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Executive Summary

In the early times, our ancestors were still few in number. Omama gave them the plants of the gardens, which he had just received from his father-in-law from the bottom of the waters. So they started to cultivate them, taking care of the forest. They didn't think: 'let's deforest everything to plant grass and let's dig the ground to pluck metal!' Instead, they began to feed on what was growing on the land and on the fruits of the forest. That's what we continue to do to this day.

David Kopenawa Yanomami, 2015

This joint civil society report presents to the UN Committee on Economic, Social and Cultural Rights (CESCR) key topics on the situation of economic, social and cultural rights of indigenous peoples in Brazil. This report analyzes facts and situations as from the year 2009, the start of the review window by the CESCR, from the second to third periodic reports.

The consideration of indigenous peoples as full right-holders in Brazil starts in 1988, with the promulgation of a progressive Constitution and in 1992, with the ratification of both ICESCR and ICCPR by the country, as an effort to re-democratize a nation leaving two decades of dictatorship.

The universality, interdependence and mutually reinforcing nature of all human rights (Vienna Declaration, 1993) find an optimum locus in the rights of indigenous peoples. The enjoyment of the rights to self-determination and access to ancestral territory is central to the enjoyment of all other economic, social, cultural and environmental rights, including right to health, food, water, and many other civil and political rights, such as right to life, freedom of religion, freedom of movement, freedom of expression and freedom of assembly.

This report takes this very approach. Brazil's adherence to international standards still owes the promise of demarcating and protecting indigenous peoples' territories, since 1993, as set in its Constitution. The current severe situation sustained by many peoples in Brazil is a result of this long overdue debt, which aggravated in the last four years, in the aftermath of the freezing of all demarcation processes, environmental deregulation, extreme budget cuts, disinformation campaigns and hate speech at the highest level of government. Although a new federal government takes historical steps, such as the establishment of a first indigenous peoples' ministry and the appointment of a first indigenous woman and head of the indigenous rights agency (FUNAI), many challenges lie ahead for the ESCR of indigenous peoples in Brazil. The current National Congress is the most hostile to indigenous ESCRs in history. The thesis of the *marco temporal*, currently being debated both as a bill in the Congress and in the Supreme Court as a binding case, represents a risk to the very existence of several peoples in the country.

Hostility and aggression is still found in state governments and parliaments, businesses, media and

other stakeholders. The reclaiming of traditional lands ("retomadas"), besides being a focus of killings and violence, is a focus of violations of the right to education, water, food and health, in a climate of extreme tension and lack of provision of basic humanitarian items.

The COVID-19 pandemic affected disproportionately indigenous communities, with rates of deaths at key age groups doubling the non-indigenous deaths. Forced use of chloroquine and disinformation campaign on the vaccine were responsible for a vast number of preventable deaths. The government disregarded a decision by the IACHR and the Supreme Court to take emergency measures.

The right to water and sanitation are severely affected by the contamination of mercury of water sources by illegal mining ("garimpo") and environmental crime of large scale, such as the ones of Mariana and Brumadinho by Vale giant mining corporation. Both cases left several communities in humanitarian crises, exacerbating famine and poverty of these communities. Illegal mining brings together other consequences such as prostitution, incompatible consumption and lifestyles.

The stalling of land demarcation also brought about the worsening of nutrition among indigenous peoples, in particular indigenous children. Many communities became dependent on food baskets, which do not contemplate their traditional food habits, also compromising their cultural and spiritual habits in this context.

Indigenous peoples in Brazil sustain the negative effects of climate change, including severe droughts or floods, compromising their crops, decreasing wildlife and consequent loss of habits such as fishing and hunting. Although being internationally regarded as *agents of change* indigenous, indigenous leaders' ideas or statements on this topic are received with disregard and aggression online and offline, including reprisals within the UN meetings.

In methodological terms, this report uses as sources from data collected and compiled by the signatory organizations, data from governmental bodies and international bodies, as well as first-hand information collected by our contacts on the ground. In view of the diversity of peoples and languages in the country, this report used examples from different biomes, regions and communities, in order to present a more representative scenario of the peoples living in Brazil. Enough care was taken in order to bring illustrations from both indigenous men and women.

The [Articulation of the Indigenous Peoples of Brazil \(APIB\)](#) was established by the national indigenous movement in 2005, to make visible the situation of indigenous rights and to demand that the Brazilian State attend to their demands and claims. Composed of seven regional indigenous organizations, APIB represents the Brazilian indigenous movement at the national and international level.

The [Indigenous Missionary Council \(Cimi\)](#) is an organization linked to the CNBB (National Conference of Brazilian Bishops). Through its eleven regional offices, Cimi works with more than 180 indigenous peoples in 26 states and in the five regions of Brazil.

ICESCR Article 1 Combined with Articles 2 and 3
Right to Self-Determination, Demarcation Process, Violence,
Discrimination



Related Topics:

Time Frame Thesis, Demarcation of Lands, General Attorney Opinion No. 01/2017, Bill 2,903/2023, Provisional Measure 1154/2023, Extreme Violence in Land Reclaims, Executions by Police Forces

A. Marco Temporal (Time Frame thesis)

A.I - Federal Supreme Court (STF) trial of Extraordinary Appeal No. 1.017.365

The Federal Constitution of Brazil, enacted on October 5th, 1988, established a deadline of five years for the Union to demarcate all the indigenous lands in Brazil. However, currently, there are at least 242 indigenous lands that have not been demarcated, with processes that drag on for years, either in administrative or judicial procedures. The indigenous lands not yet demarcated represent today about 33% of the indigenous territory in Brazil.

The guarantee of indigenous territorial rights by the Brazilian State has suffered an abrupt decline in recent years. Land demarcation is an administrative process under the responsibility of the federal government. In the period between 2018 and 2022, there was no advance in the three main stages of the demarcation process of indigenous lands, namely: i) the identification, carried out by the National Foundation of Indigenous Peoples (Funai); ii) the declaration, carried out by the Ministry of Justice; and iii) the homologation, carried out by the Presidency of the Republic.

The table below presents the number of lands that went through each of these stages by presidential term since 2011 and shows a serious downward trend:

Demarcation of indigenous lands in Brazil by administrative stage and presidential term, 2011-2023

Presidential Term	Identified Lands	Declared Lands	Homologated Lands
Dilma Rousseff I (2011-2014)	31	11	11
Dilma Rousseff II (2015-2016)	16	15	10
Michel Temer (2017-2018)	8	3	1
Jair Bolsonaro (2019 - 2022)	0	0	0
Lula (III) (2023)	0	0	6

Source: FUNAI

General Situation of Indigenous Lands in Brazil	In Numbers	Percentage
Registered: demarcation completed and registered in the Real Estate Registry Office of the District and/or in the Federal Property Service (SPU)	429	30,8%
Approved: with Decree of the Presidency of the Republic. Waiting for registration	14	1,0%
Declared: with Declaratory Ordinance of the Ministry of Justice. Awaiting approval	67	4,8%
Identified: recognized as traditional territory by the Funai Working Group. Awaiting Declaratory Ordinance of the Ministry of Justice	46	3,3%
To be identified: included in Funai's programming for future identification and delimitation, with technical Working Groups already constituted	146	10,5%
No measures: lands claimed by indigenous communities without any administrative measures for their regularization	588	42,3%

Reserved: demarcated as "indigenous reserves" at the time of the Indian Protection Service (SPI) or acquired by Funai, without the need for a study on traditional occupation	67	4,8%
With a restriction ordinance: lands that received an ordinance from the Funai Presidency restricting the use of the area to the right of entry, locomotion or permanence of people who are strangers to the Funai staff	6	0,4%
Dominal: owned by indigenous communities	28	2%
Total	1.391	100%

Source: CIMI Report on Violence against Indigenous Peoples in Brazil (2023)

Such a decline is unprecedented in the history of Brazilian democracy and cannot be attributed to a supposed complexity of the demarcation process, which has been the same since the 1990s. It is, in fact, the result of the convergence of two factors: first, the political position of the administration of former president Jair Bolsonaro, who, since the 2018 presidential campaign, made explicit his intention that, if elected, he would not demarcate "even one centimeter" of indigenous lands. Bolsonaro not only kept his promise, but also returned lands that were in more advanced stages of demarcation to earlier stages of the administrative process.

Moreover, the freezing of land demarcations is related to the so-called Time Frame (*Marco Temporal*) thesis, a political thesis transformed into an *ad hoc* constitutional interpretation device that limits the rights of indigenous peoples to their traditional lands by applying an arbitrary, restrictive, and legally unsupported temporal cut-off. According to the thesis, the right of indigenous peoples to their traditional lands only applies to the lands occupied by them on the date of the enactment of the Federal Constitution, in October 1988. The Time Frame thesis also ignores that due to centuries of persecution and violence, many indigenous peoples were not allowed to live on their traditional lands on that date.

This interpretative thesis radically redefines the concept of the original right to the territory, enshrined in the Federal Constitution, making it difficult and even impossible to recognize and protect a large part of the indigenous lands (ILs) in Brazil. The Federal Constitution Article 231 recognizes the indigenous peoples' original right to traditionally occupied lands and defines these lands as the set of areas used by the indigenous peoples for habitation, those used for their productive activities, those indispensable for the preservation of the environmental resources necessary for their well-being, and those necessary for their physical and cultural reproduction, according to their uses, customs, and traditions.

The text of the Federal Constitution, which is in line with international law, does not provide for any restriction to the right of traditional lands. The Time Frame thesis has been on the trial agenda of the Federal Supreme Court (STF) for years. Meanwhile, it is already responsible for the paralysis and

revision of demarcation processes around the country, directly impacting the lives of thousands of indigenous people who, having had their fundamental right to territory violated, face a series of physical and symbolic violations, from murder to the criminalization of their political, cultural, and associative activities.

The Time Frame trial, filed through the Extraordinary Appeal No. 1.017.365, was resumed by STF on June 7, 2023, after almost two years of no advances. The case deals, in substance, with a possessory action involving the Xokleng Ibirama Laklaño Indigenous Land, of the **Xokleng, Kaingang and Guarani** peoples, v. the state of Santa Catarina. With the status general precedent, the relevant understanding arising of this ruling about this case will bind the Brazilian lower courts and administration, and will be regarded as a dangerous constitutional interpretation in the Americas. The debates at the Supreme Court will resume on 30 August 2023.

9. The current Lula administration has resumed the process of land demarcation, concluding 6 of these procedures. It has also re-staffed FUNAI, employing technical servants, including many indigenous professionals. However, the pace of the demarcations is still slow, given the need to recover the total lack of demarcations by the last administration. There is also strong pressure from many business sectors against the advancement of the demarcation processes, which represents a difficult obstacle.

A.II - Federal Attorney General's Office's Opinion No. 01/2017/GAB/CGU/AGU

In the Executive branch, there has been an accelerated process of setbacks in Indigenous rights since 2016, following the coup against President Dilma Rousseff and the ascension of President Michel Temer. On July 20, 2017, the Federal Attorney General's Office published Opinion No. [01/2017/GAB/CGU/AGU](#), which obliges the Federal Public Administration to apply the 19 conditionalities that the Supreme Court established for demarcating Raposa Serra do Sol Indigenous Land in 2009, which in practice institutionalized the Time Frame thesis.

The effects of this opinion were extremely negative, as immediately after its publication, the National Foundation of Indigenous Peoples (Funai) resumed the evaluation of several administrative procedures for the demarcation of indigenous lands throughout the country, and even of processes that were in advanced demarcation stages, under the appraisal of the Civil House and Ministry of Justice, which were returned to Funai to be reanalyzed.

Without a doubt, this Opinion, influenced by the agribusiness sector in the context of Michel Temer's government, has brought about serious consequences to the rights and interests of indigenous peoples. The Opinion was published at the very moment when President Temer needed the support of the agribusiness lobby at the National Government to prevent the admissibility of accusations against him by the Legislative Branch.

Despite the new administration, this Opinion remains as the Federal Executive's official position on traditional lands. It has not been revoked by the new government.

A.III - National Congress Bil 490/2007 / Bill 2,903/2023

On May 30, 2023, the House of Representatives approved Bill 490/2007, which promotes the Time Frame thesis into law and makes the protection of indigenous lands more flexible - both by transferring the demarcation of lands to the Legislative Branch, and by violating the right of indigenous people to Free, Prior, and Informed Consultation. Following its approval by the lower house, Bill 490/2007 is currently being evaluated by the Federal Senate, now named Bill 2903/2023. So far, the Bill analysis has been led without prior consultation and ignoring the indigenous movement's continuous manifestation against its approval, and against any institutional recognition, whether by legislative, executive, or judicial means, of the Time Frame thesis. This Bill was given green light (13 votes by 3) on the 24 August by the Senate's Agriculture Committee and is heading to the Constitution, Justice and Citizenship Committee. Senator Soraya Thronicke (PODEMOS/MS), rapporteur of the Bill in the former Commission, issued an [opinion](#) that completely disregarded international and constitutional human rights standards.

B. Provisional Measure 1154/2023: Weakening of the Ministry of Indigenous Peoples

In December 2022, the elected president of Brazil, Luiz Inácio Lula da Silva (PT), announced the creation of the Ministry of Indigenous Peoples (MPI), considered by the Articulation of Indigenous Peoples of Brazil (APIB) a historic achievement of the Brazilian indigenous movement. In addition, Lula appointed Sonia Guajajara, an exponent representative of the Brazilian indigenous movement, former executive coordinator of APIB, and elected Federal Representative in the 2022 elections, to head the Ministry, representing a symbolic event of reparation against centuries of violation of indigenous rights in Brazil.

The new federal administration bill on the composition of the President's cabinet ([Provisional Measure 1154/2023](#)) shifted the National Foundation of Indigenous Peoples (Funai) to the structure of the Ministry of Indigenous Peoples (MIP), which in practice established that the identification and declaration of indigenous lands would be under the competence of indigenous political leaderships. However, the bill was blocked by a maneuvering by the National Congress, which removed Funai from the MIP and returned it to the Ministry of Justice, including the attribution of declaring indigenous lands.

The attribution of the demarcation stages to the MPI represented an immense advance for the

promotion of the indigenous peoples' right to their traditional lands. Yet, the alteration of that competence represents a weakening of the Ministry's portfolio and an alarming legal regression in the guarantee and protection of territorial rights.

It is worth mentioning that Funai has undergone a strong dismantling process since the presidency of Jair Bolsonaro. A report produced in 2022 by the Associated Indigenists (INA) and the Institute for Socioeconomic Studies (INESC), entitled "Anti-Indigenous Foundation: a portrait of Funai under the Bolsonaro government", shows that, from 2018 to 2023, Funai was prevented from fulfilling its constitutional mission of protecting indigenous rights, whether by the absence of budget forecasting, the institutional harassment practiced against servers, or the patently anti-indigenous position of its presidency.¹

C. Legislative Decree Bill 177/2021

[Legislative Decree Bill 177/2021](#), which aims at authorizing the President of the Republic to withdraw from ILO's Convention 169, is currently being processed by the National Congress. There is a consensus among environmental and indigenous organizations that the objective of the Bill is to extinguish indigenous peoples' and traditional communities' right to appropriate consultations, in order to obtain free, prior and informed consent.

D. Worrying Rates of Murders of Indigenous Peoples

In 2021, there were 176 murders of indigenous individuals² - only six less than the registered in 2020, which recorded the highest number of homicides since the Indigenous Missionary Council (Cimi) started to count this data based on public sources, back in 2014. The number of 148 suicides of indigenous people in 2021 was the highest ever recorded in the same period.

The general context of attacks on indigenous territories, leaders, and communities is related to a series of measures by the Executive branch, especially during President Bolsonaro's administration, that favors the exploitation and private appropriation of indigenous lands and also, at the Legislative branch, of bills aimed at dismantling the constitutional protection of indigenous peoples and their territories. According to Cimi's report, the Amazon region concentrated 66.22% of all 1,815 deaths

¹ INA e INESC: [Fundação Anti-indígena: um retrato da Funai sob o governo Bolsonaro](#) (2022).

² Cimi: [Violence Against Indigenous Peoples in Brazil – 2021](#), p. 278. (2022).

related to the struggle for and on land in Brazil, with a disproportionate impact on traditional peoples.³

E. Growing Practice of Executions by Police Forces

E.1. The Chiquitanos Massacre:

On August 11th, 2020, four members of the **Chiquitano** people, from the São José da Fronteira community (Mato Grosso do Sul state, border with Bolivia), were executed by the Special Border Group (Gefron), a police group from the State Police. There were serious indications of torture executions, including a broken leg and jaw, deformed faces, a broken clavicle, and several wounds in their bodies. Their bodies were taken to the municipality of Caceres without the knowledge or consent of their relatives, who could bury their bodies only after much bureaucracy and resistance by the authorities.⁴

E.2. The Abacaxis River Massacre:

On August 3rd, 2020, indigenous and riverine inhabitants were ambushed by eight plainclothes and heavily armed men, who have indications of being members of the Amazonas state military police. These men were wearing balaclavas. After a conflict on that day, two policemen were killed, which led to a vendetta raid by the military police, which deployed around 50 officers heavily armed, leading to the killing of two indigenous Munduruku, four riverines, and the disappearance of two others. Dozens were subject to torture in loco. Communities report on the increase in the violence and expansion of drug trafficking, illegal invasions by loggers, hunters, predatory fishery, and mining, allied to the State leniency.⁵

In both cases, the criminal investigations underwent critical delays and no criminal charges were presented at the moment by the prosecutors.

³ Sobreiro Filho and Barros Sodré: [Violence in the Field of the Amazon: analysis of data on murders, threats and profiles of those killed](#). (2019).

⁴ CIMI: [Chacina de indígenas chiquitanos segue impune e mobiliza organizações sociais do Brasil e Bolívia](#) (2020).

⁵ CIMI: [Em nota, organizações cobram justiça pelo massacre do Rio Abacaxis, impune há um ano](#) (2021).

F. Extreme Violence in the Context of Traditional Land Repossession (“Retomadas”)

Indigenous peoples have increasingly repossessed their traditional lands, as a matter of survival. These repossessions are, virtually in all cases, met with extreme violence. For instance, a worrying trend is the high number ⁶of road killings of Indigenous peoples: 19 cases in 2021, in the states of Bahia (2), Maranhão (1), Mato Grosso (2), Mato Grosso do Sul (3), Paraná (7), Rio Grande do Sul (4), and Roraima (1). Among the victims, two were children, ages 4 and 6, and one was an 84-year-old man. The lack of assistance to the victims shows the neglect and disrespect for the lives of the indigenous people: in 19 cases, the drivers fled the scene without providing assistance to the victims. In Roraima, a young indigenous woman died after being hit by a car while she had her one-year-old son in her arms. In Bahia state, a 4-year-old boy was with his parents at the door of their house when he was hit by a truck. The driver fled the scene without providing help, as did the other occupants of the vehicle.

These cases are frequent year after year, usually victimizing indigenous people who live in rural areas where there is territorial conflict, or around makeshift dwellings on the side of highways. For this reason, there is doubt about the nature of several of these cases: if they were, in fact, accidents or intentional acts against indigenous peoples. The death of indigenous people living on the side of the roads or on highways that cut through their territories is the tragic outcome of an accumulation of violations, which begin with disrespect for their territorial rights.

G. Defenders of Indigenous Peoples, Climate and the Environment

Among the 1,815 deaths related to the struggle for and on land in Brazil⁷, there have been several killings of defenders of indigenous rights and the environment. These victims include: **Paulino Guajajara, 26** (forest guardian) on November 1st 2019, at the Araribóia Indigenous Land (Maranhão State); **Maciel Pereira dos Santos, 34** (indigenous expert) on September 6th 2019, at the Javari Valley (Amazonas State); **Cacique Emyra Wajäpi, 62** (forest guardian) on July 22nd 2019, at the Aldeia do Waselty (Amapá State); **Ari Uru-eu-wau-wau, 33** (forest guardian) on April 17th, 2020, in Tarilândia, Jaru (Rondônia State); **Issac Tembê, 24** (forest guardian) on February 12th 2021, in Capitão Poço (Pará State); **Isolated Indigenous Persons Moxihatëtêma**, between August and October 2021, in the Yanomami Indigenous Territory (Roraima State); **Bruno A. Pereira 41** (indigenous expert) in June 2022, in the Javari Valley; **Dom Philips, 57** (journalist), in June 2022, in the Javari Valley; and **Vitor Fernandes Guarani Kaiowá, 42** (land guardian); on July 24th 2022, in Guapoy (Mato Grosso do Sul State). On 17 August 2023, Quilombola leader Bernadete Pacífico was murdered in Simões Filho (BA),

⁶ CIMI: [Violence Against Indigenous Peoples in Brazil](#) – 2021, p. 181 (2022).

⁷ Sobreiro Filho and Barros Sodré: Violence in the Field of the Amazon: analysis of data on murders, threats and profiles of those killed (2019).

despite being included in the government defenders' program.

A large number of defenders of indigenous rights and the environment are officially under Brazil's human rights defenders' program, which has undergone several structural and budgetary restrictions in recent years. These defenders frequently claim that the program does not have constant monitoring of the defenders' situation and that, in some cases, the same police agents in charge of their protection are hired by non-state actors to perpetrate violence against indigenous communities. One of these defenders at constant risk is **Cacique Babau**, from the **Tupinambá people**, in the Serra do Padeiro (Bahia State).⁸ Despite being officially included in the defenders' protection program and a Special Procedures' letter to Brazil, he continues under threat to defend his people, including undergoing current threats to his life and of his family.

A set of government law regulations gave land invaders and criminal groups confidence to proceed with their illegal actions in the indigenous lands. Illegal gold miners developed extensive infrastructure, invaders expanded the deforestation for the opening of pastures and the planting of monocultures, and hunters, fishermen and loggers intensified their incursions into the indigenous territories. The attempt to approve these law projects, the context of the offensive against their rights and the worsening of the situation in the territories motivated strong mobilizations of indigenous peoples throughout the country, with two large national protest camps in Brasília⁹.

H. Deaths by State Negligence

State omission has also led to a high number of deaths. CIMI's report shows an overall increase in 2021, compared to 2020. Based on the Access to Information Law (LAI), from the Indigenous Health Department (Sesai), partial information on the deaths of indigenous children aged 0 to 5 years old reveals the occurrence of 744 deaths of indigenous children from 0 to 5 years old in 2021. The Brazilian states with the highest number of deaths in this age group were Amazonas (178), Roraima (149) and Mato Grosso (106). Despite the likely lag of data for 2021, the number of child deaths was only higher in three years in the last decade, in 2014 (785), 2019 (825) and 2020 (776).¹⁰

I. Discrimination against Indigenous Peoples

The **Karipuna people** live under a great deal of pressure on their quality of life. The Karipuna

⁸ Mandates of the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights of indigenous peoples UABRA 6/2019. (2019).

⁹ CIMI: [Violence Against Indigenous Peoples in Brazil](#) – 2021, p. 8. (2022).

¹⁰ Id. p. 9.

Indigenous Land, in Rondonia, even though been demarcated, is under pressure from all sides, where a criminal organization acts in order to legitimize the illegal possession of the land. Since 2015, it has been under pressure from loggers and miners, and in recent years a new strategy of illegal land tenure and expropriation has advanced, with land grabbing that is legitimized by the Rural Environmental Registry, which is granted by the Department of Development and Environment of the Roraima state.

But recently, with the approval of the Roraima Complementary Law 1089/21, which reduced the protected areas of the Jaci Paraná Natural Reservation and part of the Guajará Mirim State Park, strong pressure was felt in the southern part of the Karipuna land, with reported deforestation of over 570 hectares, from January to September 2021, not to mention the bridges built illegally, which were used for the theft of wood and led to rampant deforestation in the interior of the Indigenous Land.

The Karipuna people and the other uncontacted peoples who live in the Karipuna Land are surrounded on all sides, with the advance of increasing deforestation. In an area three kilometers away from Aldeia Panorama, land grabbers are cultivating plantations of bananas, corn, cassava and others. In addition to land invasions, the Karipuna people are unassisted by public policies, such as the opening and maintenance of the access road to the village for the flow of their production, electricity, housing, quality health and education.¹¹

ICESCR Article 2 - Obligation to Implement the Covenant



Related Topics: FUNAI funding, Indigenous Census, Indigenous Health Policy, National Indigenous Budget

Norms on indigenous issues in Brazil date back from the early colonial times. However, it was only in 1998 that the new democratic Constitution regarded indigenous peoples as truly right holders, recognizing not only the social rights enshrined in Articles 6 and 7 thereof, but also special rights, such

¹¹ CIMI, Internal Reports.

as in Articles 231¹² (right to traditional lands, social organization, customs, languages, traditions and creeds). And 232¹³ (independent standing before courts).

Indigenous peoples were included in the national census in 1991. The latest census registered 1.693.535 indigenous persons, through the criterion of self-declaration, representing 0,83% of the total population. The census points to an acute inequality in land distribution. While 51,25% live in the legal Amazon region, with 98% of the indigenous lands, the other 48,75% live outside the Amazon, with meager 1.5% of such lands living in urban areas or overcrowded reservations. The demarcation deficit is especially severe for the **Guarani**, **Terena** and **Pataxó** peoples. The census also showed disparities in political representation. For instance, while the States of Amazonas and Roraima contain respectively 12,45% and (15,29% of the indigenous population, the amount of indigenous representatives at the local executives and legislatures is negligible.¹⁴

The formerly "National Foundation of the Indians", today the National Foundation of Indigenous Peoples (**FUNAI**), was established in 1967, during the military dictatorship, working in the early days under a tutelage regime, which disregarded indigenous autonomy. In 2023, FUNAI had its first indigenous person (a woman) as its president, employing also much of indigenous staff. Also for the first time in the history of Brazil, as a State, a Ministry for Indigenous Peoples was created, with an indigenous woman as a minister. Moreover, there is a notable demilitarization of indigenous policies and agencies. At the same time, FUNAI's powers to fully carry out the national land demarcation

¹² Article 231. Indigenous people shall have their social organization, customs, languages, creeds and traditions recognized, as well as their original rights to the lands they traditionally occupy. The Union is responsible for demarcating such lands, protecting and ensuring respect for all of their property. Paragraph 1. Lands traditionally occupied by Indians are those on which they live on a permanent basis, those used for their productive activities, those indispensable to the preservation of the environmental resources necessary for their wellbeing and for their physical and cultural reproduction, according to their habits, customs and traditions. Paragraph 2. The lands traditionally occupied by indigenous are intended for their permanent possession and they shall have the exclusive usufruct of the riches of the land, the rivers and the lakes existing therein. Paragraph 3. Water resources, including energetic potentials, may only be exploited, and mineral riches in indigenous land may only be prospected and mined with the authorization of the National Congress, after hearing the communities involved, and the participation in the results of such mining shall be ensured to them, as set forth by law. Paragraph 4. The lands referred to in this Article are inalienable and nontransferable and the rights thereto are not subject to statute of limitation. Paragraph 5. The removal of indigenous groups from their lands is forbidden, except ad referendum of the National Congress, in case of a catastrophe or an epidemic which represents a risk to their population, or in the interest of the sovereignty of the country, after decision by the National Congress, it being guaranteed that, under any circumstances, the return shall be immediate as soon as the risk ceases. Paragraph 6. Acts with a view to occupation, domain and possession of the lands referred to in this Article or to the exploitation of the natural riches of the land, rivers and lakes existing therein, are null and void, producing no legal effects, except in case of relevant public interest of the Union, as provided by a supplementary law and such nullity shall not create a right to indemnity or to sue the Union, except in what concerns improvements derived from occupation in good faith, in the manner prescribed by law. Paragraph 7. The provisions of Article 174, paragraphs 3 and 4, shall not apply to indigenous lands.

¹³ Article 232. The Indians, their communities and organizations have standing under the law to file suits to defend their rights and interests, the Prosecution Office intervening in all the procedural acts.

¹⁴ Agência Brasil: [Censo mostra desigualdade na distribuição de terras indígenas](#), 7 August 2023.

policy are being challenged, mainly due to a conservative Legislative, opposing the advancement of indigenous rights and mainly land demarcation (see previous session). For FUNAI's budget for territory registry and protection (2022) was reduced by a presidential veto, to only 31% from what was required by law.¹⁵ Despite the fact that the Executive has approved a reinforcement of R\$ 513 M (circa US\$ 100 M)¹⁶, the FUNAI remains understaffed, with 46% of its effective staff.¹⁷

The Ministry of Health established in 2020 the Secretariat on Indigenous Health (SESAI), tasked to carry out the National Policy on Indigenous Health and the Subsistem on Indigenous Health, under the Unified Health System (SUS). Despite this positive policy, the SESAI officially serves only the peoples in demarcated lands ("aldeiados"), nearly 762,000 individuals, less than a half of the relevant population, as indicated by the latest census. For instance, indigenous communities in urban and land reclaim contexts face considerable challenges in accessing the SESAI. Structurally, there are problems with the model of contracting health professionals, under short term contracts, or later on through cooperation agreements (convênios), putting at risk the continuity of the services. Constitutional Amendment 95 (the so-called Ceiling Amendment) freezed investments in indigenous public health. Moreover, Decree [9759/2019](#) extinguished the relevant councils, which had an important indigenous input in these policies. The decentralization and establishment of Health Indigenous Districts (DSEIs), though a positive idea, lacks coordination and a clear differentiation in each district. Lack of sufficient data is another challenge, with important setbacks in the last years, creating an opaque picture of indigenous health. This scenario made the management of COVID-19 extremely difficult, even more since the data collected by the Indigenous Health Districts did not converse with data from state and municipal authorities.¹⁸

ICESCR Article 12
Right to Health of Indigenous Peoples



¹⁵ CIMI: [O orçamento da União como instrumento anti-indígena no governo Bolsonaro](#), 31 January 2022.

¹⁶ Senado Notícias: [Medida provisória libera dinheiro para proteção de povos indígenas](#), 04 Ago 2023.

¹⁷ Brasil de Fato: [Após sucateamento sem precedentes, servidores da Funai se mobilizam por condições de trabalho](#), 14 Março 2023.

¹⁸ Fiocruz: [Pesquisadora da ENSP aponta as principais dificuldades da saúde indígena, antes e depois da Covid-19](#), 20 August 2020.

A. State Neglect during the COVID-19 Pandemic

Indigenous peoples in Brazil suffered disproportionately from the already drastic scenario of the COVID-19 pandemic. In a general scenario of neglecting the seriousness of the disease, late administration of vaccines, depending on the States for their provision and dissemination of disinformation about the pandemic, there are serious indications that the specific restrictive policies regarding indigenous peoples was part of a larger plan to further weakening their resilience, and suspicion of the commitment of international crimes.

In total, 27,034 indigenous persons were contaminated by the virus, with 717 deaths, affecting 162 different people countrywide (more than 50% of the peoples in the country). The Federal government was the main vector of contamination. The first contagion of an indigenous individual took place in Santo Antônio do Içá, Amazonas State, of a young woman (20), a health agent of the Kokama people.¹⁹ This reflects the lack of protection by the government.

Structurally, since 2019, before the pandemic the Special Secretariat for Indigenous Health (SESAI) had been dismantled, with severe budget and staff reduction. Thereafter, understaffing and underbudgeting further fragilized the government health indigenous services, exactly during the COVID-19 crisis. For instance, only 1,18 percent of the allocated budget for the FUNAI, specific to fight the pandemic, was in fact disbursed by the federal government.²⁰ The federal government contracted an amount of R\$ 12.914.710,23, for services to fight the pandemic and their effects on the indigenous population (April to July 2020), out of which, only 39% was actually disbursed (R\$ 4.984.234,18).²¹ This contrasts with the soaring obits of 7 in the beginning of April 2020 to 382, late June same year.²²

¹⁹ APIB, [Nossa Luta é pela Vida! COVID-19 e Povos Indígenas - O Enfrentamento das Violências durante a Pandemia](#) (2020) p. 11

²⁰ APIB, [Nossa Luta é pela Vida! COVID-19 e Povos Indígenas - O Enfrentamento das Violências durante a Pandemia](#) (2020) p. 14.

²¹ ABRAJI, Transparência Brasil: [Gastos Federais para o combate à COVID-19 junto a povos indígenas](#) (July 2020), p 4.

²² APIB, p. 14

B. Chloroquine Administered to Indigenous Communities

The use of chloroquine, a substance without proven efficacy²³ to combat the COVID-19 virus, was the flagship treatment by the government. The Pro-Yanomami and Ye'kwana Network highlighted in a statement published on July 16 the contradictions and violations by the government in a mission to the Yanomami territory: (1) both the Ministry of Defense and the Ministry of Health announced after the mission that no indigenous people tested positive for Covid-19, suggesting that the Covid-19 situation would be controlled in the Yanomami Indigenous Land; (2) without consulting the Yanomami and Ye'kwana leaders of the communities visited or any association representing these peoples, the delegation disrespected the indigenous peoples' decision to self-isolate, exposing them to approximately 20 journalists; and (3) 16,000 tablets of chloroquine 150 mg were delivered to health teams in the communities and another 33,000 tablets of chloroquine to DSEI-Yanomami in the context of the mission to combat COVID-19 in the Yanomami territory. The Indigenous Council of Roraima (CIR) and the Yanomami Hutukara Association also published a note at the time denouncing the action that was intended to be only a propaganda action of the Federal Government and that effectively did not implement measures to protect the peoples of Roraima, which today concentrates the largest number of confirmed cases of the virus among indigenous people in Brazil.²⁴

C. Vetoes to Bill 1.142/2020

The President vetoed 22 critical items from Bill 1.142/2020 (adopted Law [14.021/2020](#)), which established measures to contain the impact of the pandemic among indigenous peoples, fisher and artisanal workers and other traditional communities. The scope of the vetoes included access to drinking water, hygiene measures, and additional hospital beds. 16 items were then restored by the Congress, but the budgeting provisions of the bill were eventually suppressed by the vetoes. Further, the government refused to comply with an interim measure of the IACHR, in favor of the Yanomami e Ye'kwana people, to provide health care and preventive measures in the context of the COVID-19²⁵ The government also sabotaged the establishment of a situation room that was ordered by the Supreme Court.²⁶

D. Disinformation Campaign on the Vaccine

The government itself propagated disinformation about the vaccine, which discouraged many indigenous communities to be immunized. Studies carried out by the FIOCRUZ indicate that the

²³ Brazilian Society of Infectology, [Report No. 16](#) (2020).

²⁴ APIB, p. 15.

²⁵ IACHR, [Resolution 35/2020](#) (2020)

²⁶ Brazilian Supreme Court [ADPF 709](#) (2020).

indigenous population is less covered by the a complete vaccination scheme (48,7%) than the non-indigenous population (74,8%).²⁷

Moreover, the restrictive policy of providing health services for the peoples officially living in demarcated areas ("aldeiados"), exposed the large amount of communities living in lands not officially demarcated or in urban contexts. This is all the more serious, in view of the total lack of demarcation in the last four years.

E. State of Health Emergency

On 20 January 2023, the MInistry of Health issued a state of emergency ordinance to combat the food and sanitary crisis affecting the Yanomami people in Roraima,²⁸ establishing the Center of Emergency Operations in Public Health. Despite the notable relief in the provision of healthcare in that area, sources from the ground indicate slowness in the provision, a still considerable number of deaths by diseases such as malaria and mercury contamination. Local indigenous organizations and communities complain about an insufficient number of health professionals, medication and other health facilities. Sources indicate at least one death a day in that territory.²⁹

<p style="text-align: center;"><u>ICESCR Article 11</u> <u>Right to Adequate Food</u></p>	
<p>Related Topics: Malnutrition, Contamination, Children Chronic Malnutrition, Traditional Agriculture</p>	



A. Malnutrition among Indigenous Peoples

Malnutrition was the cause of death of 345 indigenous individuals between 2019 and 2022, 100 cases

²⁷ FIOCRUZ, [Saúde Indígena](#).

²⁸ Ministry of Health, [Ordinance 18/2023](#).

²⁹ Nexó: [A Terra Yanomami um mês após o decreto de emergência sanitária](#), 26 Feb 2023.

more than in the equivalent previous period. Only in 2021, 107 deaths by malnutrition were registered.³⁰ The lack of legal titling of lands, added to the pattern of conflict in these areas has further worsened the enjoyment of the right to food.

B. Indigenous Children Chronic Malnutrition

While the overall chronic malnutrition of children under 5 years has decreased 50% (13,4% to 6,7%) between 1996 and 2006, circa 30% of indigenous children were affected before the pandemic. Among the Yanomamis, such a rate rises to 80%. Indigenous boys and girls under 1 year old are two times more likely to die than the remainder of the non-indigenous children.³¹ Indigenous children are 14 times more likely to die of diarrhea than non-indigenous children.

C. Interrelated Factors

Malnutrition among indigenous peoples does not occur alone. In a scenario of growing restriction to land, in which they would be virtually self-sufficient in food, they become permanently dependent on food stamps from the government and charitable institutions, which are not culturally adaptable. Thus, access to land is a key component for the enjoyment of the right to food, particularly in the context of indigenous peoples' particular means of subsistence agriculture.

Access to food is restricted particularly in non-demarcated lands. In the **Guarani Mbya** people, composed of 52 communities in the State of Rio Grande do Sul, food provision was interrupted from 1 August through 31 December 2022. Over 800 families sustained a scenario of acute famine, insecurity and a considerable pattern of malnutrition. The situation only not worsened because donations were collected from indigenous organizations and solidarity groups.³²

In many of these lands, the constant environment of conflict is an additional obstacle to enjoy the right to food. The persistent presence of illegal gold mining (garimpo) is another complicator, in view of the contamination of water sources by mercury

³⁰ UNICEF Brazil, [Desnutrição](#) (2023).

³¹ Ibid.

³² CIMI, [Relatório de Violência contra Povos Indígenas](#) 2023, p, 218.

ICESCR Article 11
Poverty among Indigenous Peoples and Indigenous Children



Related Topics: Regional Disparities, Multidimensional Poverty, Indigenous Children's Poverty

A. Extreme Poverty

Indigenous children and adolescents suffer 25% more from any form of deprivation leading to poverty than the already high 60% of the overall children in Brazil.³³ Among indigenous and black children and adolescents, 72,5% live in multidimensional poverty, compared to 49% of the white and yellow counterparts. The North and Northeast regions of Brazil account for more than 90% of this rate.³⁴

B. Multidimensional Children Poverty

As UNICEF Brazil points out, the relevant challenges are interrelated. Centrally, the right of land titling is of utmost importance for the State to channel the adequate resources for educational, social and nutritional programs, traditional agriculture and follow-up of children's needs. The land tiling provides legal certainty for indigenous communities in accessing such government programs, benefits and opportunities.

C. Lack of Demarcation as a Poverty Factor

Moreover, the lack of demarcation worsen land conflicts, which has a direct impact in indigenous peoples enjoy the right to development, through the traditional means, such as the "bem viver" standard. Environmental degradation is also a factor for poverty among indigenous communities.

³³ UNICEF Brazil, [Desnutrição](#) (2023).

³⁴ UNICEF Brasil: [As Múltiplas Dimensões da Pobreza na Infância e na Adolescência no Brasil](#) (2023).

CESCR General Comment No. 15
The Right to Water



Related Topics: Mariana and Brumadinho Crimes (Vale), Contamination by Mercury, Fishstock, Impunity, Spiritual Value

Water sources for many Brazilian indigenous peoples consist not only of a means of physical survival and subsistence, but are true living and spiritual entities, which, in terms of rights, bear consequences in the enjoyment of freedom from religion and cultural rights.

Among many challenges surrounding the enjoyment of this right, some patterns of violations are hereby demonstrated.

A - Mining Crimes of Vale

A.1 - Mariana Dam Collapse

The disastrous environmental crimes committed by the transnational mining corporation **Vale**, alone or in joint venture with other corporations have caused damages of large magnitudes.

On 5 November 2015, the Fundão mega dam, in the municipality of **Mariana**, collapsed causing an avalanche of 55 millions of cubic meters of toxic mud in the Rio Doce, through over 500 km until the Atlantic Ocean, killing 19 persons. Among the several mass violations, the **Krenak people** was gravely affected, in terms of clean water provision, and also, their rituals, traditional medicine, particular lifestyle, food and culture. Fishstock became toxic, turning them dependent on food stamps. The death of the *Uatú*, as they call the Doce River, brought about a scenario of humanitarian calamity. As Amanda Krenak (24) states: "*we cannot fish, nor hunt, let alone make use of our medicinal herbs that were found in the small islands affected by the mud ... today, my Krenak people suffers from the absence of our great father, Uatú*".³⁵

This mining enterprise was owned by Samarco, in a joint venture between Vale (Brazil) and BHP Billiton (Australia).

³⁵ Projeto Um Outro Céu, [Breach of the Fundão Dam in Mariana](#)

A.2 - Brumadinho Dam Collapse

No lesson learned from the previous crime, five years later, on 25 January 2019, the Córrego do Feijão Dam, in the municipality of **Brumadinho** burst and leaked 13 million cubic meters of toxic waste, lavaging animals, forests and houses. Over 300 km of the Paraopeba River were polluted and the water became unfit for human or animal use. The toxic waste reached the far São Francisco River, one of the most important in Brazil. There was a loss of 138 hectares of native forest. The crime affected 17 municipalities, covering 600,000 persons, in a total of 250 dead or disappeared persons and a loss of uncountable animals.³⁶ The Naô Xohã community, belonging to the **Pataxó and Pataxó Hã Hã Hãe** peoples, located only 22 km from the epicenter of the collapse had to be relocated to another area.

Cacique Arakuã Pataxó Hã Hã Hãe stated that *"in Nahô Xohã, the place we are today, there are con conditions to stay, because of the river and the pollution. Our soil was contaminated as well. So, we decided the Vale has to give us another territory ... We gathered everyone and reached the conclusion that it is best for our children, grand children, and all of us."*³⁷

In 2019, a cacique from the **Pataxó Hã Hã Hãe** people, during the 12th session of the EMRIP, suffered reprisal back home by local unidentified aggressors who burned the community's houses, as she did oral statements denouncing this crime.

A.3 - Reprisals and Impunity

Indigenous communities and environmental organizations so far have obtained only marginal redress by the Brazilian judiciary, in a litigation set that is marked by a true imbalance of power between Vale and the affected communities, requiring a high level of expertise and demanding high costs, frequently unbearable for these communities, despite the support of the Federal Prosecutor's and the Public Defender's Offices. Vale established a private foundation (Renova) aimed at managing the reparation process of these two crimes and to establish a dialogue with the affected communities. However, according to credible sources, Renova serves to exert pressure and intimidation of human rights defenders and the affected communities seeking redress. A leaked audio in March 2021 suggests intimidation, collusion with the competent judge and aggressiveness on the part of Renova's legal team.³⁸ Vale, as a global mining player, exerts a strong economical and political influence at federal, state and municipal levels. Hardly any parliament produced any indictment or order for further investigation. Judicial procedures were unduly delayed. Eventually, in August 2023, a new judge appointed to hear the Mariana case pointed out a series of inconsistencies in the reparations

³⁶ Greenpeace, [O crime da Vale em Brumadinho](#),

³⁷ Brasil de Fato: [Com a Morte do Rio Paraopeba, em Brumadinho, Indígenas pedem Relocação de Território](#)

³⁸ Outras Mídias: [Vale engrossa intimidação às vítimas da Samarco](#), 2 March 2021.

scheme proposed by Renova.³⁹ However, the complete redress is far from completed.

B - Contamination by Mercury of Water Sources

The advancement of illegal mining ("garimpo") over indigenous lands (demarcated or not) is responsible for a large scale of mercury contamination, particularly in the Amazon region. In the mid-Tapajó River, in the municipalities of Itaituba and Trairão, in the Pará State, the **Munduruku** people is suffering with the large amount of mercury in the water sources. A study conducted by WWF and the Fiocruz, in the relevant, Sawré Muybu, Poxo Muybu and Sawré Aboy communities, demonstrates that six in ten of the participants (57.9%) showed mercury levels in the blood above the maximum safe level (6µg.g-1). Such contamination is larger in the areas mostly impacted by the illegal mining, in communities bordering margins of the affected rivers. **Indigenous children** are seriously impacted, as 15,8% of them showed problems in neurodevelopment tests.⁴⁰

The **Tapajós river** and their tributaries, according to this research, show that the illegal mining activity promotes large scale alterations in the water sources, forests, with direct and direct social impacts, implicating food sovereignty and security, local economy, human health and the ecosystemic services. Besides the harm in the health and forests, illegal mining in the Tapajós Basin imposes on the **Munduruku** the abandonment of their traditional lifestyle, which are traditionally dependent on the river, threatening their physical and cultural reproduction.

The research also showed that the **fishstock**, the main protein source of those communities, were also contaminated by mercury. Data collected through interviews indicated that 96% of the participants have fish as a regular food source. All the 88 fishes captured from the river, belonging to 18 different species, were contaminated. The daily intake amounts of mercury, estimated for the participants, according to a sample of 5 species of piscivorous fishes, were 4 up to 18 times superior to the safe limits established by the US EPA standards. For instance, the black piranha (*Serrasalmus rhombeus*) surpassed four times the FAO/WHO established limit for human consumption (0,5 µg.g-1).

Illegal mining does not affect only health, but all their social life, with the arrival of drugs, prostitution and domestic violence, . The affected communities seek reparations and guarantees of non-repetition.

³⁹ Observatório da Mineração: [Sistema indenizatório adotado por Renova/Samarco/Vale/BHP no desastre de Mariana "padece de nulidades absolutas", decide justiça](#), 1 August 2023.

⁴⁰ Portal Fiocruz: [Estudo analisa a contaminação por mercúrio entre o povo indígena munduruku](#), 26 November 2020.

UNGA Res A/RES/76/300
The Right to a Clean, Healthy and Sustainable Environment and
Climate Change



Related Topics: Carbon Emissions, Agents of Change, Climate Crisis, Floods, Agriculture, Energy Matrix, Participation

A. Brazil's Carbon Emissions

Brazil produces an equivalent volume of GEE emissions of 1,2 billion of tones of CO₂. 60% of these emissions are originated by deforestation of the Amazon and the Cerrado biomes and the agribusiness activities. Hydropower represents 60.2% of the country's energy matrix, with a growing activity on solar and wind energy.⁴¹ Despite commonly being labeled as a source of clean energy, hydropower energy has historically caused several violations of indigenous rights.

B. Indigenous Peoples as Agents of Change (SDGs)

The understanding in international law that indigenous peoples' enjoyment of fundamental rights is closely linked to natural resources finds clear examples in the Brazilian context. Indigenous peoples do not only suffer disproportionately the effects of climate change and environmental degradation, but are also *agents of change*, in the context of the SDGs. Brazilian biomes are much more preserved when the relevant land is demarcated and protected by indigenous communities and government than other non-demarcated areas. Such a right is central to the enjoyment of several other rights, such as food, safe and clean water and health, all protected by the ICESCR. The term "guardians of the forest" in Brazil is very telling. From 1990 to 2020 indigenous lands lost only 1% of their native vegetation, whereas private lands lost 20%, as a demonstration of their considerable contribution to absorb CO₂ from the atmosphere, stocking carbon and regulating rain regimes.⁴²

In the last 35 years, indigenous peoples were responsible for at least 20% of the protection of biomes in the country. 45% of the Brazilian forests are protected by the National System of Protected Areas, out of which 30.5% are inhabited by indigenous, quilombolas and other traditional populations.

⁴¹ Ministry of Energy, Energy Balance 2022.

⁴² MAPBIOMAS, [Fatos sobre O Papel das Terras Indígenas na Proteção das Florestas](#) (2022), p. 2.

Accounting only for indigenous peoples, they are responsible for the protection of 20.3% of the forests in Brazil. Considering all types of native vegetation in Brazil, indigenous peoples, quilombolas and conservation units protect 42,3% of the natural vegetation in the country. Land titling for indigenous and other communities has proven to be the most efficient strategy to protect ecosystems in Brazil.⁴³

C. Declaration of Climate Crisis

During the 19th edition of the "Acampamento Terra Livre", between the 24 and 28 April 2023, indigenous peoples living in Brazil declared a state of climate emergency in the country, particularly in view of the dismantling of the indigenous and environmental governance in the last years. The average temperature in the Amazon increased by 1 degree Celsius in the last 40 years - in some areas with a reduction of 36% in the rain regimes, which researchers call a time-bomb.⁴⁴ Degradation comes hand in hand with land invasion, including illegal mining ("garimpo"), whose area in indigenous lands increased 495% from 2010 to 2020.⁴⁵

D. Cases of Adverse Climate Change Effects on Indigenous Peoples

The **Xerente people** (Tocantina municipality, TO) sustained a severe flood of the Tocantins river last year, leaving the relevant communities isolated. The crops were consequently lost, making them dependent on food stamps and drinking water from the government and charity. Such a calamitous situation was worsened by the lack of delivery of 1,500 food baskets available at a near FUNAI office and the pressure from a parliamentarian on the community to sign a document waiving their basic rights in exchange for the support of a bill to promote convert their land into a conservation unit.⁴⁶ The **Manoki people** are known for their notable apiculture. Given the climate change, the blooming season is changing, posing insecurity in the honey production. They also perceive a decrease in the number of bees that are either dying or moving to other places since they cannot live in such a climate. For them the decrease in the number of bees does not only impact their honey, but also all life, since the bees are important as they pollinize and spread live in the forest. The climate threats sustained by the Manoki include the encroachment of soybean, cotton and corn monocultures, hydropower plants and pesticide contaminating the water sources and fishes, reducing considerably

⁴³ APIB, [Povos indígenas decretam emergência climática no ATL 2023 em Brasília](#), 26 April 2023.

⁴⁴ UOL: [Estudos mostram Amazônia mais quente, seca e já mudando o clima do planeta](#), 5 August 2022.

⁴⁵ MapBiomias, [Fatos sobre O Papel das Terras Indígenas na Proteção das Florestas](#) (2022), p. 3.

⁴⁶ CIMI, [Relatório de Violência contra Povos Indígenas](#) (2023), p. 139.

their close relations with hunting and fishing activities.⁴⁷

When indigenous leaders speak up about climate change, they are often targeted by attacks online and offline. This is the case of a **Kaingang** female leader, researcher and social anthropologist, who had her legitimacy questioned by several several aggressive comments about the climate alert she made in a meeting during the COP27 (2022) in the Cairo.⁴⁸ Brazil was, for the first time, included in the ASG on **Reprisals' Report** (2022) for the harassment of an indigenous leader at the COP26 in Glasgow.⁴⁹

E. Challenges in Brazil's New Domestic and Global Climate Governance

After a lack of prioritization during the Temer administration in domestic and global climate governance, followed by four years of denial by the Bolsonaro government, it is positive that the new Lula era attempts to review its global climate stance. During the Amazon Summit 2023, the President called for a new global governance on climate. Brazil has re-engaged in good faith with the international community and, as a consequence, the Amazon climate funds have resumed. The new strategy from the Petrobras (mix private-public oil company) to promote energy transition is commendable. However, there are areas of concern.

Firstly, the paradigmatic focus on **hydropower** has led to several dispossessions and evictions of traditional lands as well as other environmental impacts that affect the livelihoods of several peoples. The construction of the **Belo Monte** mega project has disregarded the concerns of indigenous communities of the **Volta Grande do Xingu** in the management of the project, as recognized by a federal judge.⁵⁰ The relevant interim decision by the IACHR basically entertained the lack of free, informed and prior consent, including aggressive government litigation to suppress the right to adequate consultations.⁵¹ Moreover, the **Avá-Guarani** people has obtained in 2020 a hard-fought favorable judgment by the Supreme Court against an eviction requested by the Usina Hidrelétrica (UHE) Itaipu Binacional, in the land reclaim areas ("retomadas") of Curva Guarani, Tekoha Pyahu and

⁴⁷ OPAN, [Mudanças Climáticas e a Percepção Indígena](#), 2nd. ed. (2018), p. 48.

⁴⁸ CIMI, [Relatório de Violência contra Povos Indígenas](#) (2023), p. 194.

⁴⁹ [A/HRC/51/47](#), paras 14-17.

⁵⁰ Civil Public Action [0003017-82.2015.4.01.3903](#). Federal Prosecutor's Office (and several interested indigenous organizations) v. the Federal Union (and several federal organs) and Norte Energia. Interim decision of Judgment of 05/11/2020.

⁵¹ IACHR, [PM 382/10](#) - Indigenous Communities of the Xingu River Basin, Pará, Brazil (2011).

Yva Renda, in the Paraná state.⁵² This focus dates back from the 1970s development projects that disregarded sustainability issues.

Secondly, Lula's speech during the 2023 Amazon Summit contrasted with the government's hesitance in fully engaging in the preservation of climate and the forest. It was worrisome that the plans to explore oil and gas in the Mouth of the Amazon river were forced by the Executive's Attorney's Office, against a technical opinion from the IBAMA that rejected an environmental licensing for the project.

Brazil's climate and energy governance should not only aim to numerically reduce tons of carbon dioxide, but materialize in a truly sustainable and inclusive matrix. A common claim of indigenous and traditional communities in these areas is that the energy produced in their areas, causing so much impact, does not benefit them, in terms of access to electricity. Also, climate compensation funds have not truly benefited the communities on the ground, as nearly 90% of the resources are paid for technicians and intermediaries and only a small percentage reach communities on the ground.

⁵² CIMI, [Com uso de tese anti-indígena, UHE Itaipu sofre derrota no STF e suspensão de despejos de aldeias Avá-Guarani é mantida](#), 23 Sep 2020.