

ENVIRONMENT, CLIMATE CHANGE AND DAM FAILURE

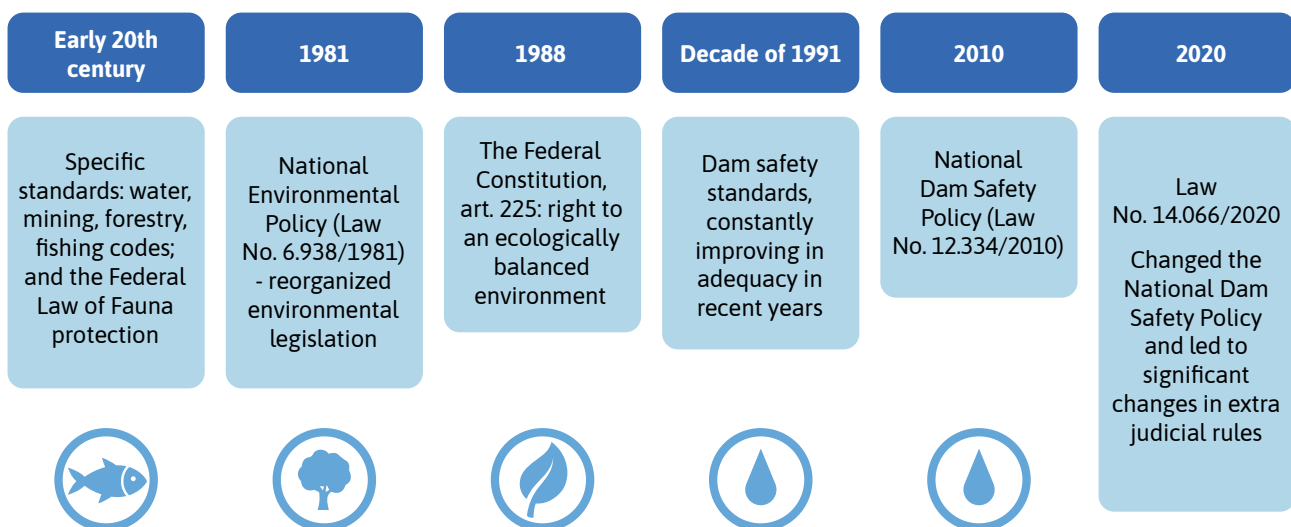
PARLIAMENTARY OBSERVATORY OF THE UNIVERSAL PERIODIC REVIEW*

RECOMMENDATIONS TO BRAZIL

	Recommendation	Assessment
54	To further continue the efforts to punish those responsible for the breaking of the retaining walls in Jacarei and Mariana, and to ensure that the victims of this event are guaranteed their right to access to justice, and their right to fair compensation, remediation and reparations for the damage caused. We recommend that Brazil share these acquired experiences through its constructive and substantive participation in the Intergovernmental Working Group established through resolution 26/9 of the Human Rights Council (Ecuador).	↑
55	Continue its efforts on the implementation of the National Policy on Climate Change on reducing deforestation in the Amazon region (Ethiopia).	↓
226	Ensure that the rights of indigenous people and respect of the environment and biodiversity are taken into due consideration in economic activities. (Holy See)	↓

Caption: ↑ (in progress) ↓ (in retrogression)

BRAZILIAN ENVIRONMENTAL LEGISLATION



* The Observatory is a government mechanism to monitor the effectiveness of the recommendations made to Brazil in order to improve our human rights situation. It is a partnership between the House of Representatives and the United Nations in Brazil (UN Brazil)

DAMS

Mid-twentieth century

The construction of industrial and mining dams was considered a technical advance. Before that, in Brazil, a newly industrialized country, the residues and tailings were commonly thrown directly into the soil or watercourses.

Second half of the 20th century

With the advent of environmental legislation, dams began to be built massively, but since they were, in general, small, the frequent leaks or disruptions due to more intense rains, had no major harmful effects, with a few exceptions.

21st century

Dams, in general, have now acquired larger dimensions, and the evolution of construction and maintenance techniques have not evolved sufficiently to avoid or contain tragedies.



THREE MAIN CAUSES OF DAM COLLAPSE

Fundão da Samarco Mineração Dam	Mineradora Rolando Comércio de Areia Dam	Vale Mining Dam B1
11/5/2015 – Mariana (MG)	2/5/2016 – Jacareí (SP)	1/25/2019 – Brumadinho (MG)

Considered the largest environmental disaster in the country involving Dams, it released about 45 million m³ of iron ore tailings, which spread over 663 km of tributaries and the Doce river itself, reaching the Atlantic Ocean.

321,000 people were impacted, 18 dead, one missing, 380 sick, 644 homeless, 716 displaced and others affected.

Over the last six years, the Renova Foundation, created to manage the socioeconomic and socio-environmental programmes provided for in the agreement, has sought to comply with defined actions, although most actions are largely in a state of delay. Renova has been facing other problems, such as the rejection of its accounts in the last four years, also accused of resource misuse, paying high salaries to its directors and absorbing employees into its maintainers (Samarco, Vale and BHP Billiton), paying them twice the amount they had previously earned. The Public Prosecutor's Office of Minas Gerais has already requested that it be extinguished by judicial demand.

It discharged sand mining tailings on the Paraíba River, damaging the water supply of three cities located in the valley of its watercourse.

It affected 75% of the urban population (500,000 people) for more than a day.

By the afternoon of the next day, the dam collapse had been contained. The company was fined R\$5 million by Cetesb and R\$11,760 by the Municipality of Jacareí, twice as much as expected, as it had already been fined previously for non-compliance with municipal legislation. The disparity in treatment given to sand mining activity – prohibited in São José dos Campos and allowed in Jacareí – reflects the lack of regional planning and leads to various conflicts, including the risk of new dam failures.

13 million m³ of iron ore tailings were discharged into tributaries of the Paraopeba River, starting at the Municipality of Brumadinho (MG).

270 people died, and about half of them were Vale employees. Until the preparation of the report of the Parliamentary Observatory, 11 bodies still had not been found.

Structures of the company were located just over 1 km downstream of dam B1, giving little chance of escape for those in that area. In February 2021, a Judicial Agreement was signed for Full Repair of the Dams B-I, B-IV and negotiations were conducted in confidentiality, without the participation of those affected or their legislative representatives. The agreement, however, does not involve individual rights, which are being claimed individually or collectively, with the assistance of the Public Defender's Office of the State of Minas Gerais.

In June 2021, Vale was ordered by the Labor Court of Justice to pay an indemnity of R\$1 million for moral damages to each family of employees that were killed in the disaster. However, the decision benefited only the families of the 131 workers who were directly linked to the company, excluding outsourced workers.¹

¹<https://www.diariodocentrodomundo.com.br/essencial/vale-e-condenada-a-pagar-r-1-milhao-a-cada-familia-de-trabalhadores-mortos-em-brumadinho/>. Accessed on: 6/10/2021.

CLIMATE CHANGE AND DEFORESTATION

Law No. 12.187/2009

Establishes the National Policy on Climate Change (PNMC)

Commitment made by Brazil with the United Nations Framework Convention on Climate Change to reduce greenhouse gas emissions between 36.1% and 38.9% until 2020

Regulation initially published in Decree No. 7.390/2010, later repealed and replaced by Decree No. 9.578/2018

Forecast of an 80% reduction in annual deforestation rates in the Legal Amazon compared to the average between 1996 and 2005

DEFORESTATION OF THE BRAZILIAN AMAZON FOREST (1988-2020)

2004 to 2012

Rapid and consistent reduction in deforestation in the Legal Amazon

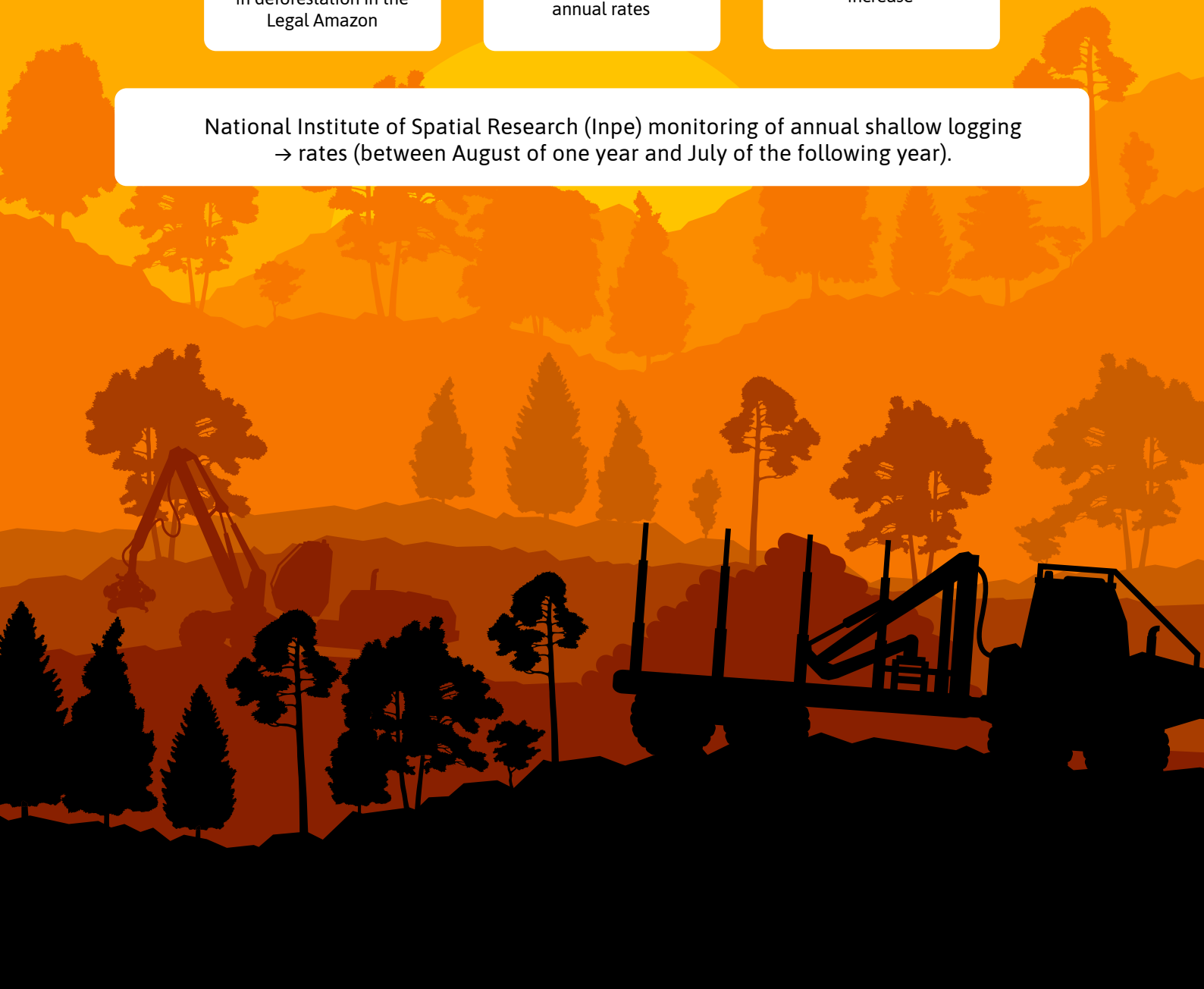
2013 to 2018

Period of tentative maintenance of low annual rates

2019 and 2020

Indicators resume increase

National Institute of Spatial Research (Inpe) monitoring of annual shallow logging → rates (between August of one year and July of the following year).



ECONOMIC ACTIVITIES AND INDIGENOUS PEOPLE'S RIGHTS

Rights of indigenous peoples

Constitution of 1967

Assured to forest dwellers "the permanent possession of the lands they inhabit and recognized their right to use the natural resources and all the utilities therein", the lands belonging to them and the Union.

Statute of Indigenous Peoples (Law no. 6.001/1973)

Indigenous Peoples must freely choose their livelihoods and sustenance, guaranteeing them permanent possession of their lands and recognizing exclusivity over natural resources

1988 Constitution

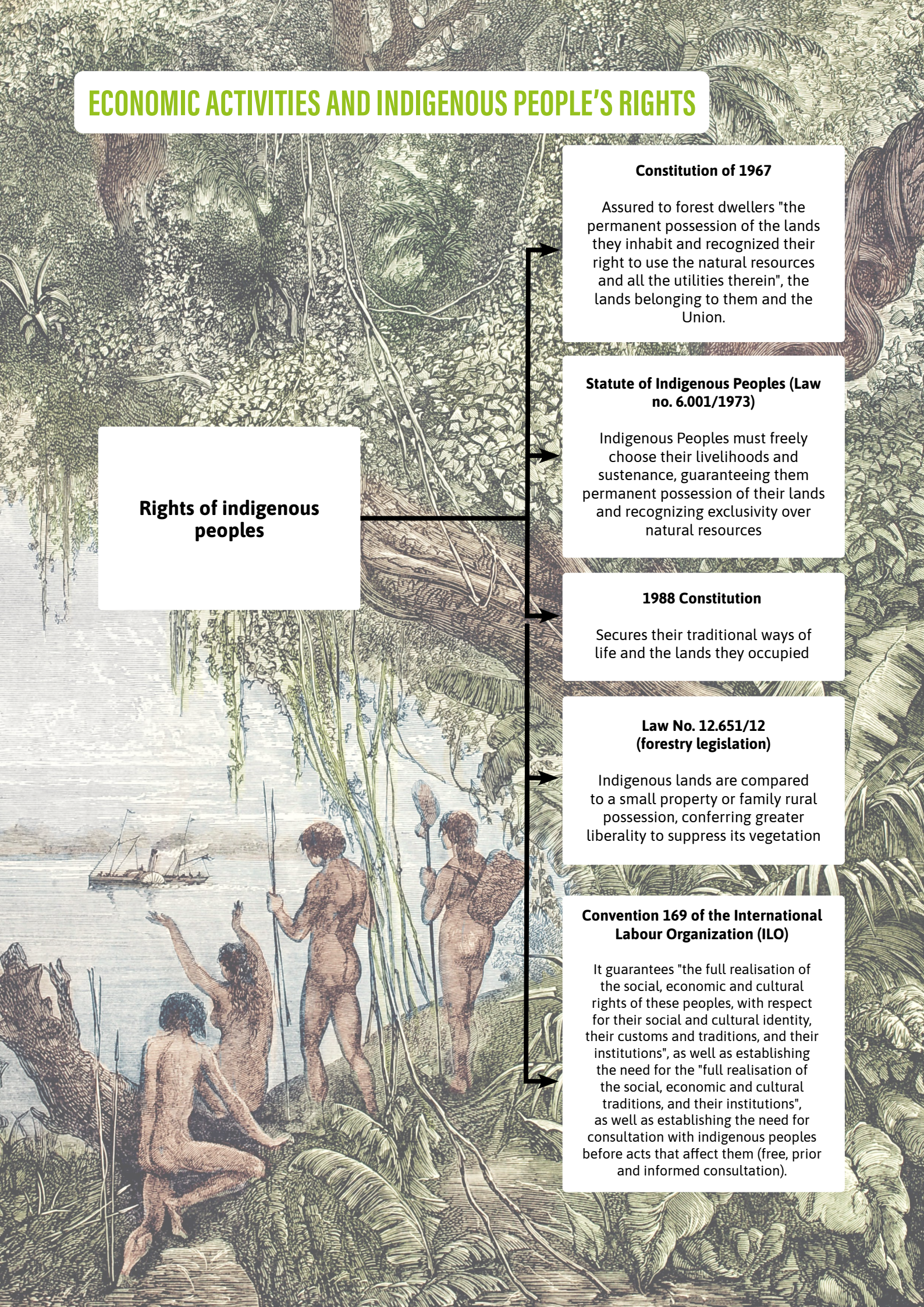
Secures their traditional ways of life and the lands they occupied

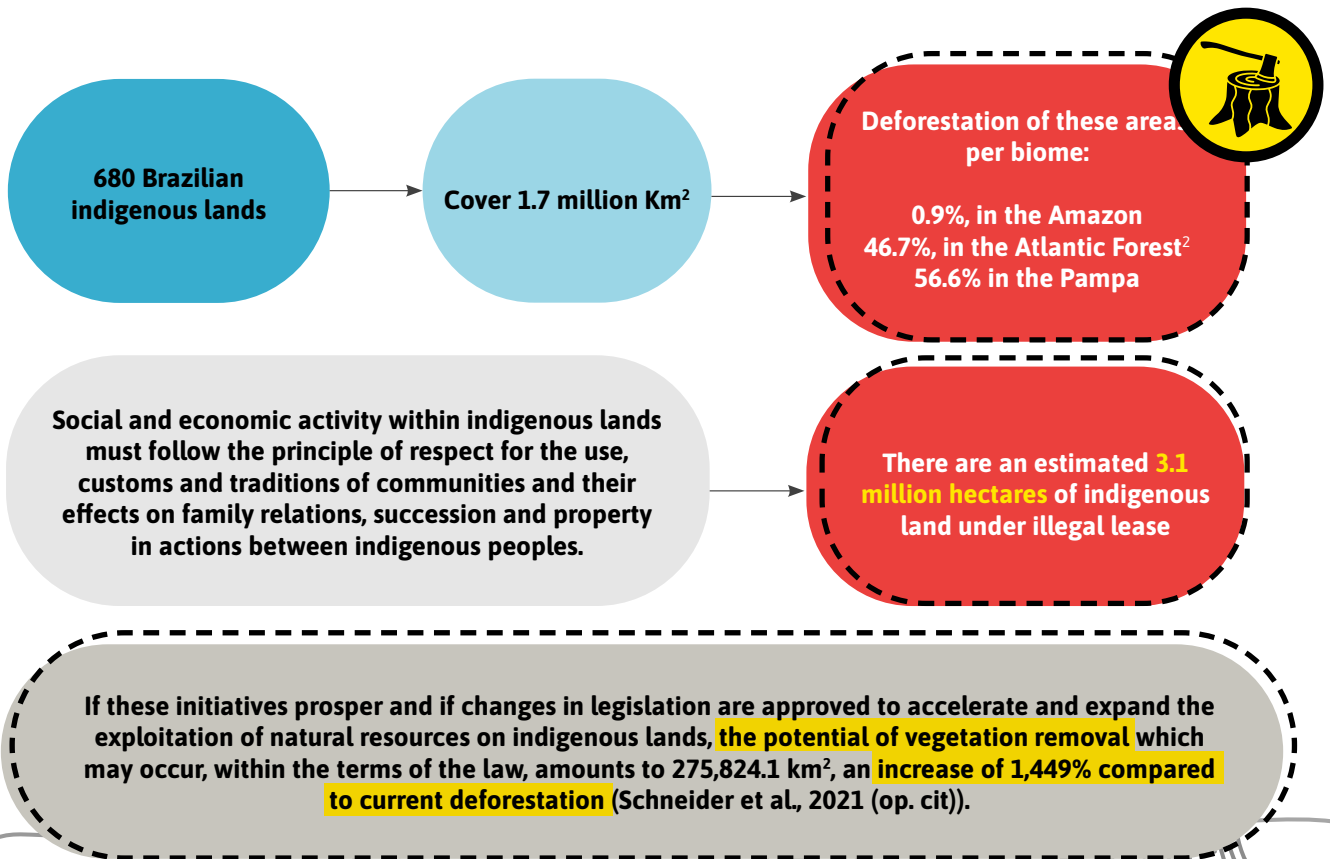
Law No. 12.651/12 (forestry legislation)

Indigenous lands are compared to a small property or family rural possession, conferring greater liberality to suppress its vegetation

Convention 169 of the International Labour Organization (ILO)

It guarantees "the full realisation of the social, economic and cultural rights of these peoples, with respect for their social and cultural identity, their customs and traditions, and their institutions", as well as establishing the need for the "full realisation of the social, economic and cultural traditions, and their institutions", as well as establishing the need for consultation with indigenous peoples before acts that affect them (free, prior and informed consultation).





² Schneider, M., Biedzicki de Marques, A.A. & Peres, C.A. 2021. Brazil's Next Deforestation Frontiers. Tropical Conservation Science, 14, p.19400829211020472.



LEARN MORE

- Full report – Environment, climate change and dam failure**
- Public Hearing on 10/27/2021**
- Report on the hearing**
- Parliamentary Observatory of the Universal Periodic Review**