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Inter-American Dialogue's Latin American Energy Advisor

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Q and A: Will Brazil's Belo Monte Dam Get the Green Light?

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A Brazilian federal appeals court last month ordered a halt to construction on the controversial Belo Monte dam until indigenous groups are properly consulted, The Guardian reported. However, on Aug. 27, the Supreme Court issued a preliminary ruling that allowed for work on the project to resume. How significant is the charge that the consultation process was not properly followed? Will local groups be able to reach an agreement with developers and the government, which argue that the project is necessary to meet the country's growing energy demand? How could the consultation processes be improved to avoid similar conflicts both in Brazil and other countries, including Peru, Ecuador and Bolivia?

A: Philip M. Fearnside, research professor at the National Institute for Research in the Amazon (INPA) in Manaus:

"Brazil is a signatory to ILO Convention 169 and this requirement of consultation with affected indigenous peoples before a decision is made on building a dam has been incorporated into Brazil's constitution. Belo Monte would divert 80 percent of the Xingu River's flow through a series of canals, leaving a 100-kilometer stretch of the river (including two indigenous areas) with very little water. These indigenous people were not consulted, and their claim has been endorsed by the Human Rights Commission of the Organization of American States and by the Public Ministry (a branch of Brazil's Ministry of Justice that was created by the 1988 constitution to defend public interests). No less than 13 legal suits against Belo Monte are still awaiting decisions in Brazilian courts. The heavy investment of financial and political capital in the project by the executive branch of the federal government raises the danger that pressure on the judiciary could severely damage the democratic system in Brazil. Should the dam be built despite being 'totally illegal' (as it has been described by the Public Ministry in Belém), the consequences could well prove to be the most severe impact of this highly controversial project. The lesson for dams in any country is that legal requirements for consultation and licensing need to be respected in full."

A: Cláudio Frischtak, president of Inter. B Consultoria Internacional de Negócios in Rio de Janeiro:

"The ruling by the head of the Brazilian Supreme Court will provide breathing space for construction to resume. The problem lies less with the consultation process in and of itself,

which took place between 2007 and 2010, than the lack of medium- and long-term territorial planning. Any enterprise of this magnitude, there are currently 13,000 workers on site, has a significant indirect impact on the population. Living conditions worsen; prices go up as demand for housing, services and goods explode; prostitution and drug abuse become rampant. It is the absence of effective planning and preventive actions by government which are possibly the root cause of the tensions, and these will likely not subside in the near future."

A: Andrew E. Miller, advocacy coordinator for Amazon Watch in Washington:

"The enormous bulldozers shredding the rainforests around the middle Xingu River are apt metaphors for the Brazilian government's attitude about the Belo Monte dam. The Dilma Rousseff administration, like Lula's before her, is determined to not let the law stand in the way of the dam's construction, no matter the costs. The \$15 billion project is in clear violation of Federal Constitution article 231, which states 'Hydrologic resources, including energy potential ... may only be prospected with the authorization of Congress, after hearing the communities involved.' This simply didn't happen, as was affirmed by the appeals court. The Aug. 27 ruling demonstrates the Supreme Court's susceptibility to pressure from the executive branch. The government and the state-run energy entities constructing the dam have demonstrated bad faith in their dealings with local communities (indigenous, fisherfolk, among others) and civil society groups concerned about the dam's impacts. Agreements have already been reached, in the form of 40 pre-conditions for the dam's construction, and systematically disregarded by the duty-bearers. Community acquiescence is being sought through standard divide and conquer strategies, meager hand-outs as the carrot and the specter of legal persecution against dissenters as the stick. Guidelines for proper consultations are being increasingly detailed by international human rights bodies like the Inter-American Court, which offered useful clarifications in their recent Sarayaku decision. James Anaya, the U.N. indigenous rights rapporteur, has also been keenly engaged around Latin America and has offered trenchant observations about implementation of indigenous rights. International (and increasingly domestic) law stipulates that consultations must be 'free,' 'prior' and 'informed,' yet rarely do governments exhibit the political will to meet those standards."

A: Marco Antonio Fujihara, director at Key Associados and CEO of Sustain Capital:

"Clearly, the solution to this type of crisis isn't simple, but the only way of avoiding these problems in any project, be it a road in Bolivia or oil exploration in the Amazon, is to develop a comprehensive plan for communicating with all of the stakeholders involved, in a manner in which they are all engaged in the process and can express their doubts, worries and demands for compensation in an organized and peaceful manner, within reason. This has not been done in an adequate manner, and I am certain that this will not be the last crisis over Belo Monte. But it will go forward despite all of the criticism since the energy supply is a major concern of the current government."

The Energy Advisor welcomes responses to this Q&A. Readers can write editor Gene Kuleta at gene.kuleta@thedialogue.org with comments.