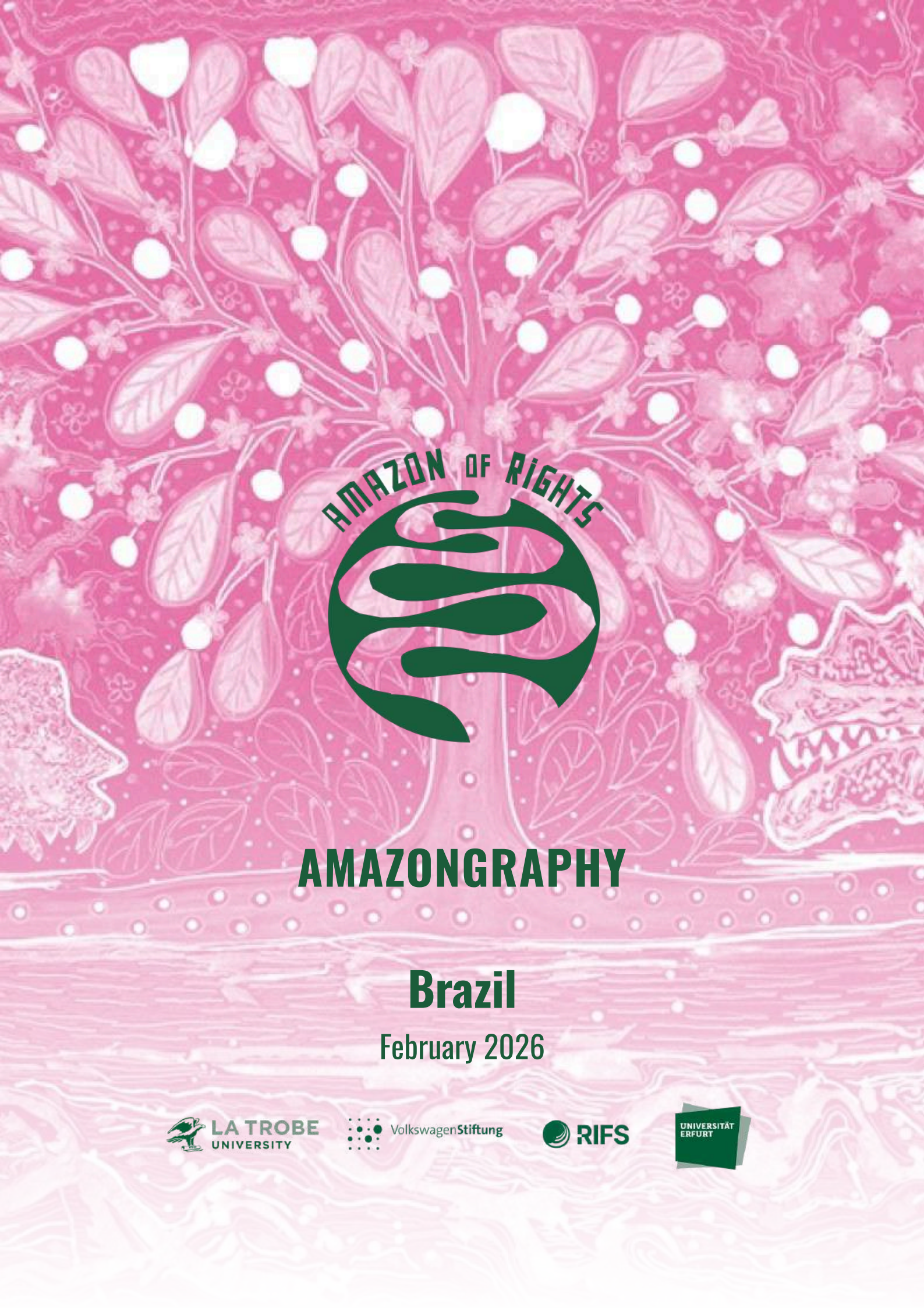

AMAZONGRAPHY

Brazil

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LA TROBE UNIVERSITY
VolkswagenStiftung
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AMAZONGRAPHY SUMMARY

The Brazilian Amazon presents a paradoxical legal landscape where one of the world's most progressive constitutional frameworks for socio-environmental protection confronts persistent extractive pressures and structural violence. This Amazongraphy traces how eco-centric normativity emerges through overlapping and sometimes conflicting legal orders: constitutional guarantees, strategic litigation, municipal Rights of Nature initiatives, Indigenous jurisprudences, and visual-scientific practices.

Brazil's 1988 'Green Constitution' established unprecedented protections, recognising environmental rights as fundamental and Indigenous territorial rights as original. The Supreme Federal Court has constitutionalised climate and biodiversity protection through landmark rulings on deforestation policy (ADPF 760), the Amazon Fund (ADO 59), and Indigenous land rights (RE 1.017.365). Yet these advances coexist with developmental imperatives under Article 170, creating ongoing tensions between protection and extraction.

Unlike Ecuador, Brazil has not nationally constitutionalised the Rights of Nature, but municipal innovations have emerged. Cities like Guajará-Mirim, Goiás, and Linhares have recognised rivers and ecosystems as rights-bearing entities, establishing guardianship mechanisms involving Indigenous and riverine communities. These laws represent legal adaptations inspired by Ecuador and Colombia, but tailored to the Brazilian context.

Indigenous jurisprudences, such as Yanomami *urihi a*, Munduruku consultation protocols, and Kayapó ritual authority, constitute parallel legal systems that ground obligations in cosmologies of reciprocity rather than Western rights discourse. Scientific monitoring by INPE and visual practices, from satellite imagery to Indigenous films and artivism, have made Amazonian legality visible and enforceable.

This Amazongraphy shows that the Brazilian Amazon is best understood as a legal cosmos where multiple worlds coexist. Its future depends on whether this plurality can be sustained and deepened in the

face of extractive pressures, offering potential pathways for other Amazonian jurisdictions while highlighting the limitations of law detached from political will and material redistribution.

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AMAZON OF RIGHTS PROJECT SUMMARY

The Amazon of Rights project explores how eco-centric normativity interacts with social realities in the Amazon River system, a critical ecosystem of global importance. Using comparative law and visual ethnographic methods, particularly documentary film, as socio-legal research tools, the project examines the legal status of the Amazon River as a subject and object of rights across different jurisdictions. It investigates how eco-centric norms shape and are shaped by the social practices and legal imaginations of local communities, Indigenous Peoples, activists, and legal practitioners. While Rights of Nature have been celebrated as a new eco-centric legal paradigm rooted in Indigenous cosmologies, local variations in normative understandings and practices remain underexplored. The project aims to capture this plurality of eco-centric normative orders, both within state-recognized frameworks like constitutions and case law, and in non-state, community-based practices that involve more-than-human entities.

For more on the project: amazonofrights.com

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GLOSSARY OF TERMS, INSTITUTIONS AND ACRONYMS

ACP (*Ação Civil Pública*)
Public Civil Action: the principal collective litigation instrument in Brazilian law for the defence of diffuse and collective rights, including environmental protection.

ADCT (*Ato das Disposições Constitucionais Transitórias*)
Constitutional Transitional Provisions Act: the transitional section of the 1988 Constitution, which contains specific provisions governing the implementation of the new constitutional order, including Article 68 on quilombola territorial rights.

ADI (*Ação Direta de Inconstitucionalidade*)
Direct Action of Unconstitutionality: a constitutional action before the STF used to challenge the constitutionality of federal or state laws and normative acts in the abstract.

ADPF (*Arguição de Descumprimento de Preceito Fundamental*)
Challenge to Breach of Fundamental Precept: a constitutional action before the STF used to challenge violations of fundamental constitutional norms.

ADO (*Ação Direta de Inconstitucionalidade por Omissão*)
Direct Action of Unconstitutionality by Omission: a constitutional action seeking to compel legislative or executive action where the Constitution requires it.

APIB (*Articulação dos Povos Indígenas do Brasil*)
Articulation of Indigenous Peoples of Brazil: the main national Indigenous advocacy organisation, coordinating litigation, mobilisation, and international advocacy.

APP (*Áreas de Preservação Permanente*)
Areas of Permanent Preservation: legally protected areas under Brazilian environmental law, such as riverbanks, springs, slopes, and other ecologically sensitive zones, where vegetation must be maintained or restored.

CDRU (*Concessão de Direito Real de Uso*)
Concession of Real Right of Use: a legal instrument through which the state grants collective or individual rights to use public land for a defined purpose, often employed to secure territorial use by traditional communities.

CIR (*Conselho Indígena de Roraima*)
Indigenous Council of Roraima: a major Indigenous organisation in the state of Roraima, coordinating political mobilisation, territorial defence, and legal advocacy for Indigenous communities.

CONAQ (*Coordenação Nacional de Articulação das Comunidades Negras Rurais Quilombolas*)
National Coordination for the Articulation of Rural Black Quilombola Communities: the main national quilombola movement organisation, coordinating political mobilisation, litigation, and advocacy for quilombola territorial and collective rights.

DETER (*Sistema de Detecção de Desmatamento em Tempo Real*)
Real-Time Deforestation Detection System: a near-real-time satellite alert system operated by INPE since 2004, designed to trigger enforcement actions by IBAMA and support prosecutorial filings.

EREsp (Embargos de Divergência em Recurso Especial).
Divergence Embargos in a Special Appeal: an internal STJ remedy used **after** a REsp decision, when there is a **clear conflict** between that decision and another STJ decision on the **same legal issue**, issued by a different panel or section. The aim is to unify STJ case law.

Estado de coisas inconstitucional
Unconstitutional State of Affairs: a structural remedies doctrine, originating in Colombian jurisprudence, that empowers courts to issue systemic orders when widespread constitutional violations result from institutional failures.

FLONA (*Floresta Nacional*)
National Forest: a category of sustainable use conservation unit under Brazilian law, aimed at the multiple sustainable use of forest resources and scientific research, while remaining under public ownership.

FPIC
Free, Prior and Informed Consent: the international standard, grounded in ILO Convention 169 and the UN Declaration on the Rights of

Indigenous Peoples, requiring that Indigenous communities be consulted before decisions affecting their territories and lives.

FUNAI (*Fundação Nacional dos Povos Indígenas*)
National Indigenous Peoples Foundation: the federal agency responsible for Indigenous affairs, including territorial demarcation, protection of isolated peoples, and coordination of consultation processes.

FUMDEMA *(Fundação Municipal do Meio Ambiente)*
Municipal Environment Foundation: a municipal level public environmental body, typically responsible for implementing local environmental policy, including environmental licensing and permitting, inspection and enforcement, monitoring, environmental education, and the management of municipal conservation measures and related programmes.

IACtHR (*Inter-American Court of Human Rights*)
Inter-American Court of Human Rights: the regional human rights court of the Organization of American States, whose judgments are binding on states that have accepted its jurisdiction, including Brazil.

IBAMA (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*)
Brazilian Institute of Environment and Renewable Natural Resources: the principal federal environmental enforcement agency, responsible for inspection, fines, and operational control of deforestation and environmental crimes.

IBGE (*Instituto Brasileiro de Geografia e Estatística*)
Brazilian Institute of Geography and Statistics: the federal institution responsible for census data, official statistics, and geographic information, including demographic data on Indigenous and quilombola populations.

ICMBio (*Instituto Chico Mendes de Conservação da Biodiversidade*)
Chico Mendes Institute for Biodiversity Conservation: the federal agency responsible for managing conservation units, including extractive reserves (RESEX) and national parks.

ILO Convention 169
International Labour Organization Convention Concerning Indigenous and Tribal Peoples in Independent Countries (1989): the principal

binding international treaty on Indigenous rights, ratified by Brazil and promulgated domestically by Decree nº5.051/2004.

INCRA (*Instituto Nacional de Colonização e Reforma Agrária*)
National Institute for Colonisation and Agrarian Reform: the federal agency responsible for agrarian reform and land regularisation, including the identification, delimitation, and titling of quilombola territories.

In dubio pro natura
When in doubt, rule in favour of nature: a judicial principle affirmed by the STJ, requiring that legal ambiguities be resolved in favour of environmental protection.

INPE (*Instituto Nacional de Pesquisas Espaciais*)
National Institute for Space Research: the federal scientific institution responsible for satellite monitoring of the Amazon, including the PRODES and DETER systems.

MapBiomas Alerta
A multi-institutional initiative that cross-validates deforestation alerts from multiple satellite systems, producing certified reports used by prosecutors, enforcement agencies, and NGOs.

MPF (*Ministério Público Federal*)
Federal Public Attorney's Office: the federal prosecution service, which plays a central role in environmental litigation and the defence of Indigenous rights through Public Civil Actions and other instruments.

PEC (*Proposta de Emenda à Constituição*)
Proposed Constitutional Amendment: a formal proposal to amend the Brazilian Constitution, requiring supermajority approval in both chambers of Congress.

PES (*Payment for Ecosystem Services*)
Payment for Ecosystem Services: a policy mechanism through which individuals or communities receive financial or material incentives for maintaining or restoring ecological functions such as forest cover, water regulation, or biodiversity protection.

PPCDAm (*Plano de Ação para Prevenção e Controle do Desmatamento na Amazônia Legal*)
Action Plan for Prevention and Control of Deforestation in the Legal

Amazon: the principal federal policy framework for deforestation reduction, first launched in 2004 and currently in its fourth phase following reactivation in 2023.

PRODES (*Projeto de Monitoramento do Desmatamento na Amazônia Legal por Satélite*)
Project for Monitoring Deforestation in the Legal Amazon by Satellite: INPE's annual clear-cut deforestation estimates, operational since 1988 and treated as the official baseline for deforestation targets, including those set by the STF in ADPF 760.

REBIO (*Reserva Biológica*)
Biological Reserve: a category of strict protection conservation unit under Brazilian law, aimed at the full preservation of biota and other natural attributes, with only limited exceptions for scientific and educational purposes.

RESEX (*Reserva Extrativista*)
Extractive Reserve: a category of sustainable-use conservation unit created in the early 1990s, designed to protect the livelihoods of traditional communities, including rubber tappers (seringueiros) and riverine populations, while maintaining forest cover.

RE *(Recurso Extraordinário)*
Extraordinary Appeal: an appeal to the STF used to challenge a judicial decision that allegedly violates the Federal Constitution, typically because it decides a constitutional issue or upholds a norm against the Constitution. It is limited to constitutional questions and generally requires a showing of general repercussion.

REsp *(Recurso Especial)*
Special Appeal: an appeal to the STJ used to challenge a judicial decision that allegedly violates federal statutory law or diverges from the STJ's settled interpretation, including conflicting interpretations among courts. It is limited to issues of federal law and does not cover constitutional questions.

RoN
Rights of Nature: the legal framework that recognises natural entities (rivers, ecosystems, forests) as subjects of rights rather than objects of human property or use. Constitutionalised in Ecuador (2008) and

applied judicially in Colombia, New Zealand, and other jurisdictions. Not constitutionalised at the federal level in Brazil, but adopted in municipal legislation.

RTID (*Relatório Técnico de Identificação e Delimitação*)
Technical Report of Identification and Delimitation: the anthropological and technical report prepared in quilombola titling procedures to identify the community, delimit the claimed territory, and support the administrative regularisation process.

STF (*Supremo Tribunal Federal*)
Supreme Federal Court: Brazil's apex constitutional court, responsible for constitutional review, fundamental rights adjudication, and the final interpretation of the Constitution. Members are designated 'Justices' (*Ministros*).

STJ (*Superior Tribunal de Justiça*)
Superior Court of Justice: Brazil's highest court for non-constitutional federal law, responsible for harmonising statutory interpretation across lower courts. Members are designated 'Justices' (*Ministros*).

SUDAM (Superintendência do Desenvolvimento da Amazônia)
Superintendency for the Development of the Amazon: the federal regional development agency created to promote economic integration and development in the Amazon, historically associated with fiscal incentives and frontier expansion policies.

TCU (*Tribunal de Contas da União*)
Federal Court of Audit: the federal oversight body responsible for auditing government expenditure, evaluating policy implementation, and issuing recommendations on institutional capacity, including environmental enforcement.

Uti possidetis
A doctrine of international law holding that effective possession, rather than treaty right alone, determines sovereignty over territory. Applied in the Treaty of Madrid (1750) to consolidate Portuguese sovereignty over the Amazon.

1
INTRODUCTION

The Brazilian Amazon occupies a central position in international debates on environmental governance. The region encompasses nearly sixty per cent of the Amazon rainforest, supporting high biodiversity, substantial carbon reserves, and numerous distinct cultures.[1] Despite legal protections, the area continues to experience resource extraction and violence, including deforestation, land appropriation, illegal logging, cattle ranching, and mining.[2] Inevitably, this duality positions the Brazilian Amazon as both a global commons and a contested resource frontier, and highlights the ongoing tensions among legal, political, and ecological interests.

In the context of such tensions, this Amazongraphy maps how eco-centric normativity in the Brazilian Amazon is produced, contested, and sustained across multiple legal registers. It should then become clear that the Amazon is governed not by a single legal framework but by overlapping and sometimes conflicting normative orders, such as constitutional, legislative, judicial, municipal, Indigenous, scientific, and visual, all of which together constitute what this report terms '*Amazonian legal cosmos*.' Of course, the concept of legal pluralism, understood here as the coexistence of multiple legal sources operating within and beyond the state,[3] provides the departing point for the analytical framework for this mapping. However, the Brazilian Amazon pushes beyond conventional legal pluralism. In other words, Indigenous jurisprudences do not merely coexist with state law but articulate ontologically distinct relationships between humans, forests, rivers, and non-human beings, creating what some have described as a 'legal pluriverse,' that is, a field in which multiple worlds, not merely multiple rules, coexist.[4]

This plurality extends beyond Indigenous jurisprudences. Quilombola communities, Afro-descendant peoples whose historical trajectories originate in resistance to slavery, constitute a distinct presence within the Amazonian legal cosmos.[5] The 2022 Census identified over 1.3 million quilombola persons across more than 7,000 communities, with approximately one-third concentrated in the Amazon.[6] Ribeirinho communities, rubber tappers, and Brazil nut gatherers further diversify this landscape, their territorial rights framed by Decree 6.040/2007 and, where applicable, the extractive reserve (RESEX) system.

It is important to note that, to a certain extent, these tensions were produced by the 1988 Constitution, which introduced a socio-environmental framework without precedent in Latin America. The 1988 Constitution establishes the right to an ecologically balanced

1. Christina Müller, 'Brazil and the Amazon Rainforest. Deforestation, Biodiversity and Cooperation with the EU and International Forums,' *In-depth Analysis*, Policy Department for Economic, Scientific and Quality of Life Policies, DG Internal Policies, EU, 8, 13-14.

2. See Human Rights Watch, *Máfias do Ipê: Como a violência e a impunidade impulsionam o desmatamento na Amazônia brasileira* (HRW 2019) 12-13.

3. On legal pluralism as coexistence of multiple legal orders, see Brian Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (2008) 30 *Sydney Law Review* 375; Sally Engle Merry, 'Legal Pluralism' (1988) 22 *Law & Society Review* 869.

4. On the concept of 'legal pluriverse,' see Bertram Turner and Melanie Wiber, 'Legal Pluralism and Science and Technology Studies: Exploring Sources of the Legal Pluriverse' (2023) 48(3) Science, Technology & Human Values 457.

5. Historically, quilombos were associated with communities formed by escaped enslaved people and their descendants in Brazil. Contemporary scholarship, however, stresses that the term can no longer be reduced to that image alone. In present legal and political usage, 'quilombola' refers more broadly to Afro-Brazilian communities whose collective identity is tied to territorial occupation, historical marginalisation, and claims for recognition and land rights. See Ilka Boaventura Leite, 'The Brazilian quilombo: 'race', community and land in space and time' (2015) 42(6) Journal of Peasant Studies 1225.

6. Instituto Brasileiro de Geografia e Estatística (IBGE), Censo Demográfico 2022: Quilombolas: Primeiros Resultados do Universo (segunda apuração, IBGE 2023) 5, 79, 94, available at https://biblioteca.ibge.gov.br/visualizacao/periodicos/3104/cd_2022_quilombolas.pdf, last accessed 18 December 2025.

environment for present and future generations and assigns responsibilities to both the state and society. Also, it secures Indigenous peoples' original rights to their traditional lands and their legal standing to defend these rights in court.

Adopted after authoritarian rule ended, these provisions established a legal framework that Indigenous organisations, prosecutors, and social movements have used to protect territories and ecological integrity. This new 'rights' framework repositioned Brazil as a leader in Latin American environmental constitutionalism and anticipated later developments in socio-environmental rights on the continent.

Yet, unlike Ecuador, Brazil has not incorporated Rights of Nature (RoN) into its Constitution. This has not prevented several municipalities from enacting eco-centric legislation, recognising rivers and other ecosystems as subjects of rights, establishing guardianship mechanisms involving Indigenous and riverine communities (see Section 3.3). These new legal guarantees coexist with constitutional mandates for development and free enterprise, which, in the Amazonian context and under the current governance, result in persistent economic, legal, and political tensions.

The judiciary, and especially the STF, has played a central role in defining constitutional socio-environmental protections through landmark rulings on deforestation, climate governance, and Indigenous territorial rights (see Section 3.2). Scientific monitoring by INPE (*Instituto Nacional de Pesquisas Espaciais* - National Institute for Space Research), including the PRODES (*Projeto de Monitoramento do Desmatamento na Amazônia Legal por Satélite* - Project for Monitoring Deforestation in the Legal Amazon by Satellite) and DETER satellite systems (*Sistema de Detecção de Desmatamento em Tempo Real* - Real-Time Deforestation Detection System), has provided the evidentiary infrastructure on which much of this litigation depends (see Section 3.4).

The limited effectiveness of state enforcement highlights the significance of Indigenous and community-based practices. Some state agencies are decisive in this context, most notably the Brazilian Institute of the Environment and Renewable Natural Resources (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis-IBAMA*, the Chico Mendes Institute for the Conservation of Biodiversity (*Instituto Chico Mendes de Conservação da Biodiversidade-ICMBio*), and the National Foundation for Indigenous Peoples (*Fundação Nacional dos*

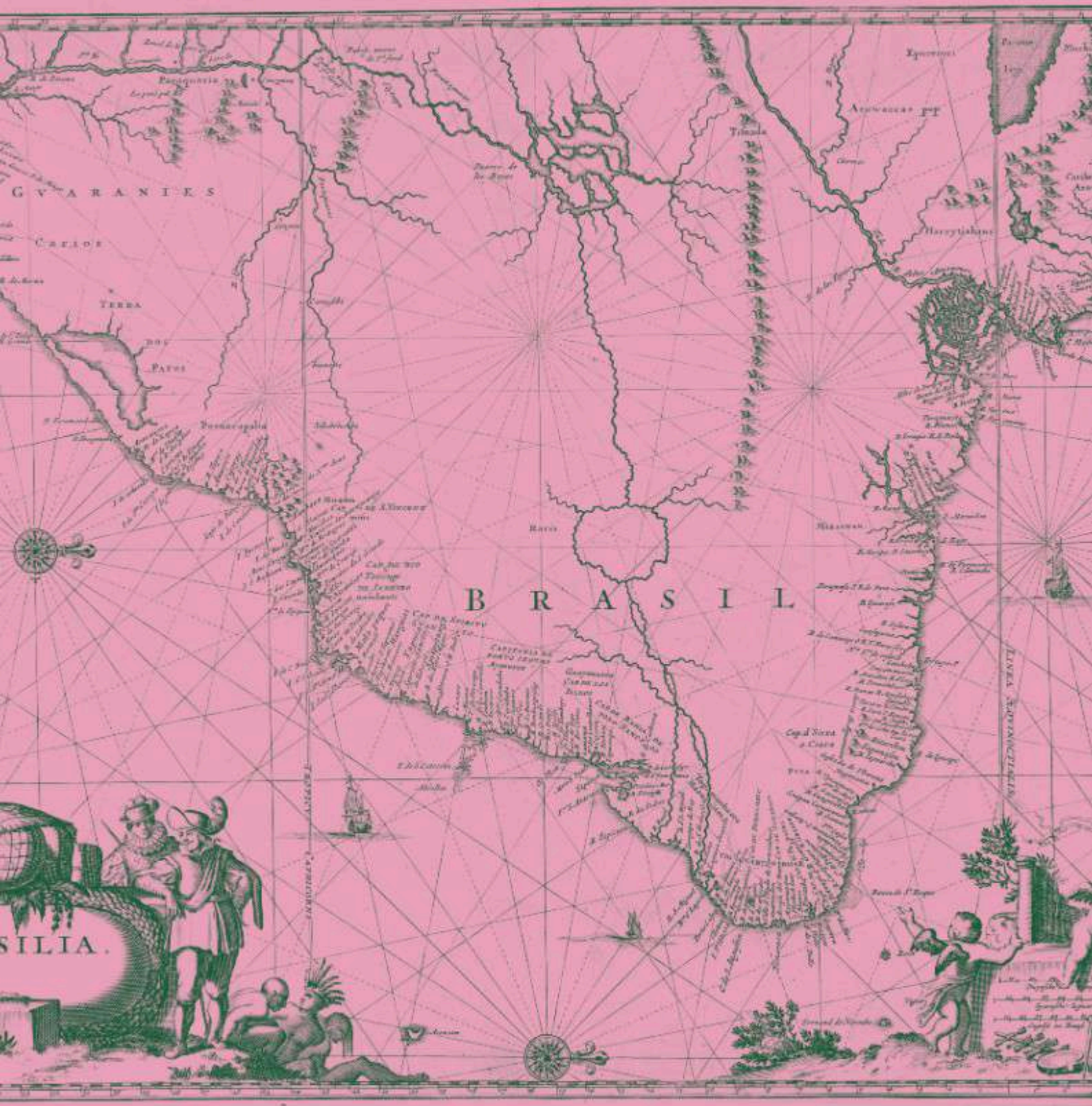
Povos Indígenas-FUNAI), all of which experienced reduced capacity due to budget reductions and political intervention from 2019 to 2022. During this period, incidents of violence against environmental defenders increased, positioning Brazil as one of the most hazardous countries for such activists.[7]

Visual practices significantly shape Amazonian legality. In this Amazongraphy, they are understood as jurisprudential contributions: they produce evidence admitted in legal proceedings, make visible harms that would otherwise remain undocumented, structure public legal reasoning, and articulate normative orders that operate outside the state. Documentary film, photography, satellite imagery, and Indigenous artivism constitute forms of visual jurisprudence examined in Section 3.6.

Historical imaginaries continue to shape perceptions of the Amazon. Colonial expeditions, missionary reports, the rubber boom, and the military regime's '*Integrar para não entregar*' policy all depicted the region as a territory to be conquered. Counter-narratives, such as those advanced by Chico Mendes and Indigenous movements, reframed the Amazon as a space of rights and coexistence (see Section 2).

The Brazilian legal landscape of the Amazon exemplifies legal pluralism, characterised by the intersection of constitutional protections, judicial actions, Indigenous legalities, traditional people's forms of life, some municipal Rights of Nature statutes, scientific institutions, and also visual advocacy. This region embodies significant contradictions, as progressive rights-based rhetoric often coexists with permissive extractive policies. The subsequent sections analyse these dynamics from historical and doctrinal perspectives, demonstrating that the Amazon is governed both as a physical territory and as a legal cosmos in which multiple worlds coexist.

7. See Comissão Pastoral da Terra (CPT), Centro de Documentação Dom Tomás Balduíno, Conflitos no Campo Brasil 2023 (CPT Nacional 2024); Global Witness, *Missing Voices: The Violent Erasure of Land and Environmental Defenders* (September 2024) 14–15.


GVARANIES
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2
HISTORICAL AND LEGAL CONTEXT

2.1 COLONIAL AND IMPERIAL LEGACIES

To understand how the Brazilian Amazon has been governed, it is essential to examine its colonial and imperial history. The Portuguese viewed their expansion into the Amazon as a means to claim land and exploit its resources.[8] Early laws, such as the *Regimento do Pau-Brasil* (1605), established logging rules and created a system treating nature as property.[9] During these periods, local people faced violence, forced labour, and efforts to erase their cultures. Rivers and forests were viewed as crucial barriers to defend against the Spanish.[10]

The colonial imagination of the Amazon was shaped by what the archaeologist Eduardo Góes Neves has called the 'principle of incompleteness' (*princípio da incompletude*), that is, the persistent framing of Amazonian peoples and their territories through what they supposedly lacked, such as agriculture, the State, history, writing, cities, and order.[11] Such an epistemic framework has its roots in early colonialism in Brazilian lands. The sixteenth-century chronicler Pero de Magalhães Gândavo described the continuous extermination of the Indigenous People living on the coast of Brazil and described them as people without faith, without law, without king (*sem fé, sem lei, sem rei*),[12] a formulation that simultaneously denied Indigenous normative orders and provided the conceptual basis for colonial dispossession.

This formulation simultaneously denied the existence of Indigenous normative orders and provided the conceptual basis for their legal dispossession. In the nineteenth century, the naturalist Carl Friedrich Philipp von Martius pursued this line of argument in 'O estado do direito entre os autóctones do Brasil,' where he described the fragmentation of Indigenous peoples as a 'dissolution of all ties of a prior ethnic community' (*dissolução de todos os laços de uma comunidade ethica anterior*), accompanied by a 'babylonian confusion of language' (*confusão babylônica da lingua*), and portrayed this condition as an 'immense ruin' (*uma immensa ruina*) rather than evidence of civilisational plurality.[13] These positions show how the principle of incompleteness was not articulated as a scientific error. Still, rather than operating as a legal (and political) ideology, justifying treating the

8. John Hemming, *Red Gold: The Conquest of the Brazilian Indians* (Harvard University Press 1978) 211-212.

9. Manuela Carneiro da Cunha (ed), *História dos Índios no Brasil* (Companhia das Letras 1992) 134; see also Brazil, *Regimento sobre o corte do Pau-Brasil* (1605), in José Justino de Andrade e Silva (ed), *Collecção Chronologica da Legislação Portugueza* vol 1 (Imprensa Nacional 1856) 585.

10. See John Hemming, *Red Gold: The Conquest of the Brazilian Indians* (Harvard University Press 1978).

11. Eduardo Góes Neves, *Sob os tempos do equinócio: Oito mil anos de história na Amazônia central* (UBU 2022) 181-182.

12. Pero de Magalhães Gandavo, Tratado da Terra do Brasil [1576] (Edições do Senado Federal 2008) 65.

13. Carlos Frederico Philippe von Martius, 'O estado do Direito entre os Autochtones do Brazil' 1906 (11)21 Revista do Instituto Historico e Geographico de São Paulo, 63-64.

Amazon as effectively *terra nullius*, or a land belonging to no one, and its peoples as mere subjects necessitating tutelage, and not as bearers of sovereign legal and normative orders.

Yet the archaeological record contradicts this colonial narrative. Human presence in the Amazon dates back approximately 12,000 years. Far from being a marginal periphery, the region was an independent centre of innovation, with early ceramic production and the creation of terra preta (Amazonian dark earths) demonstrating sophisticated land management practices that sustained large populations and complex societies.

Brasilia, John Ogilby (a partir de Arnoldus Montanus) / Coleção Unibanco-IMS / Acervo Instituto Moreira Salles, circa 1671.

This engraving, published by John Ogilby in America (1671) after Arnoldus Montanus, illustrates the European visual construction of the Amazon: a landscape of monstrous abundance framing Indigenous alterity. Such images projected an invitation to colonial enterprise and justified the imposition of European legal and normative frameworks over existing Indigenous orders. It is possible to identify that the image reflects a somewhat invitation to colonial enterprise and justifies the imposition of the European legal and religious order. The visual

vocabulary of these early representations is clear. In the lower left corner, it is possible to see the image of subordination of Indigenous figures as somewhat *subjugated* by the coloniser.

Accounts produced in colonial contexts, including those linked to scientific exploration, helped frame the Amazon as a space for exploration and economic appropriation, and this framing normalised extractive practices and reinforced unequal power relations with Indigenous peoples.[14] João Daniel, a Jesuit missionary expelled from the Amazon during the 1757 Pombaline suppression of the Society of Jesus, left one of the earliest systematic descriptions of the region's ecology and peoples in his *Tesouro descoberto no máximo Rio Amazonas*, composed during his subsequent imprisonment in Lisbon.[15]

José Monteiro de Carvalho, 1713-1780, Mapa dos confins do Brasil, com as terras da Coroa de Espanha na América Meridional / Ajud. e Engenheiro Iozé Monteiro de Carvalho, Biblioteca Nacional de Portugal.

14. Generally, see José Augusto Pádua, Um Sopro de Destruição: Pensamento político e crítica ambiental no Brasil escravista, 1786-1888 (Jorge Zahar Editor 2004).

15. João Daniel (1722–1776) was a Portuguese Jesuit who spent sixteen years in the Amazon before his expulsion. His manuscript, *Tesouro Descoberto no Máximo Rio Amazonas* (1757), provides detailed accounts of Amazonian ecology, Indigenous societies, and resource economies; see Carlos Fioravanti, '

Colonial cartographic representations of the Amazon illustrate how territorial imagination and sovereignty claims were materialised through mapping. This cartography, produced in the context of the Treaty of Madrid (1750), served as an instrument supporting legal claims to consolidate Portuguese sovereignty over the Amazon.

The Treaty of Madrid and subsequent demarcations consolidated Portuguese sovereignty over a large part of the Amazon through the doctrine of *uti possidetis*, the principle that effective possession, rather than treaty right alone, determines sovereignty over territory, thereby embedding territorial expansion within the framework of international law.[16] The region became a testing ground for colonial resource extraction, especially during the rubber boom in the late 19th Century.[17] Later, the rubber boom turned the Amazon into a global commodity frontier, structured through credit and supply monopolies and sustained by coercive and often violent labour regimes, with severe impacts on Indigenous people and Northeastern migrant workers.[18] Many were trapped in debt or forced into labour, and the effects of this violence and displacement are still felt today, leaving legacies of violence and displacement that continue to haunt the region.[19] In this context, the law's function was primarily to legitimise extraction and subjugate local populations, setting a precedent for later state-led development projects.

16. James Crawford, *Ian Brownlie's Public International Law,* (OUP, 212) 215-216.

17. Barbara Weinstein, A borracha na Amazônia: expansão e decadência, 1850–1920 (Edusp 1993) 26-27.

18. Susanna Hecht and Alexander Cockburn, The Fate of the Forest: Developers, Destroyers, and Defenders of the Amazon (University of Chicago Press 2010) 183-84, 185.

19. Ibid. 72-73.

The history of slavery and resistance is equally constitutive of the Amazon's legal landscape. From the early nineteenth century, enslaved persons fleeing plantations in Óbidos, Santarém, Alenquer, and Belém navigated the treacherous rapids of the Rio Trombetas and other tributaries to establish quilombos, autonomous communities of self-liberated Africans, deep within the forest.[20] These communities, later recognised in the 1988 Constitution's transitional provisions as 'remnants of quilombo communities' (*remanescentes das comunidades dos quilombos*), developed long-standing territorial relations and collective practices anchored in rivers and forests.[21] Their histories point to more than refuge from slavery: they show how Amazonian landscapes became integral to Afro-descendant subsistence strategies and political claims, turning parts of the Lower Amazon into a Black space that unsettles portrayals of Amazonia as outside the African diaspora and as exclusively Indigenous.[22] If colonial law rendered the Amazon terra nullius by denying Indigenous normative orders, it also erased the autonomous legal life of quilombola communities, constituting a double erasure whose consequences persist in the contemporary titling crisis.

20. See for this, Eliane Cantarino O'Dwyer (ed), Quilombos: Identidade Étnica e Territorialidade (Editora FGV 2002), particularly the studies on quilombos on the Trombetas and Erepecuru-Cuminá rivers.

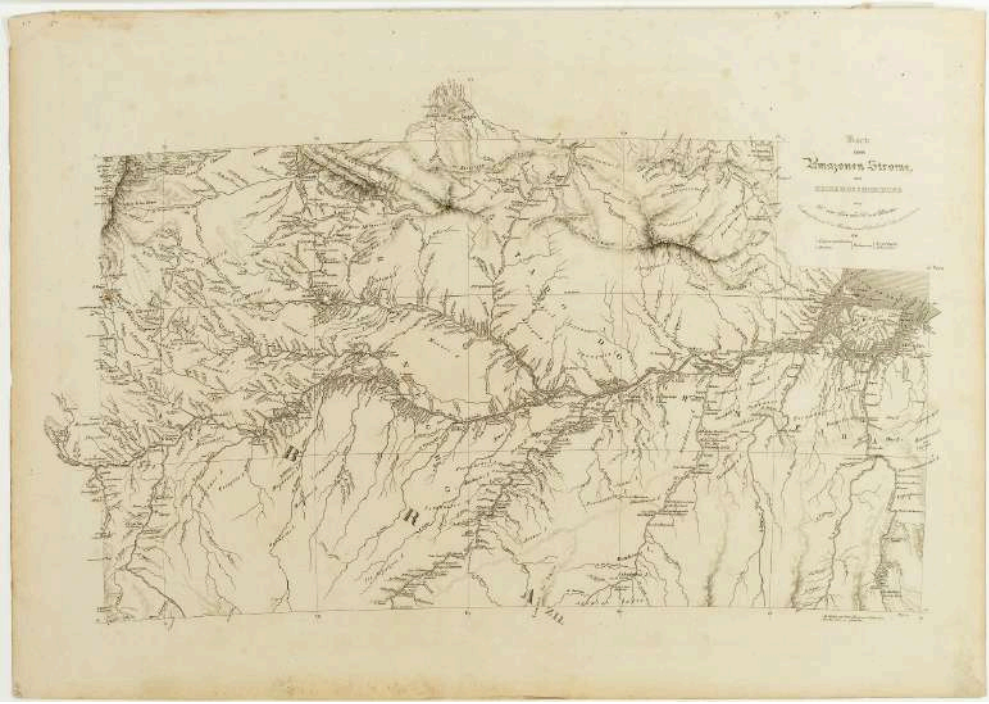
21. Oscar de la Torre, The People of the River: Nature and Identity in Black Amazonia, 1835-1945 (University of North Carolina Press 2018) 3-4.

22. Ibid. 49-50. See also João José Reis and Flávio dos Santos Gomes (eds), Liberdade por um Fio: História dos Quilombos no Brasil (Companhia das Letras 1996).

Von Martius's cartographic and illustrative work, produced during his expedition with Johann Baptist von Spix (1817–1820), occupies a pivotal position in the history of European knowledge production about the Amazon. Through his work, he helped diffuse a 'theory of degeneration,' which cast Indigenous groups as 'ruins of peoples', whose contemporary forms of life marked decline rather than autonomous historical development.[23] Von Martius did not write only as a naturalist, but also advanced an account of Indigenous social organisation and normative life that treated attempts to make Indigenous Peoples 'subjects of right' within the constitutional order as futile, even as he mined their lifeways as material for a 'primitive history' of Brazil.[24] His maps and illustrations, like the one reproduced here, participated in the same epistemic project: they rendered the Amazon as a space of natural *grandeur* but human vacancy, a river system awaiting European comprehension and legal ordering.

23. Francisco Silva Noelli and Lúcio Menezes Ferreira. 'A persistência da teoria da degeneração indígena edo colonialismo nos fundamentos da arqueologia brasileira.' 2007 14(4) *História, Ciências, Saúde - Manguinhos* 1239, 1242–1243.

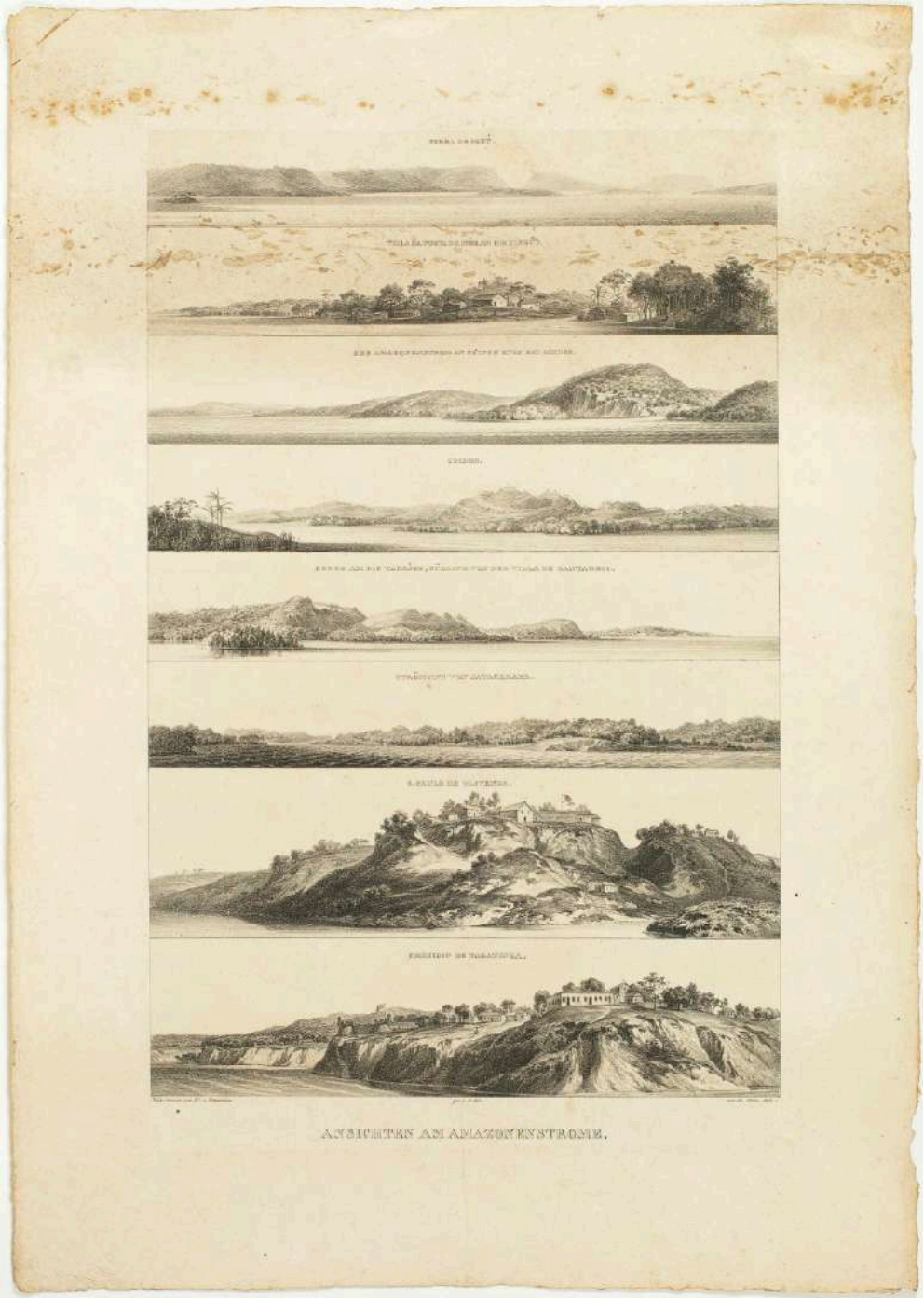
24. Ibid., 1243.



Mapa do rio Amazonas, Carl Friedrich Philipp von Martius (atribuído a) e Joseph Anton Schwarzmann / Coleção Martha e Erico Stickel / Acervo Instituto Moreira Salles, circa 1831

Von Martius's visual and textual representations were consequential for the legal treatment of the Amazon throughout the nineteenth century and beyond. His depiction of Indigenous peoples as 'degenerated' remnants of a lost civilisation provided intellectual legitimation for the tutelary regime that would govern Indigenous-state relations in Brazil until the 1988 Constitution, and whose echoes persist in the *marco temporal* thesis,[25] which similarly treats Indigenous presence as a matter of temporal proof rather than original right (see Section 3.2).

25. Temporal Framework Thesis: the legal argument (rejected by the STF in RE 1.017.365, 2023) that Indigenous land rights should be limited to territories demonstrably occupied on 5 October 1988, the date of the Constitution's promulgation. The STF held that Indigenous territorial rights are 'original' (originários), pre-existing the Constitution, and not contingent on occupation at any particular date.



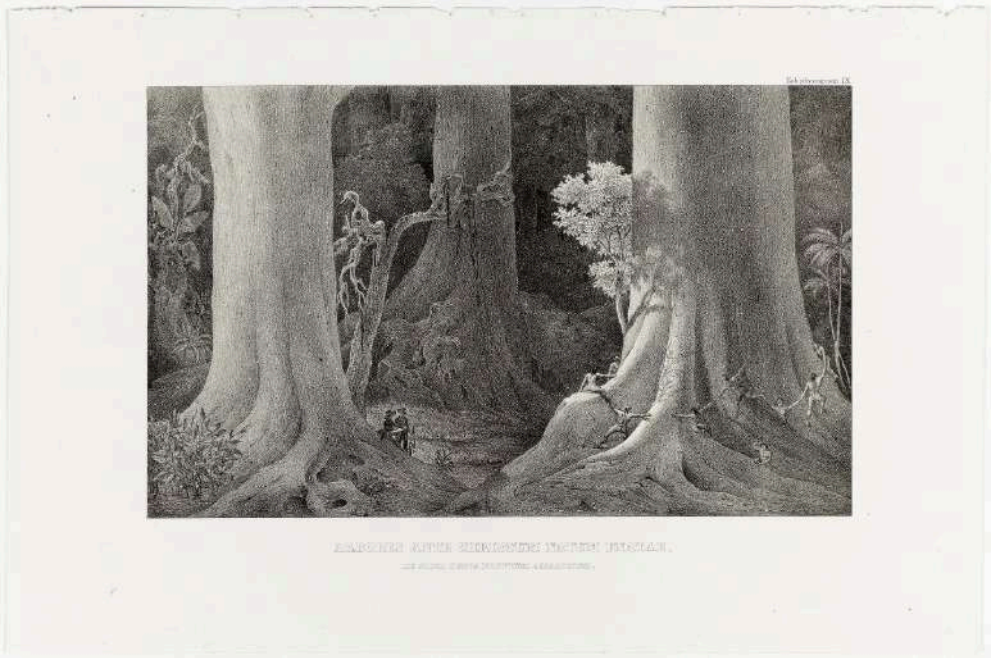
Aspectos no Rio Amazonas, Carl Friedrich Philipp von Martius / Coleção Martha e Erico Stickel / Acervo Instituto Moreira Salles, Circa 1828.

This illustration shows the river landscape as sublime and untouched, a visual trope that would recur for two centuries. The rhetorical force lies in the erasure of Indigenous agency: the forest appears as nature without history, the river as a waterway without the political geographies that Indigenous Peoples had established along its banks.

Indígenas Ticuna às margens do rio Caldeirão, afluente do Amazonas, Albert Frisch/Convênio Leibniz-Institut für Länderkunde, Leipzig/Acervo Instituto Moreira Salles, circa 1867 to 1868.

Albert Frisch's photographs of the Ticuna along the Rio Caldeirão (late 1860s), among the earliest photographic documentation of Amazonian Indigenous communities, mark a transition in the visual regime: from fantastical engravings to indexical images that claimed to record reality. This photographic turn coincided with the Lei de Terras (1850), which redefined land as alienable property and dispossessed Indigenous peoples by recognising only title-based claims, and the broader dismantling of Indigenous legal status through policies of 'catechisation and civilisation.'

The Amazon also became a visual commodity during the rubber boom. The romanticism of such images obscured the violent debt-bondage systems that bound tappers to trading houses. The rubber economy transformed Indigenous and caboclo populations[26] (footnote explaining the cabloco term?) into an indebted labour force, while the Treaty of Madrid's *uti possidetis* doctrine had already embedded Amazonian territorial expansion within international law.



As árvores que nasceram antes de Cristo na floresta às margens do Rio Amazonas, Carl Friedrich Philipp von Martius / Coleção Martha e Erico Stickel / Acervo Instituto Moreira Salles, circa 1841

The captioning of ancient trees as 'born before Christ' situates the forest within a European chronology, recognising its antiquity while erasing the historicity of its inhabitants. This visual logic mirrors the legal construction of the Amazon as a 'frontier' open to colonisation rather than a territory already governed by its own normative orders.

26. The term caboclo designates the rural mixed-ancestry populations of the Amazon, typically of Indigenous and European descent, engaged in riverine subsistence activities. Originally a colonial designation for detribalised Indigenous persons, it acquired broader usage as a social category for the historical Amazonian peasantry. See Stephen Nugent, Amazonian Caboclo Society: An Essay on Invisibility and Peasant Economy (Routledge, 1993).

2.2 THE MILITARY REGIME AND THE AMAZON AS FRONTIER

The military dictatorship from 1964 to 1985 marked a turning point in how the Amazon was framed and governed. State discourse cast the region as a demographic void and a national security problem, summarised in the slogan *Integrar para não entregar* (Integrate, not to hand over), and linked this agenda to integration policies, planned colonisation, and major road building programmes.[27] This security framing treated the Amazon as a frontier to occupy and defend, and it underpinned infrastructure and settlement schemes that advanced through Indigenous territories, relied on coercive 'pacification' practices, and generated severe rights violations.[28] Projects such as the Transamazônica,[29] launched under the National Integration Program (*Programa de Integração Nacional*) in 1970, and state-backed colonisation schemes implemented through the National Institute for Colonisation and Agrarian Reform (Instituto Nacional de Colonização e Reforma Agrária - *INCRA*) contributed to deforestation and intensified social conflict in the Amazon.[30] Also, large hydroelectric projects such as that of Tucuruí have generated extensive environmental impacts and substantial social harms, including displacement and harm to Indigenous communities.[31]

The government created laws and programs to accelerate settlement in the Amazon, such as the 1964 Land Statute (*Estatuto da Terra*), which provided the legal framework for land distribution and colonisation in the Amazon, the 1971 National Integration Program (launched through Decreto-Lei nº 1.106/1970) led to the beginning of the construction of the Trans-Amazonian Highway and the Cuiabá–Santarém Highway, and fiscal incentives for cattle ranching in Amazonian states.[32]

27. Jair Leandro Chaves de Souza and Tailini Mendes Carodi, c (2019) 2(2) *Das Amazônias* 16, 17-18.; Adriana Gomes Santos, Francisca Magalhães Scacabarossi, 'Educação e Ditadura (1964–1985): Povos Indígenas da (na) Amazônia, os Temas Sensíveis, Crimes de Lesa-Humanidade e Direitos Humanos' (2025) 17(44) Tempo e Argumento 4-5.

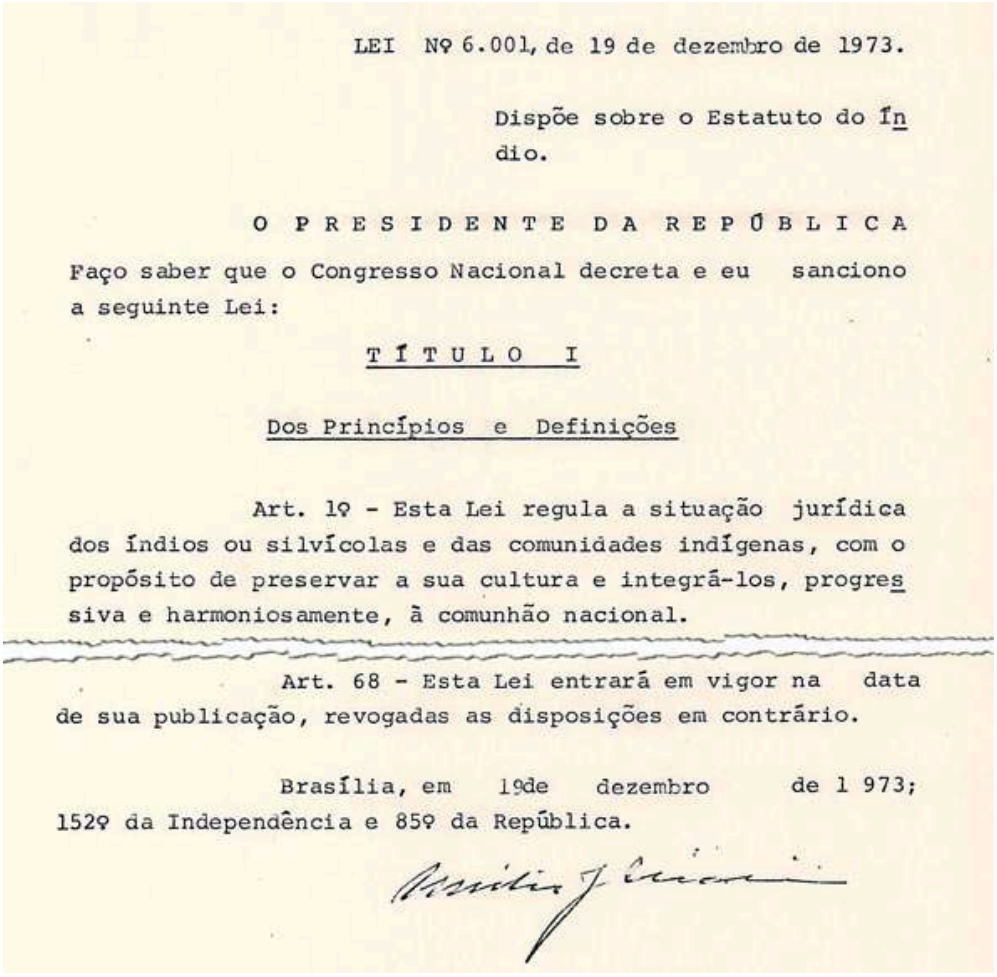
28. Stephen Bunker, *Underdeveloping the Amazon: Extraction, Unequal Exchange, and the Failure of the Modern State* (University of Chicago Press 1988) 81-82.

29. The Transamazônica (BR-230) is a federal highway launched under Decreto-Lei 1.106/1970 and the National Integration Program, planned to extend over 4,000 kilometres from Paraíba to the Peruvian border. Conceived as a colonisation axis to open the Amazon interior and absorb Northeastern migrants, the project caused severe deforestation and violent displacement of Indigenous Peoples, including the Arara, Parakanã, and Asurini. Much of the road remains unpaved.

30. Philip Fearnside, 'Brazil's Amazon Settlement Schemes: Conflicting Objectives and Human Carrying Capacity' (1984) 8(1) *Habitat International* 45-46; Bunker (n 20) 101-102.

31. Philip Fearnside, 'Environmental Impacts of Brazil's Tucuruí Dam: Unlearned Lessons for Hydroelectric Development in Amazonia' (2001) 27(3) *Environmental Management* 377-378.

32. Brazil, Decreto-Lei n.º 1.106, de 16 de junho de 1970, Creates the National Integration Program, amends the Corporate Income Tax (IRPJ) to grant tax incentives in the areas of SUDAM/SUDENE, Arts 1 and 2. Brazil, Lei 4.504, 30 November 1964, *Dispõe sobre o Estatuto da Terra*; See also José Heder Benatti et al., 'Questão fundiária e sucessão da terra na fronteira Oeste da Amazônia' (2008) 11(2) Novos Cadernos NAEA 85, 115-116.



LEI Nº 6.001, de 19 de dezembro de 1973.

Dispõe sobre o Estatuto do Índio.

O PRESIDENTE DA REPÚBLICA

Faço saber que o Congresso Nacional decreta e eu sanciono a seguinte Lei:

TÍTULO I

Dos Princípios e Definições

Art. 1º - Esta Lei regula a situação jurídica dos índios ou silvícolas e das comunidades indígenas, com o propósito de preservar a sua cultura e integrá-los, progressiva e harmoniosamente, à comunhão nacional.

Art. 68 - Esta Lei entrará em vigor na data de sua publicação, revogadas as disposições em contrário.

Brasília, em 19de dezembro de 1 973; 152º da Independência e 85º da República.

Arquivo do Senado Federal do Brasil

Moreover, Indigenous People were placed under state control by the 1973 Indian Statute (*Estatuto do Índio*),[33] aimed at absorbing them into mainstream society through a regime of state guardianship (*tutela*), which classified Indigenous Peoples according to their degree of 'integration' and denied full civil capacity to those deemed 'not yet integrated.'[34] These policies left two main impacts: environmental damage from deforestation and dams, and a loss of independence for Indigenous communities.

The military regime's *Integrar para não entregar* (Integrate, not to hand over) doctrine materialised in infrastructure projects designed to integrate the Amazon into the national economy and defend it as a sovereignty frontier. This poster illustrates the scale of planned road and dam construction that drove deforestation and the displacement of Indigenous Peoples.

33. Lei nº 6.001 19 Decemberr 1973, *Dispõe sobre o Estatuto do Índio*

34. Brazil, Lei n.º 6.001/1973, Estatuto do Índio, Art 1, See Fundação Nacional do Índio (FUNAI) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) (eds), Noções gerais de legislação indigenista e ambiental: Programa de capacitação em proteção territorial (FUNAI/GIZ 2013). In the guide, it is noted the tutela regime pre-1988.

Reprodução/Acervo Ricardo Cardim

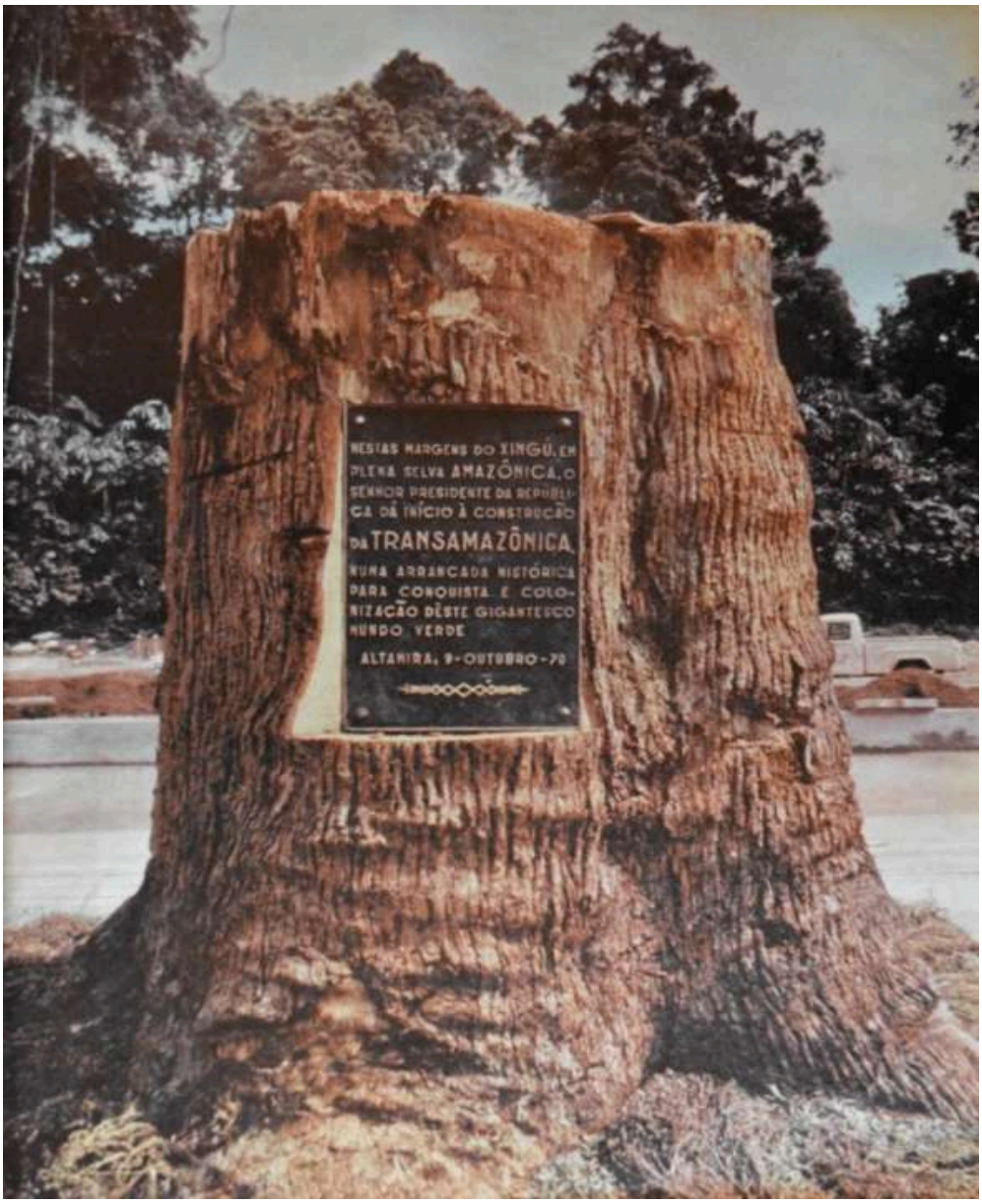
The military regime produced visual materials, such as propaganda posters, newsreels, and official photography, that constructed a legal-political imaginary of sovereign integration. *Integrar para não entregar* functioned also as a territorial programme. It articulated the idea of sovereignty through the spread of infrastructure and the building of occupation. In 1966, the regime created the Superintendency for the Development of the Amazon (*Superintendência do Desenvolvimento da Amazônia* - SUDAM) and, with it, introduced fiscal incentives that redirected capital from the industrialised south-east to agropastoral enterprises in the Amazon. These measures accelerated deforestation and intensified land conflict, increasing pressure on Indigenous territories.[35]

35. Susanna Hecht, Alexander Cockburn, The Fate of the Forest: Developers, Destroyers, and Defenders of the Amazon (Updated edn, University of Chicago Press 2010) 170-171.

Credits: FGV CPDOC.

The Geisel government (1974-1979) intensified colonisation through the Second National Development Plan, prioritising large-scale agriculture, mining, and hydroelectric expansion. This period marked the start of the Carajás mineral complex, the Tucuruí dam, which displaced thousands of people including quilombola and Indigenous communities, and the broader transformation of the Amazon into a resource frontier governed by federal decree. For Indigenous Peoples, these initiatives created existential risks. The *Waimiri Atroari* suffered catastrophic population losses in connection with the opening of the highway BR 174 through their territory, within a wider pattern of violence reported by Brazil's National Truth Commission (*Comissão Nacional da Verdade*) from the late 1960s through the 1970s and beyond.[36]

36. Comissão Nacional da Verdade, Relatório: Textos Temáticos (vol II, Comissão Nacional da Verdade 2014) 260.



Jader Neves, Antônio Trindade, 1972. "Sinal verde para a Transamazônica". Manchete, Rio de Janeiro: Bloch Editores, ano 20, n. 1069, 14 out. Initial mark of the beginning of the Trans-Amazonian Road.

The Transamazônica's inaugural ceremony staged the state's territorial claim as a founding act, erasing prior Indigenous presence. Planned to run over 4,000 kilometres, the highway opened territories to logging, mining, and cattle ranching, while the military's concurrent mapping programme reconstituted the Amazon as a legible, governable space under federal jurisdiction.

During this period, there was also strong resistance. Indigenous groups joined forces with environmentalists, leading to the rise of leaders such as Francisco 'Chico' Mendes (1944-1988), a rubber tapper and union leader from Xapuri, Acre, who promoted extractive reserves as an alternative to developing the region.[37] Mendes was assassinated in December 1988, shortly after the 1988 Constitution's promulgation, and

37. Mary Helena Allegretti, 'Reservasextrativistas: uma proposta de desenvolvimento para a floresta amazônica' (1989) 3 *São Paulo em Perspectiva*, 23-24.

his death galvanised national and international support for Amazonian socio-environmentalism. These alliances helped create the political conditions for the subsequent socio-environmental legal architecture built on the Constitution, and led to the creation of extractive reserves in the early 1990s.[38] The dictatorship's aggressive expansion catalysed counter-mobilisations that decisively influenced the new Constitution.

38. Mauro Barbosa de Almeida, Mary Helena Allegretti and Augusto Postigo, 'O legado de Chico Mendes: êxitos e entraves das Reservas Extrativistas' (2018) 48 Desenvolvimento e Meio Ambiente 25, 27-28; Brazil, Decreto nº 98.863, de 23 de janeiro de 1990, RESEX Alto Juruá; Brazil, Decreto nº 99.144, de 12 de março de 1990, RESEX Chico Mendes.

2.3 THE 1988 CONSTITUTION AND ENVIRONMENTAL CITIZENSHIP

The democratic transition was a key moment. The 1988 Constitution, often referred to in Brazilian legal scholarship as the 'Green Constitution' (*Constituição Verde*), established new socio-environmental rights.[39] Article 225 enshrines the right to an ecologically balanced environment as essential to a healthy quality of life, imposing on both the State and the collectivity the duty to defend and preserve it for present and future generations. Moreover, articles 231 and 232 recognise Indigenous Peoples as collective subjects of original rights. While Article 231 secures Indigenous rights to their traditional territories, declares these lands inalienable and their resources protected, and assigns the federal government the duty to demarcate and protect them, Article 232 grants Indigenous communities, their organisations, and the Public Attorney's Office (*Ministério Público*) legal standing to defend their rights and interests in court.[40] These provisions show that the 1988 Constitution tried to move away from the old assimilationist approach of the 1973 Indian Statute and recognised Indigenous Peoples as collective subjects of rights.

39. On the 'Green Constitution' label, see Luciane Martins de Araújo, 'Constituição Verde, e agora?' (2013) 23(2) Fragmentos de Cultura 135, 135; For the new environmental rights enshrined in the constitution, see Antônio Herman Benjamin, 'O Meio Ambiente na Constituição Federal de 1988' (2008) 19(1) *Informativo Jurídico da Biblioteca Ministro Oscar Saraiva* 37, 63; Marcelo Dias Varella and Márcia Dieguez Leuzinger, 'O meio ambiente na Constituição de 1988: Sobrevôo por alguns temas vinte anos depois' (2008) 45(179) Revista de Informação Legislativa 397, 397-98. see also José Afonso da Silva, *Direito Ambiental Constitucional* (Malheiros 2025).

40. Constituição da República Federativa do Brasil de 1988, Art. 231 and Art. 232.

The Constituent Assembly's achievements extended beyond Indigenous rights, and in the 1988 Constitution, Article 68 of the *Ato das Disposições Constitucionais Transitórias* (ADCT), championed by the Black Movement (movimento negro) as historical reparation for slavery, established a parallel framework for Afro-descendant territorial rights. The provision recognises definitive property ownership (propriedade definitiva) for quilombo remnant communities occupying their lands and obliges the State to issue the corresponding titles.[41] Other supporting provisions include Articles 215 and 216 of the Constitution, which protect Afro-Brazilian cultural manifestations and recognise them as national cultural heritage. The regulatory framework was established by Decree nº 4.887/2003, which provides for self-identification (auto-atribuição) as the criterion for recognising quilombola communities, assigns titling competence to INCRA, and mandates that titles be issued as collective and pro indiviso (undivided), with clauses of inalienability, imprescriptibility, and non-pledgeability (inalienabilidade,

41. Constituição da República Federativa do Brasil 1988, ADCT, Art 68.

imprescritibilidade e impenhorabilidade).[42] Read together with Articles 231-232, Article 68 ADCT reveals that the 1988 Constitution created a dual architecture of territorial rights for Indigenous People and quilombola, both founded in historical justice and collective identity, both dependent on state action for their realisation, and both structurally incomplete nearly four decades later.

42. Decreto nº 4.887, de 20 de novembro de 2003, *regulamenta o procedimento para identificação, reconhecimento, delimitação, demarcação e titulação das terras ocupadas por remanescentes das comunidades dos quilombos de que trata o art. 68 do Ato das Disposições Constitucionais Transitórias*, Arts 2, 3, 13, 17, 22.

Nevertheless, contradictions remain. The Belo Monte Dam Complex on the Xingu River is the most emblematic case. Despite constitutional protections, the project proceeded through contested licensing, over the objections of Indigenous peoples, federal prosecutors, and the Inter-American Commission on Human Rights. The dam reduced water flow in the Volta Grande do Xingu by up to 80%, affecting thousands of families, yet the *Supremo Tribunal Federal* (STF) permitted construction to continue on public-interest grounds (see Section 3.4).

Belo Monte crystallises the contradictions at the heart of Brazilian environmental governance. It is a constitutionally progressive framework coexisting with an energy policy that reproduces the territorial logic of the military-era *Integrar para não entregar* (English translation). In the broader comparative literature, Brazil has been characterised as a 'resisting legal order' with respect to the Rights of Nature, one in which the dominant legal culture continues to frame nature's value instrumentally, as a resource for human use, rather than recognising any intrinsic dignity that would warrant eco-centric legal protection.[43] Yet, as subsequent sections shows, this national-level resistance coexists with municipal innovations and Indigenous legal orders that already operate on eco-centric premises.

43. Antonio Carlos Wolkmer, and Debora Ferrazzo, 'Brazil: Isolated Legislative and Judicial Inroads in a Dependent Capitalism Landscape' in Daniel Bonilla Maldonado and Ralf Michaels (eds), Global Legal Pluralism and Rights of Nature (Mohr Siebeck 2026) 383-384.

Belo Monte Dam, in Altamira, Pará, Credits: TV Brasil.

Historically, the Amazon has been governed through overlapping regimes of conquest, colonisation, integration, and rights. Colonial law subordinated the Amazonian forests, rivers and their peoples to extraction. The dictatorship reframed the Amazon as a national security frontier. The 1988 Constitution elevated environmental and Indigenous rights to constitutional status. Each layer of law persists, creating contradictions in contemporary governance. The provisions that mediate these contradictions, and the institutional machinery built around them, merit closer examination.

3
THE AMAZON IN THE BRAZILIAN LEGAL SYSTEM

3.1 CONSTITUTIONAL FRAMEWORK AND ENVIRONMENTAL GOVERNANCE

The 1988 Constitution establishes a comprehensive framework for environmental protection. Article 225 defines the right to an ecologically balanced environment as a fundamental right, obligating both the state and society to defend and preserve it for the benefit of current and future generations.

Article 225

Everyone has the right to an ecologically balanced environment, which is a common good for the use of all people and essential to a healthy quality of life. This imposes on the public authorities and on the community a duty to defend it and preserve it for present and future generations.[44]

This provision constitutionalises environmental protection and redefines it as integral to citizenship, directly linking ecological integrity to fundamental rights. In doctrinal terms, Article 225 establishes a 'human-centred' model of environmental protection, meaning that environmental safeguards are framed as a fundamental right and a constitutional duty of the state, rather than as an *intrinsic right of nature*.[45]; Patrícia Faga Iglecias Lemos, *Direito Ambiental: Responsabilidade Civil e Proteção ao Meio Ambiente* (Revista dos Tribunais 2014).) The provisions also purport to be 'socially inclusive' in its design, through the architecture of collective standing established by the Public Civil Action Law, the Public Attorney's Office's guardian function, and the original territorial rights of Indigenous peoples with direct legal standing under Article 232, while recognising the original rights of Indigenous peoples to their traditional lands, declaring these lands inalienable and their resources protected.

Article 231

Indigenous peoples are recognised as having their own social organisation, customs, languages, beliefs and traditions, and their original rights over the lands they traditionally occupy. It falls to the Union to demarcate those lands,

44. Constituição da República Federativa do Brasil de 1988, Art. 225. '*Todos têm direito ao meio ambiente ecologicamente equilibrado, bem de uso comum do povo e essencial à sadia qualidade de vida, impondo-se ao Poder Público e à coletividade o dever de defendê-lo e preservá-lo para as presentes e futuras gerações.*'

45. On the doctrinal characterisation of Brazil's environmental constitutionalism, José Afonso da Silva, *Direito Ambiental Constitucional* Malheiros 2019

protect them, and ensure respect for all their property. (our translation)[46]

Article 232

Indigenous peoples, their communities and organisations have legal standing to bring court proceedings in defence of their rights and interests, with the Public Prosecutor's Office participating in all acts of the proceedings. (our translation)[47]

Article 232 grants Indigenous Peoples legal standing, enabling them to engage in direct litigation against state and private actors. However, these provisions also establish a dual framework: environmental rights as collective rights for all citizens, and Indigenous rights as original and territorially based. Yet these guarantees coexist with Article 170's commitment to free enterprise, creating a structural tension between socio-environmental protection and developmental imperatives.

Article 170

The economic order, founded on the value of human labour and on free enterprise, aims to ensure a dignified existence for all, in accordance with the dictates of social justice, subject to the following principles:

Item VI

Protection of the environment, including through differentiated treatment according to the environmental impact of products and services and of their processes of production and provision.[48]

This framework operates through various statutes, such as the 1981 National Environmental Policy Law, the 1985 Public Civil Action Law, the 1998 Environmental Crimes Law, the 2009 National Climate Policy Law, the 2009 Climate Fund Law, and the 2012 Forest Code.[49] These instruments reshaped the environmental law landscape in Brazil, with, for example, the implementation of strict liability for environmental harm, enabling prosecutors, NGOs, and citizens to file collective lawsuits against polluters.[50] Together, they created a dense web of environmental citizenship, making the defence of the Amazon both a state duty and a civic responsibility.

46. Constituição da República Federativa do Brasil de 1988, Art. 231: '*São reconhecidos aos índios sua organização social, costumes, línguas, crenças e tradições, e os direitos originários sobre as terras que tradicionalmente ocupam, competindo à União demarcá-las, proteger e fazer respeitar todos os seus bens.*'

47. Constituição da República Federativa do Brasil de 1988, '*Art. 232. Os índios, suas comunidades e organizações são partes legítimas para ingressar em juízo em defesa de seus direitos e interesses, intervindo o Ministério Público em todos os atos do processo.*'

48. Constituição da República Federativa do Brasil de 1988, '*Art. 170. A ordem econômica, fundada na valorização do trabalho humano e na livre iniciativa, tem por fim assegurar a todos existência digna, conforme os ditames da justiça social, observados os seguintes princípios: VI. defesa do meio ambiente, inclusive mediante tratamento diferenciado conforme o impacto ambiental dos produtos e serviços e de seus processos de elaboração e prestação.*'

49. Lei n.º 6.938, 31 August 1981, Lei da Política Nacional de Meio Ambiente; Lei n.º 7.347 24 July 1985, Lei da Ação Civil Pública; Lei n.º 9.605, 12 February 1998, Lei dos Crimes Ambientais; Lei n.º 12.114, Lei do Fundo Nacional sobre Mudança do Clima; Lei Lei nº 12.651 25 May 2012, Codigo Florestal.

50. For a history of how deforestation has been dealt with at the Brazilian Congress, see Alfredo Wagner, Marcia Anita Sprandel, *O Congresso Nacional e o Desmatamento na Amazônia* (UEA Edições 2014).

The legislative architecture also encompasses the territorial rights of traditional communities beyond Indigenous Peoples. Brazil ratified ILO Convention 169 on Indigenous and Tribal Peoples in 2002, and the Convention entered into force on 25 July 2003, promulgated domestically by Decree nº 5.051/2004 (now consolidated in Decreee nº 10.088/2019).[51] As stated before, Article 68 of the ADCT, establish the quilombolas territorial rights.

Art. 68

'The State recognises definitive ownership for the remaining members of quilombo communities who are occupying their lands, and it must issue them the respective titles.'[52]

In the Ação Direta de Inconstitucionalidade 3.239 (ADI 3.239), the STF treated quilombola communities as falling within the category of 'tribal peoples' for the purposes of ILO Convention 169, expressly invoking article 1(1)(a).[53] The Court also relied on the Convention's emphasis on 'consciousness of identity' to sustain the constitutionality of self-identification as the decisive criterion for quilombola recognition under Decree 4.887/2003.[54] Inter-American jurisprudence aligns with this approach. In Saramaka People v Suriname, the Inter-American Court held that an Afro-descendant maroon community qualifies as a 'tribal' community and therefore holds collective territorial rights grounded in its distinct social, cultural, and economic organisation.[55]

The broader traditional communities framework was established by Decree 6.040/2007, encompassing quilombolas, ribeirinhos, rubber tappers, Brazil nut gatherers, and other groups. In 2023, Decree 11.786 created the National Quilombola Territorial and Environmental Management Policy. Despite this institutional architecture, titling remains critically stalled: only around 175 territories have been fully titled, with over 1,600 processes pending. At the current pace, human rights organization *Terra de Direitos* has projected that completing all quilombola titling would take until the year 4732.

51. Decreto Legislativo nº 143/2002, *Aprova o texto da Convenção nº 169 da Organização Internacional do Trabalho sobre os povos indígenas e tribais em países independentes*; Decreto nº 5.051/2004 (promulgation); now consolidated in Decreto nº 10.088/2019, *Consolida atos normativos editados pelo Poder Executivo Federal que dispõem sobre a promulgação de convenções e recomendações da Organização Internacional do Trabalho - OIT ratificadas pela República Federativa do Brasil.* Annex LXXII.

52. Constituição da República Federativa do Brasil 1988, ADCT, Art 68: 'Aos remanescentes das comunidades dos quilombos que estejam ocupando suas terras é reconhecida a propriedade definitiva, devendo o Estado emitir-lhes os títulos respectivos.'

53. STF, ADI 3239/DF *Acórdão,* para. 7.7 124.

54. Ibid. para. 8

55. Saramaka People v Suriname, IACtHR, Series C No 172, 28 November 2007, paras 79-86.

Marcela Bonfim, *Alquimia, Dona Aniceta, liderança do quilombo de pedras negras, São Francisco do Guaporé, Rondônia,* 2016.

Following the 1988 Constitution, both legislative and judicial branches have sought to implement these constitutional rights and obligations, and some decisive legislative developments have tried to reinforce this framework. The 1981 National Environmental Policy Law introduced environmental licensing and strict liability for environmental harm.[56] The 1985 Public Civil Action Law provided collective standing for prosecutors, associations, and individuals to defend collective and diffuse rights, positioning the Public Attorney's Office as a central actor in environmental governance.[57] The 1998 Environmental Crimes Law codified criminal penalties for ecological harm. The 2012 Forest Code established legal duties regarding land use, including obligations to maintain Areas of Permanent Preservation (*Áreas de Preservação Permanente - APPs*) along watercourses and a Legal Reserve (*Reserva Legal*) on rural properties, providing both enforcement leverage and a framework for ecological restoration.[58] The 2009 National Climate Policy Law established the legal backbone for Brazil's climate governance,[59] including voluntary greenhouse gas reduction targets, and the companion Climate Fund Law created the financing instrument whose operationalisation became the subject of a Supreme Federal Tribunal decision, in which the Court determined the implementation of the Climate Fund as a matter of the government's constitutional responsibility.[60] All these instruments form the basic infrastructure of a type of environmental citizenship, in which citizens, non-governmental organisations, and the Public Attorney's Office serve as co-guardians of constitutional rights.

56. Lei n.º 6.938/1981, Política Nacional de Meio Ambiente, Art. 8 (II).

57. Lei n.º 7.347/1985, Ação Civil Pública, Art. 5 (I). Nevertheless, the law also establishes other actors as having legal authorization to act as plaintifss, such as the Public Defender's office, certain public institutions and organizations; See also the classic Paulo Affonso Leme Machado, Ação Civil Pública: Ambiente, Consumidor, Patrimônio Cultural: Tombamento (Revista dos Tribunais 1986); Also, Édis Milaré (org), Ação civil pública: após 35 anos (Thomson Reuters Revista dos Tribunais 2020), and Marcelo Abelha Rodrigues, Ação civil pública e meio ambiente: tutela contra o ilícito, o risco e o dano ao equilíbrio ecológico (Editora Foco 2021).

58. Lei nº 12.651, de 25 de maio de 2012, Arts 3-4, Arts 7-8, Arts 41-44.

59. Lei nº 12.187 de 29 de Dezembro 2009.

60. See Supremo Tribunal Federal, **ADPF 708/DF, 4 Jul 2022.**

Finally, a robust scientific infrastructure supports this legal framework. The Project for Monitoring Deforestation in the Legal Amazon by Satellite, PRODES, has produced annual deforestation estimates since 1988, functioning as the official baseline for targets used by the STF. The Real-Time Deforestation Detection System, DETER, has issued near-real-time alerts since 2004. Together, these systems provide the evidentiary foundation for environmental enforcement and litigation (see Sections 3.4 and 3.6).

Despite ongoing challenges, Brazil's constitutional framework remains distinctive among Latin American countries. In contrast to Ecuador, which constitutionalised the Rights of Nature in 2008, Brazil maintains its human-centred yet socially inclusive model that combines collective environmental rights with Indigenous territorial rights. Despite its limits, this hybrid approach has enabled prosecutors, non-governmental organisations, and communities to actively pursue litigation, while also supporting new eco-centric initiatives at the municipal and state levels. The constitutional framework, therefore, underpins Brazil's diverse and contested environmental governance.

3.2 STRATEGIC LITIGATION AND JUDICIALISATION OF ENVIRONMENTAL CONFLICTS

Litigation plays a central role in Amazon governance by addressing persistent deficiencies in administrative enforcement. The judiciary serves as a critical forum for the defence, expansion, and limitation of environmental and Indigenous rights.

The STF has assumed a central role in Amazonian governance through landmark decisions. In the *Arguição de Descumprimento de Preceito Fundamental 760* (ADPF 760), decided jointly with *Ação Direta de Inconstitucionalidade por Omissão 54* (ADO 54), the Court held that the dismantling of deforestation prevention and combat policies violated fundamental precepts. The majority recognised structural flaws in federal enforcement, ordered the government to present a plan for progressive deforestation reduction based on official INPE/PRODES data, and determined the full execution of the Action Plan for Prevention and Control of Deforestation in the Legal Amazon. In ADO 59, the Court ordered the reactivation of the Amazon Fund within sixty days, holding that the government's dismantling of the Fund's governance constituted an unconstitutional omission. In ADPF 708, it prohibited budgetary contingency of the Climate Fund, establishing that the Executive has a constitutional duty to operate climate financing mechanisms, and equating environmental treaties with human rights treaties of supralegal status. In the Recurso Extraordinario 1.017.365 (RE 1.017.365- Tema 1.031), the STF rejected the *marco temporal* thesis, holding that constitutional protection of original Indigenous rights over traditionally occupied lands does not depend on physical occupation on 5 October 1988.

The STF's quilombola jurisprudence forms a major strand of strategic litigation. In ADI 3239/DF (2018), the Court upheld Decree 4.887/2003 by a substantial majority, sustaining self-identification as a constitutionally legitimate criterion, rejecting any temporal framework (*marco temporal*) for quilombola recognition, and confirming the validity of collective inalienable titling and expropriation where necessary. In ADPF 742/DF, brought by the Coordenação Nacional de

Articulação das Comunidades Negras Rurais Quilombola-CONAQ (National Coordination for the Articulation of Rural Black Quilombola Communities) and political parties during the Covid-19 pandemic, the STF ordered the formulation of a National Plan to confront the pandemic in quilombola territories, the inclusion of quilombolas as a vaccination priority, and the suspension of land repossession operations. The case marked the first time a quilombola movement organisation appeared as an applicant before the STF.

At the inter-American level, Comunidades Quilombolas de Alcântara v Brasil (2024) marks the IACtHR's first contentious judgment on quilombola rights. The Court held Brazil responsible for violations of collective property, self-determination, and prior consultation arising from the Centro de Lançamento de Alcântara, and ordered the demarcation and titling of 78,105 hectares (see Section 3.5 for detailed analysis).

Credits: Antônio Cruz/Agência Brasil.

The photograph above captures a defining moment in the judicialisation of Indigenous rights in Brazil: the STF's deliberation on the temporal framework thesis in September 2023. The thesis proposed that Indigenous Peoples could only claim rights to lands they physically occupied or were actively contesting on 5 October 1988, the date the Constitution was promulgated, and that its adoption would have threatened to invalidate demarcation claims across the country. Indigenous Peoples travelled from across Brazil to Brasília to witness the proceedings, transforming the Supreme Court's surroundings into a site of political mobilisation and legal pedagogy. The STF ultimately

rejected the marco temporal thesis by a vote of nine to two, affirming that Indigenous territorial rights are original rights (direitos originários) that precede the state itself and are not contingent on any specific date of occupation. The political struggle, however, did not end with the judgment: Congress subsequently approved Law 14.701/2023, which sought to reinstate elements of the temporal framework through ordinary legislation, and whose constitutionality remains under active challenge before the STF.[61]

61. Lei nº 14.701, de 20 de outubro de 2023.

The Superior Court of Justice (STJ) has supplemented this jurisprudence at the infraconstitutional level, consolidating strict objective liability for environmental harm (EREsp 1.318.051/RJ), the *in dubio pro natura* interpretive principle (REsp 1.367.923/RJ), and the imprescriptibility of environmental damage claims. The STJ has also held that the standard caducity period for expropriations does not apply to quilombola lands (REsp 2.000.449-MT). Federal and state courts have also assumed a more prominent role. The TRF-1 has suspended environmental licenses for the Belo Sun mining project on the Xingu and forest management plans in the RESEX Tapajós-Arapiuns for failure to comply with ILO Convention 169 consultation requirements.[62] In Rondônia, the state court declared unconstitutional a law extinguishing eleven conservation units.[63]; Tribunal de Justiça de Rondônia, ADI n.º 0810959-42.2022.8.22.0000, Órgão Especial, ADI contra Decreto Estadual nº 27.565/2022, ESEC Soldado da Borracha, 7 March 2024.)

62. Tribunal Regional Federal da 1ª Região, Agravo de Instrumento nº 1014278-86.2021.4.01.0000 PA, rel Des Souza Prudente, decisão monocrática, 30 April 2021, suspending forest management plans in the RESEX Tapajós-Arapiuns for failure to conduct prior consultation in accordance with ILO Convention No 169.

63. Tribunal de Justiça de Rondônia, Tribunal Pleno, ADI nº 0800922-58.2019.8.22.0000 20 September 2021, declaring Lei Complementar Estadual nº 999/2018 unconstitutional for extinguishing eleven conservation units

Brazilian courts have increasingly engaged with international jurisprudence in Indigenous rights cases, particularly drawing on the Inter-American Court of Human Rights' judgment in Sarayaku v Ecuador, which established the regional standard for free, prior and informed consultation. This standard is now frequently cited in Brazilian domestic litigation concerning consultation rights.[64] Federal courts in Pará have applied this framework directly, reaffirming that consultation must be free, prior and informed and conducted in a culturally appropriate manner, consistent with ILO Convention 169, promulgated domestically by Decree nº 5.051/2004, and with the Sarayaku standard as elaborated by the Inter-American Court.[65]

64. See Pueblo Indígena Kichwa de Sarayaku v Ecuador (Mérito e Reparações), Sentença 27 June 2012, Série C nº 245.

65. TribunalRegional Federal da 1ª Região, ACP nº 0002505-70.2013.4.01.3903, Altamira; Tribunal Regional Federal da 1ª Região, Apelação Cível nº 0001813-37.2014.4.01.3903 PA, rel Des Jamil Rosa de Jesus Oliveira, 6ª Turma, 15 September 2023.

Litigation has also functioned as a mechanism of Indigenous agency. The Munduruku People's 2014 consultation protocol, which requires decisions to be taken within villages in the Munduruku language, has been recognised by federal courts as establishing the procedural framework for FPIC. Nevertheless, judicialization and strategic litigation face significant limitations in practice. The actual enforcement of court

rulings is inconsistent and often depends on underfunded, politically constrained agencies, particularly IBAMA and FUNAI. The scale of this institutional weakness was formally acknowledged in 2021, when the Federal Court of Audit found that IBAMA's operational capacity had been severely reduced and ordered its reestablishment.[66] Beyond enforcement failures and judicial deference to economic interests, judicialization carries a broader structural risk. When it transfers fundamentally political decisions to the courts, it may reduce democratic accountability and concentrate environmental governance in an institutional forum that is neither representative nor directly answerable to affected communities.

Despite these limitations, strategic litigation has significantly altered the legal framework governing the Amazon. It has generated binding precedents, established new forms of legal argumentation, and equipped Indigenous and civil society actors with mechanisms to challenge state and corporate initiatives. Judicialization has become an integral part of Amazonian governance, serving both as an indicator and a corrective measure for institutional weaknesses.

66. See Tribunal de Contas da União, Acórdão nº 1758/2021, Plenary, *Auditoria operacional destinada a avaliar as ações do governo federal para a prevenção e o combate ao desmatamento ilegal e às queimadas na Amazônia Legal*, paras. 285-286, and 334.

3.3 THE EMERGENCE AND APPLICATION OF RIGHTS OF NATURE IN BRAZIL

Although Brazil has not incorporated Rights of Nature into its Constitution, numerous subnational initiatives demonstrate the spread of eco-centric legal principles. These initiatives operate as legal adaptations, drawing on frameworks from Ecuador, Colombia, and New Zealand and modifying them to align with Brazilian legal contexts and Indigenous legal traditions.[67]

Initial municipal RoN laws were enacted outside the Amazon. In 2017, Bonito (Pernambuco) became the first Brazilian municipality to recognise nature as a subject of rights. Paudalho (2018) and Florianópolis (2019) followed with similar provisions. These served as diffusion precedents for later Amazonian initiatives.

More recent initiatives have targeted specific ecosystems, including those within and adjacent to the Amazon. In 2023, Guajará-Mirim in Rondônia recognised the Komi Memem (Laje River) as a 'living entity' (*ente vivo*) and 'legal subject' (*sujeito de direitos*) and established a guardianship committee with Indigenous participation, making it the first Brazilian law to confer legal rights on a specific river.[68].) In 2024, Goiás recognised the rights of the Vermelho River. They established guardian committees for both the Rio Vermelho and the Rio Meia Ponte, while Linhares in Espírito Santo recognised the 'Rights of the Waves' at the mouth of the Doce River.[69] These laws extend beyond symbolic declarations by formalising guardianship structures that incorporate Indigenous and riverine communities into enforcement processes.

At the state level, RoN proposals have been introduced into constitutional amendment processes in Santa Catarina (2022) and Minas Gerais.[70] In Bahia, a constitutional initiative to recognise the RoN was submitted on 5 December 2023 by a state deputy, whereas no equivalent proposal was identified in Pará's state legislature as of the date of research.[71]

67. Constitución de la República del Ecuador 2008, arts 71-74; Corte Constitucional de Colombia, Sentencia T-622/16; Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ), ss 12-18.

68. Câmara Municipal de Guajará-Mirim, Lei Municipal (2023), recognising the intrinsic rights of the Laje River, or *Komi Memem*, as an *ente vivo e sujeito de direitos*, and establishing a guardianship committee comprising Indigenous representatives, fishers, members of the Oro Wari organisation, Indigenous women artisans, and the Federal University of Rondônia

69. Município de Goiás (GO), Lei n.º 387/2024; Município de Linhares (ES), Lei n.º 4.225/2024.

70. Assembleia Legislativa de Santa Catarina, PEC 5/2022 (Parecer n.º 002.0/2022) recognising nature as a subject of rights (2022) https://www.alesc.sc.gov.br/ accessed 2 October 2025; Assembleia Legislativa de Minas Gerais, PEC 12/2023, Proposta de Emenda à Constituição Estadual introducing Art. 214-A (Relatório CCJ, 2025) https://www.almg.gov.br/ accessed 2 October 2025.

71. Assembleia Legislativa da Bahia, initiative of Dep Hilton Coelho on Rights of Nature, 5 December 2023.

At the federal level, Congresswoman Célia Xakriabá introduced a proposed constitutional amendment on Rights of Nature, which seeks to amend the Constitution to recognise nature's rights and explicitly connects these rights to Indigenous guardianship. In 2023, Congresswoman Federal Célia Xakriabá (PSOL-MG), the first Indigenous woman elected to represent Minas Gerais in the Câmara dos Deputados and a member of the Xakriabá People, presented a constitutional amendment (*Proposta de Emenda à Constituição - PEC)* seeking to enshrine the Rights of Nature in the Brazilian Federal Constitution.[72] Inspired by the Ecuadorian and Bolivian constitutional precedents,[73] the PEC proposes two structural amendments. First, it would reformulate Article 1(III) of the Constitution, currently grounding the Republic in the 'dignity of the human person' (*dignidade da pessoa humana*), to encompass the dignity of all beings of Nature, human and non-human, thereby introducing a notion of 'planetary dignity.' Second, it would add a new Chapter VI to Title II (Fundamental Rights and Guarantees), recognising nature as a legal subject endowed with rights to life, habitat, ecological balance, judicial representation, and compensation for environmental harm.[74] Significantly, the proposed chapter formally recognises the ancestral relationship between Indigenous and traditional peoples and the conservation of nature, framing the maintenance of those relations as a right belonging to both nature and those communities.[75] A public hearing was held at the Committee on the Amazon and Indigenous and Traditional Peoples (*Comissão da Amazônia e dos Povos Originários e Tradicionais*) in June 2024,[76] and the PEC enjoys the support of organisations including the National Coalition for the Rights of Nature (*Articulação Nacional pelos Direitos da Natureza*), the Avaaz network, and the Mixed Parliamentary Front in Defence of the Rights of Indigenous Peoples (*Frente Parlamentar Mista em Defesa dos Direitos dos Povos Indígenas*). However, as of late 2025, the proposal had gathered only approximately 40 per cent of the 171 congressional signatures required for formal admission, facing significant political resistance from the agribusiness caucus (*bancada ruralista*).[77] The federal PEC nevertheless forms part of a broader Brazilian Rights of Nature movement that has already yielded concrete results at the state and municipal levels.

Indigenous guardianship constitutes a critical aspect of RoN initiatives in Brazil. The Yanomami concept of *urihi-a* (land-forest) characterises the environment as a living entity that necessitates reciprocal relationships. The Munduruku consultation protocol formalises sacred territorial responsibilities, while Kayapó ritual authority bases governance on the guardianship of forests and rivers. These practices

72. Proposta de Emenda à Constituição (PEC), Dep Célia Xakriabá (PSOL-MG), 'Amends the wording of Item III of Title I of Article 1 of the Federal Constitution to grant dignity to non-human beings, and adds Chapter VI to Title II to confer fundamental rights upon beings belonging to nature and necessary for its preservation.' (*Dá nova redação ao inciso III do Título I do artigo 1º da Constituição Federal, para conferir dignidade aos seres não humanos, e acrescenta o capítulo VI ao Título II para conferir direitos fundamentais aos seres pertencentes à natureza e necessários para sua preservação*), 9 August 2023. The text was presented to the Câmara dos Deputados but, as of late 2025, had not yet gathered the 171 signatures required under art 60(I) of the Federal Constitution for formal admission to the legislative process.

73. The inspiration is clearly indicated in the justification of the PEC.

74. PEC, Art 3, proposing new Chapter VI, Art 1. The justification of the PEC draws on STF, ADI 4.983/CE, 6 October 2016 and STJ, REsp 1.797.175/SP, Rel Min Og Fernandes, 21 March 2019, as well as Inter-American Court of Human Rights, Advisory Opinion OC-23/17, 15 November 2017.

75. PEC, Art 3, proposing new Chapter VI, Art 3.

76. Audiência Pública sobre os Direitos da Natureza, Comissão da Amazônia e dos Povos Originários e Tradicionais (CPovos), Câmara dos Deputados (4 June 2024), https://www.camara.leg.br/noticias/1067509-comissao-da-amazonia-promove-debate-sobre-direitos last accesed 12 December 2025.

77. Tânia Passos, 'Proposta na Câmara quer transformar natureza em sujeito de direitos no Brasil' *Agência Pública* (6 January 2025), https://apublica.org/2025/01/pec-dos-direitos-da-natureza-o-que-diz-proposta-de-celia-xakriaba/ last accessed in 12 December 2025.

establish relational systems that both intersect with and extend beyond conventional Rights of Nature frameworks. The Rio Laje-*Komi Memem*[78] law specifically includes Indigenous representation in its guardianship committee, demonstrating how municipal Rights of Nature initiatives incorporate global legal concepts through Indigenous perspectives.[79] These hybrid approaches suggest that Rights of Nature in Brazil are being adapted and transformed by Indigenous legal traditions.

Comparative legal influences are readily apparent. Explanatory memoranda and debates on Rights of Nature frequently reference the Ecuadorian Constitution and Colombia's Atrato River decision, and Brazilian river-rights laws have incorporated guardianship provisions modelled on these precedents.[80] The Whanganui River model of legal personality and guardianship, as established in the *Te Awa Tupua* Act 2017, has also informed Brazilian discussions, particularly in Goiás, which established guardianship committees for the Rio Vermelho and Rio Meia Ponte along similar lines.[81] Scholars note, however, that Ecuador's constitutional recognition of the Rights of Nature has not prevented the state from pursuing large-scale mining and oil extraction, even though courts have increasingly relied on these provisions to restrain particular projects.[82] Comparative references, therefore, serve both as sources of inspiration and as critical frameworks for evaluating Brazilian initiatives.

Some scholars argue that RoN represent a paradigmatic shift from anthropocentrism to an ecocentric legal order, thereby expanding interpretive possibilities in constitutional and statutory law.[83] Paulo de Bessa Antunes, a leading Brazilian environmental law scholar, argues that Rights of Nature should serve as an interpretive principle within Brazil's constitutional system, enhancing the application of Article 225 without necessitating a constitutional amendment.[84]

Comparatively, Brazil's stance on the RoN is identified as a 'resisting' legal order, that is, one with the institutional capacity and doctrinal foundations for eco-centric recognition, but where the dominant legal culture continues to frame nature instrumentally. The STF has recognised the 'inherent value of other non-human forms of life' (ADPF 640/DF) and struck down animal cruelty practices as unconstitutional (ADI 4983/CE), while the subsequent EC 96/2017 on *vaquejada,* a form of rodeo involving the pursuit and toppling of cattle, illustrates the political backlash against judicial eco-centric advances.

78. 'Komi Memen' describes as an ancestral being that is part of the Wari' community. It does not simply designate a river in a geographical sense, but also carries a cosmological and relational meaning specific to the local Indigenous context. See Kauffman, Craig, Catherine Haas, Alex Putzer, Shrishtee Bajpai, Kelsey Leonard, Elizabeth Macpherson, Pamela Martin, Alessandro Pelizzon and Linda Sheehan, 'Guajará-Mirim (Brazil) Municipal Organic Law: rights of nature', Eco Jurisprudence Monitor (V2, 2025).

79. Câmara Municipal de Guajará-Mirim, Lei Municipal (2023), art 3-4, establishing the *comitê de guardiões* with Indigenous participation (n 50).

80. Constitución de la República del Ecuador 2008, arts 71–74; Corte Constitucional de Colombia, *Sentencia T-622/16* (Atrato River) (2016); Município de Guajará-Mirim (RO), Lei n.º 2.579/2023 (28 June 2023), arts 2–4; Município de Goiás (GO), Lei n.º 387/2024 (Rio Vermelho); Município de Goiânia (GO), Lei n.º 11.390/2025 (Rio Meia Ponte).

81. Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ).

82. Craig Kauffman and Pamela Martin, The Politics of Rights of Nature: Strategies for Building a More Sustainable Future (MIT Press 2021) 81-82.

83. See Germana de Oliveira Moraes, Geovana M C de A Freire and Danilo S Ferraz (eds), *Do Direito Ambiental aos Direitos da Natureza: Teoria e Prática* (Mucuripe 2019).

84. See Paulo de Bessa Antunes, *Direito Ambiental* (22nd edn, Atlas 2021).

This shows that RoN in Brazil is not only a legal issue but also a political conversation, marked by significant contestation over development, sovereignty, and Indigenous agency. In this context, a variety of symbolic legal practices also fulfil a significant function. Even when not directly enforceable, RoN laws facilitate a transformation in legal consciousness by conceptualising rivers and forests as subjects rather than resources. Arturo Escobar asserts that these discursive changes foster what he describes as pluriversal politics, meaning political orientations that sustain the coexistence of multiple ontological worlds rather than subsuming them within a single modern framework.[85]

In the Amazon region, where Indigenous cosmologies recognise rivers and forests as living entities, RoN legislation provides a juridical framework to incorporate these ontologies into the state legal system. The RoN in Brazil remain an emerging and dynamic development. Municipal legislation, state constitutional amendments, and federal proposals reflect an expanding eco-centric perspective, shaped by guardianship models and influenced by transnational examples. The extent to which these initiatives transition from symbolic to enforceable measures depends on their ability to incorporate Indigenous and other community-based legal traditions and prevent co-optation. The evolution of RoN in Brazil exemplifies both the potential benefits and inherent risks of these legal frameworks in the Amazon.

Despite the growing RoN jurisprudence in Latin America and the expanding quilombola environmental governance, including recent federal initiatives on quilombola territorial and environmental management, no significant scholarly work specifically bridges these two fields. Empirical conservation research nonetheless shows that quilombola territories in the Brazilian Amazon experience substantially lower rates of native vegetation conversion than matched unprotected areas, and they can also contribute to measurable regrowth.[86] At the same time, socio-legal and anthropological work on quilombolas and conservation regimes shows how recognition processes can generate 'green collectives,' in which quilombola territorial politics become entangled with expectations of environmental stewardship and with contested forms of environmental subjecthood.[87] Taken together, these literatures indicate a clear opening for legal scholarship. It can connect quilombola territorial rights and environmental governance to the Rights of Nature movement, and develop a more rigorous account of eco-centric normativity that does not treat Amazonian environmental legal imagination as exclusively Indigenous.[88]

85. See Arturo Escobar, *Designs for the Pluriverse: Radical Interdependence, Autonomy, and the Making of Worlds* (Duke UP 2018); see also Arturo Escobar, 'Sustainability: Design for the Pluriverse' (2011) 54(2) *Development* 137.

86. Helena Alves Pinto et al. 'The role of different governance regimes in reducing native vegetation conversion and promoting regrowth in the Brazilian Amazon' (2022) 267 Biological Conservation 109473, 1, 4-5.

87. See Rodrigo Penna Firme and Eduardo Brondízio, 'Quilombolas as "Green Collectives": Contesting and Incorporating Environmentalism in the Atlantic Forest, Brazil' (2017) 20(2) Ambiente & Sociedade 139.

88. Alves-Pinto et al. (n 81) 2; also Penna Firme and Brondízio (n 82).

3.4 SOCIAL PRACTICES AND MOBILISATION OF ECO-CENTRIC NORMATIVITY

Eco-centric normativity in the Amazon extends beyond statutes and judicial decisions. Indigenous communities, NGOs, scientists, and activists operationalise constitutional rights, international law, and Indigenous jurisprudence through daily practices. These activities integrate scientific infrastructures, ritual practices, and legal actions, thereby transforming legal principles into lived realities.

Satellite monitoring constitutes a foundational element of eco-centric mobilisation. Non-governmental organisations such as Imazon and networks including MapBiomas utilise systems developed by the INPE to generate satellite-based reports that inform public civil actions.(note: See Hannah Farias, Jeferson Almeida and Brenda Brito, Cenário da punição a desmatadores ilegais na Amazônia: atualização dos resultados do Programa Amazônia Protege (Instituto do Homem e Meio Ambiente da Amazônia (Imazon 2025)) Evaluations of the *Amazônia Protege* program indicate that thousands of Public Civil Actions (Ação Civil Pública-ACP) have incorporated this evidence, with prosecutors initiating legal proceedings based on MapBiomas deforestation alerts. The MapBiomas Alerta initiative cross-verifies deforestation alerts using high-resolution imagery and produces certified reports for prosecutors and law enforcement agencies.[89] These images, frequently attached to legal filings, demonstrate the role of visual data as evidentiary material and mechanisms of accountability, thereby integrating scientific infrastructure into law.

89. See MapBiomas Alerta, available at https://alerta.mapbiomas.org/en/a-iniciativa/, last accessed 23 August 2025.

Área da Terra Indígena / Indigenous Land Uru eu wau wau area, Rondônia by Oton Barros (Coordenação Geral de Observação da Terra INPE).

Indigenous and riverine communities have established autonomous monitoring systems. The *Uru-eu-wau-wau* Indigenous People of approximately 250 members in the state of Rondônia, employ drones and Global Positioning System (GPS) technology to record territorial invasions.[90] The Munduruku have systematically documented mercury contamination in Tapajós basin communities, with field sampling confirming extensive exposure, primarily through consumption of contaminated fish downstream of artisanal and small-scale gold mining operations (garimpo).[91]

These integrated practices combine Indigenous cosmological frameworks with scientific methodologies, generating evidence accepted in judicial and international contexts. Such initiatives underscore the central role of Indigenous peoples as both legal and scientific actors. The principle of Free, Prior and Informed Consent (FPIC), as articulated in ILO Convention 169 (promulgated in Brazil by Decree nº 5.051/2004, now consolidated in Decree nº 10.088/2019, Annex LXXII), has been formalised through Indigenous consultation protocols. The Munduruku's 2014 protocol mandates that consultations occur within their villages, in the Munduruku language, and through assemblies inclusive of all community segments:

'*The meetings must be held in the Munduruku language, and we will choose who the interpreters will be. In these meetings, our knowledge must be taken into account on the same level as the knowledge of the pariwat (non Indigenous people). We are the ones who know the rivers, the forest, the fish and the land. We will coordinate the meetings, not the government.*'[92]

90. The Territory (dir Alex Pritz, National Geographic Documentary Films 2022).

91. On mercury exposure in Amazonian Indigenous and riverine communities, see Sandra Hacon and others, 'Mercury Exposure through Fish Consumption in the Urban Area of Alta Floresta in the Amazon Basin' (1997) 58 *Journal of Geochemical Exploration* 209.

92. Associação Pusuru Munduruku, Protocolo de Consulta Munduruku [Munduruku Consultation Protocol] (2014): *'As reuniões devem ser na língua Munduruku e nós escolheremos quem serão os tradutores. Nessas reuniões, nossos saberes devem ser levados em consideração, no mesmo nível que o conhecimento dos pariwat (não índios). Porque nós é que sabemos dos rios, da floresta, dos peixes e da terra. Nós é que coordenaremos as reuniões, não o governo'*. See also Luísa Pontes Molina, 'Lutar e habitar a terra: um encontro entre autodemarcações e retomadas' (2017) 9(1) Revista de Antropologia da UFSCar (R@U) 15.

In the São Luiz do Tapajós hydroelectric dam case, much like in the broader controversies surrounding Belo Monte, administrative licensing was suspended in 2016 after IBAMA denied the environmental licence, following FUNAI's identification of Munduruku territory.[93] These documents express a form of Indigenous jurisprudence, transforming consultation from a state-driven procedure into a process of collective decision-making grounded in Indigenous cosmological perspectives.

The Belo Monte litigation illustrates both achievements and constraints. Although the dam was ultimately built despite constitutional objections, the litigation produced a substantial evidentiary record and established precedents on FPIC that continue to shape subsequent cases. At the municipal level, Payment for Ecosystem Services (PES) schemes provide additional protection to the environment. Paragominas in Pará implemented governance reforms that reclassified it as a 'Green Municipality,' while in Cotriguaçu, Mato Grosso, a municipal PES programme incentivises conservation through local fiscal mechanisms.

Ritualised community practices contribute to the development of eco-centric legal norms. In Santarém and Manaus, civic coalitions including Tapajós Vivo and SOS Encontro das Águas organise annual river-focused events (river days) that combine educational activities, environmental clean-ups, cultural rituals, and advocacy.[94] These initiatives present rivers as living entities, fostering eco-centric awareness and connecting legal frameworks to cultural identity. Such events serve as a form of legal pedagogy, embedding the concept of rivers as legal subjects within collective memory. It is notable that while some of these grassroots initiatives, particularly the municipal Rights of Nature laws in Guajará-Mirim and Goiás, explicitly employ the language of Rights of Nature, others, such as the Tapajós Vivo coalition's river day events and Indigenous territorial monitoring practices, adopt an eco-centric orientation without invoking the formal RoN framework. This distinction matters: it suggests that eco-centric normativity in Brazil is generated through multiple channels, of which RoN legislation is only one, and not always the most significant.

The Articulation of Indigenous Peoples in Brazil (Articulação dos Povos Indígenas do Brasil-*APIB*) operates across litigation, advocacy, and mass mobilisation, linking village-level organising to national and international forums such as the yearly Free Land Camp (*Acampamento Terra Livre*), and has figured as plaintiff or co-plaintiff in strategic suits alongside partner organisations. International Rivers, a global nonprofit organisation that works with river-dependent and dam-affected

93. Sue Branford, 'Environmental licence for São Luiz do Tapajós denied' Mongabay, 4 August 2016, available at https://news.mongabay.com/2016/08/environmental-licence-for-sao-luiz-do-tapajos-hydroelectric-dam-denied/, last accessed 02 February 2026.

94. Tapajós de Fato, 'População santarena vai às ruas para clamar pela defesa do rio Tapajós' 26 March 202 available at https://www.tapajosdefato.com.br/noticia/1466/populacao-santarena-vai-as-ruas-para-clamar-pela-defesa-do-rio-tapajos-no-para, last accessed 02 February 2026; Jullie Pereira, 'Empresa interessada no Encontro das Águas...' 1 November 2022, available at https://infoamazonia.org/2022/11/01/empresa-interessada-no-encontro-das-aguas-coloca-projeto-fora-do-radar-mas-e-tombamento-continua-parado/, last accessed 02 February 2026.

communities, provides technical support and comparative jurisprudence to river-dependent and dam-affected communities contesting dams and mining, and consolidates Rights of Rivers materials and case studies used by local partners.[95] These alliances position Amazonian struggles within the broader context of global environmental justice movements.

95. See The Cyrus R Vance Center for International Justice, Earth Law Center and International Rivers, Rights of Rivers: A Global Survey of the Rapidly Developing Rights of Nature Jurisprudence Pertaining to Rivers (October 2020).

Brasília (DF) 25/04/2024. Indigenous People from various ethnic groups participate in the *Acampamento Terra Livre* in 2024. They march into the Ministries square with the slogan: #EmergênciaIndígena: Nossos Direitos não se negociam (Indigenous Emergency: Our Rights are non-negotiable). Credits: Rafa Neddermeyer/Agência Brasil

The Free Land Camp, organised annually by APIB, exemplifies the convergence of legal advocacy, cultural performance, and visual politics. Each year, thousands of Indigenous People from hundreds of ethnic groups convene in Brasília for political assemblies, marches, and meetings with government officials. These events function as sites of legal mobilisation where constitutional rights are performed and defended through collective action.

Quilombola communities constitute a distinct but interconnected strand of Amazonian social mobilisation, and their claims often intersect with ecocentric concerns through the defence of territorially grounded forms of collective life and environmental protection. Their., institutional framework combines, nowadays, social movement advocacy and federal administrative procedures. CONAQ coordinates national mobilisation and, in ADPF 742, appeared as an applicant in its own name, with the STF ordering measures that presuppose its standing in the proceedings. The federal framework then channels recognition through two key

administrative steps. The Fundação Cultural Palmares issues certification based on community self-definition and maintains a general register.[96] INCRA conducts the identification and titling process, which *Instrução Normativa* no 57/2009 frames as a sequence of steps from identification and delimitation to demarcation, removal of non-quilombola occupants, titling and registration, and it treats Palmares certification as a procedural precondition.[97] INCRA has also announced that *Portaria* nº 1.010/2025 created a working group to revise and consolidate the rules governing identification and recognition, through the revision of *Instrução Normativa* nº 57/2009.[98] Although this framework is cast in administrative terms, it also structures conflicts over ecological use, collective territorial life, and resistance to extractive encroachment.

96. Fundação Cultural Palmares, 'Certificação Quilombola' (webpage) accessed 25 February 2026, availabel at https://www.gov.br/palmares/pt-br/departamentos/protecao-preservacao-e-articulacao/certificacao-quilombola, last accessed 03 January 2026.

97. Instituto Nacional de Colonização e Reforma Agrária (INCRA), 'Instrução Normativa INCRA nº 57 de 20/10/2009.'

98. INCRA, 'Incra inicia revisão de normativos da regularização de territórios quilombolas' (11 March 2025) available at https://www.gov.br/incra/pt-br/assuntos/noticias/incra-inicia-revisao-de-normativos-da-regularizacao-de-territorios-quilombolas last accessed 03 January 2026.

The titling procedure is also complex. It requires an anthropological report (RTID), publication and consultation periods, and, where private titles overlap, expropriation before a collective pro indiviso title can be issued. The process is chronically stalled. The TRF-1 has ordered the completion of the titling of Lagoa dos Índios (Amapá) within 90 days, under penalty, after more than two decades of delay.

Oriximiná, in western Pará, illustrates both the possibilities and frustrations of quilombola territorial governance in the Trombetas basin. Boa Vista, on the Trombetas River, obtained official recognition of its territory in 1995, becoming a landmark in the early implementation of Article 68 of the ADCT.[99] Several of the eight claimed territories in Oriximiná remain stalled in the regularisation process decades after communities began pressing for recognition, even as Mineração Rio do Norte has extracted bauxite in the region since 1979 and operates through a consortium that includes Vale and South32.[100] The overlap between mining and quilombola claims is not incidental. At the same time, conservation units such as *REBIO Rio Trombetas* and *FLONA Saracá Taquera* restrict residence and constrain agroextractive practices and forest access for quilombola communities, while mining proceeds within and around these protected areas through the governance arrangements that enabled the bauxite project.[101]

99. Aníbal Arregui, 'Amazonian Quilombolas and the Technopolitics of Aluminum' (2015) 20(3) Journal of Material Culture 249, 255, 262; Oscar de la Torre, The People of the River: Nature and Identity in Black Amazonia, 1835 to 1945 (UNC Press 2020) 144.

100. See again Arregui (n 95).

101. Arregui (n 95), 257, 259-260.

Ribeirinho communities occupy a distinct position in this landscape. The federal framework recognises them as 'traditional people and communities' (*povos e comunidades tradicionais)* under Decree 6.040/2007, but it does not provide a dedicated constitutional route to collective land ownership comparable to the mechanisms available to Indigenous peoples and quilombolas.[102] In practice, territorial security

102. See Ministério do Meio Ambiente e Mudança do Clima, 'Povos e Comunidades Tradicionais, available at https://www.gov.br/mma/pt-br/assuntos/povos-e-comunidades-tradicionais, last accessed 03 January 2026.

often depends on administrative arrangements that secure collective use rather than ownership, notably through RESEX and other sustainable use conservation units.[103] A further pathway has developed through collective Real Right of Use Concessions (*Concessões de Direito Real de Uso - CDRU*). In Amazonas, fifteen communities along the Manicoré River received a collective CDRU in 2022 for a 'Common Use Territory' (*Território de Uso Comum*) outside protected areas, and the reporting frames this as the first formal recognition of this kind in the state for traditional communities living outside conservation units.[104] The proposed *Estatuto do Ribeirinho* would create a comprehensive statutory framework, but it has not been enacted. Many communities are simultaneously ribeirinho and quilombola, and some strategically seek quilombola certification to access the stronger land rights provided by Article 68 of the ADCT, reflecting the structural inadequacy of the current framework for riverine traditional communities.

In this light, it is important to highlight that Brazil is consistently identified as one of the most dangerous countries for environmental defenders, as documented by Global Witness.[105] Nevertheless, Brazil has signed the Escazú Agreement. This agreement, adopted on 4 March 2018 and in force since 22 April 2021, establishes rights to information, public participation, access to justice, and specific protections for environmental defenders.[106] Although Brazil signed the treaty on 27 September 2018, it has not yet ratified it. Brazilian NGOs have referenced the Escazú standards in policy advocacy and legal arguments, urging the state to fulfil its obligations to protect defenders and to guarantee access to information and participation, however, domestic courts have made limited references to the Escazú Convention due to its pending ratification.[107]

These practices illustrate how the understanding of environmental and territorial legal positions is pluralistic and generated through grassroots action.[108] Litigation, environmental monitoring, payment for ecosystem services, rituals, and digital archives integrate different legal traditions, scientific systems, and international law. The result is that the legal landscape of the Amazon is shaped as much by everyday practices as by formal statutes and judicial precedents, and that these occur in rivers, villages, educational settings, courtrooms, and digital environments.

103. Brazil, Lei nº 9.985, de 18 de julho de 2000, Regulating the National System of Nature Conservation Units National (Sistema Nacional de Unidades de Conservação da Natureza – SNUC) art 18 and art 40 A § 1, which lists RESEX and RDS as sustainable use conservation units.

104. Izabel Santos, 'Criadoras do primeiro Território de Uso Comum, mulheres do rio Manicoré resistem em meio à destruição no Amazonas' (InfoAmazonia, 5 February 2026), available at https://infoamazonia.org/2026/02/05/criadoras-do-primeiro-territorio-de-uso-comum-mulheres-do-rio-manicore-resistem-em-meio-a-destruicao-no-amazonas/, last accessed 07 February 2026.

105. Global Witness, Defending Tomorrow: The Climate Crisis and Threats Against Land and Environmental Defenders (2020) 9-10.

106. UN Treaty Collection, 'Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)'. Entry into force 22 April 2021.

107. Isabella Kaminski,, 'Acordo de Escazú ganha força e já é aplicado em ações judiciais na América Latina, Dialogue Earth, 6 August 2024, available at https://dialogue.earth/pt-br/justica/acordo-escazu-america-latina-processos/, last accessed 02 February 2026.

108. Also, for an assessment of how resistency happens in the Amazonian region, see Edna Castro, Joaquina Barata Teixeira, Valdecir Palhares, Antonio Maria de Souza Santos, *Povos Indígenas do Alto Rio Negro e Dominção Colonial. A Resistência na contracorrente de missões, missionários e militares* (Valer 2024).

3.5 BEYOND AND AGAINST RIGHTS OF NATURE: NON-STATE NORMATIVITIES IN THE AMAZON

Although Rights of Nature initiatives are progressing in Brazil, Indigenous jurisprudence creates relational legal systems that go beyond the rights-based framework. These legal orders operate independently of state law and recognise forests, rivers, and spirits as entities to whom humans have reciprocal duties and responsibilities.

Unlike Ecuador and Bolivia, which constitutionalised plurinational recognition alongside Rights of Nature and Indigenous jurisdiction, Brazil lacks an equivalent framework. This means Indigenous jurisprudences operate largely outside formal state recognition, creating a distinctive tension: the state legal system acknowledges Indigenous territorial rights but does not recognise Indigenous normative orders as sources of law in their own right.

Generally, non-state normativities in the Amazon employ diverse conceptual and practical tools and experiences to determine their normative contexts. They are often defined in situations of obligation within relational practices operating independently of, or in tension with, the state legal system. And while the main focus may appear to be on Indigenous forms of life and jurisprudences, quilombola communities have also constructed and possess their own forms of territorial governance and relational practice that constitute a distinct strand of non-state normativity in the Amazon, one that intersects with but is not reducible to either Indigenous jurisprudences or Rights of Nature discourse. Hence, it is also crucial to address the normative life of quilombola communities and their modes of relating to territory, forest, and river as subjects of obligation rather than objects of exploitation.[109]

Quilombola territorial governance can be analysed within the broader category of 'traditionally occupied lands,' where collective territorialities take shape through common use of resources, group-specific norms, and solidarities that regulate access and sustain social reproduction.[110]

109. On the need to avoid reducing quilombolas to a racial category and to analyse quilombo as a form of social organisation articulated through territorial relations and legal struggles, see Ilka Boaventura Leite, 'The Brazilian Quilombo: "Race", Community and Land in Space and Time' (2015) 42(6) Journal of Peasant Studies 1225, 1231-1232.

110. See Alfredo Wagner Berno de Almeida, 'Terras Tradicionalmente Ocupadas: Processos de Territorialização e Movimentos Sociais' (2004) 6(1) Revista Brasileira de Estudos Urbanos e Regionais 9.

In this framing, quilombola territorial claims appear as processes of territorialisation linked to collective self-definition and social mobilisation, producing normative orders that intersect with state recognition but are not reducible to the administrative titling framework.[111] Also, actors in the Lagoa dos Índios dispute have articulated attachment to land less as an abstract property claim and more through kinship and 'affective' proximity to the village and its residents, with territorial belonging contested through competing accounts of who may decide the community's future.[112] In fact, the quilombola community of Mumbuca defends traditional plant management practices against preservationist conservation policies, showing that local ecological governance actively maintains forest cover and biodiversity, while official 'fortress' conservation discourses render these practices invisible in environmental policymaking.[113] These forms of territorial normativity share with the Indigenous jurisprudences described below a rejection of the nature/culture binary that underpins state environmental law, but they are grounded in distinct historical trajectories of slavery, marronage, and Afro-descendant resistance that demand recognition on their own terms.

111. Ibid. 9-10, 12-13.

112. On this, see Véronique Boyer, 'Misnaming Social Conflict: 'Identity', Land and Family Histories in a Quilombola Community in the Brazilian Amazon' (2014) 46(3) Journal of Latin American Studies 527.

113. See Angela May Steward and Deborah de Magalhães Lima, '"We Also Preserve": Quilombola Defense of Traditional Plant Management Practices Against Preservationist Bias in Mumbuca, Minas Gerais, Brazil' (2017) 37(1) Journal of Ethnobiology 141.

The Alcântara case offers the most developed inter-American record of quilombola territorial life under pressure. IBGE reports 15,616 quilombola persons, 84.6% of the municipality's population.[114] The installation of the Centro de Lançamento de Alcântara led to the forced transfer of 31 quilombola communities into agrovilas, disrupting fishing grounds, sacred sites, and agricultural cycles. The IACtHR linked these disruptions to violations of collective territorial rights affecting food sovereignty, cultural reproduction, and spiritual practices.[115] Oriximiná offers a parallel case of quilombola governance under extractive pressure, with Mineração Rio do Norte's bauxite operations overlapping quilombola territories since 1979.

114. Instituto Brasileiro de Geografia e Estatística (IBGE), Censo Demográfico 2022: Quilombolas, Primeiros Resultados do Universo (IBGE 2023) 38.

115. Comunidades Quilombolas de Alcântara v Brasil, para 137.

For the Yanomami, urihi a, or 'land-forest,' is, according to Davi Kopenawa, a living entity that sustains life and requires reciprocity.[116] Bruce Albert identifies mining and deforestation as ecological damage and cosmic disturbances that endanger the equilibrium between humans and non-humans, a critique he describes as a Yanomami shamanic critique of the political economy of nature.[117] Yanomami organisations, including the Hutukara Associação Yanomami, have referenced Inter-American consultation standards and national constitutional obligations in legal actions seeking the removal of illegal miners, presenting forest destruction as a fundamental threat to health, territory, and existence.[118]

116. Davi Kopenawa and Bruce Albert, TheFalling Sky: Words of a Yanomami Shaman (Harvard UP 2013) 60.

117. See Bruce Albert, 'O ouro canibal e a queda do céu: Uma crítica xamânica da economia política da natureza' in Bruce Albert and Alcida Ramos (eds), Pacificando o branco: Cosmologias do contato no norte-amazônico (UNESP 2002).

118. Hutukara Associação Yanomami and Associação Wanasseduume Ye'kwana, Yanomami Under Attack: Illegal Mining on Yanomami Indigenous Land and Proposals to Combat It (April 2022) 14–15; See also Brazil, Ministério dos Direitos Humanos e da Cidadania, Gabinete da Secretaria-Executiva, Relatório 2: Diagnóstico das violações de direitos do Povo Yanomami e Plano Emergencial de Contingência da crise humanitária (5 April 2023).

Other dimensions of this normative order are invisible to conventional legal analysis. For the Yanomami, dreaming is a form of relational encounter: the pei utupë (vital image) detaches from the body and travels to other worlds, encountering xapiri spirits and the dead, whose desires and warnings structure collective decisions. This oneiric practice constitutes a form of normative reasoning: dreams generate obligations, prohibitions, and warnings that shape community action with material consequences for territorial governance.

For the Kayapó (*Mebêngôkre*), political authority is closely tied to ritual office, and leadership is legitimised both through ceremonial status and through the capacity to mobilise collective action on behalf of the community. Decisions concerning mining and logging were shaped through Indigenous political and ritual institutions, and Turner argues that the successful expulsion of miners and loggers demonstrated the continuing vitality of Kayapó structures of ritual and political authority in confronting environmentally destructive extractivism.[119]

During the construction of the highway BR-174 in the late 1960s and 1970s, the *Waimiri-Atroari* (Kinja) People suffered widespread violations, including killings, bombings, and village destruction, documented by Brazil's National Truth Commission.[120] Subsequent work shows how practices of memory and mourning inform claims that address both material and cosmological harms. In current disputes over large-scale energy infrastructure, the Waimiri-Atroari frame their territory as a collective living relation that has been injured by past and present violence, and demand reparations that address harms to both human and more-than-human communities.

The Ashaninka People of Acre connect forest guardianship to ancestral beings, grounding their territorial defence in cosmological obligations that transcend conventional resource management.[121] Ashaninka organisations, including the Associação do Povo Ashaninka do Rio Amônia (*Apiwtxa*), integrate these cosmological principles with legal actions against loggers, illustrating how Indigenous jurisprudence interacts with state law while preserving its distinct normative foundation.[122] Ailton Krenak has cautioned against interpreting Indigenous existence solely through the lens of rights, contending that the central struggle concerns ways of life that cannot be assimilated into Western legal or developmental models.[123]

119. Terence Turner, 'An Indigenous People's Struggle for Socially Equitable and Ecologically Sustainable Production: The Kayapo Revolt against Extractivism' (1995) 1(1) Journal of Latin American Anthropology 98, 102–103, 117–118.

120. Comissão Nacional da Verdade, Relatório: Textos Temáticos (vol II, Comissão Nacional da Verdade 2014) 234–235.

121. Comissão Pró-Índio do Acre, Dinâmicas Transfronteiriças Brasil–Peru: Ações das Organizações Ashaninka, available at https://cpiacre.org.br/dinamicas-transfronteiricas/, last accessed 07 January 2026.

122. ibid.

123. See Ailton Krenak, Ideias para adiar o fim do mundo (Companhia das Letras 2019).

The Tukano Peoples of the Upper Rio Negro, including the Desana and other Tukanoan-speaking groups, understand rivers as inhabited by ancestral water beings, Yepa Masa, who maintain ecological and social order through cycles of transformation. The constitution of such an ontology requires understanding the Yepa Masa as persons with agency, authority, and relational obligations toward human communities. There are many artistic expressions of such different forms of relating to more-than-human entities. Daiara Tukano has articulated these relations in her artistic practice (Section 3.6), particularly in her solo exhibition Pamuri Pati - Mundo de Transformação (MAR, 2024), which presents the Yepa Masa as legal-cosmological presences within ongoing struggles over rivers, territory, and self-determination.[124] These Tukanoan cosmologies set out obligations that parallel but exceed what Rights of Nature legislation can capture. After all, they posit not merely that rivers have rights, but that rivers are inhabited authorities to whom humans owe duties of reciprocity and respect.

124. On Tukano cosmology and water beings, see Gerardo Reichel-Dolmatoff, The Shaman and the Jaguar: A Study of Narcotic Drugs among the Indians of Colombia (Temple University Press 1975); Stephen Hugh-Jones, The Palm and the Pleiades: Initiation and Cosmology in Northwest Amazonia (CUP 1979); Prefeitura do Rio/MAR, 'Exposição de Daiara Tukano no MAR' 8 May 2024, available at https://en.prefeitura.rio/cultura/exposicao-de-daiara-tukano-no-mar-destaca-a-cultura-e-a-luta-dos-povos-indigenas/, last accessed 25 August 2025

Comunidade Gloria do Ronca, Rio Purus, where the livelihoods are directly linked to fishing and water. Thiago Belisario Couto.

A related but distinct orientation towards ecocentric forms of territorial life appears among the ribeirinho communities of the middle Purus. The community of Glória do Ronca, in Canutama, Amazonas, lives on the margins of the Rio Purus within the wider area of the Floresta Estadual de Canutama.[125] Available materials describe it as a *várzea* community, that is, a floodplain community, whose floating houses, fishing practices, small-scale agriculture, and extractive activities are

125. Instituto de Desenvolvimento Agropecuário e Florestal Sustentável do Estado do Amazonas (IDAM), 'Comunidade Glória do Ronca é beneficiada com oficina de manejo do pirarucu' (25 April 2012) https://www.idam.am.gov.br/comunidade-gloria-do-ronca-e-beneficiada-com-oficina-de-manejo-do-pirarucu/ accessed 25 March 2026.

organised around the seasonal dynamics of river, lake, and floodplain.[126] Its involvement in pirarucu management and nearby turtle protection initiatives suggests a practical mode of environmental ordering in which the river is not treated merely as a resource to be exploited, but as the condition of collective survival and the centre of ongoing obligations of care, restraint, and coordination.[127]

Recognising Indigenous jurisprudence necessitates more than adopting Rights of Nature terminology. It requires recognising multiple legal sources. Scholars debate whether adopting a plurinational recognition model, as seen in Bolivia (where the 2009 Constitution recognises Indigenous jurisdiction and autonomous territories) and Ecuador (where Indigenous law and jurisdictions are granted constitutional recognition alongside RoN).[128] Other scholars warn that recognition without material redistribution may result in merely symbolic inclusion, as evidenced by disputes over consultation processes and extractive projects.[129] It is evident that Indigenous jurisprudences already operate as law in practice, regardless of formal state acknowledgement. And there are already a great deal of institutional vehicles for the circulation of understanding of such Indigenous jurisprudence in Brazil. They include APIB, which coordinates national and international advocacy, the *Hutukara Associação Yanomami*, which leads legal actions on Yanomami territorial defence, the *Associação Pusuru Munduruku*, which developed and circulates the Munduruku Consultation Protocol, the *Instituto Raoni*, which supports Kayapó territorial governance, and the Indigenous Council of Roraima (*Conselho Indígena de Roraima-CIR*), which coordinates Indigenous legal mobilisation in the state of Roraima.

Accordingly, the legal landscape of the Amazon is characterised by pluriversality. Constitutional guarantees, municipal Rights of Nature laws, and Indigenous jurisprudences coexist, sometimes in tension and sometimes in cooperation, and quilombola normativities, grounded in distinct histories of marronage and Afro-descendant resistance, add a further dimension to this pluriversality that legal scholarship has yet to fully theorise. Rather than subordinating Indigenous law to RoN frameworks, the primary challenge is to cultivate a dialogical pluralism that upholds the autonomy of Indigenous legal systems. The advancement of eco-centric legality in Brazil may depend less on the further expansion of RoN provisions than on the recognition of Indigenous jurisprudence as a legitimate legal source.

126. IDAM (n 127); Planos de Gestão/Manejo FES Canutama – vol 2 (Secretaria de Estado do Meio Ambiente e Desenvolvimento Sustentável do Amazonas 2014) https://observatoriobr319.org.br/wp-content/uploads/2021/05/Fes-Canutama_vol2.pdf accessed 25 March 2026.

127. IDAM (n 127); Fundo Estadual do Meio Ambiente, 'Plano de Trabalho Quelônios' (Amazonas State Government) https://www.sema.am.gov.br/wp-content/uploads/2024/03/PLANO-DE-TRABALHO-QUELONIOS.pdf accessed 25 March 2026; Maria do Carmo Rodrigues Araujo, Conservação participativa de quelônios na APA do Jamanduá, Canutama-AM (Masters dissertation, Universidade Federal do Amazonas 2020) https://tede.ufam.edu.br/bitstream/tede/8122/2/Disserta%C3%A7%C3%A3o_MariadoCarmoAraujo_PPGCA.pdf accessed 25 March 2026.

128. See Raquel Yrigoyen Fajardo, 'Pluralismo jurídico y jurisdicción indígena en el horizonte del constitucionalismo pluralista' in Héctor Fix-Fierro (ed), Pluralismo jurídico y jurisdicción indígena (Konrad Adenauer Stiftung 2012).

129. César Rodríguez-Garavito, 'Ethnicity.gov: Global Governance, Indigenous Peoples, and the Right to Prior Consultation in Social Minefields' (2011) 18 Indiana Journal of Global Legal Studies 263, 270.

3.6 THE VISUAL REGIME OF LAW IN THE AMAZON

The Amazon is not only a legal and political space but also a visual field where images, produced by satellites, cameras, or artists, shape governance and rights struggles. In Brazil, visual practices often serve as a form of jurisprudence, documenting violations, articulating cosmologies, and influencing courts and public opinion.

Drawing on the concept of the 'image act', and on the broader insight that image, law, and time are structurally intertwined, this section uses the expression 'visual jurisprudence' to designate the mode of legality in which images participate in the making, transmission, and endurance of normative authority.[130] Images do not simply illustrate a legal reality constituted elsewhere. They may shape perception, stabilise contested facts, preserve traces of violence and territorial transformation, and orient institutional and public response.[131] In the Amazon, this is not merely symbolic. Visual practices often perform concrete legal work: they preserve proof, document invasions, sustain memory against erasure, and help carry territorial and cosmological claims into courts, administrative procedures, advocacy dossiers, and transnational publics. The point becomes especially clear when images function not only as representations but also as conditions for the renewal, maintenance, or contestation of legal protection itself.

Visual practices function as a mode of jurisprudence in the Amazon. They produce admissible evidence, shape legal standing, structure public reasoning, and articulate normative orders that operate alongside or outside the state.

130. Horst Bredekamp, Image Acts: A Systematic Approach to Visual Agency (Elizabeth Clegg tr, De Gruyter 2018) xi; Horst Bredekamp, Bild, Recht, Zeit: Ein Plädoyer für die Neugewinnung von Distanz (Carl Friedrich von Siemens Stiftung 2021) 7.

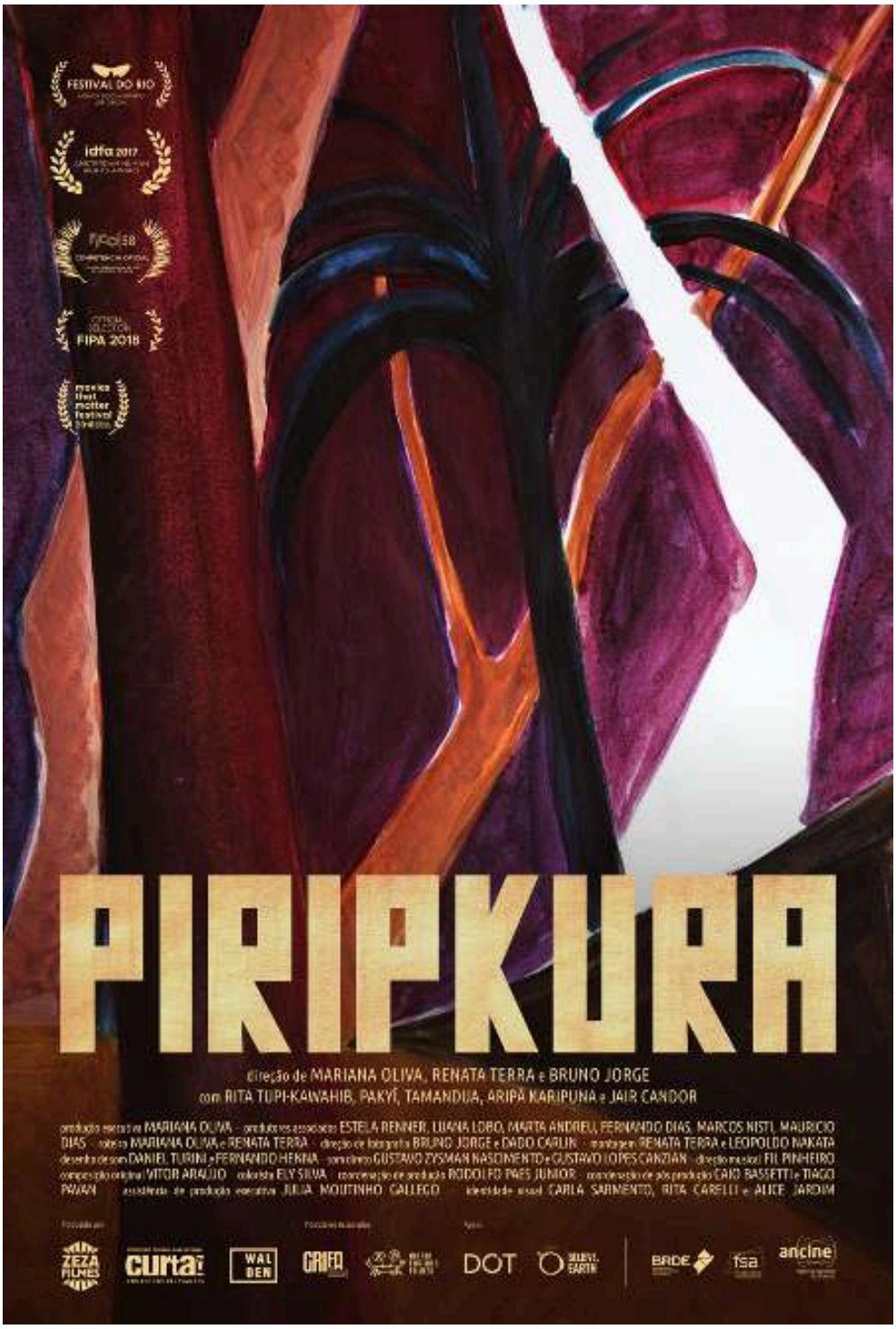
131. Bredekamp, Image Acts (n 123) x-xi, 2.

O Território, dir Alex Pritz.

Documentary film plays a central role in evidencing Amazonian land conflicts. *The Territory*, co-produced with *Uru-eu-wau-wau* leaders, records land invasions in Rondônia through Indigenous-operated cameras and drones. The footage has been incorporated into advocacy dossiers and legal proceedings as evidence of territorial threats. The film exemplifies a broader pattern in which Indigenous communities produce their own evidentiary material, challenging the state's monopoly on surveillance and documentation.

Martírio, dirs Vincent Carelli, Ernesto de Carvalho and Tita, Vídeo nas Aldeias.

Martírio chronicles decades of Guarani-Kaiowá land struggles, functioning as a visual archive that preserves testimonies and cartographies absent from state records. Its archival function constructs a counter-history of dispossession that circulates in advocacy networks, academic institutions, and legislative hearings, contributing to the evidentiary foundation for territorial claims.



Piripkura (2017) documents FUNAI expeditions to locate the last surviving members of the Piripkura people. The footage constitutes the proof of life required to renew the Portarias de Restrição de Uso (Use Restriction Orders) protecting their territory. Without this visual evidence, the legal basis for territorial protection would lapse. The film thus represents the most literal instance of visual practice functioning as a legal instrument.

Photography has significantly influenced global perceptions of the Amazon. Sebastião Salgado's *Amazônia* project (2021) received international recognition, yet critical commentary in Brazilian and international media questioned whether the exhibition's monumental aesthetics marginalised Indigenous voices or portrayed Indigenous Peoples as timeless subjects rather than contemporary political and legal actors.[132] In response, Indigenous leaders emphasised the importance of self-representation and connected increased visibility to self-determination. These debates over representation and Indigenous agency extended to Europe, where the European Parliament and affiliated bodies have held hearings to better understand how Indigenous perspectives are articulated into discussions of Amazon governance and rights.[133]

132. Sebastião Salgado, *Amazônia* (Taschen 2021)

133. See, for instance, Julian Burger, Challenges for Environmental and Indigenous Peoples' Rights in the Amazon Region (European Parliament, Policy Department for External Relations, Directorate-General for External Policies of the Union, In-Depth Analysis, PE 603.488, June 2020).

Sebastião Salgado, *Igarapé Pretão*, Indigenous land of Suruwahá, Amazonas state, 2017, Amazônia, Taschen

Salgado's aesthetic raises questions about visual sovereignty. While bringing global attention to the Amazon, his framing can reproduce colonial logics of the 'noble savage,' presenting Indigenous peoples as elements of a natural landscape rather than political and legal actors. Hanna Limulja's ethnographic work on Yanomami image practices offers a counterpoint, revealing Indigenous conceptions of the image that fundamentally challenge Western representational assumptions.

Jaider Esbell (Makuxi, 1979-2021) advanced visual sovereignty within the museum sector by curating *Moquém_Surarî: arte indígena contemporânea* at the 34th Bienal de São Paulo, and his work was exhibited posthumously at the 59th Venice Biennale in 2022.[134] His canvases repositioned Indigenous cosmologies within contemporary art, asserting that Indigenous worldviews possess aesthetic and normative authority within institutions historically dominated by Western frameworks. In a certain sense, his work can also be considered a form of jurisdictional claim. After all, it asserts that Indigenous cosmological relations with animals, landscapes, and ancestral beings fundamentally constitute a normative order with public authority, and it should not be taken merely as cultural heritage. Denilson Baniwa interrogates colonial legal frameworks through digital media and ancestral motifs, characterising contemporary Indigenous art as a locus of *retomada*, or a reclaiming of position, and political engagement, articulating Indigenous forms of life visually by contesting the representational authority of colonial and state legal categories over Indigenous bodies, territories, and knowledge.[135] Here, for example, Daiara Tukano references ancestral water beings (*Yepa Masa*) in recent exhibitions, including her solo exhibition *Pamuri Pati: Mundo de Transformação* at the Museu de Arte do Rio (2024), where she presented her work as articulating an Indigenous spiritual and legal presence within current sociopolitical struggles.[136] The *Yepa Masa*, understood in Tukano cosmology as ancestral beings who inhabit and govern rivers, are not represented as a mythology but as effective ongoing relational authorities whose recognition carries obligations for how rivers are treated, defended, and lived. Tukano's work thus bridges the Indigenous jurisprudences with the visual regime analysed here, demonstrating that cosmological testimony can be performed through painting as effectively as through legal filing.

134. Jaider Esbell (cur), *Moquém_Surarî: arte indígena contemporânea*, 34th Bienal de São Paulo (2021), http://34.bienal.org.br/en/exposicoes/8517, last accessed 25 August 2025; on Esbell's posthumous participation in the 59th Venice Biennale (2022), see Bienal de Veneza, Brazilian Pavilion institutional materials (2022). Although Jaider Esbell passed away on 11 November 2021, the Venice exhibition proceeded posthumously. See https://www.labiennale.org/en/art/2022/milk-dreams/jaider-esbell, last accessed 25 August 2025.

135. On Denilson Baniwa's practice and the concept of *retomada* in Indigenous contemporary art, see Marcelo Rocha, 'Arte indígena contemporânea por Denilson Baniwa' (2021) 1(2) *Rotura – Revista de Comunicação, Cultura e Artes* 93.

136. Daiara Tukano, *Pamuri Pati – Mundo de Transformação* (solo exhibition, Museu de Arte do Rio, 2024) https://museudeartedorio.org.br/programacao/5808/, last accessed 25 August 2025.

Jaider Esbell, *A descida da pajé Jenipapo do reino das medicinas*, acrílica e posca sobre tela, 111 x 160 cm, 2021, courtesy of Galeria Jaider Esbell @galeriajaideresbell

Esbell's *A descida da pajé Jenipapo do reino das medicinas* (The Descent of the Shaman Jenipapo from the Kingdom of Medicines) exemplifies how Indigenous visual art functions as normative assertion. The canvas enacts a cosmological event in which a healer descends from a nonhuman realm bearing knowledge that sustains community health and ecological balance. The painting asserts that healing knowledge originates outside the human domain and imposes obligations of care and reciprocity, that is, a relational authority structure with direct implications for environmental governance. Finally, it also challenges the representational authority of state-produced maps, cadastral records, and legal documents by offering an alternative visual ontology, one in which the forest is not a resource to be managed but a cosmological field to be sustained through reciprocal practice.[137]

137. On Esbell's cosmological practice and its normative dimensions, see Jaider Esbell, 'Makunaima, o meu avô em mim!' (2018) 19(46) Iluminuras 11.

Jaider Esbell, *A conversa das entidades intergalácticas para decidir o futuro universal da humanidade*, acrílica e posca sobre tela, 112 x 232 cm, 2021, courtesy of Galeria Jaider Esbell @galeriajaideresbell

Esbell's *A conversa das entidades intergalácticas* (The Conversation of Intergalactic Entities to Decide the Universal Future of Humanity) positions Indigenous cosmological agents as participants in planetary governance. Drawing on Makuxi cosmology, the work asserts that the entities who govern ecological relations are not local or folkloric figures but actors in universal deliberation, a visual claim to normative authority that parallels the idea of multiple worlds or normative contexts. For Esbell, whose practice drew on Makuxi cosmology and the living presence of ancestral beings in contemporary Indigenous life, these entities exercise real authority over the conditions that sustain life. The painting thereby participates in what Arturo Escobar describes as 'pluriversal politics.' The assertion that multiple worlds coexist and that governance must account for the perspectives and agencies of more-than-human beings.[138] In legal terms, this visual argument parallels the theoretical basis of Rights of Nature frameworks: if non-human entities possess agency and participate in governance, then legal systems that exclude them from personhood are not merely incomplete but actively unjust.

138. Arturo Escobar, *Designs for the Pluriverse: Radical Interdependence, Autonomy, and the Making of Worlds* (Duke University Press 2018) 94–95.

Daiara Tukano, *Kahtiri wi'I - A casa da vida*, acrylic on canvas, 180 x 290 cm, 2023.

Daiara Tukano's *Kahtiri wi'I,* in her *A casa da vida* (House of Life) translates the Tukano concept of ancestral water beings, the *Yepa Masa*, into a visual form that asserts their continued relational authority. As

discussed above, the Tukano Peoples of the Upper Rio Negro understand rivers as inhabited by ancestral beings whose movements and decisions maintain ecological and spiritual equilibrium. Tukano's painting does not represent these beings from an external perspective, but instead presents their world as a living cosmological architecture, or the house of life that sustains all beings within the river system. If the *Yepa Masa* are understood not as mythological figures but as relational authorities whose governance sustains the ecological health of the Rio Negro basin, then legal frameworks that treat rivers as natural resources subject to state management, such as Brazil's National Water Resources Policy, or Water Law (*Política Nacional de Recursos Hídricos, Lei das Águas*), fail to recognise a pre-existing governance structure.[139] Tukano's painting makes this governance structure visible, not in the documentary mode of satellite imagery or photographic evidence, but in an ontological mode that asserts the existence of a normative world that state law cannot see. This is precisely the contribution that Indigenous visual practice makes to the broader project of legal pluralism: it expands the evidentiary and conceptual vocabulary through which law can apprehend ecological relations.

139. Lei nº 9.433, de 8 de janeiro de 1997 (*Política Nacional de Recursos Hídricos*), also known as Lei das Águas, establishing rivers as public domain resources subject to state management, a framework that does not recognise pre-existing Indigenous cosmological governance of waterways.

Daiara Tukano, *Mahá Só'agï - Arara Vermelha*, acrylic and metallic paste on canvas, 160 x 300 cm, 2021. From the series *Dabucuri no céu*, commissioned by the Fundação Bienal de São Paulo for the 34th Bienal de São Paulo. Daiara Tukano, Portfolio, daiaratukano.com/en/arte.

Denilson Baniwa, *Natureza Morta*, Infogravura (tamanhos variáveis), 2019.

Baniwa's *Natureza Morta* operates as art, critique, and legal argument. The title's double meaning, 'still life' and 'dead nature' in Portuguese, indicts the epistemic framework that reduces living ecological relations to aesthetic objects or economic resources. In the act of appropriating the genre of the still life, a form historically associated with the display of abundance, property, and colonial commodities, and applying it to the Amazon, Baniwa transforms a colonial art form into a tool for denouncing ecological destruction and asserting Indigenous relational ontologies.

Afro-Amazonian visual practices constitute a parallel and increasingly visible strand of visual jurisprudence. Several major contemporary Brazilian artists engage directly with quilombola themes and territorial rights. Dalton Paula states that he is inspired by the faces of 'quilombola people, older people, healers, herbalists, leaders', and his series Brazilian Portraits takes as its starting point two portraits commissioned by MASP for Afro-Atlantic Histories (2018), namely Zeferina and João de Deus Nascimento.[140] Rosana Paulino, selected to participate in Brazil's pavilion at the 2026 Venice Biennale alongside Adriana Varejão in Diane Lima's curatorial project 'Comigo ninguém pode' (translation), frames her contribution as an opportunity to investigate 'colonial wounds' from female perspectives and to revise art history through the recovery of 'silenced memories'.[141] Jaime Lauriano's Assentamento mobilises INCRA's agrarian settlement apparatus as an object of aesthetic and political critique, making bureaucratic techniques of land governance and the conflicts they mediate materially visible.[142] The 38th Panorama

140. Museu de Arte de São Paulo Assis Chateaubriand (MASP), 'Dalton Paula: Brazilian Portraits' available at https://www.masp.org.br/en/exhibitions/dalton-paula-brazilian-portraits, last accessed 04 January 2026; MASP, 'Afro-Atlantic Histories' available at https://masp.org.br/en/exhibitions/afro-atlantic-histories, last accessed 04 January 2026.

141. Fundação Bienal de São Paulo, 'The Fundação Bienal de São Paulo announces Brazil's national participation in the 61st International Art Exhibition – La Biennale di Venezia' (press release, 9 October 2025), available at https://bienal.org.br/en/announcement-biennale-arte-2026/, last accessed 04 January 2026.

142. Galeria Leme, 'Assentamento' available at https://galerialeme.com/expo/assentamento/, last accessed 04 January 2026.

of Brazilian Art, Mil Graus (2024), similarly frames 'Original Territories' around Indigenous peoples, quilombolas, and other lifeways, and it includes quilombola artist Advânio Lessa among its participants.[143]

Artists from quilombola communities themselves are producing visual work that functions as a territorial assertion. André dos Santos, a quilombola filmmaker born in Boa Vista on the upper Rio Trombetas, has spent the past five years producing documentaries on Afro-descendant life in the Amazon, including Marambiré, which records the cultural practices of the Pacoval quilombola community in Alenquer, Pará.[144] Marcela Bonfim's long-running project '(Re)conhecendo a Amazônia Negra: povos, costumes e influências negras na floresta' (2016-present) documents Black life and cultural presence across the Amazon and, according to project descriptions, spans thirteen Brazilian states, bringing into view forms of Black territorial presence that dominant Amazonian representations often sideline.[145] The 2023 Venice Architecture Biennale Brazilian Pavilion, 'Terra', explicitly placed quilombola territories alongside Indigenous lands, including a 'Brasília Quilombola' map commissioned for the exhibition and work by Ayrson Heráclito.[146] The wider circulation of Afro-Brazilian artistic genealogies is also evident in the touring exhibition 'Encruzilhadas da Arte Afro-Brasileira', which reports more than 300,000 visitors across earlier CCBB venues.[147] These visual practices perform a specific legal function: they make visible the Afro-Amazonian presence that the constitutional architecture of Article 68 ADCT recognises in law but that the titling apparatus has failed to realise in territory.

Marcela Bonfim, *Rezador*, Quilombola da região de Porto Rolim, Rondônia, da série (re)conhecendo a Amazônia

143. Museu de Arte Moderna de São Paulo (MAM), '38th Panorama of Brazilian Art: Thousand Degrees' available at https://mam.org.br/en/exhibition/38th-panorama-of-Brazilian-art%2C-a-thousand-degrees/, last accessed 04 January 2026. See also Hypebeast, '38th Panorama of Brazilian Art: "Mil Graus"' (7 October 2024) available at https://hypebeast.com/2024/10/panorama-of-brazilian-art-mil-graus-exhibition, last accessed 04 January 2026.

144. Amazônia Real, 'Documentário resgata cultura e resistência de quilombolas de Alenquer, no Pará' (7 November 2017) available at https://amazoniareal.com.br/documentario-resgata-cultura-e-resistencia-de-quilombolas-de-alenquer-no-para/, last accessed 04 January 2026.

145. Marcela Bonfim, '(Re)conhecendo a Amazônia Negra: povos, costumes e influências negras na floresta' available at https://www.amazonianegra.com.br/re-conhecendo, last accessed 04 January 2026; Marcela Bonfim (Jaú, São Paulo, 1983), a look at the Afro Brazilian culture' L'Oeil de la Photographie (7 December 2023) available at https://loeildelaphotographie.com/en/marcela-bonfim-jau-sao-paulo-1983-a-look-at-the-afro-brazilian-culture/, Last accessed 04 January 2026; PIPA Prize, 'Selected artists takeover 2021: with Marcela Bonfim' (30 September 2021) available at https://www.pipaprize.com/2021/09/selected-artists-takeover-2021-with-marcela-bonfim/, last accessed 04 January 2026.

146. ArchDaily Team, 'Brazil Pavilion at the 2023 Venice Biennale Reveals Details About the Exhibition "Terra"' (ArchDaily, 11 April 2023) available at https://www.archdaily.com/999176/brazil-pavilion-at-the-2023-venice-biennale-reveals-details-about-the-exhibition-terra, last accessed 04 January 2026.

147. Centro Cultural Banco do Brasil (CCBB), 'Encruzilhadas da Arte Afro-Brasileira' available at https://ccbb.com.br/salvador/programacao/encruzilhadas-da-arte-afro-brasileira/, last accessed 04 January 2026.

Marcela Bonfim, *Manjar do Guaporé, Preparo de Tartaruga*, da série (re)conhecendo a Amazônia

Indigenous-controlled audiovisual networks, including *Vídeo nas Aldeias*, which was founded in 1987 by filmmaker Vincent Carelli, have strengthened visual sovereignty by providing training for Indigenous filmmakers. Carelli's *Corumbiara* (2009), produced through this network, documents the massacre of isolated Indigenous groups in Rondônia and the extensive process of assembling evidence for legal proceedings, and has become a significant reference in advocacy and legal education.[148] Through the systematic archiving of testimonies and rituals, Indigenous film collectives contribute to the formation of what might be termed juridical counterpublics: spaces in which Indigenous law circulates and acquires legitimacy, often extending beyond or challenging state recognition and authority.

148. Vincent Carelli, Fabiana Moraes, Ana Carvalho, 'The struggle of the indigenous film;' *Revista ZUM (IMS)* IDFA, 30 Januarty 2017 available at https://revistazum.com.br/en/revista-zum-12-2/the-struggle-of-the-indigenous-film/, last accessed 02 February 2026.

Munduruku and other Indigenous groups also operate YouTube channels that archive assemblies, testimonies, and consultation practices, thereby preserving Indigenous law in digital formats; the Coletivo de Audiovisual Munduruku channel documents meetings and protocols in the Tapajós region.[149] Although these platforms expose users to risks of harassment and surveillance, they extend Indigenous jurisprudence into transnational networks.

149. Coletivo de Audiovisual Munduruku, YouTube channel [URL and access date to be completed]. Coletivo de Audiovisual Munduruku (https://www.youtube.com/@coletivodeaudiovisualmundu1197).

Again, in this context, Satellite imagery constitutes a critical component of the visual monitoring infrastructure. Political controversies surrounding INPE between 2019 and 2022, including the dismissal of its director, Ricardo Galvão, in August 2019 following a public dispute with President Bolsonaro over deforestation figures, have shown that satellite imagery can become a focal point of political contestation over the very data on which legal accountability depends.[151] These images also

circulate internationally, informing OECD assessments that connect Amazon governance to international climate law and trade due diligence frameworks.[150]

Together, these practices reveal that the Amazon's legality is not only codified in statutes or adjudicated in courts, but is also materialized and made visible through a variety of other practices. Films, photography, art, social media, and satellite imagery produce evidence, shape imaginaries, and enact Indigenous jurisprudences. They reveal that law in the Amazon is as much about seeing, performing, and showing as it is about drafting and judging.

150. See Britta Labuhn and Eugene Mazur, Evaluating Brazil's progress in implementing Environmental Performance Review recommendations and promoting its alignment with OECD core acquis on the environment (Organisation for Economic Co-operation and Development, ENV/EPOC/WPEP(2021)6/FINAL, 26 July 2021); see also Müller (n 1) 7–8.

TROPICAL FOREST FOREVER FACILITY

4
OUTLOOK/FUTURE

Brazil has developed a strong constitutional system for socio-environmental protection, supported by legal action, Indigenous activism, and international engagement. However, this system remains fragile and vulnerable to political shifts, violence, and global market forces. The future of the Amazon will be shaped by three factors: the effectiveness of constitutional law and institutions, the consolidation of eco-centric legal innovations, and the recognition of Indigenous legal systems as legitimate sources of law.

In this context, the strength of constitutional law and institutions in Brazil remains essential. The STF has played a central role in protecting socio-environmental rights, rejecting the *marco temporal* thesis and ordering renewed efforts against deforestation. However, court decisions alone are insufficient to halt deforestation or protect those defending the environment. Progress depends on strong enforcement agencies, supportive political coalitions, and ongoing pressure from civil society. Brazil's Federal Court of Audit has frequently highlighted institutional and operational gaps in environmental enforcement capacity.

Eco-centric innovations are expanding, and in Brazil, at least in the context of municipal laws, rivers and ecosystems have been recognised as subjects of rights. At the same time, the proposed federal constitutional amendment on Rights of Nature, led by Deputy Célia Xakriabá, has been presented and is being campaigned for in the Brazilian Federal Congress. Their future depends not only on legislative approval but on enforcement and integration with Indigenous guardianship. If merely symbolic, they risk repeating the limitations observed in Ecuador, where RoN constitutionalisation has not curtailed extractivist practices. If integrated with Indigenous legal traditions and supported by effective enforcement, they could contribute to a transformation of governance.

Indigenous legal systems continue to play a crucial role. Indigenous Peoples such as the Yanomami, Munduruku, Kayapó, Waimiri-Atroari, and Ashaninka have developed legal traditions that go beyond the rights framework, grounding obligations in cosmology, ritual, and reciprocal relations with non-human beings, while engaging the state through protocols and litigation. Recognising these Indigenous systems as law, whether through constitutional changes, court decisions, or enforcement practices, is a central challenge for the development of legal pluralism in Brazil and, more broadly, in Latin America. Some

scholars support broader recognition, as seen in the plurinational constitutional frameworks of Bolivia and Ecuador; others caution that recognition without material redistribution may not suffice.

The quilombola dimension is equally consequential. As noted before, quilombola territories show substantially lower deforestation rates and higher regrowth than comparable unprotected areas. This empirical evidence supports the argument that securing quilombola territorial rights serves both justice and conservation objectives. Yet titling remains critically stalled, and the intersection of quilombola governance with Rights of Nature jurisprudence remains an unexplored frontier for legal scholarship and practice.

Nevertheless, violence against environmental defenders remains a severe and persistent problem in Brazil, as documented by the *Comissão Pastoral da Terra* and international monitoring organisations.[151] Illegal mining, large-scale farming, and organised crime continue to cause environmental and social damage, and weak enforcement remains a major structural obstacle. Global economic forces exacerbate the situation, as the demand for soy, beef, and minerals links Amazon destruction to international markets and supply chains.[152] The commodification of ecological relations through certain carbon finance mechanisms also risks converting relational obligations between humans, forests, and rivers into tradable units without addressing underlying social and economic inequalities.[153]

Brazil hosted the COP30 in Belém in November 2025, which brought both opportunities and challenges. The proposed Tropical Forests Forever Facility (TFFF), a multilateral fund designed to compensate forest-hosting nations for maintaining standing forests intact, structured as a non-market alternative to carbon credits, aims to shift international financing away from market-based carbon mechanisms toward direct payments for forest preservation.[154] If this instrument effectively incorporates Indigenous governance structures and meaningful participation in decision-making, it could connect international funding with diverse legal systems, including, obviously, the Brazilian legal system. However, there remains a risk that such mechanisms could reproduce extractive logics under the appearance of environmental concern, commodifying forest relations without addressing the structural inequalities and territorial conflicts that drive deforestation. It still remains to be seen whether new mechanisms and

151. See Comissão Pastoral da Terra (CPT), Centro de Documentação Dom Tomás Balduíno, Conflitos no Campo Brasil 2023 (CPT Nacional 2024).

152. Ibid. 165ff.

153. Eduardo Gudynas, Extractivisms: Politics, Economy and Ecology (Fernwood 2020) 87-88.

154. Government of Brazil, Tropical Forest Forever Facility (TFFF): Concept Note 3.0 (August 2025).

institutions created and promoted during previous and future COPs can develop a global climate policy that effectively supports the legal pluralism the Amazon requires.

Belém (PA), 06/11/2025 – Brazilian President, speaks during the launch of the TFFF (Tropical Forest Forever Facility) during COP30. Credits: Bruno Peres/Agência Brasil

The TFFF's relationship to the normative plurality documented in this Amazongraphy remains uncertain. Financial mechanisms for forest conservation operate within frameworks that treat forests as measurable stocks, potentially commodifying the relational obligations between humans and more-than-human entities that Indigenous and quilombola governance systems sustain. Whether such instruments can incorporate Indigenous and traditional governance remains an open question.

Indeed, Brazil has renewed its climate diplomacy in recent years and took important steps, such as the reactivation of the Amazon Fund in 2023 and the resumption of disbursements to projects sustained by it, the relaunch of the Action Plan for Prevention and Control of Deforestation in the Legal Amazon (*Plano de Ação para Prevenção e Controle do Desmatamento na Amazônia Legal*-PPCDAm, now in its fourth phase, the strengthening of IBAMA's enforcement capacity through new personnel and increased inspection budgets, a renewed engagement in international climate negotiations, culminating in Brazil's First Biennial Transparency Report to the UNFCCC (2024),[155] and increased international recognition of Indigenous and other Forest People's custodianship of forest territories.[156] These changes create openings for different forms of environmental governance that are not

155. United Nations Framework Convention on Climate Change, Report on the technical expert review of the first biennial transparency report of Brazil (FCCC/ETF/TERR.1/2024/BRA, 12 January 2026).

156. Brazilian Development Bank (BNDES), Amazon Fund: Activity Report 2023 (BNDES 2024); Government of Brazil (Planalto), 'Brazil announces measures to expand protection of the Amazon' available at https://www.gov.br/planalto/en/latest-news/2023/06/brazil-announces-measures-to-expand-protection-of-the-amazon, last accessed 23 August 2025.

necessarily centred around the *human*. The convergence of constitutional jurisprudence, municipal RoN laws, and Indigenous protocols suggests that a pluriversal legal order is emerging, and it is one in which multiple normative sources coexist and interact rather than being subordinated to a single constitutional framework.

The future of the Amazon remains uncertain, but the interaction of legal systems, political conflicts, and international dynamics will shape it. Whether the Amazon is governed as a frontier of extraction, a global commons, or a pluriversal territory will depend on the capacity of courts, legislators, Indigenous Peoples, and civil society to expand and deepen eco-centric normativity. The stakes are global, but the struggle takes place in specific territories, communities, and institutions across the Amazon.

5
CONCLUSION

The Brazilian Amazon illustrates both the promise and fragility of contemporary environmental law. It is anchored in one of the most progressive constitutional frameworks worldwide, enriched by statutory instruments, judicial precedents, and scientific infrastructures. At the same time, it remains a contested frontier where extractive interests, political volatility, and structural violence threaten to undermine legal protections.

An eco-centric normativity in Brazil has emerged through overlapping and sometimes conflicting orders. The 1988 Constitution established a socio-environmental framework combining collective environmental rights with Indigenous territorial rights. Strategic litigation has constitutionalised climate and biodiversity obligations. Municipal and federal RoN initiatives are expanding. Indigenous jurisprudences set out on the grounds of cosmologies of reciprocity, constitute parallel normative systems that both challenge and enrich state law. Quilombola governance, grounded in distinct histories of marronage and Afro-descendant resistance, adds a further dimension. Visual practices, from satellite imagery to Indigenous artivism, have emerged as instruments of legal mobilisation and normative assertion.

Yet many contradictions endure despite recent improvements. Enforcement agencies remain chronically underfunded. Global economic structures reinforce extractive pressures, from commodity chains of soy and beef to carbon finance mechanisms that risk commodifying relational obligations between humans and more-than-human entities. Violence against environmental defenders persists. These tensions highlight the limitations of law when detached from political will and material redistribution.

However, at the same time, opportunities are evident. Judicial jurisprudence has affirmed constitutional obligations in climate governance and the protection of Indigenous territories. Municipal and state-level RoN initiatives continue to expand, while the proposed federal constitutional amendment places the debate at the heart of national politics. Brazil's renewed climate diplomacy and the reactivation of the Amazon Fund create opportunities to align domestic law with global environmental commitments. Most importantly, Indigenous legal systems remain vital sources of law, proposing different futures in which the coexistence of multiple normative worlds, constitutional, municipal, Indigenous, scientific, and visual, is sustained rather than subsumed.

The Brazilian Amazon is best understood as a legal cosmos where multiple worlds coexist. Its future will depend on whether this plurality can be sustained and deepened amid extractive pressures. If successful, the Amazon may serve not only as a site of ecological survival but also as a laboratory for imagining new legal futures. Those in which law mediates coexistence between humans, forests, and rivers rather than legitimising their destruction.

CREDITS

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