

An LFJ Conversation with Daniel Cavalcante, Attorney in Brazil

Daniel Cavalcante is a lawyer for indigenous associations in the Brazilian Amazon, and he acts in the most important socio-environmental disputes in Brazil in defense of indigenous communities.

Litigation Finance Journal Conversations

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My mission is to defend the rights of indigenous peoples worldwide, regardless of location or obstacles. Throughout history, they've suffered violence, prejudice, and oppression, resulting in the decimation of their traditions and values. Despite legal protections, indigenous communities still face limitations in accessing basic needs due to the state and private sector. We fight for their dignity and future prospects in all areas of public and private administration, ensuring they receive compensation for historical losses.

What first led you to take up the cause of fighting for indigenous peoples' rights?

In my journey as a lawyer, I never imagined working on socio-environmental demands, especially in defending the rights of the indigenous peoples of the Amazon. Life presented me with this great honor and opportunity to advocate for indigenous peoples when other lawyers invited me to work on one of the largest environmental lawsuits in Brazil involving a large global company in the mining sector that the Federal Public Ministry was suing.

In the case in question, I represented the rights of indigenous associations in the claim, qualifying them in the case file as an active co-defendant of the Federal Public Prosecutor's Office. Over six years of working on this specific cause and related demands, I obtained historic court decisions that condemned the mining company to pay more than R\$150.000,000.00 (one hundred and fifty million reais) to the indigenous associations represented.

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ABOUT THE SPEAKER



DANIEL CAVALCANTE
Attorney in Brazil

Daniel Cavalcante is a Lawyer and earning his Master's in Constitutional Law at the Public Law Institute – IDP/Brasília. He is a lawyer for indigenous associations in the Brazilian Amazon, and he acts in the most important socio-environmental disputes in Brazil in defense of indigenous communities. Formerly, he was a legal advisor to the Legislative Assembly of Pará – ALEPA and founding CEO of a startup called nature carbon (www.naturecarbon.com.br).

Still talking about these disputes against the mining company, together with my partners, we managed to "force" the mining company to conclude the largest agreement in the history of the Brazilian judiciary involving indigenous associations and mining, thus ending several public civil actions filed against the entrepreneur, who undertook to pay the amount of R\$ 2,300,000,000,000.00 (two billion and three hundred million reais) in the form of financial compensation in favor of the indigenous associations that we represented at the time. Faced with this success story, I gained the confidence of the indigenous people and the necessary experience to lead several other associations from different ethnic groups and states from within the Amazon to hire me to represent their rights.

What are some of the challenges indigenous peoples in Brazil face when accessing the legal system?

Unfortunately, the legal system in Brazil has a series of structural flaws that cause enormous damage, especially to the most vulnerable. Among these shortcomings is the delay in the judgment of the cases, the need for more technical expertise available to the indigenous people, and the high cost of litigation for those who often have nothing to eat, among others.

In addition, few lawyers are interested in representing indigenous peoples, as they do not have the financial resources to pay lawyers' fees. Thus, leaving the representation of indigenous peoples concentrated on initiatives by government institutions, which link to very bureaucratic procedures. Or to the Public Prosecutor's Office (which does a good job but does not have the capillarity to meet the most diverse legal needs of Brazilian indigenous peoples with due efficiency).

What can law firms and litigation funders do to help support this cause?

Litigation financing has become increasingly important in balancing the rich and poor legal disputes. Large companies with unlimited cash flow can easily sustain prolonged litigation costs, while less affluent parties tend to give up due to high litigation costs. In Brazil, the slowness of the judiciary, combined with other "structuring" problems, hampers access to justice by the jurisdiction, especially the most vulnerable. For that reason, litigation funding allows access to justice for the less privileged, allowing them to pursue justice without worrying about costs. In addition, this type of funding also assists in protecting human rights and protecting environmental rights, among others.

Litigation financiers and law firms are true protagonists in the defense of the most vulnerable, as by combining technical and legal capacity, agility, and strategy in the conduct of litigation, with due financial support, judicial disputes are fairer and more balanced, thus providing greater effectiveness of justice and guaranteeing the rights of traditional peoples.

Why are class actions, in your opinion, the best route forward for achieving access to justice for the indigenous people of Brazil?

In my opinion, collective actions are the best way to gain access to justice for indigenous peoples in Brazil, as they allow groups of people with common interests to be brought together in a single lawsuit. This type of action allows small groups to have a more significant impact as they come together to assert their rights.

Collective actions enhance the ability of the parties involved to deal with legal attacks and work for the social change needed to address the issues that affect Indigenous Peoples. Class actions allow the parties involved to mutually benefit from greater financial resources, giving a greater likelihood of success in the lawsuit.

Many law firms and litigation funders are considering ESG initiatives. How do your efforts help support these initiatives?

My advocacy in defense of the rights of indigenous peoples aims to contribute to ESG initiatives, always seeking the protection of human rights, respecting the culture and practices of indigenous peoples, promoting reconciliation between ethnic minorities and other communities, offering relevant training and information on rights human rights, fighting to guarantee essential services for indigenous peoples, actively defending them against the big global companies that impact them, and contributing to sustainable development in the territories where these peoples live.

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