Territory one month ago to put an end to the illegal occupation and exploitation of the lands by non-indigenous people. But one of the organizations that has stood out in the defense of the Awá people, Survival International, continues to exert pressure on the international arena so that the rights of indigenous peoples are taken seriously by governments. Therefore, Survival and the Organization of Unrepresented Nations and Peoples (UNPO) have brought the issue to the European Parliament.

Survival International member Sara Shenker told Deutsche Welle last week that the EU holds enough political influence that can be used for the recognition of indigenous rights worldwide. Shenker recalled that, unlike the Awá, other peoples do not have “their lands demarcated, and live next to roads in makeshift camps, where a very high rate of alcoholism exists.”

European representatives say the support to indigenous peoples and their cultural heritage is part of the cooperation programs of the European Union. However, so far only four EU member states that have signed the Convention 169 of the International Labour Organization (ILO) on indigenous rights. Shenker thinks that the reason why so few states are favorable to the rights of indigenous peoples is the fact that their recognition involves a commitment to respect the right to self-determination: governments are very reluctant to accept that right.

Under self-determination, indigenous peoples could legally demarcate their lands and live there according to their own wishes, having at their disposal their own natural resources, now coveted by outsiders.

First occupiers could leave Awá land

And while organizations in favour of indigenous rights try to convince the European institutions, the Brazilian army and federal government staff have been for weeks on the ground notifying all non-indigenous residents (427 notifications in total) that they must leave the Awá-Guaçá Indigenous Territory. Finally, says that the first illegal settlers could exit the territory starting from February 23rd.

When the term for the voluntary departure of occupiers expires, the army will forcibly evict those who may stay there. Buildings built by occupiers will be destroyed.

According to Survival, Awá people is “the most threatened tribe on Earth”. Its members are estimated at about 400 people, their lands surrounded - and now partially occupied - by foreign loggers and ranchers, whose activities threaten the indigenous group survival.

(Image: Awá children / picture by Heloise Arcenio/Funai).

Further information:
Nationalia: Brazil sends army to put an end to “invasion” of settlers, loggers, ranchers in Awá land