Right to Land under the UN Declaration on the Rights of Indigenous Peoples: A Human Rights focus”

The German Federal Ministry for Economic Cooperation and Development (BMZ) commits in its Human Rights Strategy[[1]](#footnote-1) to contribute to the protection and realization of Indigenous Peoples’ rights. To support implementation this is further specified in its Guidelines on Incorporating Human Rights Standards and Principles, Including Gender[[2]](#footnote-2)This commitment is made in the context of official development cooperation with BMZ’s partner countries, which will report to UN EMRIP on the current issues separately. BMZ’s contribution to the realization of UNDRIP depends on political dynamics and opportunities in the partner countries and can never be seen as stand-alone achievement.

In the following, some good examples from German development cooperation (programs of BMZ) with Brazil, Colombia and Peru are highlighted regarding the *Recognition of a right to land/establishment of processes to adjudicate land rights/involvement of indigenous peoples (articles 25, 26, 27, 30, 32 of the UNDRIP).* Further information on the described programs are annexed (see footnotes).

**Brazil: Demarcation of indigenous territories**

*Good practices of demarcation, including self-demarcation by indigenous peoples, and*

*titling*.

Based on the 1988 constitution and in the context of the large G7 Tropical Forest Pilot Program, until 2009 German financial and technical cooperation contributed to the demarcation and official recognition of 178 indigenous territories in the Brazilian Amazon, covering approx. 38 million ha (more than the size of Germany). In addition, studies preparing the demarcation of indigenous territories covering an additional 9 million ha and projects with indigenous organizations to protect 80 territories were supported.[[3]](#footnote-3)

**Peru: Land titles for indigenous communities**

*Positive examples of processes established by States to recognise and adjudicate the*

*rights of indigenous peoples to their lands, territories and resources and the extent to*

*which indigenous peoples are involved in this process.*

In Peru, based on legislation dating from the 1970s, indigenous peoples can secure their collective land rights only at the community level. In the Amazon, about one third of the currently about 2250 recognized indigenous communities still lack a land title. Reforms are underway to improve information systems, simplify procedures, strengthen institutions, resolve overlaps with protected areas and forestry concessions, and address social conflicts at the local level. In 2018, a national rural cadaster system was launched which for the first time includes indigenous communities both in the highlands (*comunidades campesinas*) and the Amazon (*comunidades nativas*). Since 2016, when the Global Project “Responsible Land Policy” started in Peru, in the two Amazonian project regions San Martin and Ucayali, 43 community land titles have been issued covering 325.000 ha.[[4]](#footnote-4)

**Colombia and Mato Grosso (Brazil): REDD+ benefit sharing**

*Determination and development of priorities and strategies for the development or use of their lands or territories and other resources, including by exercising their traditional occupations and ensuring their livelihoods*.

The **REDD Early Movers (REM) program**, co-financed by UK and Norway, rewards forest and climate protection pioneers by compensating for emission reductions from deforestation. It currently operates with four country components in the Brazilian states of Acre and **Mato Grosso**, in **Colombia** and Ecuador, with indigenous people and other forest dwellers being explicit target groups. Through benefit sharing programs at least half of the payments go directly to small farmers, women and indigenous and local forest-dependent communities; in Colombia and Mato Grosso it is 60% of the payments, in Acre and Ecuador 70%. Overall, REM has anchored the involvement of indigenous peoples and forest dwellers in REDD programs, establishing grievance mechanisms and management systems for social and environmental risks.

In **Colombia**, for example, REM supports the Ministry of the Environment in developing and implementing the Colombian "Visión Amazonía" program. REM funds are invested in the five pillars (one being the indigenous pillar) of the Amazon Vision. Its **design and prioritization of investments were defined in a broad participatory process** that was conducted by the national indigenous organization OPIAC supported by GIZ, with the continuous engagement of all state institutions relevant to indigenous peoples’ affairs (MADS, MinInt, etc.). This process strengthened both OPIAC, as well as regional and local indigenous organizations and state institutions in their administrative and organizational capacities.

Three out of four **strategic investment lines of the indigenous pillar** (guiding project development and decisions on concrete investments) defined by the indigenous delegates refer to territorial management: i) **Territory and Environment**: Construction and/or implementation of indigenous life plans, including their integration into national/regional state development plans; certification/notarization of land, delimitation of territories and clarification of boundaries; territorial security; ii) **Self-Government**: delegation of environmental authority to indigenous authorities; strengthening of dialogue platforms and coordination with state authorities; internal regulations, zoning and territorial control; and iii) **Economy and production**: strengthening of traditional indigenous food production, local commerce and alternative livelihood generation; capacity building for producer groups for improved market access.

In the 1st phase of benefit sharing (2017-18) for the indigenous pillar, almost **10.000 indigenous families in** **54 indigenous territories** benefited through 10 projects with a total investment of about € 1.5 million. Out of these 10 projects supported, 2 focused on territory and environment, 3 on self-government, and 3 on economy and production. The 2nd phase of benefit sharing for the indigenous pillar is underway. In total, 22% of all results-based payments, i.e. up to € 26 million, will be channelled towards the indigenous pillar under the REM program – however, this is a potential absolute figure as the final amount depends on the countries’ performance of emission reductions.

Like all other pillars, the indigenous pillar uses a REM specific social and environmental risk management approach in planning, implementation and monitoring of REM results-based payments, and respond to inquiries and grievances that enter through the country’s REDD Grievance Mechanism.[[5]](#footnote-5)

In **Mato Grosso**, the REM program supports the state Ministry of Environment, the Indigenous State Advisor, and the Federation of Indigenous Peoples of Mato Grosso (FEPOIMT) in the construction and implementation of an indigenous benefit-sharing component, in a similar way to the Colombian indigenous pillar.

The **design and prioritization of investments were defined in a broad participatory process** led by FEPOIMT and supported by GIZ and the local NGO Instituto Centro de Vida, continuously accompanied by the state environment ministry (SEMA), the federal indigenous state agency (FUNAI) and the indigenous state advisor (SAI). The process strengthened the relatively young FEPOIMT and also regional organization units and local indigenous organizations in their administrative and organizational capacities.

Five out of nine **strategic investment lines** (guiding project development and decisions on concrete investments) that were defined through the process of constructing the indigenous component refer to territorial management: i) **Territorial Management**: Demarcation of territories; construction and/or implementation of indigenous environmental and territorial plans; ii) **Vigilance and monitoring**: fire monitoring; environmental monitoring; zoning and territorial control; iii) **Sustainability and Environment**: environmental conservation and education; water management and reforestation; iv) **Governance**: development of consultation protocols; dialogue and coordination with state authorities; and v) **Collection and production for Food Sovereignty**: sustainable value chain development; seed collection and management; creation of alternative livelihoods and jobs; capacity building for producer groups, improved market access.

The first investment phase is currently in its planning stage. In total, 13% of all results-based payments, i.e. up to € 2.25 million, are reserved for the indigenous benefit-sharing component.[[6]](#footnote-6)

1. http://health.bmz.de/what\_we\_do/Gender\_and\_human\_rights/Policies\_and\_concepts/Human\_Rights\_in\_German\_Development\_Policy\_Strategy\_Paper/BMZ-Strategiepapier-Health\_and\_Human\_Rights.pdf [↑](#footnote-ref-1)
2. https://www.bmz.de/en/zentrales\_downloadarchiv/themen\_und\_schwerpunkte/menschenrechte/Leitfaden\_PV\_2013\_en.pdf [↑](#footnote-ref-2)
3. KfW 2013. Ex-post-Evaluierung. Brasilien: KV-Demarkierung von Indianergebieten. Frankfurt.
Terras Indigenas PPTAL (12-2008) [↑](#footnote-ref-3)
4. 2018-05, Factsheet ProTierras
CIFOR 2019a. Titulación de comunidades nativas en San Martín, Perú - Avances y desafíos. Bogor.
CIFOR 2019b. Titulación de comunidades nativas en Ucayali, Perú – Avances y desafíos. Bogor.
Hojas Informativas PTC – Ucayali y San Martín [↑](#footnote-ref-4)
5. Fact Sheet REDD for Early Movers Colombia; Infografía Proyectos Indigenas Visión Amazonía [↑](#footnote-ref-5)
6. Fact Sheet REM Cooperacao Técnica REM Brasil; Resumo Subprograma Indigena [↑](#footnote-ref-6)